AT THE BARNSLEY MAGISTRATES' COURT, SOUTH YORKSHIRE

REGINA

V

PHILLIP COATES

14th & 18TH January 2011

The Summons

1. This case concerns one allegation against the Defendant that on the 12th February 2010 he wilfully rode a motor vehicle, namely a Segway, upon a footpath or causeway by the side of the road, namely Pontefract Road, made or set apart for the use or accommodation of foot passengers, contrary to Section 72 of the Highways Act 1835.

2. The Defendant pleaded not guilty.

The Parties

3. Mr Gavin Hotchkiss appeared for the Crown Prosecution Service and Miss Victoria Molloy appeared on behalf of Mr Coates.

The Law

4. The Defence did not require any prosecution witnesses to be called to give evidence and agreed that all their statements could be read.

5. The Defence also intimated that it did not intend to call the Defendant to give evidence, nor any witnesses, as this was solely a legal defence.

6. Both the Prosecution and the Defence agreed that the issue in the case was quite narrow, namely, whether or not a Segway fell within the legal definition of a motor vehicle.

7. It was further agreed that the legal definition of a 'motor vehicle' is 'a mechanically propelled vehicle intended or adapted for use on roads' as contained in Section 185(1) of the Road Traffic Act 1988 and Section 136(1) of the Road Traffic Regulation Act 1988.

8. It is noted that in their skeleton argument the defence accept that a Segway is a 'mechanically propelled vehicle'. I agree. It is not accepted that the vehicle was 'adapted or intended for use on the road'.

9. I was referred in the skeleton arguments to a number of cases;

a) Burns v Currell CLR 14th May 1963 (referring to 'Go-Karts')
b) DPP v King [2008] EWHC 447 (Admin) (a 'City Mantis Electric Scooter')
c) North Yorkshire Police v Saddington [2000] EWHC Admin 409 (referring to the 'Go-Ped')
d) Chief Constable of Avon and Somerset Constabulary v F [1987] RTR 378 (which upheld the Burns v Currell Test)

10. In determining whether a vehicle is intended or adapted for use on a road, the test is contained in Burns v Currell, adopted in Saddington and the earlier referred to cases.

11. As Lord Parker, the then Lord Chief Justice, when giving his Judgement, said inter alia, *'I prefer to make the test whether a reasonable person looking at the vehicle would say that one of its users would be a road user. In deciding that question, the reasonable man would not, as I conceive, have to envisage what some man losing his senses would do with a vehicle; nor an isolated user or a user in an emergency. The real question is: is some general use on the roads contemplated as one of the users?'*

12. This is the exact point which I have to decide today. It is therefore a matter of fact and degree, looking at the case as a whole, and using the acid test mentioned above, for me to interpret whether or not the Segway is a mechanically propelled vehicle intended or adapted for use on a road.

13. It is accepted law in a case of this nature that the onus is always on the prosecution to establish the case beyond doubt. If I am not so satisfied the Defendant must be given the benefit of it.

14. If there is no doubt then the Defendant must be convicted.

The Facts

15. Briefly, Mr Raymond James Flear, an Enquiry Assistant (civilian) employed by South Yorkshire Police observed a Segway being ridden on a pavement on the 12th February 2010, by a person who was subsequently ascertained to be the Defendant.

16. Further, Mr Flear states that he saw the Defendant on the 1st March 2010 leaving Cudworth Police Station, and board his Segway which had been parked between two vehicles with both wheels resting against the pavement. He then saw the Defendant drive between the parked cars and turn left onto Manor Road away from the Police Station.

17. Police Constable Colin James Mackie, in his witness statement, describes a person who he now knows to be the Defendant, riding a

The Records of Interview

18. PC Mackie interviewed the Defendant by contemporaneous notes on the 28th February 2010 and on the 4th March 2010.

19. Among other things, the Defendant in his first interview replied, and I quote, *'that he would ride his Segway between here and Barnsley on pavements or road if pavement is full'*.

Judgement

20. I have read and considered the lengthy skeleton arguments prepared by both parties, and I compliment them.

21. I think it is right also that I should mention that the defence has provided me with miscellaneous copy letters and copy newspaper articles from inter alia, Segway, LLC of Italy, the European Commission and the European Parliament.

22. I have also considered the Report prepared by Keith Borer Consultants instructed by the defence.

23. All the case law referred to above has assisted me in coming to my decision today.

24. Can I say straight away that in coming to my decision I am not swayed by what is lawful in a large number of other Countries.

25. My only concern is to interpret the law of this Land in deciding whether or not a Segway can lawfully be ridden on a footpath or causeway by the side of a road under the legal provisions.

26. I have considered the 'acid test' which has been dealt with in paragraph 11 supra and I have considered the burden of proof.

27. If I am satisfied from all the evidence presented, that a reasonable person was to say 'yes, the Segway might well be used on a road', then, applying the test, the vehicle is intended or adapted for such use.

28. In my judgement, the conclusion must be that general use on the roads is to be contemplated.

29. I prefer in large measure the contents of the prosecution skeleton argument, inter alia, but in particular, referring to what Lord Justice Pill said in the case of Saddington *'surrender to the temptation to use (a Segway) on the roads will not be an isolated occurrence'*. Further, I agree, that it requires no stretch of the imagination to contemplate that

30. Although this is by no means an easy matter to determine I am inexorably driven to the conclusion that I am satisfied to the required standard that the Segway is a motor vehicle and the allegation is therefore proved.

Dated this 18th day of January 2011

(Sgd) *Michael A Rosenberg*

District Judge (Magistrates' Courts)

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JUDGEMENT

Dated this 18th day of January 2011