

Commonwealth Of Kentucky

Court Of Appeals

NO. 2000-CA-001918-DG

CORINNE WEBSTER

APPELLANT

v. ON DISCRETIONARY REVIEW
FROM GRANT CIRCUIT COURT
HONORABLE STEPHEN L. BATES, JUDGE
ACTION NO. 00-XX-00005

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
VACATING AND REMANDING
** **

BEFORE: GUDGEL, CHIEF JUDGE; DYCHE AND TACKETT, JUDGES.

TACKETT, JUDGE: Corrine Webster appeals from an order of the Grant Circuit Court setting aside the district court's dismissal of charges pending against her. We vacate and remand.

Webster was cited on or about October 18, 1999, for violating Section 90.04 of Grant County Ordinance No. 03-97-2164, a class B misdemeanor, relating to barking dogs. Webster filed a motion to dismiss the charges arguing that the ordinance violated the right to farm act, Kentucky Revised Statute (KRS) 413.072, and that the ordinance was not properly adopted. This motion was denied. Webster asked for a jury trial, but was instead tried before the bench and found in violation of the ordinance. Later

the district court granted Webster's motion to vacate the judgment after determining she should have been permitted a trial by jury. The district court then dismissed the charges against Webster. The Commonwealth appealed the dismissal to the circuit court and Webster cross-appealed. The Grant Circuit Court affirmed the district court with regard to the jury trial question, but set aside the order dismissing the charges. Webster then filed motion for discretionary review which was granted by this court.

On appeal, Webster argues that Section 90.04 of Ordinance No. 03-97-216 was not properly adopted, that the ordinance is void for vagueness, and that the ordinance violates KRS 413.072. Webster also questions the circuit court's setting aside the district court's dismissal of the charges against her.

Having carefully reviewed the record in this case, we vacate the circuit court's order and remand. The circuit court stated in its order of July 19, 2000, that in this Commonwealth, "a Court speaks through its written orders." However, after that statement the circuit court went on to speculate as to why the district court dismissed the charges pending against Webster even though no written reasons were given. It appears the circuit court was concerned about the district court's dismissal entered without written reasons, but failed to remand the case to the district court at that time for entry of an order specifying the grounds for dismissal.

Having determined that this case should be remanded to the circuit court based on the foregoing, we will not address the

issues of whether the ordinance was properly adopted, void for vagueness, or in violation of KRS 413.072. We also note the question of whether or not a jury trial was appropriate is not before us, as the Commonwealth did not seek a cross-appeal on that issue.

For the foregoing reasons, the Grant Circuit Court order of July 19, 2000, is vacated. This case is remanded to the Grant Circuit Court with instructions to remand to the Grant District Court for entry of an order specifying why the charges against Webster were dismissed on February 28, 2000.

ALL CONCUR.

BRIEF FOR APPELLANT:

William F. Threlkeld
Williamstown, Kentucky

BRIEF FOR APPELLEE:

James L. Purcell
Grant County Attorney
Williamstown, Kentucky