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awarded the 2005 Chevrolet Trailblazer and the 1993 Ford F-150 pickup. Curtis submitted a valuation of the Trailblazer of approximately $7,500. Molly testified that the Ford pickup was worth $1,800; however, the bankruptcy schedule valued it at $200. Curtis' personal property includes guns, hunting equipment, and a kayak which Molly valued at $9,000, $5,000, and $1,500, respectively. On the other hand, Curtis testified that the values of the hunting equipment and kayak were inflated; he testified they were worth approximately $500 to $700, and $300, respectively. He did not testify about the value of his guns. In addition to the equal division of the bankruptcy plan payment between the parties, Molly was ordered to pay the outstanding debt to her mother of $3,500, which money was used to purchase a vehicle for Curtis.

Under the circumstances of this case and given the divergent evidence, we cannot say that the district court abused its discretion in the division of the marital estate, including the award to each party of his or her respective retirement account.

CONCLUSION

The district court did not err in its award of alimony, in its division of the parties' retirement accounts, or in using the joint custody child support worksheet under the circumstances of this case. However, the court erred in its calculation of Curtis' income and of the amount of health and dental insurance premium attributable to the children. We therefore affirm in part, and in part reverse and remand with directions to recalculate the child support as discussed above.

AFFIRMED IN PART, AND IN PART REVERSED AND REMANDED WITH DIRECTIONS.

STATE OF NEBRASKA, APPELLEE, V.
LUKE R. OHLRICH, APPELLANT.
817 N.W.2d 797

Filed July 31, 2012. No. A-11-559.

1. **Criminal Law: Statutes.** Neb. Rev. Stat. § 29-215 (Reissue 2008) is a penal statute that must be strictly construed.

2. **Political Subdivisions: Police Officers and Sheriffs: Jurisdiction.** Neb. Rev. Stat. § 29-215(1) (Reissue 2008) provides that a law enforcement officer has the power and authority to enforce the laws of this state and of the political subdivision which employs the law enforcement officer or otherwise perform the functions of that office anywhere within his or her primary jurisdiction.
3. **Police Officers and Sheriffs: Arrests: Jurisdiction.** Neb. Rev. Stat. § 29-215(2) (Reissue 2008) provides that a law enforcement officer beyond his or her primary jurisdiction has the power and authority to arrest and detain suspects in a variety of specific situations. One of those situations is set forth in § 29-215(2)(d), which extends a law enforcement officer's authority outside his or her primary jurisdiction pursuant to an interlocal agreement.
4. **Governmental Subdivisions: Police Officers and Sheriffs: Jurisdiction.** Any municipality or county may, under the provisions of the Interlocal Cooperation Act or the Joint Public Agency Act, enter into a contract with any other municipality or county for law enforcement services or joint law enforcement services. Under such an agreement, law enforcement personnel may have such enforcement authority within the jurisdiction of each of the participating political subdivisions if provided for in the agreement.
5. **Statutes.** The meaning of a statute is a question of law.
6. **Criminal Law: Statutes.** It is a fundamental principle of statutory construction that penal statutes be strictly construed.
7. **Statutes: Legislature: Intent.** The principal objective of construing a statute is to determine and give effect to the legislative intent of the enactment.
8. ____: ____: ____. In construing a statute, a court must determine and give effect to the purpose and intent of the Legislature as ascertained from the entire language of the statute considered in its plain, ordinary, and popular sense.
9. **Criminal Law: Statutes: Words and Phrases.** The Nebraska Supreme Court has referred to statutory provisions of chapter 29 of the Nebraska Revised Statutes concerning criminal procedure in Nebraska as "penal statutes."
10. **Governmental Subdivisions: Police Officers and Sheriffs: Jurisdiction.** The mere existence of an interlocal agreement does not necessarily mean that such agreement confers authority for any and all actions by a law enforcement officer operating outside his or her primary jurisdiction.

Appeal from the District Court for Sarpy County: WILLIAM B. ZASTERA, Judge. Conviction and sentence vacated, and case remanded for further proceedings.

Patrick J. Boylan, Chief Deputy Sarpy County Public Defender, and Emily Prest, Senior Certified Law Student, for appellant.

Jon Bruning, Attorney General, and Nathan A. Liss for appellee.

INBODY, Chief Judge, and IRWIN and SIEVERS, Judges.

IRWIN, Judge.

I. INTRODUCTION

Luke R. Ohlrich appeals his burglary conviction. On appeal, Ohlrich challenges the district court's denial of his motion to suppress and asserts that there was insufficient evidence to support the conviction. We find that the district court erred in denying Ohlrich's motion to suppress because the State failed to demonstrate that the police officer who arrested him had jurisdiction to make an arrest outside the officer's primary jurisdiction. We vacate Ohlrich's conviction and sentence, and remand the case for further proceedings.

II. BACKGROUND

This case began when the Bellevue Police Department began investigating an April 11, 2010, burglary of an apartment in Bellevue, Sarpy County, Nebraska. The items stolen included two televisions and a laptop computer. Det. Michael Legband was assigned to conduct the investigation.

