

People v. Spriggs

(2014) __ Cal.App.4th __ [2014 WL 783865]

Issue

Does a motorist violate Vehicle Code § 23123(a) by holding a cell phone and viewing a map application on its display?

Facts

A CHP officer in Fresno County noticed that a driver—later identified as Steven Spriggs—was holding a cell phone and apparently looking at the display screen. So he pulled Spriggs over and cited him for violating Vehicle Code § 23123(a). This statute prohibits drivers from “using a wireless telephone unless the telephone is specifically designed and configured to allow hands-free listening and talking, and is used in that manner while driving.” It turned out that Spriggs was not talking on the phone, but was looking at a map application on the display. He contested the ticket in traffic court but lost. He then appealed to the Court of Appeal.

Discussion

Prosecutors argued that, because the statute prohibits drivers from “using” a cell phone while driving, it necessarily prohibits drivers from using the phone for any purpose, and that includes viewing a map application. Although the word “using” is ambiguous, the court examined the legislative history of the statute and concluded that it was not intended to prohibit any “use” of a cell phone while driving. Instead, said the court:

[I]t is apparent that the Legislature both understood and intended the statute to be limited to only prohibit a driver from holding a wireless telephone while conversing on it. It did not intend to extend the prohibition to other uses of a wireless telephone and most certainly did not intend to prohibit the use at issue here, namely looking at a map application while holding the telephone and driving.

Consequently, the court ordered that Spriggs’ citation be dismissed. (It should also be noted that a driver *does* violate this statute by talking on and holding a cellphone while temporarily stopped in traffic.¹) POV

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¹ *People v. Nelson* (2011) 132 Cal.App.4th 856.