

[Cite as *State v. Besancon*, 2010-Ohio-2147.]

STATE OF OHIO)
)ss:
COUNTY OF WAYNE)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

STATE OF OHIO

C.A. No. 09CA0031

Appellee

v.

MATTHEW V. BESANCON

APPEAL FROM JUDGMENT
ENTERED IN THE
WAYNE COUNTY MUNICIPAL COURT
COUNTY OF WAYNE, OHIO
CASE No. TRD-09-01-00788

Appellant

DECISION AND JOURNAL ENTRY

Dated: May 17, 2010

DICKINSON, Presiding Judge.

INTRODUCTION

{¶1} Matthew Besancon was driving a pick-up truck that was pulling a livestock trailer when he was stopped by a state trooper for not displaying a license plate on the trailer. Mr. Besancon told the trooper that he was on his way to a livestock auction and that he was using the trailer to transport cattle to the auction. The municipal court found him guilty of failure to display a license plate in violation of Section 4503.21(A) of the Ohio Revised Code. Mr. Besancon has appealed, arguing that he did not have to display a license plate on the trailer because it was “[f]arm machinery” under Section 4501.01(U) of the Ohio Revised Code. This Court reverses his conviction because the trailer was “farm machinery” and, therefore, he did not have to display a license plate under Section 4503.21(A).

A TRAILER IS A MOTOR VEHICLE

{¶2} Under Section 4503.21(A), “[n]o person who is the owner or operator of a motor vehicle shall fail to display in plain view on the . . . rear of the motor vehicle the distinctive number and registration mark . . . furnished by the director of public safety” The issue in this case is whether the trailer that Mr. Besancon was pulling is a “motor vehicle,” as that term is used in Section 4503.21. “[W]hether a particular vehicle falls within a definition of a ‘motor vehicle’ is normally a question of law.” *Muenchenbach v. Preble County*, 91 Ohio St. 3d 141, 148 n.1 (2001).

{¶3} Section 4501.01(B) of the Ohio Revised Code defines the term “[m]otor vehicle” for purposes of a number of chapters of the Ohio Revised Code, including Chapter 4503. Accordingly, “[m]otor vehicle,” as used in Section 4503.21(A), “means any vehicle . . . that is propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires.” R.C. 4501.01(B). Section 4503.01 of the Ohio Revised Code adds trailers to the definition of “[m]otor vehicle” for purposes of certain sections of the Ohio Revised Code, including Section 4503.21. “[T]railer,” as used in Section 4503.01, means “any vehicle without motive power that is designed or used for carrying property or persons wholly on its own structure and for being drawn by a motor vehicle . . . [including] a vehicle used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at a speed greater than twenty-five miles per hour” R.C. 4501.01(M). Unless excluded, therefore, a trailer, including a trailer used for certain agricultural purposes, is a “motor vehicle” for purposes of Section 4503.21(A).

FARM MACHINERY IS NOT A MOTOR VEHICLE

{¶4} Although the term “[m]otor vehicle” is broadly defined by Section 4501.01(B), that section specifically excludes a number of things that would otherwise fall within its broad definition, including “farm machinery.” R.C. 4501.01(B). Because the term “motor vehicle,” as used in Section 4503.21(A), is defined by Sections 4501.01(B) and 4503.01, the exceptions listed in Section 4501.01(B) also apply to Section 4503.21(A). If the trailer Mr. Besancon was pulling is “farm machinery,” therefore, it is not a “motor vehicle” for purposes of Section 4503.21(A).

MR. BESANCON’S LIVESTOCK TRAILER

{¶5} The State has argued that Mr. Besancon had to display a license plate on his livestock trailer under Section 4503.21(A) because it was a “trailer” under Section 4503.01. Mr. Besancon has argued that he did not need to display a license plate on it because it was “[f]arm machinery” under Section 4501.01(U).

{¶6} This Court will start with Mr. Besancon’s argument that the livestock trailer was “farm machinery.” Under Section 4501.01(U), “[f]arm machinery’ means all machines and tools that are used in the production, harvesting, and care of farm products, and includes trailers that are used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm” Mr. Besancon has argued that the livestock trailer is a “machine[] [or] tool[] that [is] used in the production, harvesting, and care of farm products.” He has also argued that it is a “trailer[] . . . used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm.”

{¶7} Regarding whether the livestock trailer is a “trailer[] . . . used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm,” this Court notes that Chapter 4501 does not define “agricultural produce,”

“agricultural production materials,” “storage,” or “supply.” Whenever the term “agriculture” is used in most sections of the Revised Code, however, it includes “animal husbandry, including, but not limited to, the care and raising of livestock . . . animals” R.C. 1.61. As used in Chapter 929, “[a]gricultural production’ means commercial aquaculture, apiculture, animal husbandry, or poultry husbandry; the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, or sod; . . . or any combination of such husbandry, production, or growth; and includes the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with such husbandry, production, or growth.” R.C. 929.01(A).

