SUPREME COURT OF VIRGINIA
RECEIVED
JUN 12 1978
RICHMOND, VIRGINIA

IN THE

Supreme Court of Virginia

AT RICHMOND

RECORD NO. 780121

JAMES D. DUKE, JR.,

.....Appellant

v.

COUNTY OF PULASKI,

.....Appellee

APPENDIX

Philip M. Sadler, Esq.
GILMER, SADLER, INGRAM,
SUTHERLAND & HUTTON
Midtown Professional Building
Post Office Box 878
Pulaski, Virginia 24301

Counsel for Appellant

FRED R. SURFACE & ASSOC. INC., HERITAGE BUILDING, RICHMOND, VA. (804) 643-7789

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Board of Supervisors Book 12 Pg 307

****

Upon motion of Mr. Odell Mayberry, seconded by Mr. James Trammell, laski County Board of Supervisors adopted the following License Tax nce on junk automobiles and recorded the following vote:

Carl Shultz - Nay

Mr. James Trammell - Yea

Mr. Odell Mayberry - Yea

Mr. Archa Vaughan - Yea

An Ordinance to provide a license tax on certain automobile owners Pulaski County; and to fix penalties for the violation thereof. This nce shall be known as and may be cited as "The Automobile License Tax nce of Pulaski County, Virginia."

BE IT ORDAINED by the Board of Supervisors of Pulaski County, Virginia, uant to Section 27.1, Article 2, Chapter 1 and Sections 504 and 505, Article hapter 12, Title 15.1-27.1 of the Code of Virginia of 1950 as amended as ows:

ARTICLE I
LICENSE TAX

There is hereby imposed an annual license tax of ten dollars ($10.00) automobile on owners of automobiles located in Pulaski County which do not lay current license plates and which are not exempted from the requirements isplaying such license plates under the provisions of Sections 46.1-42 through -119 and 46.1-120, Code of Virginia of 1950, as amended, are not in a ic landfill, in an automobile graveyard as defined in Section 33.1-348, of Virginia of 1950, as amended, or in the possession of a licensed junk er or licensed automobile dealer. This tax will be due and payable on March of each year beginning in 1974 and will not be considered in default if on or before April 15th of the year in which due.

Nothing in this Article shall be applicable to any vehicle being held troed by or at the direction of any governmental authority, to any vehicle d by a member of the armed forces on active duty or to any vehicle regularly ed within an enclosed structure.

ARTICLE II
PENALTIES

2-1 Any person, firm or corporation, whether as principal, agent, employ or otherwise, violating, causing or permitting the violation of any of the articles, sections, subsection, regulations or provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be punish- by a fine of not less than Fifty Dollars ($50.00) and not more than Three Hundred Dollars ($300.00), and each and every day during which any violation of this ordinance is committed, continued or permitted, shall constitute a separate offense and shall be punished as herein provided.

ARTICLE III
SEVERABILITY

3-1 Should any article, section, subsection, paragraph, clause, or other provision of this ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole, or any part thereof other than the part so held to be unconstitutiona or invalid.

ARTICLE IV
CONFLICTING ORDINANCES

4-1 All conflicting ordinances or parts thereof which are inconsistent w the provisions of this ordinance are hereby repealed.

ARTICLE V
EFFECTIVE DATE

5-1 The effective date of this ordinance shall be from and after its passage and legal application, and its provisions shall be in force thereafter, save those provisions which may, from time to time, be amended or repealed.

****

Notice having been given by publication and posted as required by law that the Pulaski County Board of Supervisors of Pulaski County, Virginia, proposed to adopt the above ordinance at its regular meeting on Tuesday, Novemb 27, 1973, at 10:00 a.m. in the courthouse of Pulaski, Virginia effective Novemb 27, 1973.

****

Upon motion, seconded and carried, the Pulaski County Board of visors adopted the Tax Penalty Date Extension Ordinance as follows:

IT IS ORDERED that an ordinance be proposed for adoption at the -ar meeting of this Board to be held at the Court House in Pulaski, nia, at 10:00 A.M. on November 27, 1973, pursuant to Section 58-963.1 of ode of Virginia, as amended to extend by one calendar month, the date ich any penalty shall be incurred under Section 58-963 of the Code of nia, in connection with the payment of County levies.

