



State v. Miller

2024-Ohio-2217 (2024) | Cited 0 times | Ohio Court of Appeals | June 10, 2024

IN THE COURT OF APPEALS OF OHIO ELEVENTH APPELLATE DISTRICT GEAUGA COUNTY

STATE OF OHIO,

Plaintiff-Appellee,

- vs -

JEREMY MILLER,

Defendant-Appellant. CASE NO. 2023-G-0038

Criminal Appeal from the Chardon Municipal Court

Trial Court No. 2023 TRC 00759

OPINION

Decided: June 10, 2024 Judgment: Affirmed

Dennis M. Coyne, Middlefield Police Prosecutor, 210 Fox Lane, Chagrin Falls, OH 44022 (For Plaintiff-Appellee).

R. Robert Umholtz, Geauga County Public Defender, Paul J. Mooney, Chief Assistant Public Defender, 211 Main Street, Chardon, OH 44024 (For Defendant-Appellant).

EUGENE A. LUCCI, P.J.

{¶1} Appellant, Jeremy Miller, appeals the judgment of the Chardon Municipal

Court, finding him guilty of a plea of no contest. At issue is whether a horse-driven buggy is a vehicle, as a matter

of law,



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{¶2} In the early-morning hours of February 25, 2023, an officer from the Middlefield Police Department was alerted to an Amish horse and buggy which was traveling on North State Avenue in Middlefield, Geauga County, Ohio. A concerned motorist alerted police to the buggy because it was weaving on the road, repeatedly going left of the center line. Upon locating the buggy, the officer activated his emergency lights and siren. The officer used numerous different siren commands, but the buggy failed to stop. The officer observed the buggy continue to cross the double-yellow center line.

{¶3} The officer drove next to the buggy and observed the operator, appellant, slumped over and unconscious. Eventually, with the assistance of civilians, the officer was able to stop the buggy. Appellant was awakened and appeared intoxicated. He was located in the buggy.

Field sobriety tests were initiated, and appellant was arrested and charged with OVI.

{¶4} , and defense counsel filed a motion to suppress statute. The matter came for hearing where defense counsel and the prosecutor stipulated to the facts set forth in the police report. No witnesses were sworn, but counsel for each side made legal arguments in favor of their respective positions. The trial court {¶5} Appellant entered a plea of no contest. He was found guilty and sentenced

to five days in the Geauga County Safety Center to be followed by 18 days of electronic monitored house arrest. Appellant was also fined and placed on probation for two years.

Thi

{¶6} Appellant assigns the following as error:



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{¶7} defendant- {¶8} Appellant contends that an Amish, horse-drawn buggy does not meet the appear to recognize that this issue is one of first impression. For the reasons that follow, we conclude the plain language of the Ohio Revised Code demonstrates that the General Assembly contemplated horse- court

See, e.g., State v. Nohra, 11th Dist. Trumbull

No. 2021-T-0062, 2022-Ohio-3115, ¶ 20.

{¶9} Appellant was charged with violating R.C. 4511.19(A)(1)(a) and (b), which provide:

(A)(1) No person shall operate any vehicle, streetcar, or trackless trolley within this state, if, at the time of the operation, any of the following apply:

(a) The person is under the influence of alcohol, a drug of abuse, or a combination of them.

(b) The person has a concentration of eight-hundredths of one per cent or more but less than seventeen-hundredths of one per cent by weight per unit volume of alcohol in the person s whole blood.

{¶10} As noted above, appellant does not take issue with the fact that he was under the influence of alcohol and/or had a prohibited concentration of alcohol in his blood. Instead, he narrowly asserts the Amish buggy is not a statutorily defined vehicle for purposes of R.C. 4511.19.

{¶11} ,

which provides:

and an electric bicycle, in, upon, or by which any person or property may be transported or drawn upon a highway, except electric personal assistive mobility device, any low-speed

micromobility device, any personal delivery device as defined in section 4511.513 of the Revised



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Code, any device that is moved by power collected from overhead electric trolley wires or that is used exclusively upon stationary rails or tracks, or any device, other than a bicycle, that is moved by human power.

{¶12} Pursuant to R.C. 4511.01(BB), [s]treet or highway means the entire width

between the boundary lines of every way open to the use of the public as a thoroughfare

for purposes of vehicular travel.

{¶13} R.C. 4511.10(HHH) movement of a vehicle, streetcar, or trackless trolley.

{¶14} -

Webster, <https://www.merriam-webser.com/dictionary/device>, (accessed March 29,

2024) Id.

{¶15} An Amish buggy is a piece of equipment designed for transportation utilizing

various contexts, a principal purpose or a significant purpose is such transportation on

the highways of this state. We therefore conclude that, pursuant to R.C. 4511.01(A), an

Amish buggy, or any horse- codified under R.C. 4511.19, and appellant was operating the same on a highway in

violation of R.C. 4511.19(A)(1)(a) and (b). This conclusion is strongly supported by the {¶16} In *Mentor v. Giordano*, 9 Ohio St.2d 140, 224 N.E.2d 343 (1967), paragraph

and ordinances making it an offense to operate a motor vehicle while under the influence

of intoxicating liquor is to protect the users of streets and highways from the hazard of

vehicles under the management of persons who have consumed alcoholic beverages to

Although *Giordano* specifically

Further, in the body of the *Giordano* opinion, the Supreme Court broadened

See *id.* is to protect the users of streets and highways from the hazard of vehicles under the



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management of persons who have consumed alcoholic beverages to such an extent as

) (Emphasis added.).

{¶17} Further, in holding that R.C. 4511.19 imposes strict liability, the First

Appellate District determined the hazards to life, limb and property created by drivers who have consumed so much

State v. Grimsley, 3 Ohio App.3d 265, 267, 444

N.E.2d 1071 (1stDist.1982), citing Giordano. In drawing this conclusion, the court in

Grimsley

drugs, or a combination of both) is a voluntary act in the eyes of the law, and duty to

refrain from doing so is one that in the interests of public safety must be enforced by strict

Id. at 268. The First District also noted [i]t is a widely accepted fact that a major portion of the 40,000 to 50,000 traffic deaths

each year are caused by drivers who have been drinking. Grimsley at 267, fn. 5.

{¶18} Finally, the Supreme Court of Ohio, in State v. Gill, 70 Ohio St.3d 150, 637

N.E.2d 897 (1994) (superseded by statute on other grounds), the problem of driving while intoxicated is revealed by the number of needless tragic

Id. at 154; see also State v.

Clifton, 172 Ohio App.3d 86, 2007-Ohio-3392, 872 N.E.2d 1310, ¶ 24 (4th Dist.)

recognized public safety purposes behind the statute governing driving while under the

regarding public safety and references to tragedies occurring in connection with drunk

{¶19} A horse-drawn buggy, operated unsafely or while a person is under the

influence, invokes the same public-policy safety concerns discussed in the above cases.



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And the facts of the instant case instantiate how such a device can create similar hazards to life and limb as that of a motor vehicle. Specifically, while appellant was unconscious due, at least in part, to his intoxication, the horses were left to wander on their own on the highway weaving frequently over the double-yellow lines on the roadway. Horses are large, powerful, and heavy animals. If a motorist were to accidentally strike the horse-drawn buggy, not only could the animals and occupant of the buggy be significantly, if not mortally injured, so could others who share the roadway with the buggy. ¶20 In light of the foregoing considerations, we conclude, as a matter of law, that a horse- Appellant was therefore properly cited and convicted following his plea of no contest. ¶21 , and the trial court is affirmed.

MATT LYNCH, J.,

ROBERT J. PATTON, J.,

concur.

