

THE STATE OF ALABAMA }
Baldwin County - Circuit Court }

TO ANY SHERIFF OF THE STATE OF ALABAMA — GREETING:

Whereas, at a Term of the Circuit Court of Baldwin County, held on the

June 25, 1958 ~~Monday~~, 195~~8~~, in a cer-

tain cause in said Court wherein State of Alabama

Plaintiff, and Bay Towing and Dredging Company, a Corp.

Defendant, a judgement was rendered against said

Defendant

to reverse which Judgment, the said Bay Towing and Dredging Company,
a Corporation

applied for and obtained from this office an APPEAL, returnable to the Next

Term of our Court of Appeals ~~Court~~ of the State of Alabama, to be held at Montgomery,

on the _____ day of _____, 195____ next, and the necessary bond

having been given by the said Bay Towing and Dredging Company, Inc. a Corporation by Kenneth

J. Reid with Fidelity and Deposit Company of Maryland, A corp. by J.C. Wilson sureties,

Now, You Are Hereby Commanded, without delay, to cite the said

State of Alabama or Hon. Kenneth Cooper, State Solicitor

_____, attorney, to appear at the Next Term of our

Courts of Appeal
said ~~Supreme Court~~, to defend against the said Appeal, if they think proper.

Witness, ALICE J. DUCK, Clerk of the Circuit Court of said County, this 28

day of June, A. D., 195 8

Attest:

Alice J. Duck, Clerk.

Received 10 day of July 1958
on 14 day of July 1958
I received a copy of the within Act
Ray Towing & Bridging

Service on Don Costello, Mgr.
Ray D. Bridger
TAYLOR WALKERS, Sheriff
Ray Duggers D. S.

2/11/30
136
710 2568

CIRCUIT COURT
Baldwin County, Alabama

State of Ala.

14t
Vs. } Citation in Appeal
Ray
Ray Towing &
Bridging Co.
Mr. Costello, Per Mgr.

Issued _____ day of _____, 195____

2568

State Of Alabama, }
Baldwin County. }

In the Justice Court of M. R. HOWELL

Before me, M. R. HOWELL, Justice of the Peace

in and for said County, personally appeared James T. Phillips who, being
duly sworn, deposes and says on oath that he has probable cause for believing and does believe that in said County,
on or about March 2nd, 1959 that one Bay Loring & Dredging Co. Inc.
Did dredge for oysters and public beds
within the jurisdiction of the State of
Alabama. Take, catch or remove oysters from the public reef beds and
bottoms within the jurisdiction of the State of Alabama by use of dredges or other devices
against the peace and dignity of the State of Alabama

Sworn to and subscribed before me this 4

day of May, A. D., 1958

Mr. Howell, J. P.

James T. Phillips

No. 2568 Page 843

The State of Alabama
BALDWIN COUNTY

Justice Court Of

M. R. HOWELL

AFFIDAVIT

THE STATE OF ALABAMA

vs.

Witnesses for the State:

James A. Callier
Alfred Johnson
Carl Johnson

WARRANT

State Of Alabama,
Baldwin County.

2568

To Any Lawful Officer of Said County, Greetings:

You are hereby commanded to arrest

Bay Dorring & Dredging Co Inc

and bring *him*

before *me* *15th* *at 1 P.M* to answer the State of Alabama on a charge

Dredging for register on Sand Reef

and have you then and there this writ with your return thereon

Witness my hand this

4th day of *March*

19

W. H. Howell

J. P.

JUSTICE COURT OF
BALDWIN COUNTY

Warrant Of Arrest

THE STATE OF ALABAMA

vs.

Bay Tinning & Dredging
Co. Inc.

Executed this the _____ day of _____ 195_____

By arresting the within

named Defendant..

and placing him

_____, Sheriff

_____, Deputy Sheriff

Criminal Docket No.

No. 2568 Page

The State Of Alabama,
Baldwin County

JUSTICE COURT OF

M. R. HOWELL

THE STATE OF ALABAMA
vs.

Mittimus

The State of Alabama
Baldwin County

I, _____
a Justice of the Peace in and for said State
and County, do and hereby certify that _____

_____ the Defendant; is required to give bail in the
sum of \$ _____ for his appearance at the
195__ Term of the _____

Court of _____ County, Ala.

