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There but for the grace of God go I. Or thee.

by *Dave Featherly*

I met with a guy the other day who had gone from a \$60,000 a year truck driver based in Utah to living at a homeless shelter in Cheyenne.

Our Circuit Court could correct an injustice, *they* might choose to call it a misunderstanding, but Judge Denise Nau can't be bothered. Nor the ADA.

It's not that our courts don't have full calendars. And with two new positions to fill within a few months, it'll take a long time to catch up. But, my God!

This is a case that screams out for action. And justice. It should not be stuck on the bottom of a pile and be required to work its way to the top. Unfortunately, that's where it's at. And stays.

I've watched (in person) as one Laramie County's circuit court judge dismissed three charges a county resident was cited for, **THEN FOUND HIM GUILTY OF A CHARGE FOR WHICH HE WAS NOT CITED!** He didn't defend the charge he was found guilty of because he hadn't been charged with it. There is probably a reason (multiple reasons) that none of the three circuit court judges was elevated to the district court to fill the vacancy created by Judge Kalokathis's retirement. The same rejection is likely when filling Judge Grant's seat upon his retirement.

The case I'm writing about doesn't rely on the word of a guy trying to get his CDL cleared up so he can get back on the road. It isn't his word against the Wyoming Department of Transportation. He has documentation from two other states to support his argument that his CDL was **NEVER** suspended and therefore Wyoming should quickly remove the hold on his driver's license.

Here are the particulars:

This man, now 57 years old, holds a Texas commercial driver's license that will expire on his birthday in 2013.

In mid-September of last year, an incident occurred that turned this man's life upside down.

He had just begun work for a Salt Lake City trucking company and, like many over-the-road truck drivers, he considered himself "homeless" because he did not

have a house to return to on what could be infrequent visits to any one city. His new employer had told him he could use a sleeper in one of their trucks when he was in Salt Lake - their home base.

The guy had worked that day, hauling two loads of salt in the Salt Lake City area. His hours that day were 7:00 am to 2:30 pm. He returned that truck to the company's lot - he said they had about 500 trucks - and had been assigned "Truck No. 10" to sleep in that night. Another driver would take the truck he had used during the day - to haul asphalt that night. This guy was to take the balky Truck No. 10, along with a set of double trailers, to the company garage for repairs the following morning. Each needed minor repairs. The truck ran okay, but the back-up warning "beep" sounded constantly and needed to be fixed.

This fellow, let's identify him as "BP", was new to the company and did not know where the garage was so another driver was to meet with him at 8:00 am and show him the way and then return him. BP was back in the lot by 3:00 pm that day after working until 2:30 pm. In an area with no stores or restaurants, and having until 8:00 am the next morning until leaving with the truck and trailers, BP spent a couple hours at a nearby bar - he referred to it as a topless bar - and was back in the truck at 5:00 pm.

Asked what the rules are about drinking before driving a tractor-trailer on public roads, he told me 14 hours. He also told me the legal BAC limit for truck drivers is only .04, not the .08 allowed drivers of non-commercial vehicles.

BP told me he had consumed about "six beers" in two hours and returned to his assigned truck before 5:00 pm. He would leave the yard at 8:00 am with the truck and two trailers - that was his plan. But rather than wait until early morning to hook the trailers to his tractor, he hooked them up that night.

Another driver, one whose employment was terminated over his role in this incident, saw BP return from the bar and either called a supervisor to express his concern when BP hooked up the trailers (as he told a TV station) or called the Utah Highway Patrol, the TV station *and* a local newspaper, as BP believes.

The snitch told the newspaper that he didn't wait for the supervisor to do anything "because he didn't think he was going to." Because of his conduct, when he returned from a run at 2:00 am, he was met by that supervisor and fired.

For the sake of brevity, the UHP responded and gave BP both field sobriety tests and a breathalyzer. They also searched the cab of the truck and found nothing - no beer cans or bottles, etc., according to BP (and neither the TV station or newspaper accounts contradict him on any point). BP told me he passed the tests and blew a .03 on the breathalyzer. He was arrested on "suspicion of driving under the influence of alcohol" and jailed. Remember, these trucks and trailers were on private property - not on public roads. And the only "driving" he had done with this tractor was to hook up the trailers, never leaving the yard and having no intention to leave the yard until 15 hours after his last beer.

BP spent the weekend in jail. He was bonded out by his employer and went back to work. His only appearance on this charge in Salt Lake City was before the Motor Vehicle Department and they dismissed the charges.

Then his real troubles began.

In an undated letter from the Texas Department of Public Safety (from where his CDL was issued), BP was issued an ORDER OF DISQUALIFICATION. The letter claimed that "you provided a specimen of blood, breath or urine and an analysis of the specimen showed an alcohol concentration of .08 or more while operating a motor vehicle, other than a commercial motor vehicle, in a public place." That was inaccurate. Therefore, the notice said, his CDL would be suspended from 12-21-08 through 12-20-09.

But, the State of Utah Department of Public Safety, Driver License Division wrote a letter, dated January 5, 2009 to "correct a 10/14/2008 letter" (concerning the incident of September 16, 2008) that referred to a hearing: "... this is to advise you that it is the decision of the department to take no action and not deny, suspend, revoke or disqualify your driving privilege." And the letter told BP if he had surrendered his driver's license, it

was being returned in "this letter."

Oh, yes, the truck and trailers had been impounded by the UHP that night in September.

This Utah letter went on to say, "the registered owner, ... may be entitled to a refund of the DUI administrative impound fee if the DLD did not take action against the driver ..." At least Utah seems to have a procedure in place to right wrongs.

Wyoming doesn't. At least not timely.

The Texas Department of Public Safety issued a letter on January 15, 2009 that cleared BP. In part, it reads: "Your driver license and/or privilege to obtain a Texas Driver License was hereby reinstated effective January 15, 2009."

During this period, he was detained at the local Wyoming Port of Entry after they ran his driver's license and it showed it had been suspended. Another company driver had to come and take over the truck. BP was cited and given a January 29, 2009 court appearance date. On January 29th, he was snowed in in Casper and telephoned the circuit court office to inform them I-25 was closed and he could not get to court. He was told (and a document confirms that he was told) that the appearance would be rescheduled "and he better make this one."

In the ensuing madness, our circuit court will not clear him, even though both Utah and Texas have. He was not driving on a suspended license. He got caught up in bureaucratic red tape. The State of Texas warned in their letter that cleared him: **"TO ALL POLICE OFFICIALS: IT CAN TAKE UP TO TEN (10) DAYS FOR A DRIVING RECORD TO BE UPDATED. THIS LETTER WILL SERVE AS CLEARANCE FOR THE ABOVE NAMED INDIVIDUAL DURING THAT PERIOD."**

That notice was faxed to BP at the Flying J (1/15/2009) and has been provided to our circuit court, yet does not satisfy the ADA assigned this case, nor Denise Nau. A handwritten note (even though a fax no. of the Texas DOPS is obvious on the top) says, "Dennis [Grant] will not accept this paperwork, neither will DN."

BP languishes at a local homeless shelter while DN and DG delay justice.