

THE SUPREME COURT OF ALABAMA

Amended Oral Argument Docket for October 22, 2019

The Supreme Court of Alabama will convene in Special Session at Samford University Wright Center, 872 Montague Drive, Birmingham, Alabama 35229 on Tuesday, October 22, 2019, for argument of the case(s) below.

The attorneys should report to the Clerk no later than 9:30 a.m.

Court will convene at 10:00 a.m. The first few minutes are set aside for welcome by school and local officials. Pictures may be taken by the press and others during this time and up to the time of the call of the docket. Pictures, may also be taken after the call of the docket, without a flash or extra lighting, if media coverage has been approved by this Court.

10:00 a.m.

1. **1170959** (1043)

ORAL ARGUMENT LIMITED TO 30 MINUTES EACH SIDE.

The City of Montgomery, et al. v. Charles Hunter & Mike Henderson.

Petitioner/Appellant

Marc James Ayers
Kim M. Boyle - Pro Hac
Allen C. Miller - Pro Hac
Joseph J. Minus
George R. Parker

Petitioner/Appellant

John Day Peake, III
Robert E. Poundstone, IV
John Thomas Richie
William E. Shreve, Jr

Respondent/Appellee

Susan G. Copeland
J. Doyle Fuller

1171151 (1043)

Michael Moore, Wesley Farmer and Briana Debose v. City of Centerpoint, Redflex Traffic Systems, Inc.

Petitioner/Appellant

Susan G. Copeland
J. Doyle Fuller

Respondent/Appellee

Stewart Alvis
Roderick K. Nelson
Alton B Parker, Jr

Respondent/Appellee

Kacey L. Weddle
H. Thomas Wells

1180051 (1043)

Robin Woodgett and Jermone Ruffin v. City of Midfield and American Traffic Solutions.

Petitioner/Appellant

Susan G. Copeland
J. Doyle Fuller
Jacob Alexander Fuller

Respondent/Appellee

Richard Warren Kinney, III
Joseph J. Minus

Respondent/Appellee

Bradley Robert Sanders, Jr
David A. Sullivan

THE SUPREME COURT OF ALABAMA
Amended Oral Argument Docket for October 22, 2019

10:00 a.m.

1180268 (1043)

Jordan Mills and Bradley Braswell v. City of Opelika and American Traffic Solutions.

Petitioner/Appellant

Susan G. Copeland
J. Doyle Fuller
Jacob Alexander Fuller

Respondent/Appellee

Marc James Ayers
Kim M. Boyle - Pro Hac
Rudy Hill
Allen C. Miller - Pro Hac
Joseph J. Minus

Respondent/Appellee

George R. Parker
John Day Peake, III
Robert E. Poundstone, IV
John Thomas Richie

SUPREME COURT OF ALABAMA
Oral Argument
Samford University
Tuesday, October 22, 2019

This summary is solely for the purpose of providing spectators a brief summary of the general facts, issues, and arguments presented. It is not intended to be a reflection of all possible issues or arguments this Court may consider in adjudicating these cases. Importantly, nothing in this summary should be read as a predetermination by this Court of the issues and claims presented.

Cases Argued: City of Montgomery et al. v. Charles Hunter and Mike Henderson (1170959); Michael Moore et al. v. City of Center Point et al. (1171151); Robin Woodgett et al. v. City of Midfield et al. (1180051); and Jordan Mills et al. v. City of Opelika et al. (1180268)

Attorneys: For plaintiffs: Susan G. Copeland, J. Doyle Fuller, and Jacob Alexander Fuller

For defendants: Robert E. Poundstone IV, George R. Parker, Marc James Ayers, J. Thomas Richie, Joseph Jay Minus, Jr., John Day Peake III, Kim M. Boyle, Allen C. Miller, Roderick K. Nelson, H. Thomas Wells, Jacob Alexander Fuller, Richard Warren Kinney III, Bradley Robert Sanders, Jr., David A. Sullivan, Kim M. Boyle, Rudy Hill, and Allen C. Miller

Facts: The Alabama Legislature passed local "Red Light Safety Acts" authorizing the use of automated photographic equipment (red-light cameras) at intersections located within certain cities to enforce the State of Alabama's traffic laws, such as the prohibition against running a red light or running a stop sign. The cities implemented those red-light safety laws by passing ordinances very similar to the local laws, authorizing the placement of red-light cameras at intersections within that city.

The Alabama Traffic Code, § 32-5A-31 et seq., Ala. Code 1975, governs the "rules of the road" throughout the State. The "rules of the road" make actions such as running a red light, running a stop sign, or speeding, among others, a misdemeanor criminal offense punishable by the payment of a fine and/or imprisonment. The "rules of the road" are applicable throughout the State in every city and jurisdiction. The red-light safety laws and the ordinances, however, are applicable and in effect only in certain cities in Alabama, including the defendant cities. The red-light safety laws and the ordinances make the running of a red light a civil offense punishable by the payment of a civil fine with no chance of imprisonment. The red-light safety laws and the ordinances do not replace the "rules of the road" in the cities where they are in effect. Rather, the red-light safety laws and the ordinances operate simultaneously with the "rules of the road" in those cities. For example, if a police officer observes a motorist run a red light in one of the defendant cities, the police officer may issue the motorist a criminal complaint in the form of a uniform traffic citation, and, if he or she is convicted of the misdemeanor offense of running a red light, the motorist is subject to the payment of a fine and/or imprisonment. However, if a vehicle is photographed running a red light by one of the red-light cameras, pursuant to the red-light safety laws and the ordinances, the owner of that vehicle will receive a computer-generated ticket in the mail at which time the owner of the vehicle is obligated to pay a civil fine but faces no imprisonment.¹

