

was a dangerous condition of real property within the meaning of the Political Subdivision Tort Claims Act.

As stated earlier, though, plaintiff's claim falls within the "utility service facilities" rather than the "real property" exception since the latter specifically excludes sewers. The court includes the above discussion to illustrate that if defendant's initial position were adopted, i.e., that the trench was not part of a sewer, then governmental immunity would still be waived under the real property exception, found in 42 Pa. C.S.A. §8542 (b) (3).

Defendant has failed to show that plaintiffs' inability to recover is clear and free from doubt. As such, defendant's motion for summary judgment must be denied.

ORDER OF COURT

April 15, 1987, the defendant Washington Township's motion for summary judgment is denied.

COMMONWEALTH V. CRIDER, C.P. Franklin County Branch,
C.D. No. 244 of 1986

Driving under the Influence - Quota System for Police - 71 P.S. §2002

1. 71 P.S. § 2002 forbids a quota system and voids any tickets or citations issued pursuant to such a system.
2. Where defendant is arrested and a complaint filed against him, despite the existence of a quota, such a procedure is not within the meaning of § 2002.

David W. Rabauser, Esquire, Assistant District Attorney, Attorney for the Commonwealth

E. Franklin Martin, Esquire, Attorney for the Defendant

OPINION AND ORDER

WALKER, J., February 9, 1987:

At 2:00 o'clock a.m. on March 22, 1986, Washington Township Police Officer Warren was driving east on East Main Street in Waynesboro, Pennsylvania when he noticed a car approaching him from behind. Though he was in a 35 mile per hour zone, the car appeared to be traveling at the rate of approximately 55 miles per hour. Officer Warren pulled over to the side of the road and

observed that the car continued in an easterly direction, straddling the traffic lanes.

After stopping the vehicle, Warren spoke with the driver, defendant Timothy Crider. Defendant smelled of alcohol, slurred his speech, and stumbled when he got out of his car. After failing a field sobriety test, defendant was taken to the Washington Township police station where two breathalyzer tests were administered. His blood-alcohol content registered .157 and .161. A complaint was subsequently filed, charging him with driving under the influence of alcohol.

A non-jury trial was held on December 12, 1986, and testimony was taken. Defendant raised the affirmative defense that he was arrested pursuant to an illegal quota system. At the trial, defendant produced a memorandum that the chief of police of Washington Township had circulated among his officers. In that memo, titled "Performance Objectives for the Month of March, 1986", a list of "minimum performance goals" was outlined. At the end of March, each officer's performance was to be evaluated in terms of whether the "goals" had been met or exceeded. These goals included such quotas as: one traffic citation for each hour of patrol duty, sixteen criminal arrests for the month, and other similarly enumerated objectives. After the trial, both sides submitted to the court.

The court finds that defendant has sustained his burden of proving that a quota system existed in Washington Township in March of 1986. The question this court is left with is whether the prohibition against quota systems applies to a charge of driving under the influence. For the reasons discussed below, the court answers this question in the negative.

Defendant's position is that his arrest must be held null and void because it was the result of an impermissible quota system that was in force in Washington Township at the time of his arrest. Specifically, he relies on 71 P.S. §2002 which states that any tickets or citations issued pursuant to a quota system are unenforceable, null and void. The obvious flaw in defendant's argument is that he was not issued a ticket or citation; he was arrested and a complaint was filed against him.

In spite of this, defendant urges the court to include "complaints" within the definition of "citations", as used in §2002. His expansive interpretation is unwarranted; penal statutes are to be strictly construed. 1 Appendix, Pennsylvania Consolidated Statutes Annotated §1928 (b) (1). Simply put, a complaint for a driving under the influence violation is not a "citation". This conclusion is easily reached by comparing the rules of criminal

LEGAL NOTICES, cont.

approved May 5, 1933, as amended; and that the said corporation is winding up its affairs in the manner prescribed by said law so that its corporate existence shall be ended upon the issuance of a Certificate of Dissolution by the department of State of the Commonwealth of Pennsylvania.

