

IN THE COURT OF APPEALS OF IOWA

No. 7-206 / 06-1110
Filed April 25, 2007

STATE OF IOWA,
Plaintiff-Appellant,

vs.

STEPHANIE MARIE TORPEY,
Defendant-Appellee.

Appeal from the Iowa District Court for Washington County, Dan F. Morrison, Judge.

The State, on discretionary review, appeals from the ruling vacating Stephanie Torpey's conviction for failing to obey a stop sign. **REVERSED.**

Thomas J. Miller, Attorney General, Peter J. Grady and Mary Tabor, Assistant Attorneys General, Barbara A. Edmondson, County Attorney, and Brooke Chesney, Assistant County Attorney, for appellant.

Douglas L. Tindal of Tindal & Kitchen, P.L.C., Washington, for appellee.

Heard by Mahan, P.J., and Eisenhauer and Baker, JJ.

BAKER, J.

The State applied for and was granted discretionary review of a district court ruling vacating Stephanie Torpey's conviction for failure to obey a stop sign, in violation of Iowa Code section 321.322 (2005). We reverse the district court's decision and reinstate the conviction.

Background Facts and Proceedings.

On November 27, 2005, Washington police officer Ronald See observed Torpey rolling through a stop sign located in the city of Washington. He pulled Torpey's car over and wrote her a citation for violating section 321.322. Following a trial on March 14, 2006, Judge Lucy J. Gamon found Torpey guilty and ordered her to pay a fine and court costs. Torpey then appealed to the district court. In a June 12, 2006 ruling, Judge Dan Morrison reversed the earlier decision and vacated Torpey's conviction.

In vacating Torpey's conviction, the court identified the central issue as follows: "whether authorization and proper placement of the stop sign in question are elements of the § 321.322 violation or affirmative defenses." It concluded that proper placement and authorization were elements of the offense, and that because the State had failed to carry its burden in this regard, the conviction should be vacated.¹ The State appeals from this ruling.

Merits.

Iowa Code section 321.322, under which Torpey was charged, provides in pertinent part:

¹ Specifically, the court ruled that "the State had the burden to prove that the stop sign in question was erected with the City of Washington's authorization and in accordance with the Manual [on Uniform Traffic Control Devices] beyond a reasonable doubt."

The driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop at the first opportunity at either the clearly marked stop line or before entering the crosswalk or before entering the intersection or at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

Notably, this provision does not mention the term “official traffic-control device.”

In the definitional section of chapter 321 (Motor Vehicles and Law of the Road), Iowa Code section 321.1 states: “The following words and phrases *when used* in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them.” (Emphasis added.) In that section “official traffic-control devices” is defined as “all signs, signals, markings and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.” Iowa Code § 321.1(46). Although the phrase “official traffic-control device” does not appear in section 321.322, the district court found this term “clearly encompasses a stop sign” as noted therein. It therefore considered the proper placement and authorization, as laid out in the definitional provision, to be essential elements of the offense.

Other than in the definitional section of the chapter, the term official traffic-control device is used in three different sections. First, section 321.256 provides that “no driver shall disobey . . . any official traffic-control device” Next, section 321.297 provides an exception for traveling on the right side of the roadway when authorized by an official traffic-control device. Finally, section 321.372 provides that a school bus may stop to load or unload pupils at points where there are official traffic-control devices. Clearly, the definition of official

traffic-control device was necessitated by the phrase's inclusion in these three subsections. This term, however, is not present in the language of the offense with which Torpey was charged.

Where a definitional statute limits where that definition is to be applied, “[t]his limits the definitions strictly to the [statutes] in which they appear.” *Francis v. Iowa Employment Sec. Comm’n*, 250 Iowa 1300, 1305, 98 N.W.2d 733, 736 (Iowa 1959). Iowa Code section 321.1 therefore limits the use of a definition to where it is used in the chapter, i.e. sections 321.256, 321.297, and 321.372.

In grafting the phrase official traffic-control device and the meanings included in that phrase into distinct elements of the offense, the district court engaged in statutory construction, recognizing that “even though [section 321.322] is not ambiguous,” it is proper to construe it “in light of other sections in the same chapter”

Our supreme court has expressed that “caution should be exercised in applying statutory definitions to situations in which the particular statutory scheme may not be involved.” *Le v. Vaknin*, 722 N.W.2d 412, 415 (Iowa 2006). Furthermore, it is established that “[w]e do not resort to principles of statutory construction or interpretation unless the language of a statute is ambiguous.” *State v. Wiederien*, 709 N.W.2d 538, 541 (Iowa 2006). The language of section 321.322 is quite clear that the “driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop at the first opportunity” This section needs no construction and there is no need to graft upon the express language of section 321.322 any further explanatory elements. Absent evidence to the contrary, there is a presumption of regularity and that public officials have carried

out their duties. *Janson v. Fulton*, 162 N.W.2d 438, 442 (Iowa 1968). To decide otherwise would lead to an absurd result. “[A] statute should be given a sensible, practical, workable and logical construction.” *Id.*

We conclude the “authorization and proper placement of the stop sign” are not elements of the offense of failure to obey a stop sign. Accordingly, we also conclude the State is correct in its position that it must be presumed here that a stop sign is duly authorized and properly placed. Thus, as an affirmative defense, it is incumbent on one charged with disobeying a stop sign to establish that it was not authorized or properly placed. An example of such an “unauthorized” or “improperly placed” stop sign would be, for example, where a vandal or a prankster moved an actual stop sign to an unauthorized location or where a false stop sign was placed upon a roadway.

We reverse the district court ruling vacating Stephanie Torpey’s conviction for failure to obey a stop sign, in violation of Iowa Code section 321.322, and reinstate the conviction.

REVERSED.