

IN THE IOWA MAGISTRATE COURT FOR CLINTON COUNTY

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05 MAR 22 AM 8:59

CLERK OF DISTRICT COURT
CLINTON COUNTY IOWA

STATE OF IOWA,
Plaintiff,

Case No. OWCR-49118
TICKET #WG-892678

LINDA SUE MINNSEN,
Defendants,

The Motion of the County Attorney is hereby granted and the above action is dismissed without prejudice.

- () Costs are assessed to Defendant and are due in 60 days payable in the Clerk's Office, Room 107, Clinton County, Courthouse.
- (X) No costs shall be assessed.

3/22/05
Date

Carol M. Pige
Judge of the 7th Judicial District of the State of Iowa

bjm

THE UNDERSIGNED CERTIFIES THAT THE FOLLOWING INSTRUMENT WAS SERVED UPON THE FOLLOWING BY:

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ON THE 22 DAY OF Mar, 2005
AND

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IN THE IOWA DISTRICT COURT IN AND FOR CLINTON COUNTY
ASSOCIATE DIVISION

STATE OF IOWA,)
Plaintiff,)
vs.) CRIMINAL NO. OWCR-49118
)
LINDA SUE MINNSEN) ORDER
Defendant.)

This case is scheduled for contested hearing on Defendant's Motion to Suppress Evidence on September 7, 2004. Present are Linda Minssen, defendant; Scott C. Peterson, attorney for defendant; and Robin Strausser, Assistant County Attorney.

The Court receives sworn testimony from Clinton Police Officer William Sattler and defendant Linda Sue Minssen. The Court receives into evidence Defendant's Exhibits A, B and C.

The issue before the Court is probable cause for the stop of the vehicle operated by Linda Sue Minssen on June 11, 2004. She had just left the Rastrelli's Restaurant in Clinton. As she drove away, she passed the front of the restaurant and sounded the horn to acknowledge a good-bye to her friends who were just exiting the restaurant. The officer's attention was drawn to the vehicle driven by Linda Sue Minssen by the sounding of the horn. Officer Sattler first described the incident as someone "laying on the horn". Upon cross-examination by defense counsel, he was asked whether the time frame for the sounding of the horn was one or two seconds, and Officer Sattler affirmed this time frame.

Iowa Code Section 321.432 requires that no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall, when reasonably necessary to insure safe operation, give audible warning with

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JUDICIAL DISTRICT COURT

the horn but shall not otherwise use such horn when upon a highway. The purpose of the horn is to draw attention in order to insure safe operation of the motor vehicle. If danger presents itself, the blast of the horn alerts others to a potentially unsafe situation.

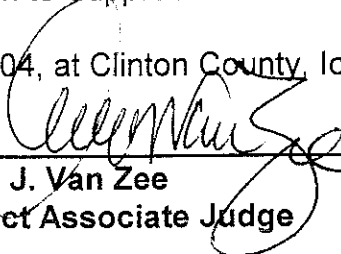
Horns are also used improperly to get someone's attention. Horns are used improperly to signal a hello or good-bye. Horns are used improperly in celebrations such as a wedding procession or after a sports victory. The question is whether the improper use of the horn by Linda Sue Minssen to signal good-bye to her friends in front of Rastrelli's Restaurant rises to the level of probable cause for a stop of her motor vehicle. The officer acknowledged the length of the sounding of the horn as one or two seconds upon cross-examination. It is the conclusion of the Court that this does not rise to the level of probable cause for the stop of a motor vehicle. In the case at hand, the facts are not sufficient to warrant a finding that probable cause existed to believe that a traffic law was being violated or that criminal activity was afoot.

There is a lesson to be learned from this incident. Sounding a horn may indeed be a way to get someone's attention, but you may also get more attention than you expected.

ORDER

IT IS ORDERED that defendant's Motion to Suppress Evidence be granted.

Dated this 9 day of September, 2004, at Clinton County, Iowa.



Arlen J. Van Zee
District Associate Judge

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ON THE 9 DAY OF Sept, 2004. *KH*

CA Peterson

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IN THE SUPREME COURT OF IOWA

STATE OF IOWA, Plaintiff-Appellant, vs. Linda Sue Minssen, Defendant-Appellee.	<p>04 OCT 29 AM 9:07</p> <p>MAIRILYN K. HUFF CLERK DISTRICT COURT CLINTON COUNTY, IOWA</p> <p>No. 04-1615 Clinton County No. OWCR 049118</p> <p>RESISTANCE TO APPLICATION FOR DISCRETIONARY REVIEW</p>
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Defendant, Linda S. Minssen, by and through her attorney, Scott C. Peterson, respectfully resists the State's Application for Discretionary Review and, in support of this resistance, states that:

1. The Honorable Arlen J. Van Zee did not err in holding that the officer did not have reasonable suspicion or probable cause to stop Ms. Minssen's car.
2. The State's recitation of the facts in its Application is erroneous and misleading. The officer first testified that Ms. Minssen sounded her horn over a distance equating to a city block, but when asked on cross-examination to be more specific and quantify the sounding of her horn in terms of time, the officer testified that she honked her horn between one and two seconds. Ms. Minssen also testified that she honked her horn between one and two seconds, corroborating the officer's testimony in terms of time. The court correctly found the officer's prior testimony about Ms. Minssen sounding her horn over a distance equating to a city block not to be credible.
3. Without any evidence to support his observation that the vehicle driven by Ms. Minssen was speeding, the court found the officer's testimony in this regard not to be credible, as well. The officer clearly testified that he decided to turn around and stop Ms. Minssen because she sounded her horn in front of a restaurant. The officer did not say anything to Ms. Minssen about speeding at the time he stopped her, nor did he make any reference about speeding in any of his reports following Ms. Minssen's arrest. Further, Ms. Minssen denied speeding at any point between the time she got in the vehicle and the time she was stopped.
4. The State is urging the Court to follow Minnesota's lead and points to *Daly v.*