Given under my hand this the _____
day of _____ 195__

J. P.

THE STATE OF ALABAMA, }
BALDWIN COUNTY

We, Bay Towing And Threshing Company Inc., as principal and
the undersigned _____

as sureties, agree to pay the State of Alabama the sum of \$500 00 DOLLARS

unless the said Bay Towing And Threshing Company Inc. appears at the

15th March Term, 1915 of the J. P. Tolly Judge Howell Court, of Baldwin County, Alabama,
and from term to term thereafter until discharged by law, to answer a criminal prosecution for the offense of

Stealing for Hire on Ship or Land Reef.
and we hereby waive the benefit of all laws exempting property from levy and sale under execution or other
process for collection of debt, by constitution of the State of Alabama, and we hereby severally certify that
we have property over and above all debts and liabilities to the amount of the above bond

James T. P. Phillips (Seal)

(Seal)

(Seal)

(Seal)

Taken and approved this the _____ day of _____, 194____

_____, J. P.

By James T. P. Phillips, Constable

Conservation Officer

STATE OF ALABAMA)
)
BALDWIN COUNTY) CIRCUIT COURT, BALDWIN COUNTY, ALABAMA

KNOW ALL MEN BY THESE PRESENTS, That we, Bay Towing and Dredging Company, Inc., a corporation, as principal, and Fidelity and Deposit Company of Maryland, a corporation, as surety, are held and firmly bound unto the State of Alabama in the sum of FIVE HUNDRED (\$500.00) DOLLARS, for the payment of which we jointly and severally bind ourselves and our heirs, executors and administrators, firmly by these presents.

Sealed with our seals and dated this 25th day of June, 1958.

The condition of the above obligation is such that whereas, the above bounden Bay Towing and Dredging Company, Inc., a corporation, has on this day applied for and obtained an appeal to the Court of Appeals of the State of Alabama, from a judgment rendered against him by the Circuit Court of Baldwin County, on the 25th day of June, 1958, for the offense of taking, catching or removing oysters from the public reefs, bays and/or bottoms in Baldwin County, Alabama, by use of device other than tongs, in violation of Section 5 of Seafood Regulations adopted by the Director of Conservation on September 1, 1953.

Now, if the said Bay Towing and Dredging Company, Inc., a corporation, shall appear at the next term of the Circuit Court of Baldwin County, Alabama, and from term to term thereafter to abide such judgment as may be rendered on the appeal, then this bond to be void, otherwise to remain in full force and effect.

And we hereby waive all right of exemptions allowed us under the constitution and laws of the State of Alabama as to the collection of this bond if forfeited.

APPROVED this 28
day of June, 1958.

Reverend L. L. Lusk
Clerk of the Circuit
Court of Baldwin County,
Alabama

BAY TOWING AND DREDGING COMPANY, INC.,
A Corporation,

By Kenneth G. Reid (SEAL)

FIDELITY AND DEPOSIT COMPANY OF MARYLAND,
A Corporation,

By B. Wilson (SEAL)
Its Attorney in Fact

2568
appeal:

[illegible]

100

[illegible][illegible][illegible][illegible][illegible]

1. *Pharmaceutical industry* – The pharmaceutical industry is a major player in the healthcare sector, responsible for the development, production, and distribution of drugs. It is a highly regulated industry with significant research and development costs. The industry is often criticized for high drug prices and for prioritizing profit over patient care.

Trial	Control	MCI	AD
1	95	85	75
2	95	85	75
3	95	80	70
4	95	78	68
5	95	75	65

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Transcript of Criminal Cases from Justice Court of Baldwin County, Ala.

Attorneys	Case	Charge
	THE STATE OF ALABAMA,	Dredging for Oysters over
No.	Vs.	Land Reefs
	Bay Dredging and Dredging	
	Company Inc	