WHEREAS, the office of the Treasurer of Pulaski County, Virginia by reason -anging their billing operations to a computerized system will not be able il the necessary real and personal property statements to the citizens laski County in a timely manner, and it is the desire of the Pulaski y Board of Supervisors of Pulaski, Virginia, to extend the time upon which enalty is due upon the said taxes:

NOW, THEREFORE, BE IT ORDAINED by the the Board of Supervisors of ki County, Virginia, pursuant to the authority contained in Title 58-963.1 e 1950 Code, as amended, that the penalties provided in Title 58-963 of ode of Virginia shall not become effective until the 5th day of January, and that all taxes levied by the County of Pulaski for the calendar 1973 shall become due and payable on or before this said date (Jan. 5, 1974.)

A copy of the text of this ordinance is on file in the Clerk's Office e Circuit Court of the County of Pulaski and in the office of the Clerk e County Board.

This ordinance shall be in force and effect from it spassage for one only.

****

Upon motion, seconded and carried, the Pulaski County Board of Supervisors adopted the following guidelines for the administering of the Unlicensed Vehicle Tax Ordinance:

Licenses would go on sale between March 15, 1974 and April 15, 1974.

Those taxpayers who paid the $10.00 tax would acquire from the Treasurer's Office a fluorescent decal for each junk car vehicle that is held on the individual's property as per the Junk Car Licensing Ordinance.

The instruction on the decal would require that he affix the decal upon the car bodies so that it could be visible from the nearest state maintained road.

Those individuals that assign their junk vehicles to a license junk dealer in Pulaski County would receive from the junk dealer a decal indicating that the dealer owns the vehicle and that he would pick it up within twelve months of the date of issuance.

The dealer would be required to keep detailed written records on those vehicles that have been assigned to him. In addition, he would be required to have in his posession a signed release form for every vehicle that he issues a temporary decal for.

If the junk dealer has not picked up the junk vehicle within twelve months, he must re-issue another temporary decal.

Those dealers that have indicated that they would participate in the above program are: Lee Gooch, Dublin, Virginia and Richard Garlic, Pulaski, Virginia.

****

Upon presentation of a plat vacation ordinance by Judge R. I. Brown Mr. Archa Vaughan, Jr. disqualified himself.

****

Upon motion, seconded and carried, the Pulaski County Board of

CC-119 Pulaski Printing Co. Pulaski, Virgin. CRIMINAL WARRANT

STATE OF VIRGINIA,
COUNTY OF PULASKI, to-wit:

Charles T. Goins, upon oath, complains that Jim Duke did on the date and in the manner set out in the hereto attached warrant, do the things and commit the offenses as charged in the said warrant and which hereinafter attached warrant is by reference made a part hereof and which complainant has read and hereby verifies, and therefore prays that the accused in said warrant may be apprehended, and held to answer the said complaint and to be further dealt with according to law. Dated this 2 day of April 19 77.

Charles T. Goins Bldg. Insp.

To the Sheriff or any Police Officer of said County:

WHEREAS Charles T. Goins, has this day made complaint and information on oath before me, Sena Lawson, Magistrate, of said County that Jim Duke in the said County did on the 2 day of April, 19 77; unlawfully, did In violation of Pulaski County unlicened Vehicle ordnance.

(5 violations) Five violations unlicened vehicle

THESE ARE, THEREFORE, To command you in the name of the County of Pulaski, to apprehend and bring before the Pulaski County Court the body of the said Jim Duke, to answer the said complaint and to be further dealt with according to law; and you are, moreover, commanded to summon ☐ ☐ ☐ ☐ to appear at the same time and place to testify as witnesses on behalf of the County touching the matter of said complaint. I do further certify that the said complainant whose name is signed above, after being duly sworn, deposes and says that the facts above stated in the foregoing complaint and warrant are true.

Given under my hand and seal this 2 day of April, 19 77.

Sena Lawson (SEAL)

Magistrate
(*Official Title*)

(NOT) GUILTY OF THE WITHIN CHARGE AND

FIX THE PENALTY AT 25 FINE AND

At a hearing had this day of, 19 on the within warrant, the accused

5

AND PAYMENT OF COSTS, THIS THE 12 DAY

OF April, 1977.

Judge.

