

So, how's that cell phone ban thingy working out?

When the Cheyenne cell phone ban while driving ordinance was passed, I expected it to be generally ignored but had hoped it would be enforced if there was evidence cell phone use was in play at the time of an accident that caused third party injury or property damage.

While it is apparent that most motorists are taking the ban seriously, there are, and always will be, those who will just not comply. Unfortunately, the level of use will be inverse to the ability to drive. Those least experienced and at greatest risk to others will be the ones most apt to still be using a hand-held cell phone while they drive around town.

Of course, we also have experienced a police officer, on duty driving a city-provided police car, that was not paying attention to the task at hand and ran a red light and broadside a resident's vehicle. There is just not going to be a way to prevent all traffic accidents, no matter how many ordinances are enacted.

Little by little, it appears that more people are once again using their cell phones as they drive. The ordinance bans only the hand-held devices but all cell phones are equally dangerous if used by a driver in a moving vehicle. Cell phone use is nothing like it was before the ban but it is creeping back into play.

A story recently shared with the Cheyenne Herald by a reader might help explain why drivers do not fear being cited for such use - of using a hand-held cell phone while driving.

This source, whom I consider reliable, told the story of his being struck by a vehicle in which the young female driver was almost certainly on her cell phone when she lost control of her vehicle.

On a Friday morning, about 10:00 am, he was at the stoplight at Dell Range and Converse, stopped at a red light and headed south. He was in the center lane, with a car in the lane to his left preparing to make a left turn, east onto Dell Range. A car to his right, as was he, was going straight ahead on Converse, across Dell Range to the south.

The light turned green, with a green arrow

for the car to his left to turn onto Dell Range, eastbound. That car was about 3/4 through the turn and "a girl" going west on Dell Range in a Chev Impala, passed behind that car and hit my source's truck, a 1/2 ton, 4x4 Chevy, hard enough to push it sideways 4 to 5 feet into the car on his right. A pretty fair jolt.

He got out of his truck, went to the driver's side window of the Impala to check on the condition of what appeared to be a 17 year-old girl. A teenager. He asked her if she was okay and she said yes. He saw an object on the floor between her feet. It appeared to him to be a cell phone.

First a sheriff's deputy, then a CPD officer arrived, my source "told him (the officer) to investigate if she was using the phone." He was told, "her insurance adjuster said she admitted fault, she was distracted looking down at her lap." Sounds a bit like texting, doesn't it?

The victim also asked the CPD to "investigate her speed" as he guessed, based on the amount of damage, that she may have been exceeding the speed limit. Weeks later, a city attorney called to tell him that "they are not going to investigate if she was using the phone or not."

In this case, at her age, if she had been asked if she was talking on the cell or texting at the time of the accident, she would have probably told them the truth. There is still a respect for law enforcement at such a young age and honesty still comes naturally for them.

But, this cavalier attitude by the city attorney's office is what I thought it would come to. The cell phone ban is another "dogs in the pickup box" ordinance. Even in the most obvious accidents, there is just no interest in determining whether cell phone use contributed or caused the accident. It's a jaywalking ordinance. It has no penalty. It won't be enforced. If 75%-80% of the people abide by the ban, that's a lot of people not using their cell phone and that will contribute to perhaps safer driving conditions (studies now indicate cell phone use poses no greater risk than changing the radio, etc.) but, in the case of accidents with injury or property damage, the ban must be taken seriously. If not, rescind it.

Jessica Venable (from p. 1)

Homar wrote in his opposition to her Motion that Jessica had said, on the phone in the presence of the neighbor at whose house she had placed the call to 911, that she had stabbed him "in the heart." That neighbor told me what Jessica said - and she did say she had stabbed her husband - but did not say she had intended to either stab him or make it a fatal blow. She was in shock. The "in the heart" was used here to try to poison the judge's opinion against a victim who had, maybe for the first time in this relationship, defended herself against further abuse - against still another beating. And it turned out badly.