Disposition of Case	Fees	Amount
Affidavit made and Warrant Issued to <i>Officer</i>	Judge's Fees	
Returnable <i>Mar 15th 1958</i>	Warrant at 50c, Affidavit at 25c	<i>75</i>
Witness—for State	Bond at 50c, Sci Fa. at 50c	
<i>James I. Phillips.</i>	Witnesses' Recognizances at 25c	
<i>James Collier.</i>	Subpoenas or notice at 25c	<i>1.00</i>
<i>Alfred Johnson,</i>	Continuance at 25c	
<i>Carl Johnson,</i>	Trial of Misdemeanor at \$1.00	<i>1.00</i>
	Mittimus at 25c	
	Judgment on Forfeited Bond at 25c	
	Taking Bond, etc., on Appeal at \$1.00	<i>1.00</i>
	Execution of costs at 25c	
	Constable's Fees	
	Subpoena or Notice at 25c	
	Carrying Defendant before Justice	
	each mile for himself and guard at 10c	
	Arrest 50c	
	<i>Consent of Officer</i>	
	Arrest \$2.00, Bond \$1.00, Sci Fa. 50c	<i>3.00</i>
	Guard \$2.00, Finger Printing 10c	
	Subpoenas at 50c, Mileage	<i>2.00</i>
	Witness Fees	
	Days at 50c	<i>2.00</i>
	Days at 50c	
	Days at 50c	
	Days at 50c	
	Days at 50c	
	Days at 50c	
	Days at 50c	
	Defendant's Costs	
	Witnesses' Recognizance at 25c	
	Subpoenas at 50c	
	Executing Subpoenas	

Defendant pleads not guilty, on Examination of the Witnesses I found the Defendant guilty and a fine of \$100.00 and Court Cost was assessed against Bay Dredging and Dredging Co. Appeal was taken to the Circuit Court March 1958 Remands trial by jury. *M.R. Howell, Jr.*

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VICKERS, RIIS AND MURRAY

ATTORNEYS AT LAW

MERCHANTS NATIONAL BANK BUILDING

MOBILE, ALABAMA

MARION R. VICKERS

ERLING RIIS, JR.

J. MANSON MURRAY

EDWIN J. CURRAN, JR.

June 27, 1958

MAILING ADDRESS:

POST OFFICE BOX 1425

HEMLOCK 2-8767

encl Miss Alice Duck, Clerk
~~Probate~~ Court of Baldwin County
Bay Minette, Alabama

Dear Miss Duck:

Enclosed please find the bond of Bay Towing and Dredging Company, Inc., which we wish to file in the case of State of Alabama vs. Bay Towing and Dredging Company, Inc. Said case having been tried on June 25th, 1958.

We remain

Yours very truly,

VICKERS, RIIS AND MURRAY

J. Manson Murray
J. Manson Murray

JMM:fa
Enclosure

2568

Div. No. _____

CERTIFICATE OF APPEAL. (Criminal Cases).

No. 2568

BALDWIN County, Circuit Court

BAY TOWING AND DREDGING COMPANY, INC., A Corporation
Appellant

VS.

The State of Alabama,
Appellee

The State of Alabama,

BALDWIN County, The Circuit Court of BALDWIN
County.

I, Alice J. Duck, Clerk of the Circuit Court
of Baldwin County in and for said County and State, do
hereby certify that in the above stated case, which was tried and
determined in this Court on the 25 day of June, 1958, and
the defendant convicted by ^{the Court} ~~a jury~~ of the offense of Taking Oysters by means
other than Tongs, and that on the 25 day of June, 1958,
said defendant was sentenced to a ~~term of~~ fine of \$250.00 and costs.

_____ which said sentence was suspended
pending an appeal to the COURTS OF APPEALS Court of Alabama.

I further certify that on this the 28 day of June
1958, the defendant gave notice in writing of an appeal to the
COURTS OF APPEALS Court of Alabama.

Witness my hand and the seal of this Court, this the 7th
day of June, 1958.

Alice J. Duck
Clerk of Circuit Court of
BALDWIN County, Alabama,

(Code 1940, Title 7, Sec. 754)

STATE OF ALABAMA,
COUNTY OF BALDWIN.

KNOW ALL MEN BY THESE PRESENTS, That we, BAY TOWING AND DREDGING COMPANY, INC., and THE FIDELITY AND DEPOSIT COMPANY OF MARYLAND, are held and firmly bound unto the State of Alabama in the sum of \$ \$500⁷⁵/₁₀₀, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals, this the 15th day of March, 1958.

The condition of the above obligation is such, that, whereas, the above bounden Bay Towing and Dredging Company, Inc., was, on the 15th day of March, 1958, convicted in the justice court of M. R. Howell of said County of the offense of dredging for live oysters on Point Clear Reef without the written permission of the Director of Conservation, and by the judgment of said sentence to a fine in the sum of \$ 100; and

WHEREAS, the said Bay Towing and Dredging Company, Inc., has prayed an appeal from said judgment to the Circuit Court of said County.