On motion of the accused an appeal is granted to the Circuit Court of Pulaski County, Virginia, on this the..... day of....., 19.....

.....

Judge.

STATE OF VIRGINIA,

COUNTY OF PULASKI, to-wit:

I, ..., ..., in and for the County of Pulaski, Virginia, do hereby certify that ..... and ..... as his surety have this day acknowledged themselves indebted to the County of Pulaski, Virginia in the sum of $..... to be made and levied of their goods and chattels, lands and tenements, waiving the benefit of their homestead exemptions, yet upon this condition: that the said ..... shall appear before the Pulaski County Court at Pulaski, Virginia, on the ..... day of ....., 19...., at 9:00 o'clock a. m., or at such time or times as the same might be continued, and not depart hence without leave of the said Court, to answer the charge of the within warrant and upon the further condition that the said ..... shall keep the peace and be of good behavior pending trial on the within charge.

Given under my hand this ..... day of ....., 19.....

.....

(*Official Title*)

4/12/77 1:00 P/M

9-15-77

CC-119

Case Number .....

VIRGINIA:
COUNTY OF PULASKI

v. —Warrant of Arrest

Jim Duke
Jim's Steak House Pulaski

STATEMENT OF FINE AND COSTS

Fine	$ 75.00
COSTS AS FOLLOWS:	
Warrant	$
Trial Fee	$ 10.00
Arrest	$
Officer's Mileage (mi.)	$
Prisoner's Mileage (mi.)	$
Summoning Witnesses	$
Clerk	$ 2.00
Jail Fee	$
Jail Board	$
Witness Att. and Mileage	$
	$
Total	$ 87.00

Received and filed, this the 25 day of Dec 1977

Clerk

Executed this 6th day of April, 1977, by (summoning) (arresting) the said Jim Dike for a hearing on the within warrant on the 12th day of April, 1977, at ~~9:00 o'clock a. m.~~ 1:00 PM, and summoning the within named witnesses marked X to appear on said date.

☐ Jailed.

☐ Bonded ..... 19....

Sheriff of Pulaski County, Virginia

By J. A. Davis
Deputy Sheriff

O R D E R

This day came the Commonwealth, by its attorney, and came also Jim Duke, who stands charged under an ordinance of the County of Pulaski with unlawfully failing to purchase the unlicensed vehicle license in violation of Pulaski County Junk unlicensed vehicle ordinance pertaining to 4 vehicles; the Commonwealth having nolle prosequied one charge and came also Philip M. Sadler, his attorney, and pleaded not guilty to the charge contained in the warrant in this case against him. Thereupon, the defendant, by counsel, waived trial by jury and submitted all questions of law and fact to the Court, and the Court having heard the evidence doth find the accused guilty as charged in the warrant and doth fix his punishment therefor at a fine of Fifty Dollars ($50.00).

It is therefore the judgment of this Court that the Commonwealth recover against the defendant, for the benefit of the County of Pulaski, the said fine of $50.00 and the costs of his prosecution.

Whereupon, the defendant, by counsel, indicated to the Court his intentions to apply to the Supreme Court of Virginia for a Writ of Error to the judgment of the Court and moved for a stay of execution for a period of sixty (60) days or for such additional time as may be required under the rules of Court for the defendant to perfect his petition for a Writ of Error and to receive a ruling thereon by the Supreme Court of Virginia, which motion the Court doth grant.

It is further ORDERED pursuant to Rule 5:9 (a) of the Supreme Court Rules that the transcript of the evidence and incidents of this trial will be made a part of the record when it is prepared and filed in the office of the Clerk within 60 days after entry of this Order.

Enter this Order this 1st day of November, 1977.

Judge

COMMONWEALTH OF VIRGINIA)

Plaintiff)

v.) NOTICE OF APPEAL

JIM DUKE)

Defendant)

The defendant hereby gives Notice that he appeals to the Virginia Supreme Court from the Order of Conviction entered by this Court on the 1st day of November, 1977.

The transcript of the evidence and incidents of trial will be made a part of the record when it is prepared and filed in the office of the Clerk pursuant to Rule 5:9 (a) of the Supreme Court Rules.

