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REQUIREMENT OF PROPERLY FILED COMPLAINT IN MUNICIPAL TRAFFIC COURT

Defendant was tried and convicted in a town municipal court on a charge of driving while under the influence of intoxicating liquor, in violation of a local ordinance. In the course of a trial *de novo* on appeal to superior court, the trial judge noted that there was no complaint in the case file. The town's counsel argued successfully that the arrest slip which had been entered into evidence served as the complaint under the new Traffic Rules for Courts of Limited Jurisdiction. Again convicted, defendant appealed, contending his conviction was defective for want of compliance with certain provisions of the Traffic Rules for Courts of Limited Jurisdiction. In a *per curiam* opinion, the Washington Supreme Court reversed. *Held*: In the absence of a complaint properly filed, a court has no jurisdiction to proceed against the defendant; admission into evidence of a traffic ticket does not satisfy the filing requirement prescribed by the Traffic Rules for Courts of Limited Jurisdiction. *Town of Orting v. Rucshner*, 66 Wash. Dec. 2d 719, 404 P.2d 98 (1965).

A 1960 study for the Joint Fact-Finding Committee on Highways, Streets, and Bridges of the Washington State Legislature drew attention to basic defects in the administration of the state's traffic safety program.¹ The investigators were critical of the lack of uniformity with which traffic justice was administered throughout the state. The study recommended, *inter alia*, that corrective action be taken in the form of "rules of court" promulgated by the state supreme court and implemented by the court administrator.³ A further recommendation was that the Uniform Traffic Ticket and Complaint be adopted.⁴ Thereafter, the Washington Supreme Court, acting under authority conferred by statute,⁵ issued the Rules for Courts of Limited Jurisdiction⁶ "to establish uniform procedure in this state for courts of limited jurisdiction,"⁷ such rules being made effective on July 1,

¹ The study was reported in BROWN & BOORE, COURT REPORTING OF TRAFFIC CONVICTIONS (1960).

² BROWN & BOORE, *op. cit. supra* note 1 (*passim*).

³ *Id.* at 99.

⁴ *Id.* at 3, 53-57.

⁵ WASH. REV. CODE § 2.04.190 (1956):

The supreme court shall have the power... generally to regulate and prescribe by rule the forms for and the kind and character of the entire pleading, practice and procedure to be used in all suits, actions, appeals and proceedings of whatever nature by the supreme court, superior courts and justices of the peace of the state.

⁶ WASH. REV. CODE, Vol. 0 (1963).

⁷ Ott, *Foreword* to RULES FOR COURTS OF LIMITED JURISDICTION, WASH. REV. CODE, Vol. 0 (1963).

1963. Included were the Traffic Rules for Courts of Limited Jurisdiction,⁸ which adopted the Uniform Traffic Ticket and Complaint.⁹ In the principal case, allegations of noncompliance with the new traffic rules were presented for the first time to the Washington Supreme Court.

In reversing the conviction, the court found that the town municipal court, having been created under Washington Revised Code section 3.50.010,¹⁰ was governed by the procedures prescribed in the Traffic Rules.¹¹ The court observed that although the Traffic Rules provide for the Uniform Traffic Ticket and Complaint to serve as the complaint in a traffic case, that ticket must be *filed* as a complaint.¹² In the absence of such filing, the court had no jurisdiction to proceed, "and no authority is needed to pinpoint, demonstrate or support such a basic requirement of due process."¹³ The court held, further, that the belated admission of the ticket as an exhibit did not satisfy the filing requirement, nor did defendant's entrance of a plea waive the jurisdictional question. While the case was decided on this jurisdictional point, the court discussed, without deciding, defendant's other arguments "for the purpose of alerting municipal authorities to problems inherent in ignoring the new justice court rules."¹⁴ The arguments raised were that the ticket was not served on defendant, as required by the Traffic Rules,¹⁵ and that the town failed to use the Uniform Traffic Ticket and Complaint.¹⁶ In his concurring opinion, Judge Finley stressed that the

⁸ WASH. REV. CODE, Vol. 0 (1963) [hereinafter cited as JTR].

⁹ JTR T2.01(a): "In traffic cases the complaint and citation shall be substantially in the form known as the 'Uniform Traffic Ticket and Complaint' sponsored by the American Bar Association Traffic Court Program..."

