

MEMORANDUM

To: Samuel Jackson Snead, Esq.

From: Andrew Sykaluk

Date: July 27, 2023

Re: State of Ohio v. Mr. Tucker Tardy (Traffic Infraction Related To Passing Stopped School Bus)

I. ISSUE\QUESTION PRESENTED

Based on statutory law and case law, did Mr. Tardy most likely violate the law associated with the traffic ticket that he received after he used a parking lot to pass the stopped school bus?

II. SHORT CONCLUSION

According to the Ohio law, Mr. Tardy most likely violated the law associated with the traffic ticket that he received after he used a parking lot to pass the stopped school bus.

III. STATEMENT OF FACTS

On July 6, 2023, Mr. Tardy was running late for work because the presence of inclement weather was causing drivers to drive much slower than usual. He had accumulated multiple disciplinary infractions for being late, Mr. Tardy had recently been told that he would be terminated if he was late again. Mr. Tardy does not want to have the termination of his employment record, and he has promised himself that he will do whatever he needs to do to get to work on time in the future.

On his way to work, Mr. Tardy wound up driving directly behind a yellow school bus on a two-lane road named Delayed Drive. The bus was making frequent stops to pick up elementary school children. Mr. Tardy soon realized that he was going to be very late for work if he could not get on the bus because the school to which the students were being driven was three miles ahead. However, he knew that he would be unable to catch the bus on the two-lane road.

Mr. Tardy began to brainstorm about alternative routes to take to work but soon realized that many of them were closed due to construction. Eventually, the school bus stopped directly in front of a large apartment building that had a parking lot in the front in which visitors could park. The parking lot was parallel to Delayed Drive, and it was on the side of Delayed Drive on which Mr. Tardy and the school bus were driving. The entrance and exit to the parking lot were both connected to Delayed Drive.

Mr. Tardy drove through the adjacent parking lot to pass the school bus, to pick up children who lived in the apartment building. The school bus stopped in front of the apartment building. The bus turned on its warning lights and extended the “stop” sign from the driver’s side of the bus. Mr. Tardy drove passed the school bus into the apartment building’s front parking lot through the “Entrance” driveway, passed the school bus, and drove out of the parking lot back onto Delayed Drive through the “Exit” driveway.

At this point, he was now ahead of the bus on Delayed Drive. Shortly after pulling out onto Delayed Drive, Mr. Tardy heard a police siren and saw flashing lights. He checked his speedometer and saw that he was driving at the posted speed limit. Mr. Tardy pulled over. The officer approached Mr. Tardy’s car and asked for his driver’s license, insurance information, and registration.

After running his license and registration, the officer returned to the car. The officer told Mr. Tardy that he had seen him overtake the school bus by driving through the adjacent parking lot and informed Mr. Tardy that this was illegal. Mr. Tardy said that he did not pass the bus on the street and that he thought that he was only prohibited from passing the bus on the street. The officer then told Mr. Tardy to remain in his vehicle. The officer returned to his vehicle, wrote a traffic citation, and returned to Mr. Tardy's car. He informed Mr. Tardy that he had engaged in a traffic violation by passing the bus and gave the citation to Mr. Tardy. The officer also returned Mr. Tardy's driver's license, insurance information, and registration to him.

IV. RELEVANT\APPLICABLE LAW

Section 4511.75 of the Ohio Revised Code states, "The driver of a vehicle...upon meeting or overtaking from either direction any school bus stopped for the purpose of receiving or discharging any school child...shall stop at least ten feet from the front or rear of the school bus and shall not proceed until such school bus resumes motion, or until signaled by the school bus driver to proceed."

A case that is similar to Mr. Tardy is State v. Wolfram, 62 Ohio App. 3d 749, 577 N.E.2d 442 (1989). Defendant sought review of a judgment of the Clermont County Court (Ohio), which found him guilty of violating Ohio Rev. Code Ann. § 4511.75 as a result of his failure to stop behind a bus that had stopped to discharge one of its passengers.

