

IN THE COURT OF APPEALS OF IOWA

No. 6-538 / 05-1281
Filed February 28, 2007

STATE OF IOWA,
Plaintiff-Appellant,

vs.

CHRISTOPHER JEROME TARBOX,
Defendant-Appellee.

Appeal from the Iowa District Court for Johnson County, Sylvia A. Lewis,
District Associate Judge.

The State appeals from a district court order that dismissed the trial
information charging Christopher Tarbox with leaving the scene of a personal
injury accident. **REVERSED AND REMANDED.**

Steven E. Ballard and Patrick J. Ford of Leff Law Firm, L.L.P., Iowa City,
for appellee.

Thomas J. Miller, Attorney General, Cristen Douglass, Assistant Attorney
General, J. Patrick White, County Attorney, and Meredith Rich-Chappell,
Assistant County Attorney, for appellant.

Considered by Huitink, P.J., and Mahan and Zimmer, JJ.

ZIMMER, J.

The State appeals from a district court order that dismissed the trial information charging Christopher Jerome Tarbox with leaving the scene of a personal injury accident in violation of Iowa Code section 321.261 (2003). The State contends when the driver is the only person to sustain a personal injury in a single vehicle accident, section 321.261 requires the driver to remain at the scene of the accident. We reverse the district court's order and remand for further proceedings.

I. Background Facts and Proceedings

On May 3, 2005, the State filed a trial information charging Tarbox with leaving the scene of a personal injury accident in violation of section 321.261. The minutes of testimony, which accompany the trial information, allege that on December 17, 2004, at approximately 6:00 p.m., three witnesses observed a Mitsubishi Galant traveling north on Governor Street in Iowa City. The driver lost control of the vehicle. The witnesses saw the car leave the roadway on two occasions and then strike a cement wall located to the west of the street. The vehicle came to a stop after striking the wall. The witnesses next observed a male exit the car from the driver's side and flee the area on foot, leaving the car behind. The witnesses were able to observe injuries on the driver's face. The witnesses called the police.

Officers Bill Welch and Terry Tack responded to the call. They observed the car's left front side had sustained damage from contacting the wall. They also observed the car's airbags had deployed. The officers located a cellular telephone near the scene of the accident and determined the telephone

belonged to Tarbox. The officers ran a check on the abandoned vehicle's license plate and determined it was owned by Marie Rolling Tarbox. Later that evening, the police located Tarbox at his home in Iowa City. The defendant matched the description of the driver given by the eyewitnesses to the accident. In addition, Tarbox had fresh injuries on his face.

Tarbox filed a motion to dismiss the trial information. Among other things, he argued section 321.261 does not apply to a single vehicle accident when only the driver sustains personal injury. The State resisted the motion. Following a hearing, the district court agreed with the defendant and dismissed the trial information. The State has appealed.

II. Issue

The only issue presented by this appeal is whether Iowa Code section 321.261 applies when there is a personal injury only to the driver in a single car accident.

III. Scope and Standards of Review

We review a district court's grant of a defendant's motion to dismiss a trial information for the correction of errors at law. *State v. Johnson*, 528 N.W.2d 638, 640 (Iowa 1995). We accept the facts alleged by the State in the trial information and attached minutes of testimony as true. *Id.*

We also review questions of statutory interpretation for the correction of errors at law. *Id.* The goal of statutory construction is to determine and give effect to legislative intent. *State v. Sullins*, 509 N.W.2d 483, 485 (Iowa 1993). We seek a reasonable interpretation that will achieve the purpose of the statute and avoid an absurd result. *Harden v. State*, 434 N.W.2d 881, 884 (Iowa 1989).

In determining legislative intent, we consider the objects the legislature sought to accomplish and the evils and mischief the legislature sought to remedy. *Harris v. Olson*, 558 N.W.2d 408, 410 (Iowa 1997).

We consider all portions of the statute together, and we do not attribute undue importance to any single or isolated portion. *Harden*, 434 N.W.2d at 884. When more than one statute is pertinent to our inquiry, we consider the statutes together and attempt to harmonize them. *Id.* We strictly construe criminal statutes and resolve doubts in favor of the accused. *State v. Schultz*, 604 N.W.2d 60, 62 (Iowa 1999).

IV. Discussion

The State contends when the driver is the only person to sustain a personal injury in a single vehicle accident, section 321.261 requires the driver to remain at the scene of the accident. Section 321.261(1) states:

The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop the vehicle at the scene of the accident or as close as possible and if able, shall then return to and remain at the scene of the accident in accordance with section 321.263.

