Buffalo Law Review

Volume 10 | Number 1 Article 54

10-1-1960

Criminal Law—Maximum Speed Limits in Absence of Markings

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fendant did then and there perpetrate an act of sexual intercourse with said child."

Since the defendant was under 21 and the complainant under 18 years of age, and the only act or conduct likely to impair the morals of this infant, which was either alleged or proven, was the single act of intercourse, the crime charged necessarily amounted to a misdemeanor rape.[65] The Court of Appeals reversed the conviction and ordered a new trial on the ground that the jury was erroneously instructed that corroboration was not necessary to support a conviction of impairment of the morals of a minor. The majority held that a prosecutor may not circumvent the requirement of corroboration necessary for conviction of misdemeanor rape simply by charging instead the impairment of the morals of a minor.

The dissent argued that the crime of rape and endangering the health and morals of a minor are separate offenses and there being no statute requiring corroborative evidence to support a conviction for the latter offense the Court should not read in such a requirement.

In order to support a conviction for impairment of the morals of a minor there need be no criminal nor malicious intent[66] and the consent of the child is immaterial.[67] A co-defendant of Lo Verde, who acted as lookout and drove the car in which the intercourse took place, was convicted of impairment of the morals of a minor. He did not appeal the conviction.

This case would seem to indicate that *any* conviction, based on uncorroborated evidence, must fail where *only* rape or defilement is proven, but will be sustained, regardless of corroboration, if the crime proven can stand independent of the proof necessary for a conviction of rape or defilement. This somewhat anomolous result is justified on the ground that it is doubtful the Legislature intended the statute to serve as a "catch-all" violation to prevent the acquittal of a defendant where the necessary corroboration is lacking.

Maximum Speed Limit in Absence of Markings

Defendant, convicted of speeding over fifty m.p.h. under then New York Vehicle and Traffic Law Section 56(3)[68] by a Justice of the Peace, obtained a reversal in County Court, Orange County. On appeal the Court of Appeals in *People v. Shapiro*,[69] reversed the County Court and upheld the validity of the Section under which the conviction was obtained. The pertinent part of Section 56(3) provides:

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65. N.Y. Penal Law § 2010:
A person who perpetrates an act of sexual intercourse with a female, not his wife, under the age of 18 years, under circumstances not amounting to rape in the first degree or rape in the second degree is guilty of a misdemeanor.
66. People v. Caminiti, — Misc. —, 28 N.Y.S.2d 133 (City Ct. 1941).
67. People v. Gibson, 232 N.Y. 458, 134 N.E. 531 (1922).
68. Now N.Y. Vehicle and Traffic Law §§ 1180(2), 1620.
69. 7 N.Y.2d 370, 197 N.Y.S.2d 715 (1960).

> "Absence of signs erected pursuant to the provisions of section ninety-five-c of this article on any state highway outside of cities or incorporated villages shall be presumptive evidence that the state traffic commission has not fixed a maximum speed greater than fifty miles per hour at that location."

The alleged speeding took place June 11, 1959. Section 95-c of the Vehicle and Traffic Law was repealed (eff. July 1, 1958) and Section 1620 enacted to replace it. Both Sections permitted the State Traffic Commission to set a higher or lower limit than fifty m.p.h. But while the repealed Section 95-c had a provision for posting,[70] Section 1620 did not. Defendant argued that this omission destroyed the presumption of Section 56(3), namely, that in the absence of signs to the contrary the speed limit is fifty m.p.h.

The Court of Appeals in upholding this conviction was in all probability influenced by the results of a converse holding, to wit, that on any unmarked road a person could go any speed and then rely on the argument of this defendant—that there is no presumption of a fifty m.p.h. limit.[71] Thus the state would have been forced in every prosecution for speeding over fifty m.p.h. to prove the existence of adequate markings as one of the elements of the offense.

This situation will be covered by Vehicle and Traffic Law Section 1620 (eff. Oct. 1, 1961), without the need for cross-reference and in effect doing away with the basis of this defendant's argument. The section provides:

> "Absence of signs installed pursuant to this section shall be presumptive evidence that the state traffic commission has not established a higher maximum speed limit than the fifty miles per hour statutory limit."

Thus the law was, is and will remain that the speed limit, in absence of other factors expressly enumerated as calling for a lower limit, e.g. a hazard, is fifty m.p.h., unless a higher limit be posted. The fifty mile limit is effective notwithstanding lack of marking to that effect.

TURN SIGNAL REQUIREMENT QUALIFIED

Defendant, a motorist, failed to signal before turning at a multi-signal intersection. His action was alleged to be a violation of Section 1163 of the Vehicle and Traffic Law which requires a signal *if other traffic will be affected by such turn.*[72] A divided Court of Appeals affirmed a finding of guilt by the lower courts.

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70. Speed zones established pursuant to the foregoing provisions of this section shall be adequately marked and suitable warning signs erected.

71. People v. Van Wieren, 180 N.Y.S.2d 560 (Ct. Spec. Sess. 1958). Similar fact situation to case noted, same Court reversing a conviction under § 56(3).

72. N.Y. Vehicle and Traffic Law § 1163(a):
No person shall turn a vehicle at an intersection . . . or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an