The plaintiffs are individuals who received automated traffic tickets that they have paid. The defendants are the cities and the companies responsible for installing, maintaining, and monitoring the automated photographic equipment. All the cases challenge the respective local laws and the ordinances based on Ala. Const. 1901, Art. IV, § 89 (legislature cannot authorize municipal ordinances that are inconsistent with state laws), § 104 (legislature cannot enact local laws fixing punishment of crime or creating a lien), and § 105 (legislature cannot enact local law that is provided for by a general law) and Ala. Code 1975, § 11-45-1 (prohibits

¹The owner of the vehicle who receives an automated red-light traffic ticket is allowed certain affirmative defenses and due-process protections under the red-light safety laws and the ordinances.

municipalities from adopting ordinances inconsistent with state laws), and § 32-5-1 (prohibits "local authorities" from adopting ordinances regulating motor vehicles).

Issues and Arguments:

1. Whether the plaintiffs have standing?

Arguments of the Plaintiffs: A justiciable controversy exists because the plaintiffs' rights have been impacted by the local laws and the ordinances in that the plaintiffs were issued tickets and have paid the fines. Therefore, they are entitled to a judgment declaring whether the local laws and the ordinances are unconstitutional and the fines were illegally imposed. Further, these cases fall into the exception to the mootness doctrine because they involve an important issue that is capable of repetition but evades review. Finally, the existence of another remedy under the red-light safety laws, i.e., the right to a hearing before a hearing officer and an appeal to the circuit court, does not prevent the plaintiffs from bringing the declaratory-judgment actions here seeking a declaration as to the constitutionality of the local laws and the ordinances.

Arguments of the Defendants: The plaintiffs paid the fines, and there is no indication that the defendant cities are taking any further action against them regarding the already paid civil citations. Therefore, no justiciable controversy exists and the plaintiffs lack standing to bring a declaratory-judgment action. Further, the local laws and the ordinances provide for a hearing and de novo appeal to the circuit court, and the plaintiffs did not take advantage of those opportunities. The plaintiffs cannot now revive this matter by filing a declaratory-judgment action.

2. Voluntary-Payment Doctrine.

Arguments of the Plaintiffs: The voluntary-payment doctrine is an affirmative defense, and nothing in the record can be construed as the plaintiffs' having voluntarily paid their fines. Therefore, the declaratory-judgment actions cannot be dismissed for failing to plead facts in anticipation of the assertion of the voluntary-payment doctrine.

Arguments of the Defendants: The plaintiffs voluntarily paid their fines so their refund demand is barred by the voluntary-payment doctrine.

3. Whether the local laws and the ordinances violate Art. IV, § 89, Ala. Const. 1901, and § 11-45-1, Ala. Code 1975?

Arguments of the Plaintiffs: The local laws and the ordinances, which allow the defendant cities to make the criminal offense of running a red light a civil violation, violates Art. IV, § 89, Ala. Const. 1901, and § 11-45-1, Ala. Code 1975, which prohibits the legislature from authorizing any municipality to pass laws and the ordinances inconsistent with the general laws of this State.

Arguments of the Defendants: The local laws and the ordinances do not violate Art. IV, § 89, Ala. Const. 1901, and § 11-45-1, Ala. Code 1975, because the local laws and the ordinances do not make the act of running a red light in the defendant cities non-criminal and does nothing to lessen the criminal status of running a red light in those cities. In other words, the local laws and the ordinances do not make the act of running a red light lawful, where the legislature has made it unlawful.

4. Whether the local laws violate Art. IV, § 104(14), Ala. Const. 1901?

Arguments of the Plaintiffs: The local laws, which allow the defendant cities to make the criminal offense of running a red light a civil violation, violates Art. IV, § 104(14), Ala. Const. 1901, which prohibits the legislature from passing local laws "fixing the punishment of crime" because, they say, the local laws decriminalize the offense of running a red light in the defendants cities and changes the punishment for that offense.

Arguments of the Defendants: The local laws are civil in nature and do not fix the punishment for any crime. Nothing in the law of Alabama prohibits the same conduct, i.e., running a red light, from being the subject of both a criminal penalty and a civil citation.

5. Whether the local laws and the ordinances violate Art.

IV, § 105, Ala. Const. 1901?

Arguments of the Plaintiffs: The local laws and the ordinances, which allow the defendant cities to make the criminal offense of running a red light a civil violation, violate Art. IV, § 105, Ala. Const. 1901, which prohibits the enactment of any local law "in any case which is provided for by a general law" because, they say, the conduct of running a red light is a criminal act throughout the State of Alabama and, by making the criminal act of running a red light a civil offense in only the defendant cities, the legislature has destroyed the uniformity of the general criminal law of running a red light.

Arguments of the Defendants: The local laws and the ordinances do not violate § 105, Ala. Const. 1901, because the local laws and the ordinances provide a civil framework for enforcing the rules that prohibit the running of a red light and simply do not conflict with the criminal laws prohibiting such conduct. The defendants also argue that the local laws and the ordinances do not conflict with § 105 because they are permissible laws that accomplish a local need without displacing the general criminal law that makes running a red light a criminal offense.