V. DISCUSSION

Mr. Tardy drove through the adjacent parking lot to pass the school bus, to pick up children who lived in the apartment building. The school bus stopped in front of the apartment building. The bus turned on its warning lights and extended the "stop" sign from the driver's side of the bus. Mr. Tardy drove passed the school bus into the apartment building's front parking lot through the "Entrance" driveway, passed the school bus, and drove out of the parking lot back onto Delayed Drive through the "Exit" driveway. That made Mr. Tardy ahead of the school bus. Based on Section 4511.75 of the Ohio Revised Code, it does not say anything about parking lots.

In the case of State v. Wolfram, 62 Ohio App. 3d 749, 577 N.E.2d 442 (1989), Upon seeing the bus stop ahead of him, defendant turned to his right into a parking lot, drove through the lot and then turned right. At the time defendant passed to the right of the bus, the driver had turned on the flashing lights, extended the stop arm, and was discharging a pupil from the bus. After making her usual right turn at the intersection, the bus driver was directly behind defendant's vehicle. On appeal, defendant argued that his action in driving through the parking lot did not result in his either meeting or overtaking the school bus and, thus, he did not violate § 4511.75. The court held that: (1) § 4511.75 required the driver of any vehicle, upon meeting or overtaking from either direction a school bus stopped for the purpose of receiving or discharging any school child, to stop at least 10 feet from the front or rear of the bus and not proceed until the school bus resumed motion or until signaled by the bus driver to proceed; and (2) the court could not see how, by driving immediately adjacent to the bus while it was discharging children and by then passing the front of the bus, defendant did not "overtake" the bus within the definition of § 4511.75.

At trial, defendant Wolfram was found guilty of violating Section 4511.75 of the Ohio Revised Code, as a result of his failure to stop behind the bus that had stopped to discharge one of its passengers.

While we agree with appellant that he did not "meet" the bus, since doing so would have required him to be driving toward, rather than away from, the bus, we cannot agree that he did not "overtake" the bus by driving adjacent to it on the parallel lot. Appellant quotes the dictionary definition of "overtake" as "to catch up with in traveling or pursuit, draw even with or pass another vehicle." Although appellant denies that this was what he did, we cannot see how, by driving immediately adjacent to the bus while it was discharging children, and by then passing the front of the bus, he did not "overtake" the bus within the definition of R.C. 4511.75.

On four or more lane highways, a driver of a motor vehicle, approaching a school bus which is receiving or discharging school children, must stop if approaching on the same side of the highway on which such bus is stopped, i.e., overtaking such bus, but need not stop if approaching on the opposite side of the highway from which such bus is stopped, i.e., approaching from the front or meeting such bus. 1952 OAG No. 1281 (1952).

In enacting the statute requiring vehicles to come to a halt where a school bus is receiving or discharging pupils, the legislature recognized the important policy of protecting school children from the dangers of surrounding traffic. *Columbus v. Refice* (Sept. 11, 1986), Franklin App. No. 86AP-108, unreported, 1986 WL 9997; *State v. Jones* (C.P.1988), 44 Ohio Misc.2d 35, 37, 541 N.E.2d 1100, 1102. Underlying this policy is the recognition that "we do not know what a child will do when he gets off a bus regardless of where he resides." *Refice*, supra. We agree with the state in this case that the statute was intended to create a "zone of safety" surrounding the bus so that children can enter and exit the bus without undue risk of harm.

VI. CONCLUSION

In Section 45711.75 of the Ohio Revised Code, when a school bus stops to receive or discharge children, an imaginary line extends in front of the bus in either direction beyond which other vehicles may not go. In the case law with Defendant Wolfram was fined \$100 for violating Ohio Revised Code Section 45711.75. Based on that information, Mr. Tardy most likely violated the law and would have to pay the fine.