Respectfully,

JIM DUKE

By _____
Of Counsel

GILMER, SADLER, INGRAM,
SUTHERLAND & HUTTON
Midtown Professional Building
P. O. Box 878
Pulaski, Virginia 24301

Counsel for the Defendant

CERTIFICATE

I, Philip M. Sadler, Attorney for the Defendant, do hereby certify that I have mailed a true copy of the foregoing Notice of Appeal to A. Dow Owens, Esquire, Commonwealth Attorney, P. O. Box 737, Pulaski, Virginia 24301, on this 14th day of November, 1977.

_____

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA

v.

JIM DUKE,
Defendant

Stenographic report of all the testimony, together with the motions, objections and exceptions on the part of the respective parties, the action of the Court in respect thereto, and other incidents of the trial of the case of Commonwealth of Virginia v. Jim Duke, Defendant, tried at Pulaski, Virginia, on November 1, 1977, before the Honorable R. William Arthur in the Circuit Court of Pulaski County, Virginia.

APPEARANCES:

A. Dow Owens, Esq., Attorney for the Commonwealth
Philip M. Sadler, Esq., Attorney for the defendant
Jim Duke, in person and by his attorney

Reported by:

Helen R. Singleton
Court Reporter
78 Bowling Court
Pulaski, Virginia 24301

13th
December 77

(Reporter sworn)

COMMONWEALTH: Can we stipulate the Ordinance of the County that is attached to the warrant?

MR. SADLER: Right.

COMMONWEALTH: I would like to call CHARLES GOINS.

The witness, CHARLES GOINS, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. OWENS: Would you state your name please

A Charles Goins.

Q On the day alleged in the warrant, did you have an occasion to go to the premises of Mr. James Duke, located on old Route 99 in Pulaski County?

A Yes, I did. We were working what is known as the Dora Highway. If I might take a moment to explain this. I am a building official for Pulaski County. I have been given the job of enforcing this ordinance. My superiors feel

Q It doesn't make any difference what your superiors feel, but you are required to enforce this?

A Yes.

Q And in the enforcement of this ordinance, did you go to Mr. Duke's place of business?

A Yes, I did.

Q Did he have vehicles there that did not contain the State license or the license required by the County ordinance?

A Yes, he did.

Q Was this after the 15th day of March when it was required to be purchased?

A Yes, it was.

Q And I believe that the Ordinance says that if it is paid by April 15 that it is in compliance?

A Yes sir.

Q How many vehicles did he have?

A He had 4.

Q What, generally, were their description?

A He had one green Buick convertible, the model of it, I don't know exactly. He had one, which I believe to be a '51 Ford panel truck. He had a Chevy pickup with what I would assume would be a sandwich bed on it, with a cooler type system, and then he had a milk truck, which had been used prior as a milk truck.

Q Were these parked on his property or on public property?

A They were parked right around, in fact, just right up against the building.

Q On his private property?

A Yes sir.

Q Did he acknowledge ownership of these vehicles, and are they registered in his name?

A On the 25th of March, the way we work this, we go by and check, if there is no one there we leave a little notice of the violation of the ordinance and giving them seven

days to comply with this ordinance before any legal action is taken. As we had worked the whole area that day, up on Dora Highway, we issued this violation and there was no one at the restaurant. We placed a copy of this violation in the door. In seven days, on the 6th date, Mr. Martin and myself were working this area. We went back and checked the area. Some had complied. The ones that had not complied, we proceeded to issue warrants, on the 7th day.

Q Did Mr. Duke discuss this with you at all?

A No sir.

COURT: Would somebody explain to me what the ordinance is all about and what the purpose of it is, something more about the vehicles and so on. What is it, an attempt to license unlicensed vehicles or vehicles that are on the premises that are not being used?

MR. OWENS: If the Court please, Section 27.1, Article 2, Chapter 1, etc. of the Title 15.1 of the Code of Virginia grants the various municipal governments and County governments the right to enact a license whereby a license tax is imposed upon automobiles that do not display current State license plates and which are not exempt from the requirements to display such license plates under certain provisions of the Code and are not in a public landfill, in an automobile graveyard, as defined in the Code, or

in the possession of a licensed junk dealer or a licensed automobile dealer. This was enacted by the Board of Supervisors of Pulaski County, pursuant to the Statute and notice in November, 1973, and it imposes a license tax of $10.00 per vehicle on each car or vehicle that is not properly licensed under a State license.

