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Commonwealth Of Kentucky

Court of Appeals

NO. 2003-CA-000034-DG

COMMONWEALTH OF KENTUCKY

APPELLANT

ON DISCRETIONARY REVIEW FROM JEFFERSON CIRCUIT COURT
v. HONORABLE STEPHEN P. RYAN, JUDGE
ACTION NO. 02-XX-000077

FADI H. MOHAMMAD

APPELLEE

OPINION
REVERSING

** **

BEFORE: MINTON, SCHRODER, AND TAYLOR, JUDGES.

SCHRODER, JUDGE: Fadi Mohammad was charged with carrying a concealed deadly weapon¹ for carrying a firearm in the console of his car. The district court ruled that the glove compartment exception of KRS 527.020(5) (now subsection 8) included consoles

¹ KRS 527.020(1), a Class A misdemeanor.

and the circuit court affirmed. On discretionary review, we reverse² because we opine the statute is clear and unambiguous, and refers to "glove compartments" only.

The facts for an understanding of this case are simple. On January 1, 2002, Fadi Mohammad was involved in a traffic stop when a loaded 9 mm handgun was located in the vehicle's center console. Mohammad was charged under KRS 527.020(1) with carrying a concealed weapon. At trial, Mohammad's defense was that "the glove compartment exception" of KRS 527.020(5) includes the center console. The district court agreed, holding that the glove compartment is a "compartment" and since no one puts gloves in a glove compartment anymore, the word glove should be ignored and now any compartment, including the center console, satisfies the glove compartment exception. The circuit court agreed and we granted discretionary review.

Statutory construction is a matter of law which requires a de novo standard of review. Lexington-Fayette Urban County Health Dept. v. Lloyd, Ky. App., 115 S.W.3d 343, 347 (2003). KRS 527.020(1) provides "A person is guilty of carrying a concealed weapon when he carries concealed a firearm or other deadly weapon on or about his person." The so-called "glove compartment exception" is now contained in KRS 527.020(8) which includes the following language from the former KRS 527.020(5):

² We are not remanding because the district court dismissed the charge at trial and double jeopardy would apply.

"A firearm or other deadly weapon shall not be deemed concealed on or about the person if it is located in a glove compartment, regularly installed in a motor vehicle by its manufacturer regardless of whether said compartment is locked, unlocked, or does not have a locking mechanism."

Courts have a few basic rules to follow in interpreting statutes. The General Assembly provided no definition of "glove compartment," so we use the plain, common, or everyday meaning. Gateway Construction Co. v. Wallbaum, Ky., 356 S.W.2d 247 (1962). KRS 446.080(4) provides: "All words and phrases shall be construed according to the common and approved usage of language, but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in the law, shall be construed according to such meaning."

The everyday meaning of "glove compartment" is the factory-installed compartment in the dash on the passenger's side of the vehicle. We all agree that if Mohammad's gun was found in that compartment, he would have a defense to the charge of carrying a concealed weapon. The lower courts' interpretation of the old KRS 527.020(5) dropped the word "glove" because we no longer store gloves therein, and read the exception to encompass any factory-installed compartment. Mohammad's argument is similar but would not require us to drop the word "glove" from "glove compartment." Thus, we could

interpret "glove compartment" to be any factory-installed compartment that one could put gloves in, which includes the center console.

Before we get into the legislative intent, we must ascertain if the statute is ambiguous or susceptible to more than one meaning because the legislative intent must be determined from the language of the statute itself if possible. Lexington-Fayette Urban County Health Dept. v. Lloyd, Ky. App., 115 S.W.3d 343, 347 (2003). Only where the language is of doubtful meaning or where an adherence to the letter of it would lead to absurdity can we consider extraneous evidence of legislative intent. Overnite Transportation Co. v. Gaddis, Ky. App., 793 S.W.2d 129, 131 (1990); Newport Benevolent Burial Assn. v. Clay, 170 Ky. 633, 186 S.W. 658 (1916); Grieb v. National Bank of Kentucky's Receiver, 252 Ky. 753, 68 S.W.2d 21 (1933).

We do not believe the "glove compartment" exception is ambiguous, vague, or difficult to understand. The statute speaks for itself and we are required to follow the language of the statute rather than speculate as to what may have been intended but not expressed. AK Steel Corporation v. Commonwealth, Ky. App., 87 S.W.3d 15, 17 (2002). Therefore, we believe the lower court erred in its interpretation of "glove compartment" to include the center console.

The interpretation of the former KRS 527.020(5) by the Jefferson Circuit Court to include center consoles is hereby reversed.

ALL CONCUR.

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