

IN THE IOWA DISTRICT COURT FOR WOODBURY COUNTY

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| <p>CITY OF SIOUX CITY, Plaintiff, vs. CRAIG KRUEGER, Defendant.</p> | <p>NO. SCCICV153246 RULING ON APPEAL</p> |
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The City of Sioux City appeals a ruling and order filed by Associate District Judge John Nelson on June 27, 2013. The appeal was argued before this court on September 30, 2013. Briefs were filed by both parties and oral argument was allowed, although neither was required by the statute.

Ironically, the briefs of both parties deal with the constitutionality of the municipal ordinance in question and issues of whether the Code Section 10.12.080 was either void for vagueness or violated procedural due process standards. Judge Nelson neither found the statute void for vagueness nor a violation of procedural due process. What he found was that the defendant was neither the owner of the vehicle in question nor a “nominated party” as contemplated by the city ordinance. The court found specifically “the defendant is not a nominated party, nor is he the registered owner of the motor vehicle.”

Defendant was sent the notice of violation as though he was the registered owner, but in fact, the defendant rented the vehicle in question from Enterprise Rent-A-

Car. The Associate District Judge found that at no time is there any evidence presented that Enterprise Rent-A-Car “nominated” defendant. While the court did not specifically find the ordinance in question unconstitutional, the court did spend a significant amount of its opinion pointing out that there are no rules as to how a nomination can occur or what procedure must be followed. The court also found that there was no evidence that would suggest such a nomination ever occurred in this particular case. In the end of Judge Nelson’s opinion, he indicated, “...this court is troubled by the inclusion in this statute of a ‘nominated party’ without any other statutory guidance as to the same.” He went on to say “the phrase ‘nominated party’ is only used once in the entire section and never referenced again.” Continuing, “There is no explanation of the process for the same nor any mention of the rights, obligations, and responsibilities of a ‘nominated party.’”

The court found for the defendant because the city had failed to meet its burden of “clear, satisfactory, and convincing evidence.” See Iowa Code Section 364.22. While clearly Judge Nelson’s opinion leaves open the possibility that the ordinance could be found unconstitutionally vague, it is not necessary for this court to address the constitutionality issue. The associate district court found that the city had failed to prove that the defendant was either the owner of the vehicle or a nominated party under the ordinance. This court agrees that no evidence of either is in the record of these proceedings.

The judgment of dismissal is affirmed.

SO ORDERED.



State of Iowa Courts

Type: OTHER ORDER

Case Number **Case Title**
SCCICV153246 SIOUX CITY VS KRUEGER CRAIG

So Ordered

A handwritten signature in black ink, appearing to read 'Edward A. Jacobson', written over a horizontal line.

Edward A. Jacobson, District Court Judge,
Third Judicial District of Iowa