



Tar Heel/Subhash Roy

Ferretting around

Lucy Dwight, a recent graduate from Bamberg, S.C., who majored in public health, enjoys relaxing in the sun while playing with her pet ferret "Bart."

Court of Appeals rules stolen car case a mistake to dismiss

From Associated Press reports

RALEIGH — A trial court made a mistake when it dismissed a third-party complaint against the state Department of Transportation in the case of stolen cars that were later sold, the N.C. Court of Appeals ruled Tuesday.

But Superior Court Judge Donald Stephens was correct when he dismissed a crossclaim against Bill Hiatt, commissioner of motor vehicles, and the state Division of Motor Vehicles, the three-judge panel said in a decision written by Judge Clifton Johnson.

Columbus County Auto Auction Inc. filed a complaint on Sept. 26, 1986, against several defendants, including Aycock Auction Co. Inc. Aycock later sued the Department of Transportation because an inspector of the Division of Motor Vehicles, a part of the DOT, had issued a certificate of title for the stolen cars.

Columbus was seeking \$180,000 plus interest for 11 automobiles alleged to have been purchased by Columbus from Aycock in 1985.

Columbus alleged that the cars were sold like this:

■ Silk Hope Automotive Inc. purchased wrecked and salvaged vehicles from out of state, removed vehicle identification plates and placed them on a stolen vehicle of the same make and model.

■ The cars and out-of-state salvage titles were then presented to the state DMV inspector as a repaired vehicle. The inspector then authorized a N.C. certificate of title for each vehicle.

■ The vehicles were then sold by Silk Hope to Hood's Used Cars, which sold them through Aycock at various times in 1985.

■ Columbus bought the cars at auction sales and the certificates of title were signed by Hood to Colum-

bus to Thompson Cadillac-Oldsmobile Inc.

■ The vehicles were later examined by DMV and seized from Thompson.

On Dec. 22, 1986, Aycock filed an answer, crossclaim and third-party complaint, alleging that 10 vehicles were purchased at auction sales. If it were liable to Columbus, the DOT and remaining defendants were liable to Aycock "based upon warranty of titles and negligence in the issuance of N.C. certificates of title for stolen vehicles."

Stephens dismissed the crossclaims against Hiatt and the DMV and the third-party complaint against DOT on June 8, 1987. In addition, the court dismissed Columbus' original complaints against Hiatt and the DMV.

But the Court of Appeals disagreed with the ruling regarding the third-party complaint.

"We believe the court erred when it dismissed the third-party complaint against the DOT," based on earlier cases, the court said.

But the court upheld Stephens' decision on the crossclaim against DMV and Hiatt.

Now the state must either go back to trial court or petition the state Supreme Court for a discretionary review, said Special Deputy Attorney Jane Gray.

She said she had not decided which action to take.

In another case, the court upheld the right of the town of Atlantic Beach to prevent a recreational vehicle park, called Tradewinds Campground Inc., from locating in the town.

In February 1984, Thomas Price, who was the town's building inspector, asked Robert and Margie Hale if they would be interested in investing in the park. Price had an option to buy the land involved, but lacked the money to purchase the property.

The Hales and another couple formed a corporation and bought the property. Price owned shares in the corporation at that time.

The corporation was issued an electrical permit, and construction began on the park. The construction was supervised by Price. In the summer of 1984, Price was fired by the town for his involvement with Tradewinds and his failure to enforce the town's ordinances.

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