

Voelker's "Fighting Liberalism"

People v. Hildabridge, Same v. Weissenborn, Same v. Carter (1958)

353 Mich. 562

*People v. Hildabridge* and the adjoining cases are the result of a police raid on a nudist camp located in the middle of the woods. Two officers first entered the camp on "business," found evidence of indecent exposure (the fact that the residents of the house were nude) and came back later with warrants for the arrest of the nudists seen on the first visit. The police also arrested others that were not present during the first search of the camp.

In what he thought would be a majority opinion, Chief Justice Dethmers, joined by Justices Carr and Kelly, found that the nudists were indeed guilty of indecent exposure. The defendants argued that 'decency' was a relative and unspecified term, but Dethmers concluded that decency could be accurately determined by a jury of one's peers, who were a sample of the society that would determine decency and indecency.

Justice John Voelker (known better as Robert Traver, author of *Anatomy of a Murder*) dissented from the above decision on two grounds. One was that the search of the premises was an illegal one, and the other was that there was no evidence of indecent exposure. Voelker found that the first time the police entered the nudist camp, they were embarking on an illegal, warrantless search. Each officer testified that he was there to accompany the other, and that they were tending to "business," but the precise business tended to was never stated. Further, the camp was quite out of the way of any public places. If one could see the camp from a public place, the police would have the right to record what could be seen, but in this case there was no danger of chance public encounters with the nudist camp.

Voelker also found that there was no indecent exposure in the case. In his convincing dissent he establishes two criteria, both of which must be met in order to find indecent exposure: intent and harm. The nudists accused of indecent exposure here neither intended their acts to be indecent, nor were they in the presence of anyone who found their acts to be indecent, aside from the police who illegally entered and searched the premises.

Voelker's dissent is famous for its clarity, persuasiveness, humor, and use of hypotheticals, of which there are no less than nine. For these reasons, it is no longer a dissent. Voelker's opinion convinced Justice Edwards that the police search on the nudist camp was in fact illegal, and he later wrote a concurring opinion to that effect. Edwards' opinion, along with Voelker's (which was joined by Justices Smith and Black) reversed the ruling of the case, and the defendants were acquitted of all charges.