¹⁰ WASH. REV. CODE § 3.50.010 (1963): "Any city or town with a population of twenty thousand or less may by ordinance provide for an inferior court to be known and designated as a municipal court..."

¹¹ WASH. REV. CODE § 3.50.450 (Supp. 1963): "Pleadings, practice and procedure in cases not governed by statutes or rules specifically applicable to municipal courts shall, insofar as applicable, be governed by the statutes and rules now existing or hereafter adopted governing pleadings, practice and procedure applicable to justice courts."

¹² JTR T2.01(d)(1): "...Such complaint when... filed with a court... shall be deemed a lawful complaint..."

JTR T2.04(a): "Every traffic enforcement officer upon issuing a traffic complaint and citation to an alleged violator... shall deposit the complaint and the abstract of court record... with a court having jurisdiction over the alleged offense or with its traffic violations bureau. This duty may be performed by the officer's supervisor. In either case, deposit as directed must be made within 48 hours after issuance of the traffic complaint and citation, nonjudicial days excluded."

¹³ 66 Wash. Dec. 2d at 721, 404 P.2d at 985.

¹⁴ *Ibid.*

¹⁵ JTR T2.02(b): "...The arresting officer shall serve a copy of the complaint and citation on the person..."

¹⁶ See note 9 *supra*.

principal case illustrated the need for an effective training and educational program for all officials charged with traffic law enforcement. He suggested that additional funds be appropriated to the court administrator for such a program, in order to prevent the "comedy of errors"¹⁷ which occurred in the principal case.

The holding in the principal case is significant in that it serves to illustrate that the Traffic Rules for Courts of Limited Jurisdiction are more than mere suggestions for proper traffic law enforcement procedure.¹⁸ Judges, prosecutors, and law enforcement officers should take note that failure to comply with the Traffic Rules will result in reversal of traffic convictions.¹⁹ Such reversal on procedural grounds is unnecessary, and can be avoided by diligently following the procedures prescribed by the Traffic Rules.

While the court indicated that *any* filed complaint would satisfy the jurisdictional requirement,²⁰ use of the Uniform Traffic Ticket and Complaint should certainly be preferred since its use is specifically prescribed by the Traffic Rules.²¹ Use of the Uniform Ticket offers many additional advantages. A product of ten years' experience, the Uniform Traffic Ticket and Complaint was designed to serve conveniently as traffic citation, sworn complaint, summons, arrest record, court record, and form for reporting convictions to the state licensing authority. That the principal case arose is evidence that not all Washington municipal authorities are familiar with this valuable instrument.

The Uniform Traffic Ticket and Complaint consists of a set of four printed model forms, the face of each form being substantially identical. The citing officer, who is charged with filling out the form,²² transcribes the necessary citing information²³ on the face of the form, three additional copies being made with the use of carbon or special no-carbon-required paper. The original form serves as the Complaint, copy one is the Abstract of Court Record, copy two is the Traffic Citation, and copy three is the Police Record.

¹⁷ 66 Wash. Dec. 2d at 724, 404 P.2d at 986.

¹⁸ Cf. *City of Seattle v. Buerkman*, 67 Wash. Dec. 2d 525, 408 P.2d 258 (1965) (appeal ineffective when not in writing as required by Rule 6.01, CRIMINAL RULES FOR COURTS OF LIMITED JURISDICTION, WASH. REV. CODE, Vol. 0 (1963)).

¹⁹ It should also be noted that a judge who willfully fails to apply the provisions of the rules may be punished in contempt. Rule J7, GENERAL RULES FOR COURTS OF LIMITED JURISDICTION, WASH. REV. CODE, Vol. 0 (1963).

²⁰ "In the absence of such a ticket or other appropriate complaint, a court has no jurisdiction...." (Emphasis supplied.) 66 Wash. Dec. 2d at 721, 404 P.2d at 985.

²¹ See note 9 *supra*.

²² JTR T2.02(b).

²³ The information required is set forth in JTR T2.01(b) & (c).