Maxwell, Maxwell, Dick & Walsh
Wayne Building
92 West Main Street
Waynesboro, PA 17268
Solicitors

6-12, 6-19

CORPORATE NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on June 5, 1987, for the purpose of obtaining a Certificate of Incorporation of a proposed business corporation to be organized under the Business Corporation Law of the Commonwealth of Pennsylvania, Act of May 5, 1933, P.L. 364, as amended and 15 P.S. §1206.

The name of the corporation is: MUSIC CITY ATTRACTIONS, INC.

The purpose or purposes for which it was organized are as follows: The corporation shall have unlimited powers to engage in and do any lawful acts concerning any or all lawful business for which corporations may be incorporated under the Pennsylvania Business Corporation Law.

WALTER K. SWARTZKOPF, JR., P.C.
2424 North Second Street
Harrisburg, PA 17110-1104
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6-19-87

IN THE COURT OF COMMON PLEAS
OF THE 39TH JUDICIAL DISTRICT
OF FRANKLIN COUNTY
PENNSYLVANIA —
ORPHAN'S COURT DIVISION

The following list of Executors, Administrators and Guardian Accounts, Proposed Schedules of Distribution and Notice to Creditors and Reasons Why Distribution cannot be

LEGAL NOTICES, cont.

Proposed will be presented to the Court of Common Pleas of Franklin County, Pennsylvania, Orphans' Court Division for CONFIRMATION: July 2, 1987.

FRECON: First and final account, statement of proposed distribution and notice to the creditors of Chambersburg Trust Company, Executor of the Estate of Lawrence John Frecon, late of Greene Township, Franklin County, Pennsylvania, deceased.

HARGADINE: First and final account, statement of proposed distribution and notice to the creditors of Fidelity Bank, N.A. and William A. Hargadine, Executors of the Estate of Isabel F. Hargadine, late of Greene Township, Franklin County, Pennsylvania, deceased.

HAUN: First and final account, statement of proposed distribution and notice to the creditors of Judy Ann Dysinger and Farmers and Merchants Trust Company, Co-Executors of the Estate of Mildred F. Haun, late of St. Thomas Township, Franklin County, Pennsylvania, deceased.

KNAPPER: First and final account, statement of proposed distribution and notice to the creditors of Valley Bank and Trust Company, Executor of the Estate of Edna C. Knapper, late of the Borough of Chambersburg, Franklin County, Pennsylvania, deceased.

Robert J. Woods
Clerk, Orphans' Court

6-5, 6-12, 6-19, 6-26

procedure for summary offense citations to those for complaints for driving under the influence. See, Pa.R.Crim.P. Rules 55-79, 130, 132. Most obviously, the complaint for a driving under the influence violation must be more specific than a summary citation. *Id.*, Rule 132 (6) (a), (b).

Furthermore, if the legislature had wanted Pa.R.C.P. §2002 to apply to complaints, as well as tickets and citations, the term "complaints" would have been included in the statute. The mention of one thing in a statute implies the exclusion of others not expressed. *Cocco v. Degnan Chevrolet, Inc.* 64 D&C2d 6 (1973).

Taking defendant's argument to its logical end-result, the court is left with an unreasonable proposition. If a Washington Township officer arrived at the scene of a murder and immediately arrested a nearby suspect, would the charges have to be dismissed merely because the memo designated a quota of sixteen criminal arrests per officer for the month? It must be presumed that, when enacting a statute, the legislature does not intend a result that is absurd, impossible of execution, or unreasonable. 1 App.Pa.C.S.A. §1922(1). As illustrated above, adopting defendant's interpretation of §2002 would cause absurd, unreasonable consequences and, therefore, must be rejected.

ORDER OF COURT

February 9, 1987, the court, after hearing the evidence, finds the defendant, Timothy William Crider, guilty of driving under the influence.

PEFLEY V. MAYOR AND TOWN COUNCIL OF THE BOROUGH OF CHAMBERSBURG, C.P. Franklin County Branch, Misc. Doc. Vol. Y, Page 503

Local Agency Appeal - Volunteer Fire Fighter - Property Interest (Interest

1. A volunteer firefighter with no contract or statute guaranteeing his position serves at will.
2. A voluntary relationship such as a firefighter does not fall within the meaning of property subject to protection under the 14th Amendment of the U.S. Constitution.
3. The 5th and 14th Amendments do not require a due process hearing before a volunteer firefighter can be dismissed.