Most amusing of the DA's arguments against sentence reduction were these words: "A reduction of Defendant's sentence would create an injustice, both to the legal system, and to the victims and the community that the Defendant has harmed." Homar did not even take the time to draft an original Response. He used one off the shelf. Create an injustice? Like he cared about an injustice. Was charging this frightened woman, at her greatest moment of fear, regret and uncertainty with First Degree Murder not an injustice? Of course it was. And who were the victims? He should have considered the "victims" when he prosecuted one of them. And her children? They were victims and Homar gleefully did his best to destroy a solid family setting. Jessica Venable has always been described as a "great" mother, a "wonderful" mother. Homar didn't worry about the damage done to those children when the two oldest needed their mother most.

First Degree Murder? Homar should be censured by the Wyoming Bar for overcharging in this case. He does that when he has a naive, unseasoned defendant. He bullies them. Then, when he offered to remove the potential of having her executed, he expected gratitude. When a defendant has been assigned a public defender, like Jessica, that may happen.

In this case, Jessica Venable actually thought there was a chance she might be brought to trial on First Degree Murder charges and if found guilty, then executed.

This from a prosecutor who fought, against the advice of his predecessor, to free a man who *did* intentionally inflict bodily harm on his own brother by intentionally striking him repeatedly in the throat, chest and abdomen with a shaft holding an axle gear and then not seeking aid for the fallen brother for hours. Homar went against the explicit written position of Jon Forwood and insisted this man be set free with a probation-only sentence, a dangerous precedent set for Laramie County and the State of Wyoming. And he threatened this repeatedly abused woman with execution? How can he sleep at night? Maybe he can't.

To try to inflict more damage to Jessica's Motion for Sentence Reduction, Homar wrote: "The State would argue that inmates already receive appropriate reward for conducting themselves as prisoners are expected to while incarcerated" and he insulted the Court by going on, "Such considerations are best (sic) and should be left to the determination of the Department of Corrections and the Parole Board." Certainly not to him - Scott Homar.

In a one-page Order from Senior Laramie County District Court Judge Peter Arnold, dated April 6, 2010, this Judge slapped the wayward District Attorney to the floor.

In Judge Arnold's **ORDER GRANTING DEFENDANT'S MOTION FOR SENTENCE REDUCTION**, his brief Order included:

2.) "Defendant's motion was filed on February 8, 2010. A motion for sentence reduction may be made within one year from sentence being imposed. Wyoming Rule of Criminal Procedure 35(b). Defendant's motion was timely filed."

3.) "A hearing on this matter would not assist the Court."

"IT IS THEREFORE ORDERED that Defendant's MOTION FOR SENTENCE REDUCTION PURSUANT TO RULE 35(B) OF THE WYOMING RULES OF CRIMINAL PROCEDURE is GRANTED to the following extent. The term of incarceration shall be reduced to not less than four (4) years nor more than ten (10) years. The JUDGEMENT AND SENTENCE shall remain the same in all other respects."

Peter Arnold, I've been all over you in the past for what I and the Wyoming Supreme Court considered legal errors. But, this Order now brings my thanks. You got this one right, Judge. You got this one right.

This case is, and will forever be, an embarrassment to the criminal justice system of Laramie County and the State of Wyoming. Jessica Venable is tremendously grateful for this decision to reduce her sentence and she is looking forward to the next steps toward her freedom. In a short time, she should be released to a halfway house, then freed from there to serve the remainder of her sentence on probation. She is no threat to society, even the DA's office has admitted as much. She needs to be, and deserves to be, reunited with her children as quickly as possible. While Judge Arnold's (and I will refer to him as Judge Arnold in the future) Order does not undo the wrongs done to her, she is a forgiving person and right now she feels only gratitude.

She has become reunited with her biological family and her future will be one of greater trust. In addition to her unjust imprisonment, the system has been cooperating in the termination of her parental rights, perhaps even the adoption, of her baby. That will now be dealt with more effectively when a date-certain is set for her release. There is now no reason in the world to threaten to give her baby to anyone else. If that were necessary, she has a blood relative, with whom I've spoken twice, willing to assume temporary care of the baby until Jessica is home. To tear Jessica's baby away now would be unconscionable. She deserves better.

Thanks to those readers and friends who have contributed money for Jessica's needs while at Lusk. We have sent \$800.00 to her. It has done wonders for her self-esteem to know that there are strangers who care about her. She hasn't had that in her life for a long time - maybe ever. That financial need isn't quite over - please feel free to make donations for awhile. Also, please be thinking if you, or someone you know, may have a job for Jessica when she is able to accept it - probably late this year.

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