Detective Legband reviewed Douglas County and Sarpy County "pawn records" and discovered that Ohlrich had pawned several items on April 23, 2010, including two televisions with the same model number as those stolen from the apartment. Detective Legband also discovered that Ohlrich's last known address was just down the hall from the apartment that had been burglarized. Finally, Detective Legband received a telephone call from an anonymous caller, indicating that Ohlrich and another suspect had been involved in the burglary.

Detective Legband attempted to locate Ohlrich in Bellevue, but was unsuccessful. Detective Legband, accompanied by Det. Roy Howell, then decided to travel to Omaha, Douglas County, Nebraska, to speak with the other suspect at his residence. When the two detectives arrived at the suspect's residence, they identified Ohlrich in front of the residence on the sidewalk. Detective Legband then had Detective Howell contact the Omaha Police Department, because the detectives were outside of their primary jurisdiction.

The record contains the following testimony of Detective Legband concerning the existence of an interlocal agreement

between the Bellevue Police Department and the Omaha Police Department:

> [Detective Legband: W]hen I drove up to that address, I — I saw . . . Ohlrich . . . standing on the sidewalk in front of the residence when we pulled up.
>
> Q. And then was it at that point a decision was made to contact the Omaha Police Department?
>
> A. Yes. I — I started stepping out of the car, and I advised Detective Howell to go ahead and call radio, tell 'em to get Omaha over.
>
> Q. Why would you call and get Omaha involved?
>
> A. Well, because if — because of the fact that . . . Ohlrich was a suspect, I thought we'd probably have enough probable cause to arrest him already, and because of the interlocal agreement, if we were going to make a custodial arrest, we wanted to have the Omaha police with us.
>
> Q. So it's your understanding that you have an interlocal agreement with the Omaha Police Department?
>
> A. The metro area agencies, yes.
>
> Q. And that you're required to notify, specifically in this case, the Omaha Police Department that you were there and may make an arrest?
>
> A. Yes.

Detective Legband made contact with Ohlrich, identified himself, and explained that he was investigating the burglary. Detective Legband referenced the two televisions that Ohlrich had pawned, and he informed Ohlrich that he believed they had been stolen. Ohlrich told Detective Legband that he had obtained the televisions "on E-Bay or one of the online things." While Detectives Legband and Howell spoke with Ohlrich, Ohlrich "seemed to be nervous and kind of acting antsy," and Detective Howell handcuffed Ohlrich.

Ohlrich was then placed in the front seat of Detective Legband's car. After being placed in the car, Ohlrich made a statement indicating that "he was involved." Detective Legband then read Ohlrich his *Miranda* rights.

After approximately 30 minutes, an Omaha Police Department officer arrived on the scene. Detective Legband

informed the Omaha Police Department officer that the detectives wanted to arrest and transport Ohlrich to Bellevue to speak with him, "and she said that was fine, that she didn't know anything about the burglary anyway." Ohlrich was transported to Bellevue and agreed to make a written statement. In his written statement, Ohlrich admitted to entering the apartment and stealing items, including two televisions and a laptop. He also detailed how he placed the items in a garage, contacted the other suspect, and then sold the items.

On June 10, 2010, the State charged Ohlrich by information with burglary. On August 24, Ohlrich filed a motion to suppress. In the motion to suppress, Ohlrich alleged that all physical evidence and statements should be suppressed, and he asserted that the arrest was "by Bellevue detectives operating outside their primary jurisdiction and not pursuant to an interlocal agreement with the Douglas County authorities." Ohlrich alleged that his written statement was "fruit of the tree of his illegal arrest."

A hearing was held on Ohlrich's motion to suppress, at which hearing testimony of the above factual background was received. On January 25, 2011, the district court entered an order overruling the motion to suppress. In the order, the court found that the arrest was authorized pursuant to Neb. Rev. Stat. § 29-215 (Reissue 2008), which, among other things, authorizes law enforcement officers to operate outside their primary jurisdiction when they have authority under an interlocal agreement or contract for joint law enforcement services.

After a trial, Ohlrich was found guilty and sentenced. This appeal followed.

III. ASSIGNMENTS OF ERROR

On appeal, Ohlrich has assigned two errors. First, Ohlrich asserts that the district court "erred in overruling the motion to [s]uppress because the Sarpy [C]ounty law enforcement officers arrested [Ohlrich] outside their primary jurisdiction . . . without authorization for the arrest under [§] 29-215." Second, Ohlrich asserts that "[i]f the trial court had properly excluded the illegally obtained confession there would not have been sufficient evidence . . . ."

IV. ANALYSIS

[1] Ohlrich challenges the authority of Detectives Legband and Howell, detectives in Bellevue, Sarpy County, to execute a warrantless arrest in Omaha, Douglas County. Ohlrich argues in his brief that "the plain and ordinary meaning of [§] 29-215, a penal statute that must be strictly construed, compelled the trial court to sustain [Ohlrich's] [m]otion to [s]uppress on the jurisdictional issue alone." Brief for appellant at 14. We agree.

