

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

June 14, 2000

Cornelia G. Clark  
Clerk, Court of Appeals  
of Wisconsin

**NOTICE**

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A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**No. 99-3162-FT**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT II**

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**CITY OF SHEBOYGAN,**

**PLAINTIFF-APPELLANT,**

**V.**

**TIFFANY M. BROCK,**

**DEFENDANT-RESPONDENT.**

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APPEAL from an order of the circuit court for Sheboygan County:  
L. EDWARD STENGEL, Judge. *Reversed and cause remanded.*

¶1 SNYDER, J.<sup>1</sup> The City of Sheboygan (the City) appeals from an order dismissing its complaint against Tiffany M. Brock for permitting the illegal consumption of alcohol on premises owned or under the control of an adult

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(b) (1997-98). All references to the Wisconsin Statutes are to the 1997-98 version unless otherwise noted.

contrary to SHEBOYGAN, WIS., MUNICIPAL CODE § 10.176(c). The circuit court held that because Brock was only seventeen at the time of the incident, she could not be charged under § 10.176(c), or its statutory equivalent, WIS. STAT. § 125.07(1)(a)3.<sup>2</sup> The City contends that the court's ruling disregards the plain language of WIS. STAT. ch. 990's statutory definition of "adult," which includes a seventeen year old for purposes of prosecuting or investigating a person who has allegedly violated a state law or municipal ordinance. *See* WIS. STAT. § 990.01(3). We agree with the City and therefore reverse the court's order and remand for further proceedings.

¶2 On April 30, 1999, City of Sheboygan Police Officer Lyle VanderWyst cited Brock for knowingly permitting the illegal consumption of alcohol as a result of an incident that allegedly occurred at her home. At the time of the incident, Brock was seventeen years of age.

¶3 Brock subsequently filed a motion to dismiss the citation on the ground that she was not an adult on April 30, 1999, and therefore could not be prosecuted under the ordinance. At an October 26, 1999 hearing, the court ruled that the ordinance and its statutory counterpart did not contemplate the prosecution of a seventeen year old as an "adult." The court therefore dismissed the violation and the City appeals.

¶4 The interpretation of a statute or ordinance is a question of law and is subject to our de novo review. *See Hemerley v. American Family Mut. Ins. Co.*, 127 Wis. 2d 304, 307, 379 N.W.2d 860 (Ct. App. 1985). The purpose of

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<sup>2</sup> Because SHEBOYGAN, WIS., MUNICIPAL CODE § 10.176(c) exactly tracks the language of WIS. STAT. § 125.07(1)(a)3, we refer only to the Wisconsin Statutes and our analysis of the statute applies with equal force to the ordinance.

interpreting a statute is to determine legislative intent and to give it effect. *See State ex rel. Frederick v. McCaughtry*, 173 Wis. 2d 222, 225, 496 N.W.2d 177 (Ct. App. 1992).

¶5 We first consider the language of WIS. STAT. § 125.07(1)(a)3. This statute reads in pertinent part:

No *adult* may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the adult or under the adult's control. (Emphasis added.)

¶6 Brock contends that our decision in *Smith v. Kappell*, 147 Wis. 2d 380, 433 N.W.2d 588 (Ct. App. 1988), controls. There, an injured party brought a negligence claim against two sixteen-year-old girls. The first defendant was alleged to have furnished alcohol to the driver of the car that struck the plaintiff contrary to WIS. STAT. § 125.07(1)(a). Section 125.07(1)(a) provides that “[n]o *person* may procure for, sell, dispense or give away any alcohol beverages to any underage person.” (Emphasis added.) We concluded that the first defendant was liable because the term “person” denotes any “natural person,” *see* WIS. STAT. § 125.02(14), and thus includes an adult or a minor. *See Kappell*, 147 Wis. 2d at 384-85. The second defendant was alleged to have permitted the use of her mother's residence as a place to consume alcohol contrary to § 125.07(1)(a)3. We held that she was not liable, however, because as a sixteen year old, she was not an “adult.” *See Kappell*, 147 Wis. 2d at 387.

¶7 The *Kappell* decision does not resolve the matter here. After *Kappell* was decided, the Wisconsin Legislature amended WIS. STAT. § 990.01(3) so that “adult” no longer exclusively meant a person who has reached the age of eighteen. Section 990.01(3) now provides:

“Adult” means a person who has attained the age of 18 years, *except that for purposes of investigating or prosecuting a person who is alleged to have violated any state or federal criminal law or any civil law or municipal ordinance, “adult” means a person who has attained the age of 17 years.* (Emphasis added.)

See 1995 Wis. Act 27, § 7294; 1995 Wis. Act 77, § 699; 1995 Wis. Act 352, § 134m.

¶8 Consistent with WIS. STAT. § 990.01(3), the City seeks to prosecute Brock for a municipal ordinance violation. The statutory definition of “adult” is preceded by an explanatory provision under § 990.01, which states that “[i]n the construction of Wisconsin laws the words and phrases which follow shall be construed as indicated unless such construction would produce a result inconsistent with the manifest intent of the legislature.” There is no indication that the “manifest intent” of the legislature was to apply WIS. STAT. § 125.07(1)(a)3 only to persons eighteen years of age and older. Rather, the legislature used the generic term “adult” in § 125.07(1)(a)3 so that any changes in the statutory definition of “adult” would be reflected wherever the term “adult” is used.

¶9 Brock nonetheless contends that because the revisions of WIS. STAT. § 990.01(3) were completed as part of the enactment of the Juvenile Justice Code, § 990.01(3) “is, in effect, only a jurisdictional statute.” We disagree. While it is true that § 990.01(3) was changed at the time the Juvenile Justice Code, WIS. STAT. ch. 938, was implemented, *see* Wis. Act 27, § 9310(5), there is no indication that § 990.01 is intended only to be jurisdictional. Section 990.01 provides numerous definitions of terms that appear throughout the statutes, not just in ch. 938. In addition, we observe that the legislature could have chosen to adopt the definition of “adult” solely for ch. 938 if the definition was intended to be jurisdictional. Under WIS. STAT. § 938.02(1), “adult” is defined exactly as it is

under § 990.01(3). We regard the legislature's inclusion of the same language in ch. 938 as in § 990.01(3) as indicative of an intent to apply the definition not only to ch. 938 cases, but to any other case involving a statute that uses the term "adult" (and which does not otherwise define "adult").

¶10 We reject Brock's narrow reading of WIS. STAT. § 990.01(3) and conclude that the circuit court's dismissal of the violation was in error.

*By the Court.*—Order reversed and cause remanded.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)4.