Section 321.263(1) imposes additional duties on a driver involved in an accident:

The driver of a vehicle involved in an accident resulting in injury to or death of a person or damage to a vehicle which is driven or attended by a person shall give the driver's name, address, and the registration number of the vehicle the driver is driving and shall upon request and if available exhibit the driver's driver's license to the person struck, the driver or occupant of, or the person attending the vehicle involved in the accident and shall render to a person injured in the accident reasonable assistance, including the transporting or arranging for the transporting of the person for medical treatment if it is apparent that medical treatment is

necessary or if transportation for medical treatment is requested by the injured person.

For the reasons which follow, we agree with the State's argument that section 321.261 has application here.

First, we believe the plain language of section 321.261 contradicts Tarbox's claim that the statute does not apply to the facts of this case. Section 321.261(1) requires "[t]he driver of *any* vehicle involved in an accident resulting in injury to or death of *any* person" (emphasis added) to stop and remain at the scene of the accident. Furthermore, section 321.261(2) states that "[a]ny person" who fails to comply with the requirements of section 321.261(1) in the event of an accident that injures "any person" is guilty of a serious misdemeanor. If the legislature had only intended the requirements of section 321.261 to apply to the driver of a vehicle who injures another individual in an accident, it could easily have limited the reach of the statute to accidents involving injury or death to "any *other* person."

Moreover, the definition of the word "any" supports the conclusion that the statute applies to "any" driver without exception. See *State v. Evans*, 671 N.W.2d 720, 724 (Iowa 2003) (stating we may consult a dictionary in order to determine the ordinary meaning of words used by the legislature). The word "any" means:

one indifferently out of more than two . . . used as a function word especially in interrogative and conditional expressions to indicate one that is not a particular or definite individual of the given category but whichever one chance may select.

WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 97 (Philip Babcock Gove ed., Merriam-Webster Inc. 1993) (1961). If we accept the facts alleged by the State

in this case as true, Tarbox is both “the driver of any vehicle” and “any person” who sustained injury from the accident within the meaning of section 321.261. We are not inclined to supply statutory exceptions that the legislature chose to omit.

We also believe the conclusion that section 321.261(1) applies to any driver without exception is also consistent with the purpose of the statute. In *State v. Sebben*, 185 N.W.2d 771, 774 (Iowa 1971), our supreme court agreed “with the State’s suggestion that the manifest intent of section 321.261 is to prevent a motorist involved in personal injury or property damage accidents from evading liability, civil or criminal . . . by escaping before his [or her] identity can be established.”¹ In the case before us, the defendant’s flight from the scene of the accident could have been an attempt to evade possible criminal and civil liability for driving recklessly, driving while intoxicated, driving with a suspended or revoked license, or using another’s vehicle without permission. In addition, after an accident occurs, it is not always immediately apparent that only one

¹ The accident in which Sebben was involved resulted in the death of another person. *Sebben*, 185 N.W.2d at 772. Sebben moved for a directed verdict at the close of the State’s case. *Id.* He argued the State failed to generate a jury question on his noncompliance with the portion of the trial information charging him with failure to give information to the person struck in violation of section 321.263 and the provision of this section incorporated by reference in section 321.261 under a theory of legal impossibility. *Id.* The Iowa Supreme Court held the State failed to generate a jury question on the issue of the defendant’s noncompliance with the portion of the information charging him with failure to give information to the person struck in violation of section 321.263, but a jury question was generated on the issue of the defendant’s failure to render reasonable assistance, a separate and distinct requirement of 321.263. *Id.* at 775-76. The court stated:

Obviously, the failure to stop which we have said is the first duty of a driver of a vehicle involved in an automobile accident under 321.261, is a violation of the statute and notwithstanding the injunction to stop should be complied with, the accused would still be guilty if he failed to comply with the various provisions of 321.263 which include the duty to render assistance.

Id. at 775.

vehicle was involved or that no other person sustained injury. By leaving the scene, the driver loses the opportunity to acquire such knowledge. Because the statute is intended to prevent drivers from evading civil or criminal liability, we conclude section 321.261 should apply to drivers such as the defendant.

V. Disposition

We find the district court erred in finding section 321.261 did not apply when only the driver sustained a personal injury in a single vehicle accident. Therefore, we reverse the district court's order dismissing the trial information, and we remand this case for further proceedings.

REVERSED AND REMANDED.