COURT: And none of these 4 vehicles had a current State license tag on them?

MR. OWENS: That was the testimony that they did not, yes sir. And they had not purchased the County tag.

CROSS EXAMINATION

BY MR. SADLER:

Q Mr. Goins, these four vehicles you say were on Mr. Duke's private property?

A Yes sir.

Q And he runs a place of business there, I believe, Jim's Steak House?

A Yes sir, I believe that is correct.

Q Do you know whether he lives there, also?

A No sir, I don't know.

Q Let's take them one by one. The 1956 Buick convertible, I don't believe that you were present when this matter was heard before, but Mr. Martin testified?

A That's correct. I was out of town.

Q That this automobile appeared to be in good mechanical condition, is that what you recall about it?

A I can't testify to say whether it was in good mechanical condition. I would say the car was operable.

Q It wasn't a junk car, obviously?

A No sir, I couldn't call it something that you would junk, of nor more benefit to you.

Q How about the sandwich truck. You said obviously a sandwich truck. Would you describe it, please, what the apparent condition was and so on?

A Of course, the only examination we did was from the outside of the thing. We didn't endeavor to go inside or anything. In my estimation I would say the pickup was in good condition.

Q How about the panel truck?

A The panel truck I would say is not in as good a condition as the pickup was.

Q Could you tell it was being worked on, the panel truck?

A No sir, I couldn't say that.

Q But it would be your opinion that it was of too much value to junk, the panel truck?

A Let me put it this way, if they were mine, I would hate to junk them.

Q Which one, the panel truck?

A I would say the pickup and the automobile. The panel truck I couldn't say because we didn't investigate the panel truck as close as we did some of the others.

Q You didn't talk to Mr. Duke about what plans he might have for the vehicles or whether he was using them or not?

A No sir.

Q In other words, in enforcing the ordinance all you do is go around the County and if you see a vehicle without a license plate displayed you leave a warning?

A Leave a warning, yes sir.

Q And unless they buy a license plate within seven days for that vehicle you issue a warrant?

A Yes sir.

Q Regardless of what vehicle it is, what condition it is in, or where it is?

A Yes sir?

RE-DIRECT EXAMINATION

BY MR. OWENS:

Q Has Mr. Duke, since then, bought a license for these vehicles?

A As of the date that it was tried in the other Court he had not purchased. As of this date, I couldn't say.

MR. SADLER: We will stipulate he has not.

RE-CROSS EXAMINATION

BY MR. SADLER:

Q Did you look at the old milk truck? Was it locked

A No sir, we did not enter any of the vehicles.

Q It has a refrigerated body on it, does it not?

A I would assume that it has had, where it does now or not, I don't know.

:: All right, that's all.

MR. OWENS: I have no further evidence.

* * * *

The witness, JAMES D. DUKE, JR., after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SADLER:

Q You are James D. Duke, Jr.?

A Yes sir.

Q You live here in Pulaski?

A Yes sir.

Q And I believe you own a place of business known as Jim's Steak House?

A Yes sir.

Q Is that where these vehicles are, on that property?

A Yes sir, they are down back of the buildings, except for the milk truck is on the side.

Q The milk truck is on the side rather than at the back of the building?

A Right.

Q Can you drive all the way around your building?

A No sir.

Q You do have some parking area for your customers in the front and on one side?

A Yes sir.

Q the 1960 Buick convertible, would you tell the Court how you happen to be in possession of it? And how it is titled?

A It is title in my name. We traded cars and they didn't want to give us anything for the Buick, so I just kept it and sold it through the bank and this boy kept it for a while and made part of the payments, and the bank said he wasn't making them, and I just told the bank to return the car and I would reimburse them for the money.

Q So you re-possessed the car?

A Yes.

Q Has it been abandoned by you in any way?

A It hasn't been abandoned. It is for sale, but it will be for cash when it gets sold.

Q In other words, you are not going to sell it on credit any more?

A No more credit.

Q The sandwich truck. Tell us what model it is

A It is about a 1961 Chevrolet. It is a special catering truck. It is not really a sandwich truck. It is a type that you drive up to a factory and lift up the sides and it has got cold sandwiches and cold drinks, potato chips, nabs, and all that, and in the back it has got two 10 gallon coffee urns and you have hot sandwiches and coffee from out of the back. In other words, it is a mobile restaurant.

