THE FOOD STAYS IN THE KITCHEN

EVERYTHING I NEEDED TO KNOW ABOUT STATUTORY INTERPRETATION I LEARNED BY THE TIME I WAS NINE

Hillel Y. Levin

On March 23, 1986, the following proclamation, henceforth known as Ordinance 7.3, was made by the Supreme Lawmaker, Mother:

> I am tired of finding popcorn kernels, pretzel crumbs, and pieces of cereal all over the family room. From now on, no food may be eaten outside the kitchen.

Thereupon, litigation arose.

FATHER, C.J., issued the following ruling on March 30, 1986:

Defendant Anne, age 14, was seen carrying a glass of water into the family room. She was charged with violating Ordinance 7.3 ("the Rule"). We hold that drinking water outside of the kitchen does not violate the Rule.

The Rule prohibits "food" from being eaten outside of the kitchen. This prohibition does not extend to water, which is a bev-

---

Hillel Y. Levin is an Assistant Professor at the University of Georgia School of law. *He thanks his mother.*

The Supreme Lawmaker, Mother, pictured in 1983 with the citizens of the jurisdiction who later became the several defendants in the series of cases about Ordinance 7.3 reported here: Anne, Beatrice, Charlie, and Derek (in descending height order).

---

erage rather than food. Our interpretation is confirmed by Webster's Dictionary, which defines food to mean, in relevant part, a "material consisting essentially of protein, carbohydrate, and fat used in the body of an organism to sustain growth, repair, and vital processes and to furnish energy" and "nutriment in solid form." Plainly, water, which contains no protein, carbohydrate, or fat, and which is not in solid form, is not a food.

Customary usage further substantiates our distinction between "food" and water. Ordinance 6.2, authored by the very same Supreme Lawmaker, declares: "[a]fter you get home from school, have some food and something to drink, and then do your homework." This demonstrates that the Supreme Lawmaker speaks of

food and drink separately and is fully capable of identifying one or both as appropriate. After all, if "food," as used in the Family Code, included beverages, then the word "drink" in Ordinance 6.2 would be redundant and mere surplusage. Thus, had the Supreme Lawmaker wished to prohibit beverages from being taken out of the kitchen, she could easily have done so by declaring that "no food or drink is permitted outside the kitchen."

Our understanding of the word "food" to exclude water is further buttressed by the evident purpose of the Rule. The Supreme Lawmaker enacted the Rule as a response to the mess produced by solid foods. Water, even when spilled, does not produce a similar kind of mess.

Some may argue that the cup from which the Defendant was drinking water may, if left in the family room, itself be a mess. But we are not persuaded. The language of the Rule speaks to the Supreme Lawmaker's concern with small particles of food rather than to a more generalized concern with the containers in which food is held. A cup or other container bears a greater resemblance to other bric-a-brac, such as toys and backpacks, to which the Rule does not speak, than it does to the food spoken of in the Rule. Although we need not divine the Supreme Lawmaker's reasons for such a distinction, there are at least two plausible explanations. First, it could be that small particles of food left around the house are more problematic than the stray cup or bowl because they find their way into hard-to-reach places and may lead to rodent infestation. Second, it is possible that the Supreme Lawmaker was unconcerned with containers being left in the family room because citizens of this jurisdiction have been meticulous about removing such containers.

BABYSITTER SUE, J., issued the following ruling on April 12, 1986:

Defendant Beatrice, age 12, is charged with violating Ordinance 7.3 by drinking a beverage, to wit: orange juice, in the family room.

The Defendant relies on our ruling of March 30, 1986, which "h[e]ld that drinking water outside of the kitchen does not violate

the [Ordinance]," and urges us to conclude that all beverages are permitted in the family room under Ordinance 7.3. While we believe this is a difficult case, we agree. As we have previously explained, the term "food" does not extend to beverages.

Our hesitation stems not from the literal meaning of the Ordinance, which strongly supports the Defendant's claim, but rather from an understanding of its purpose. As we have previously stated, and as evidenced by the language of the Ordinance itself, the Ordinance was enacted as a result of the Supreme Lawmaker's concern with mess. Unlike the case with water, if the Defendant were to spill orange juice on the couch or rug in the family room, the mess would be problematic – perhaps even more so than the mess produced by crumbs of food. It is thus difficult to infer why the Supreme Lawmaker would choose to prohibit solid foods outside of the kitchen but to permit orange juice.

Nevertheless, we are bound the plain language of the Ordinance and by precedent. We are confident that if the Supreme Lawmaker disagrees with the outcome in this case, she can change or clarify the law accordingly.

GRANDMA, SENIOR J., issued the following ruling on May 3, 1986:

Defendant Charlie, age 10, is charged with violating Ordinance 7.3 by eating popcorn in the family room. The Defendant contends, and we agree, that the Ordinance does not apply in this case.

Ordinance 7.3 was enacted to prevent messes outside of the kitchen. This purpose is demonstrated by the language of the Ordinance itself, which refers to food being left "all over the family room" as the immediate cause of its adoption.

Such messes are produced only when one transfers food from a container to his or her mouth outside of the kitchen. During that process – what the Ordinance refers to as "eat[ing]" – crumbs and other food particles often fall out of the eater's hand and onto the floor or sofa.

As the record shows, the Defendant placed all of the popcorn into his mouth prior to leaving the kitchen. He merely masticated

and swallowed while in the family room. At no time was there any danger that a mess would be produced.

We are certain that there was no intent to prohibit merely the chewing or swallowing of food outside of the kitchen. After all, the Supreme Lawmaker has expressly permitted the chewing of gum in the family room. It would be senseless and absurd to treat gum differently from popcorn that has been ingested prior to leaving the kitchen.