Now, if the said Bay Towing and Dredging Company, Inc., shall appear at the next term of the Circuit Court and from term to term thereafter until discharged, and abide by and perform whatever sentence may be adjudged in said Court against it, then the above obligation to be void; otherwise to remain in full force and effect; and each of us to waive our exemptions as to personal property.

Witness our hands and seals this the 15
day of March, 1958.

BAY TOWING AND DREDGING COMPANY, INC.

By *W. R. Lacey*
Its President.

THE FIDELITY AND DEPOSIT COMPANY OF
MARYLAND

By *B. R. Whelan*
Its Atty. in Fact.

APPROVED:

This 15 day of mch, 1958.

W. R. Howell
JUSTICE OF THE PEACE

*Defendant demands a
trial by jury*

*J. Manson Murray
Sam Johnston
attorneys*

MAY 5 1959

2568

THE STATE OF ALABAMA --- JUDICIAL DEPARTMENT

THE ALABAMA COURT OF APPEALS

OCTOBER TERM, 1958-59

1 Div. 793

Bay Towing and Dredging Company

v.

State

Appeal from Baldwin Circuit Court

CATES, JUDGE

Appellant, herein referred to as Bay Towing, has
appealed from a judgment of conviction on a nonjury trial in
the Circuit Court of Baldwin County, Alabama, on a charge that

2.

"it did take, catch, or remove oysters from the public reefs, bed, and/or bottoms within the jurisdiction of the State of Alabama by use of device other than tongs, contrary to law and against the peace and dignity of the State of Alabama." It was fined \$250.00.

Both the State and Bay Towing, on oral argument, admitted that no oysters were actually taken by Bay Towing's dredge, The Gull, which, on March 2, 1958, was operating in the shallow waters of Mobile bay on the Baldwin County side using a suction type dredge with a cutter head to remove old oyster shells from the bottom of the bay. These shells have value as raw material, e. g., in road building and poultry feeding.

The fine is here justified on the ground that Code 1940, T. 8, § 13, makes a misdemeanor of a violation of a rule or regulation of the Director of Conservation, which also has been approved by the Advisory Board of Conservation.

In this chain of reasoning, we are next led to § 4 of the same Title which states that, with respect to oyster reefs and oyster bottoms, "the department may by order duly made and published prescribe the manner of taking or catching * * *"

From this statutory authority, we then go to the Department's Regulations Relating to Seafoods, adopted September 1, 1957, with the approval of the Advisory Board, of which Regulation 5 reads in part:

"The taking, catching or removal of oysters from the public reefs, beds and/or bottoms within the jurisdiction of the State of Alabama shall be by use of tongs only. * * *"

Section 5111 of the 1923 Code (which section was omitted from the 1940 Code) read as follows:

3.

"Any person who takes or catches oysters by using any implement or instrument other than the oyster tongs heretofore generally used for that purpose is guilty of a misdemeanor."

While undoubtedly the power of the Legislature by statute to punish the violation of a reasonable rule or regulation of a governmental body subordinate to the Legislature (and complying with the Legislature's standards, cf. Commonwealth v. Diaz, 326 Mass. 525, 95 N. E. 2d 666, State v. Friedkin, 244 Ala. 494, 14 So. 2d 363, Marcet v. Board, 249 Ala. 48, 29 So. 2d 333, Reims v. State, 17 Ala. App. 128, 82 So. 576) exists even to the extent of constituting such violation as a misdemeanor, United States v. Grimaud, 220 U. S. 506, 55 L. Ed. 563, 31 S. Ct. 480, West v. State, 30 Ala. App. 318, 6 So. 2d 434; nevertheless, it is axiomatic that crimes created by legislation as distinguished from those defined at common law are (in interpreting the substance of enactments constituting them) to be strictly construed by the courts. Even so, we find no difficulty in stating that under the evidence here the use of the cutter head and suction pump in this instance constituted a dredging by means other than tongs.

However, the State's only evidence of the existence of live oysters arose from the "sweeping" of the immediate area in which The Gull was working. This sweeping consisted of running a scoop-like object called an oyster dredge along the bottom near The Gull, with the result that certain sweeps within fifty feet of The Gull brought up spat, i. e., small live oysters in rather small quantities.