Q I believe you were in that business at one time?

A I am still in the sandwich business, but it is wholesale. This truck here is for retail.

Q Were you in the retail business at one time?

A Never have been.

Q Have you abandoned that truck?

A I haven't abandoned that truck at all. I bought it in the hope of using it, but you can't get enough help. I can't get enough help to run what I have got now.

Q But you do have plans if you can get the proper help to use it?

A I would be tickled to death if I could,

Q It has some value then, does it?

A That truck has got more value than anything out there.

Q What about the panel truck?

A That panel truck I have had for years. It is a 1950 Ford panel. I have had a chance to sell it 100 times and I have told them it wasn't for sale. I finally got a flat head 6 cylinder engine which is almost impossible to find and this year I hope - well it has got to be re-wired and painted and I hope to do that this year and get it operating.

Q You do some of the work on it yourself?

A Partly. My brothers helping me and I am doing some of it.

Q How much have you been offered for it?

A I never put a price on it. That is not for sale at any price.

Q So none of those 3, certainly have not been abandoned, in your mind,

A No, as a matter of fact, if I cut the price down I could sell all of them today, but if I can't get what I think they are worth I am not going to let them go.

Q How about the old milk truck?

A The milk truck I bought from Clovery Creamery in Radford. It is an old one and I use it for storage of - well, when I first got it I used it for storage for a lot of luncheon

meats, bologna and cheese and stuff, because the refrigerators I had weren't large enough to hold them, but now I have got some walk in coolers, and now I just store beer in it, but it is a refrigerated truck.

Q Has it got doors that you can lock?

A It has got doors that can be locked. In fact, it is locked.

Q So certainly it is a value to you?

A It is essential to me to store beer. I don't have that much storage for refrigeration inside. You have just got so much room for storage and you have got to store some outside.

Q All of these trucks were in your name, and you did get the flag, did you not, that you were supposed to have current tags displayed?

A I certainly did and I had no intention, because it was very discriminatory. If a fellow has a brand new Cadillac sitting in his front yard and doesn't have State tags on it, they make him buy a junk sticker and I just can't see it. It is very discriminatory in my mind. There is a boy I know that lives right down the highway that just traded his motorcycle off. He bought himself a little Volkswagon and was out of a job and was trying to find one so he could get tags for it and here they come and made him buy one and the poor fellow had to borrow money to buy the

sticker, and he is going to get it licensed this summer, but if he hasn't got the money he sure can't do it. As long as it is sitting in his yard I can't see why the State or County can come around and make you pay $10.00 just because you have got a car sitting in your yard, yet you can put any other kind of junk in it and they pass you by and say nothing, and that is why I am here in Court today.

Q In other words, you consider it an ordinance to get rid of junk cars and get them in a graveyard?

A That is what the ordinance is for.

Q You have no objection to that?

A But I can't see how it applies to me when I don't consider mine junk.

Q Let me ask you this, the ordinance to get rid of junk cars along the highway

A I am all for it. If you have got one that is all broken down and can't be repaired, and they don't care about it, that would be all right, but it sure doesn't apply to me.

:: Answer any questions Mr. Owens might have.

CROSS EXAMINATION

BY MR. OWENS:

Q Mr. Duke, you don't have a State license tag for them?

A No sir.

Q How long has it been since you have had one?

A On which one?

Q The latest one?

A The catering truck I never did - yes, I did, I bought license when I brought it back down here. I brought it back and parked it and haven't driven it since.

Q Do you have the State inspection stickers?

A You can't get a state inspection sticker if you haven't got a tag on it.

Q So you don't have them?

A No, I don't.

Q And you don't have the $10.00 County Sticker?

A No, I don't. I had no intention of buying them when they first came out. I said it was discriminatory, and that was one thing I was going to fight and I meant it, and that is the reason I am here.

MR. SADLER: That is all the evidence for the defense.

Whereupon, Counsel for the Commonwealth and for the Defendant argued the case, and the Court made the following ruling:

COURT: I am of the opinion that the Ordinance is valid and I so Rule. I will impose the same fine that was imposed in the lower Court.

MR. SADLER: Please note our exception and could we have a stay of execution of 60 days.

COURT: All right.

END OF PROCEEDINGS