{¶8} If the Revised Code does not define a term, this Court may look to its dictionary definition. *Dairy Farmers of Am. Inc. v. Wilkins*, 101 Ohio St. 3d 100, 2004-Ohio-321, at ¶18-19 (referring to dictionary for definition of “dairy production.”). A dictionary definition of “produce” is “1a(1): something that is brought forth or yielded either naturally or as a result of effort and work . . . 2: agricultural products . . . 3: the progeny usu. of a female animal” Webster’s Third New Int’l Dict. 1810 (1993). A dictionary definition of “storage” is “1a: space for storing . . . 2a: the act of storing or state of being stored . . . b: the price charged for keeping goods in a storehouse . . . c: the holding and housing of goods from the time they are produced until their sale” *Id.* at 2252. A definition of “supply” is “1: assistance, succour, aid 2: something that supplies or is supplied to a person or thing . . . d: the quantity or amount (as of a commodity) needed or available . . . e: items or a quantity . . . available for use, exploitation, or development . . . 4a: the quantity of goods and services offered for sale at various prices . . . 5: something that contains, delivers, maintains, or regulates a supply” *Id.* at 2297.

{¶9} We conclude that the cattle Mr. Besancon was hauling were “agricultural produce” under Section 4501.01(U) because they were the progeny of livestock animals. We further conclude that the auction house is a “place of . . . supply” under that section because it is a location at which goods are offered for sale at various prices. A magistrate found that Mr. Besancon was using the livestock trailer to transport cattle to an auction house. Mr. Besancon, therefore, was using it to transport agricultural produce between a local place of supply and his farm. Accordingly, it was farm machinery under Section 4501.01(U). Under Section 4501.01(U), there are no limitations regarding the speed below which a vehicle must operate to be considered farm machinery. The fact that Mr. Besancon was allegedly going faster than 25 miles per hour at the time he was stopped, therefore, does not take his livestock trailer outside the definition of farm machinery.

{¶10} The State has argued that, even if the livestock trailer is “farm machinery,” Mr. Besancon cannot take advantage of that exception to the definition of motor vehicle under Section 4501.01(B) because Section 4503.01 specifically adds the term “trailer” to the definition of motor vehicle for purposes of Section 4503.21. According to the State, it is undisputed that Mr. Besancon was travelling over 25 miles per hour and that, therefore, his livestock trailer was a “trailer” within the meaning of Section 4503.01 because it was “a vehicle used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm [being] drawn or towed on a public road or highway at a speed greater than twenty-five miles per hour.” R.C. 4501.01(M).

{¶11} Just because Section 4503.01 adds the term “trailer” to the definition of “[m]otor vehicle” for purposes of Section 4503.21, however, does not mean that the “farm machinery” exception found in Section 4501.01(B) no longer applies. The fact that Section 4503.01 adds

trailers to the definition of motor vehicle indicates that trailers are not otherwise within the definition of motor vehicle under Section 4501.01(B). The definition of “farm machinery” incorporated into Section 4501.01(B), however, includes “trailers that are used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm.” R.C. 4501.01(U). If the exceptions listed in Section 4501.01(B) only applied to sections of the Code unmodified by Section 4503.01’s incorporation of “trailer” into the definition of “motor vehicle,” there would be no need for the definition of farm machinery to include a type of trailer because, under the general definition provided in Section 4501.01(B), a trailer could never be a motor vehicle. The State’s argument would make the inclusion of a type of trailer in the definition of farm machinery superfluous.

{¶12} The State has noted that Section 4503.04 provides a registration fee for “farm trucks” and that the definition of farm truck includes trailers that transport livestock. R.C. 4503.04(J), (K), (P)(3). Citing those provisions, it has argued that Mr. Besancon’s trailer is not exempt from registration under Section 4503.19. Even if the State is correct that Mr. Besancon had to register the livestock trailer under Section 4503.04 and 4503.19, that is not the issue in this case. Section 4503.21 involves whether a person is required to display a license plate and only applies to someone “who is the owner or operator of a motor vehicle”

{¶13} Mr. Besancon’s livestock trailer is both a “[t]railer” as that term is defined by Section 4501.01(M) and “[f]arm machinery” as that term is defined by Section 4501.01(U). Under Section 2901.04(A), “sections of the Revised Code defining offenses . . . shall be strictly construed against the state, and liberally construed in favor of the accused.” In reading Sections 4501.01 and 4503.01 together in a light most favorable to Mr. Besancon, we conclude that his livestock trailer was “farm machinery” and that the farm machinery exception provided in

Section 4501.01(B) applies to the definition of motor vehicle under Sections 4503.01 and 4503.21(A).

{¶14} The municipal court incorrectly determined that the “farm machinery” exception to the definition of “[m]otor vehicle” under Section 4501.01(B) did not apply. Because the livestock trailer was farm machinery, it was not a motor vehicle under Sections 4503.01 and 4503.21(A). Mr. Besancon, therefore, did not have to display a license plate on it. His assignment of error is sustained.

CONCLUSION

{¶15} A livestock trailer transporting cattle to an auction house is “[f]arm machinery” under Section 4501.01(U). The judgment of the Wayne County Municipal Court is reversed.

Judgment reversed,
and cause remanded.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Wayne County Municipal Court, County of Wayne, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(E). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to appellee.

CLAIR E. DICKINSON
FOR THE COURT

MOORE, J.
BELFANCE, J.
CONCUR

APPEARANCES:

ROBERT E. MOORE, attorney at law, for appellant.

MARTIN FRANTZ, prosecuting attorney, and LATECIA. E. WILES, assistant prosecuting attorney for appellee.

DAVID S. PENNINGTON, attorney at law, for *amici curiae*.