There was no evidence of any live oysters coming through the cutter head or suction pump or of their going out to the barges into which The Gull was discharging the dredged material.

4.

The regulation against taking undoubtedly refers only to live oysters. There being no proof that any live oysters were taken, caught, or removed by The Gull (or more properly her captain), the extent of proof here can in nowise sustain the conviction.

REVERSED AND REMANDED.

2568

The State of Alabama, }

Baldwin County

CIRCUIT COURT

Spring Session

~~XXXXX~~ 19 58

On Appeal From ~~Circuit Court~~ Justice of
Peace Court.

THE STATE vs. Bay Towing and Dredging Company, a Corporation.

The State of Alabama, by its Solicitor, complains of Bay Towing and Dredging Company,

a corporation,

that

in said county and within twelve months before the commencement of this prosecution ~~XXXXX~~

it did take, catch, or remove oysters from the public reefs, bed,

and/or bottoms within the jurisdiction of the State of Alabama

by use of device other than tongs,

contrary to law and against the peace and dignity of the State of Alabama.

Kenneth Caper

, Solicitor.

No. _____

THE STATE OF ALABAMA
Baldwin County.

CIRCUIT COURT

The State

vs.

BAY TOWING AND DREDGING
COMPANY, A CORPORATION.

Charge:

TAKING OYSTERS BY MEANS OTHER
THAN TONGS.

COMPLAINT

Filed March 18, 1958

Harold J. ...
Clerk.

Printed by Moore Ptg. Co.

WITNESSES:

JAMES T. PHILLIPS
JIMMIE COLLIER
ALFRED JOHNSON
CARL JOHNSON

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE COURT OF APPEALS OF ALABAMA

1st Div., No. 793

Bay Towing and Dredging Company Appellant,

v.

The State Appellee,

From Baldwin Circuit Court

The State of Alabama, }
City and County of Montgomery. }

I, Charles Bricken, Jr., Clerk of the Court of Appeals of Alabama, do hereby certify that the foregoing pages numbered from one to 4 inclusive, contain a full, true and correct copy of the opinion of said Court of Appeals in the above stated cause, as the same appears and remains of record and on file in this office.

Witness, Charles Bricken, Jr., Clerk of the Court
of Appeals of Alabama, at the Capitol, this the

5th day of May, 19 59

Charles Bricken, Jr.
Clerk of the Court of Appeals of Alabama.

2568

THE COURT OF APPEALS OF ALABAMA

____ 1st ____ Div., No. ____ 793 ____

____ Bay Towing and Dredging Company ____
____ Appellant ____

____ vs. ____

____ The State ____
____ Appellee ____

____ From Baldwin Circuit ____ Court. ____

COPY OF OPINION

BROWN PRINTING CO., MONTGOMERY 1951

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE COURT OF APPEALS OF ALABAMA

October Term 19 58

To the Clerk of the Circuit Court of Baldwin County, Greeting:

Whereas, the Record and Proceedings of the Circuit Court of said County, in a certain cause lately pending in said Court between

Bay Towing and Dredging Company, Appellant,

and

The State, Appellee,

wherein by said Court, at the _____ Term, 19____, it was considered adversely to said appellant____, were brought before our Court of Appeals, by appeal taken, pursuant to law, on behalf of said appellant____.

Now, it is hereby certified, That it was thereupon considered by our Court of Appeals on the 5th day of May 19 59, that said judgment of said Circuit Court be reversed and annulled, and the cause remanded to said Court for further proceedings therein; ~~and that it was further considered that the appellee pay~~

~~the costs accruing on said appeal in this Court and in the Court below~~

Witness Charles Bricken, Jr., Clerk of the Court
of Appeals of Alabama, at the Capitol, this the
5th day of May 19 59

Charles Bricken Jr.
Clerk of the Court of Appeals of Alabama.

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THE COURT OF APPEALS OF ALABAMA

October Term, 19 58

1st Div. No. 793

Bay Towing and Dredging Company

Appellant.....

v.

The State

Appellee.....

From Baldwin Circuit Court

CERTIFICATE OF
REVERSAL

The State of Alabama,

Baldwin County.

} Filed

this 6 day of May 19 59

Reich J. Tucker

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