If textual support is necessary to support this obvious and commonsensical interpretation, abundant support is available. First, the Ordinance prohibits food from being "eaten" outside of the kitchen. The term "eat" is defined to mean "to take in through the mouth as food: ingest, chew, and swallow in turn." The Defendant, having only chewed and swallowed, did not "eat." Further, the Ordinance prohibits the "eat[ing]" rather than the "bringing" of food outside of the kitchen; and indeed, food is often brought out of the kitchen and through the family room, as when school lunches are delivered to the front door for carpool pickup. There is no reason to treat food enclosed in a brown bag any differently from food enclosed within the Defendant's mouth.

Finally, if any doubt remains as to the meaning of this Ordinance as it pertains to the chewing and swallowing of food, we cannot punish the Defendant for acting reasonably and in good faith reliance upon the text of the Ordinance and our past pronouncements as to its meaning and intent.

UNCLE RICK, J., issued the following ruling on May 20, 1986:

Defendant Charlie, age 10, is charged with violating Ordinance 7.3 ("the Rule") by bringing a double thick mint chocolate chip milkshake into the family room.

Were I writing on a clean slate, I would surely conclude that the Defendant has violated the Rule. A double thick milkshake is "food" because it contains protein, carbohydrate, and/or fat. Further, the purpose of the Rule – to prevent messes – would be undermined by permitting a double thick milkshake to be brought into the family

room. Indeed, it makes little sense to treat a milkshake differently from a pretzel or a scoop of ice cream.

However, I am not writing on a clean slate. Our precedents have now established that all beverages are permitted outside of the kitchen under the Rule. The Defendant relied on those precedents in good faith. Further, the Supreme Lawmaker has had ample opportunity to clarify or change the law to prohibit any or all beverages from being brought out of the kitchen, and she has elected not to exercise that authority. I can only conclude that she is satisfied with the status quo.

GRANDMA, SENIOR J., issued the following ruling on July 2, 1986:

Defendant Anne, age 14, is charged with violating Ordinance 7.3 by eating apple slices in the family room.

As we have repeatedly held, the Ordinance pertains only to messy foods. Moreover, the Ordinance explicitly refers to "popcorn kernels, pretzel crumbs, and pieces of cereal." Sliced apples, not being messy (and certainly being no worse than orange juice and milkshakes, which have been permitted by our prior decisions), and being wholly dissimilar from the crumbly foods listed in the Ordinance, do not come within the meaning of the Ordinance.

We also find it significant that the consumption of healthy foods such as sliced apples is a behavior that this jurisdiction supports and encourages. It would be odd to read the Ordinance in a way that would discourage such healthy behaviors by limiting them to the kitchen.

AUNT SARAH, J., issued the following ruling on August 12, 1986:

Defendant Beatrice, age 13, is charged with violating Ordinance 7.3 by eating pretzels, popcorn, cereal, and birthday cake in the family room. Under ordinary circumstances, the Defendant would clearly be subject to the Ordinance. However, the circumstances giving rise to the Defendant's action in this case are far from ordinary.

The Defendant celebrated her thirteenth birthday on August 10, 1986. For the celebration, she invited four of her closest friends to sleep over. During the evening, and as part of the festivities, the celebrants watched a movie in the family room. Chief Justice Father provided those present with drinks and snacks, including the aforesaid pretzels, popcorn, and cereal, for consumption during the movie-watching. Father admonished the Defendant to clean up after the movie, and there is no evidence in the record suggesting that the Defendant failed to do so.

We frankly concede that the Defendant's action were violative of the plain meaning of the Ordinance. However, given the special and unique nature of the occasion, the fact that Father, a representative of the Supreme Lawmaker – as well as of this Court – implicitly approved of the Defendant's actions, and the apparent efforts of the Defendant in upholding the spirit of the Ordinance by cleaning up after her friends, we believe that the best course of action is to release the Defendant.

In light of the growing confusion in the interpretation of this ambiguous Ordinance, we urge the Supreme Lawmaker to exercise her authority to clarify and/or change the law if and as she deems it appropriate.

FATHER, C.J., issued the following ruling on September 17, 1986:

Defendant Derek, age 9, was charged with violating Ordinance 7.3 ("the Rule") by eating pretzels, potato chips, popcorn, a bagel with cream cheese, cottage cheese, and a chocolate bar in the family room.

The Defendant argues that our precedents have clearly established a pattern permitting food to be eaten in the family room so long as the eater cleans up any mess. He further maintains that it would be unjust for this Court to punish him after having permitted past actions such as drinking water, orange juice, and a milkshake, as well as swallowing popcorn, eating apple slices, and eating pretzels, popcorn, and cereal on a special occasion. The Defendant avers that there is no rational distinction between his sister's eating

foods in the family room during a movie on a special occasion and his eating foods in the family room during a weekly television show.

We agree. The citizens of this jurisdiction look to the rulings of this Court, as well as to general practice, to understand their rights and obligations as citizens. In the many months since the Rule was originally announced, the cumulative rulings of this Court on the subject would signify to any citizen that, whatever the technical language of the Rule, the real Rule is that they must clean up after eating any food outside of the kitchen. To draw and enforce any other line now would be arbitrary and, as such, unjust.

On November 4, 1986, the following proclamation, henceforth known as The New Ordinance 7.3, was made by the Supreme Lawmaker, Mother:

> Over the past few months, I have found empty cups, orange juice stains, milkshake spills, slimy spots of unknown origin, all manner of crumbs, melted chocolate, and icing from cake in the family room. I thought I was clear the first time! And you've all had a chance to show me that you could use your common sense and clean up after yourselves. So now let me be clearer: No food, gum, or drink of any kind, on any occasion or in any form, is permitted in the family room. Ever. Seriously. I mean it.
>
> GB