Complaint. After filling in the required information, the citing officer signs the form, certifying the allegations under penalty of perjury, thus dispensing with the need to swear out a formal complaint before a judge.²⁴ When properly filled in, the complaint is legally sufficient; it adequately informs the accused of the nature of the charge against him, enables the accused to prepare his defense, and contains sufficiently specific allegations so that the accused will not be placed twice in jeopardy. The reverse of this form contains printed blanks for recording the record of the trial as it progresses, and for recording the final disposition. It is to be filled in by the judge, and may be used by him to serve as his traffic court docket.²⁵

Abstract of Court Record. Copy one is substantially identical to the complaint, both on its face and on the reverse. If the accused is convicted, the judge may use this form to forward the record of conviction to the Director of Licenses, as required by statute.²⁶ The citing officer is responsible for depositing the complaint and the abstract of court record with a court or traffic violations bureau of competent jurisdiction.²⁷

Traffic Citation. Copy two meets the requirements of a summons, and is to be served on the accused by the citing officer.²⁸ The reverse of this form sets forth information of the defendant's rights to trial and bail.

Police Record. Copy three serves as an arrest record, and is to be deposited by the citing officer with his superior.²⁹ The reverse of this form may be used by the citing officer to add such additional remarks as may aid the prosecutor in preparing his case against the violator. While the format described above could be produced locally in the manner prescribed by the Traffic Rules,³⁰ the Uniform Traffic Ticket and Complaint is available through commercial sources.³¹

²⁴ JTR T2.01(d)(1). But if a person other than a police officer wishes to make a traffic violation charge, the form must be filled out and signed in the presence of a magistrate. JTR T2.01(d)(2).

²⁵ JTR T2.01(e).

²⁶ WASH. REV. CODE §§ 46.20.280, 46.52.100 (1961).

²⁷ See JTR T2.04(a), quoted note 12 *supra*.

²⁸ JTR T2.02(b).

²⁹ JTR T2.04(d).

³⁰ The permissible form is prescribed in JTR T2.01(a)-(j).

³¹ Purchase orders for the Uniform Traffic Ticket and Complaint may be obtained through:

Weger Governmental Systems
117 W. Shiawassee St.
Lansing, Michigan

For a more detailed analysis of the Uniform Traffic Ticket and Complaint, see A.B.A. TRAFFIC COURT PROGRAM, UNIFORM TRAFFIC TICKET AND COMPLAINT AND

Use of the Uniform Ticket simplifies and reduces the administrative burden on all officials concerned with enforcing the traffic safety program. The police officer can quickly and conveniently meet all legal requirements of drawing, certifying, filing, and serving a complaint and summons. The police records bureau has a complete record of traffic arrests and case dispositions. The judge has a permanent traffic docket and a convenient report form for reporting traffic convictions. The Uniform Ticket also has the quality of being "non-fixable." The active aid of three public officials—the individual officer, his supervisor, and the judge—would be required to dispose of a traffic citation without judicial process. But most important, proper use of the Uniform Ticket will insure compliance with the Traffic Rules for Courts of Limited Jurisdiction, thus avoiding needless reversal of traffic convictions on procedural grounds. Effective traffic safety programs depend upon certainty of punishment of traffic law violators. Eliminating dismissals of traffic violation prosecutions because of procedural technicalities would do much to further this end.

ADMISSIBILITY OF BLOOD SAMPLE EVIDENCE IN CIVIL CASE

At the instigation of a police officer, a blood sample was taken from defendant Clinton as he lay hospitalized with serious injuries resulting from an automobile collision in which another person was killed. The alcohol reading of the blood sample was 0.210, well above presumptive intoxication.¹ Plaintiff, in an action for personal injuries and wrongful death, sought to introduce defendant's blood test in evidence. The trial court, in the absence of the jury, heard conflicting testimony and concluded that the blood sample was inadmissible because taken without conscious consent. On appeal from a judgment for defendant, the court reversed and remanded. *Held*: "Conscious

MODEL RULES GOVERNING PROCEDURE IN TRAFFIC CASES (1958). For additional information on this program, write to:

American Bar Association
Traffic Court Program
1155 E. 60th St.
Chicago 37, Illinois

¹ Wash. Laws Ex. Sess. 1965, ch. 155, § 60(2)(c), at 1993. The court in the principal case said: "The importance of the blood sample evidence is apparent from the reading which was 0.210, which is well above presumptive intoxication under R. C. W. 46.56.010..." 66 Wash. Dec. 2d at 898, 406 P.2d at 625. However, such presumption cannot be applied in a civil case, according to *Patton v. Tubbs*, 66 Wash. Dec. 2d 269, 402 P.2d 355 (1965).