

To: Marilyn Cover
 Fr: Chris Watson
 Dt: January 29, 1996
 Re: Case Study: Solberg v. Johnson, 306 OR 484, 760 P. 2d 867

Studenty Handout

Facts

On November 20, 1982, Richard Howard and Lonnie Johnson bought alcoholic beverages for each other at various bars, including, but not limited to, the Red Steer Tavern. There, Howard bought alcoholic beverages for Johnson, Howard's step-son, after Johnson was visibly intoxicated. After leaving the Red Steer Tavern, Johnson and Howard were involved in an automobile accident. Johnson had been driving the car at the time of the accident.

Questions

- 1) Who caused this automobile accident?
 - the driver, Johnson; the tavern owner; the drinking companion, Howard?
- 2) Should Howard be held liable for the actions of his step-son, Johnson?
 - If so, why?
- 3) What about the owner of the Red Steer Tavern? What role did he play?
- 4) Are there any differences between Howard and the tavern owner?
 - Differences that would make one of them liable and not the other?
- 5) As a society, who do we want to hold responsible for the intoxicated acts of others?

Teacher's Guide

Facts

On November 20, 1982, Richard Howard and Lonnie Johnson bought alcoholic beverages for each other at various bars, including, but not limited to, the Red Steer Tavern. There, Howard bought alcoholic beverages for Johnson, Howard's step-son, after Johnson was visibly intoxicated. After leaving the Red Steer Tavern, Johnson and Howard were involved in an automobile accident. Johnson had been driving the car at the time of the accident.

Issue

Was Howard acting as a "social host" when he bought and served alcohol for Johnson?

Answer

Yes

Statutory Law

ORS 30.955 (Repealed)

"No private host is liable for damages incurred or caused by an intoxicated social guest unless the private host served or provided alcoholic beverages to a social guest when such guest was visibly intoxicated."

Decision/Reasoning

A social host is "one who receives guests, whether friends or associates, in a social or commercial setting, in which the host serves or directs the serving of alcohol to guests." Because the social host has control of choosing who will be served, the host is liable when s/he serves guests that are already visibly intoxicated. Not every social host entertains at home, or in private. One may ante up per drink at a tavern and still be a social host. A step-father buying drinks for his step-son, in a public tavern, sufficiently serves and controls the furnishing of the drinks to constitute a social host within the meaning of former ORS 30.955.

Importance

No statute can define every instance that may be subject to it. Courts are often called upon to determine whether certain statutes apply in given situations. The court interprets the language of the statute and, often, the social policy behind the statute, to determine if the statute was designed to cover the particular situation at hand. While this case may seem limited on its facts, the court's decision sets a precedent by extending the definition of social host to include people who buy drinks for one another in public places, such as bars or restaurants. If these persons who are served are visibly intoxicated at the time they are served, the person who served the drinks may be liable for the actions of the intoxicated person.