

IN THE IOWA DISTRICT COURT IN AND FOR WOODBURY COUNTY
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CITY OF SIOUX CITY, **SCCICV153246**
Plaintiff,

vs. **RULING AND ORDER**

CRAIG KRUEGER,
Defendant.
* * * * *

On the 12th day of June, 2013, this matter came before the Court for trial. The defendant appeared telephonically, pro se, and the City appeared in the form of Assistant City Attorney Ryan Weisen. Evidence was presented by both sides and at the close of all evidence this matter was taken under advisement. Upon consideration of the evidence, the Court issues the following findings of fact and conclusions of law:

The city has the burden of proof to establish that a municipal infraction occurred and that the defendant committed the infraction. The standard is proof by clear, satisfactory, and convincing evidence. See Iowa Code Section 364.22 and Municipal Code of the City of Sioux City Section 10.12.065. City’s exhibits 1 through 8 were entered into evidence over the objection of the Defendant. The city exhibits included a 12 second videotape of the incident at issue herein and several still photographs, all containing information relevant to the ticket issued herein, including time, location, license plate number, speed and other relevant data.

The charge at issue in this matter involves automated speed enforcement and the defendant is cited under municipal code section 10.12.080. Based on the language in the municipal code in regards to the same, a defendant is alleged to have committed a violation of the automated speed enforcement provision if a vehicle owned by the defendant travelling on a public roadway exceeds the applicable speed limit. The person liable is the registered owner of the vehicle or a nominated party. The city thus must prove by clear, satisfactory and convincing evidence that the defendant is the registered owner of a vehicle that exceeded the posted speed limit on a public roadway that is within the confines of the city of Sioux City or a nominated

party. The city had three witnesses testify at trial and the court found the city's witnesses to be credible. The defendant testified on his own behalf.

On January 3, 2013, at approximately 9:26 a.m., the Defendant drove a Corolla owned by Enterprise Rent-A-Car on I-29 within the city limits of the city of Sioux City, Iowa. The Defendant was renting the vehicle from Enterprise. See Plaintiff's Exhibit #8. The Defendant was driving 66 miles per hour when he passed mile marker 149. The speed limit at that location on that date and time was 55 miles per hour.

Municipal Code Section 10.12.080 (2)(b) reads as follows – “Vehicle Owner” means the person or entity identified by the Iowa Department of Transportation, or registered with any other state vehicle registration office, as the registered owner of a vehicle`.

Municipal Code Section 10.12.080 (3)(a) defines what a violation of this section is and reads as follows – “A violation occurs when a vehicle traveling on a public roadway exceeds the applicable speed limit”.

Municipal Code Section 10.12.080 (3)(b) reads as follows – “The vehicle owner or nominated party shall be liable for a civil penalty as imposed in subsection (4)(a) of this section. Notice of the violation shall be by issuance of an automated speed enforcement citation sent by ordinary mail to the vehicle owner”.

The recipient of the automated speed enforcement citation is supposed to be the registered owner of the vehicle pursuant to the statute. The recipient has the option of nominating another party to be responsible for the citation. The court is unclear from the statute what rights, responsibilities, and options the “nominated party” might have in face of such a nomination. The municipal code does not set out any “rules” to explain how a “nomination” can occur, but it appears from the paperwork that the recipient of the ticket, which is supposed to be the vehicle owner, is the only party that can “nominate” a replacement party. The city presented no evidence that would suggest a “nomination” occurred herein. The municipal code indicates that “notice of a violation shall be by issuance of an automated speed enforcement citation sent by ordinary mail

to the vehicle owner". The city presented no evidence to substantiate that an "automated speed enforcement citation" was sent by ordinary mail to the registered owner.

The evidence presented at trial, however, does show that Enterprise Rent-A-Car is the owner of the vehicle at issue. The evidence presented at trial shows that the automated speed enforcement citation was issued directly to this Defendant and was not a consequence of the nomination process. The police may have investigated this matter and determined the Defendant was the driver, but the court is not convinced that he is a "nominated party" as contemplated by the city ordinance. The Defendant is not a nominated party, nor is he the registered owner of the motor vehicle. The court would note for all parties that the notice of violation sent to the Defendant states in one section that EAN Holdings was the registered owner of the vehicle, but in another section that the Defendant was the registered owner. See Plaintiff's Exhibit #3 beneath the signature of Officer M. Hein. Additionally, the "Instruction Page" sent to the Defendant by the SCPD as part of the violation allegation packet refers to the Defendant multiple times as the registered owner of the vehicle and such status was the reason for him receiving the notice of violation. See Plaintiff's Exhibit #4. Under the ordinance, this court finds that the Defendant cannot be liable.

As an aside, this court is troubled by the inclusion in this statute of a "nominated party" without any other statutory guidance as to the same. The phrase "nominated party" is only used once in the entire section and never referenced again. There is no explanation of the process for the same, nor any mention of the rights, obligations, and responsibilities of a "nominated party". For example, can a nominated party decline nomination? And if so, how? Does the act of nominating a party by the registered owner relieve the registered owner of further responsibility? What is the authority for the city to allow the transference of an "in rem" liability by a second party (the registered owner) to a third party (not the registered owner)?

The court finds for the Defendant.

This action is now dismissed with prejudice with costs taxed to the city.

Clerk to notify.

IT IS SO ORDERED this 27th day of June, 2013.

John C. Nelson, DAJ, Third Judicial District



State of Iowa Courts

Type: OTHER ORDER

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

So Ordered

A handwritten signature in cursive script that reads 'John C. Nelson'. The signature is written in black ink and is positioned above a horizontal dashed line.

John C. Nelson, District Associate Judge,
Third Judicial District of Iowa