

Citation: *R. v. McIntire*, 2013 YKTC 98

Date: 20131108
Docket: 13-04209
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before: His Honour Judge Chisholm

REGINA

v.

JEROME TERRENCE MCINTIRE

Appearances:
Lauren Whyte
Jerome McIntire

Counsel for the Crown
Appearing on his own behalf

REASONS FOR JUDGMENT

[1] CHISHOLM T.C.J. (Oral): On April 6, 2013, around 11:30 a.m., the defendant, Mr. McIntire, drove to the Erik Nielson Whitehorse International Airport to pick up his aunt.

[2] While approaching the air terminal building Mr. McIntire noticed a sign that had the standard universal symbol for no parking, followed by the words, "IMMEDIATE PICK UP AND DROP OFF ONLY". Below the words was a depiction of a truck towing a vehicle. He parked his vehicle in the area in front of the sign; he shut off the vehicle and went into the building. He had a brief discussion with another individual, who informed him that the plane would not arrive for five minutes, and, as a result, he went back to his vehicle.

[3] Once outside, Mr. McIntire observed an airport security officer placing a ticket on his vehicle. He had received a ticket, contrary to s. 181 of the *Motor Vehicles Act*, R.S.Y. 2002, c. 153, for a violation of parking restrictions.

[4] In addition to the Agreed Statement of Facts, the Crown called one witness, the security officer who had ticketed Mr. McIntire. She indicated that she first noticed Mr. McIntire's vehicle as she came to the area where his vehicle was parked. She had no idea how long it had been there. She ticketed the vehicle as it was unattended in a no parking area. On cross-examination, she was asked if she had ever ticketed people who were, for example, taking a significant amount of time to load luggage. She indicated she had not, and it would not be her practice to do so. She agreed that the issue in her mind was not one of how long the vehicle was in this pick-up/drop-off zone but whether or not the vehicle was unattended.

LEGISLATION

[5] Section 181(k) of the *Motor Vehicles Act*, *supra*, states:

Unless required or permitted by this Act, by a traffic control device, in compliance with the direction of a peace officer or to avoid conflict with other traffic, a driver shall not stop or park their vehicle

...

(k) at any place where a traffic control device prohibits stopping or parking during those times that stopping or parking is so prohibited;

...

Although the word "stop" is defined in the *Act*, the word "parking" is not.

ISSUES

[6] Mr. McIntire takes issue with his having been ticketed because of the wording of the sign. He contends that a reasonable person reading the English version of the sign could reasonably believe that only lengthy periods of parking or parking for purposes or activities other than those permitted by the sign would be prohibited. He argues that although the sign indicates no parking, a pick-up or drop-off is permitted and there is no geographic area to which this activity is confined. In other words, the pick-up of a person could include the entering of the airport terminal, as that is not specifically prohibited. The driver's participation in the activity is not restricted to remaining in or at the vehicle. He argues that at the Whitehorse airport, as the distance between the baggage claim area and where pick-up vehicles are located is modest, entry into the building to collect a passenger can occur very quickly.

[7] Ms. Whyte, for the Yukon Government, states that the wording of the sign is clear and unambiguous. She argues that there is nothing on the sign which creates an exception.

ANALYSIS

[8] This matter boils down to the interpretation of the sign's wording. Under the no parking symbol it reads, "Immediate pick up and drop off only," as well as the French version, "Accueil et dépôt des passagers seulement." The question is whether this wording creates an exception to the no parking prohibition or whether it is consistent with its prohibition.

[9] “Park” is defined in the Canadian Oxford Dictionary as: “stop and leave vehicle temporarily”. Mr. McIntire takes no issue with the fact that he was parked in this zone when he left his vehicle unattended and entered the airport terminal. The Canadian Oxford Dictionary defines “pick-up” as: “collect in a car,” and “drop-off” as: “set down a passenger or load.” It is important to note that pick-up and drop-off are, in this case, modified by the word “immediate”, which is defined in Black’s Law Dictionary, 9th edition, as: “Occurring without delay; instant”.

[10] Mr. McIntire argues that this word generally connotes a length of time which, in this situation, would include the period of time required to attend the arrivals area. I disagree. In my view, “immediate” means “at this instant” or “occurring at once”. By this interpretation, a person who is to be picked up in this zone should be waiting on the sidewalk when the vehicle approaches. In this day and age of instantaneous communication, making such arrangements in advance is not unreasonable. As such, the wording described above does not create an exception to the no parking prohibition which would allow the driver of a vehicle parked in this zone to enter the airport building.

[11] As Mr. McIntire admits he was parked, I find that he has committed the offence for which he was charged.

[12] Despite my findings, I should add that I understand Mr. McIntire’s frustration with the apparent double standard, as described by the security officer, of allowing vehicles which are not left unattended to remain in this zone for lengthy periods of time for loading or other purposes. It appears that discretion is being used in those situations, even though immediate pick-ups or drop-offs are not occurring, but not in the situation in

which Mr. McIntire found himself. Although not a defence for those in Mr. McIntire's situation, it understandably leads to consternation.

[13] The face value of the ticket is \$50, plus a Fine Surcharge of \$7. In terms of time to pay, Mr. McIntire?

[14] THE ACCUSED: I can do it right away.

[15] THE COURT: Okay. Thank you very much.

CHISHOLM T.C.J.