

Graham Court of Appeals

State of Graham,  
*Plaintiff-Appellant*,  
v.  
Janice Shipley,  
*Defendant-Appellee*.

July 17, 2011

[Summary omitted]

[Headnotes omitted]

Appeal from District Court, Salem  
County, Jane L. Renfro, Judge.

Margaret Compton, Assistant State  
Attorney, for appellant.

Thomas Griffin, Thomas Griffin &  
Associates, for appellee.

BROWN, Judge.

The defendant in the court below received a traffic ticket when she rode her scooter through a red light. On the morning of April 13, 2010, on the way to mail her income tax forms, Janice Shipley decided she would be able to travel more quickly if she used a two-wheeled scooter, a child's toy that belonged to her young son.

**\*279** When she approached the intersection of Fourth and Vine in the town of Salem, the traffic light regulating vehicular traffic in her direction of travel was emitting a steady red beam. Because there was no cross traffic, however, the defendant determined that she could cross safely on her scooter.

Stepping up with one leg on the scooter, she pushed off with the other leg and traveled safely through the intersection to the other side of the street where she then made her way down the block. Officer Roderick Holmes, sitting in his patrol vehicle, had watched the defendant cross the street. As the defendant was scooting down the block, the officer turned on his siren and attempted to stop the defendant. Because she had not expected to be stopped, she kept going. The police officer stopped at the next corner, stepped from his vehicle, and stopped the defendant from going any further. He then ticketed her for violation of Graham's red-light statute and issued her a warning for resisting arrest.

The defendant pleaded not guilty to the charge of running the red light and filed for dismissal. Her defense was predicated on her belief that the scooter was not subject to traffic regulations, including the red-light statute. The court below agreed and dismissed the case upon the defendant's motion. The State has appealed.

Therefore, the question before this Court is whether the defendant, traveling on the two-wheeled child's scooter, was subject to the State's traffic laws and especially to the red-light statute. If the statute did not apply to the defendant, then her failure to stop for the steady red beam was not a violation of the traffic laws, and her case was properly decided by the court below.

The State's red-light statute reads as follows: "Anyone traveling on or in a vehicle such as an automobile on the public streets shall stop at intersections

where a steady red beam of light signals that traffic in the direction being traveled is not allowed. When the beam turns green, the vehicular traveler may proceed.” 16 Graham Gen. Stat. § 2345 (2011). The statute does not provide a definition of the vehicles to which it applies. Thus, this court must decide whether a scooter is “a vehicle such as an automobile” and thus subject to the statute’s other terms.

In the court below, the defendant argued that her two-wheeled scooter was not a “vehicle” subject to the above-referenced rule. The defendant argued that the scooter was not like an automobile, because the vehicle was not motorized. Thus, she argued, it should not be subject to the same traffic rules as vehicles with motors. She argued, and the court below agreed, that the purpose of the red light statute is to protect those persons in vehicles traveling through green lights. Thus, because she was on the two-wheeled scooter, the defendant argued that she presented no danger to anyone traveling through the intersection in a motorized vehicle. Therefore, the defendant argued that her scooter was not like an automobile and thus not subject to the statute.

The State, on the other hand, argued that, because her scooter had wheels and because she was able, by pushing off, to travel more quickly than she could have on foot, she was subject to the red light statute even though her scooter had no motor. Therefore, the State argued that the scooter was enough like an automobile to be considered a vehicle and thus subject to the statute even though it had no motor.

We agree with the defendant’s argument. While there was no traffic and no one was injured, even if there had been vehicular traffic in the intersection, the defendant’s two-wheeled scooter was too light and too slow to have presented a danger to vehicular traffic traveling through the intersection in the direction of the green light. The scooter can move only when pushed by the one leg of the operator; thus it is **\*280** too slow to be an impediment to crossing vehicular traffic. Further, the scooter is too light in weight to cause anything but cosmetic damage to other vehicles and thus cannot be dangerous enough to be covered by the statute.

Thus, the two-wheeled scooter was not enough like an automobile to be subject to the statute. However, we do not mean to say that every non-motorized conveyance is not subject to the statute. There may well be non-motorized conveyances that are enough like automobiles to fall within the purview of the statute, and we retain our prerogative to so rule.

It is also true that the defendant may have endangered herself through her decision to ignore the red light in her direction, but this appears to be little more than an adult’s voluntary and calculated decision. Because we agree that a non-motorized, two-wheeled scooter presents little danger to vehicular traffic, we hold on this case of first impression that dismissal was properly granted by the court below.

Affirmed.

NICHOLS, J. and COLLINS, J. concur.

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