[2] Section 29-215(1) provides that "[a] law enforcement officer has the power and authority to enforce the laws of this state and of the political subdivision which employs the law enforcement officer or otherwise perform the functions of that office *anywhere within his or her primary jurisdiction*." (Emphasis supplied.) There is no dispute in this case that Detectives Legband and Howell were employed by the Bellevue Police Department and that their primary jurisdiction was Bellevue, in Sarpy County. There is also no dispute that the arrest of Ohlrich occurred at an Omaha residence, in Douglas County.

[3,4] Section 29-215(2) provides that a law enforcement officer "beyond his or her primary jurisdiction . . . has the power and authority . . . to arrest and detain suspects" in a variety of specific situations. One of those situations is set forth in § 29-215(2)(d), which extends a law enforcement officer's authority outside his or her primary jurisdiction pursuant to an interlocal agreement. That section, in part, specifies:

> Any municipality or county may, under the provisions of the Interlocal Cooperation Act or the Joint Public Agency Act, enter into a contract with any other municipality or county for law enforcement services or joint law enforcement services. Under such an agreement, law enforcement personnel *may have such enforcement authority* within the jurisdiction of each of the participating political subdivisions *if provided for in the agreement*.

Id. (emphasis supplied).

[5] The meaning of a statute is a question of law. *State v. Warriner*, 267 Neb. 424, 675 N.W.2d 112 (2004). On a question of law, an appellate court is obligated to reach a

conclusion independent of the determination reached by the court below. *Id*.

[6-9] It is a fundamental principle of statutory construction that penal statutes be strictly construed. *State v. Smith*, 282 Neb. 720, 806 N.W.2d 383 (2011). The principal objective of construing a statute is to determine and give effect to the legislative intent of the enactment. *Id*. In construing a statute, a court must determine and give effect to the purpose and intent of the Legislature as ascertained from the entire language of the statute considered in its plain, ordinary, and popular sense. *Id*. The Nebraska Supreme Court has referred to statutory provisions of chapter 29 of the Nebraska Revised Statutes concerning criminal procedure in Nebraska as "penal statutes." See *State v. Stafford*, 278 Neb. 109, 767 N.W.2d 507 (2009).

Statutory language is to be given its plain and ordinary meaning. *State v. Warriner, supra*. If the language of a statute is clear, the words of such statute are the end of any judicial inquiry regarding its meaning. *Id*. It is not within the province of a court to read a meaning into a statute that is not warranted by the language; neither is it the province of a court to read anything plain, direct, or unambiguous out of a statute. *Id*.

In the present case, the issue is whether Detectives Legband and Howell were authorized to execute a warrantless arrest outside their primary jurisdiction. There is no dispute that they did not have a warrant for Ohlrich's arrest, and there is no dispute that they arrested Ohlrich outside their primary jurisdiction.

Ohlrich asserted in his motion to suppress that the detectives lacked authority to execute the arrest outside their primary jurisdiction. There was testimony adduced concerning an interlocal agreement, and the trial court specifically found that the detectives had authority pursuant to an interlocal agreement. On appeal, Ohlrich assigned as error that the detectives lacked authority to arrest outside their primary jurisdiction and argued that the plain language of § 29-215 was sufficient to demonstrate a lack of authority. Although Ohlrich's argument on appeal is primarily focused on arguing that there was no "fresh attempt to apprehend" a suspect (for which authority

beyond an officer's primary jurisdiction is conferred by separate provisions of § 29-215), the issue of whether an interlocal agreement authorized the detectives' actions was before the trial court and is before this court.

The plain language of § 29-215(2)(d), set forth above, indicates that a law enforcement officer "may" have authority to arrest or detain a suspect outside his or her primary jurisdiction "if" authorized by an interlocal agreement. The trial court found that there was an agreement authorizing the actions of the Bellevue detectives in this case, and the State asserts on appeal that "Detective Legband testified that the Bellevue Police Department has an interlocal agreement with the other metro agencies, including the Omaha Police Department, which gives each agency authority in the jurisdictions of the other metro agencies." Brief for appellee at 14. We conclude that this is an overstatement of Detective Legband's testimony.

We set forth above the entirety of the testimony adduced concerning the interlocal agreement. That testimony indicated that there was "an interlocal agreement" between the Bellevue Police Department and other "metro area agencies" and that the agreement required the detectives "to notify . . . that [they] were there and may make an arrest." There was also testimony that an Omaha Police Department officer arrived on the scene and that when she was informed there was an intent to arrest Ohlrich, she gave consent to the arrest. There was not, however, any testimony concerning the actual authority conferred by the interlocal agreement to establish that this arrest was actually something for which the agreement authorized an arrest outside the detectives' primary jurisdiction.

[10] The plain language of the statute indicates that authority may be conferred *if* so provided in the interlocal agreement. It is apparent that the mere existence of *an* interlocal agreement does not necessarily mean that such agreement confers authority for any and all actions by a law enforcement officer operating outside his or her primary jurisdiction. Neb. Rev. Stat. § 13-804 (Reissue 2007) (the Interlocal Cooperation Act referred to in § 29-215), for example, sets forth the guidelines for the enactment of interlocal agreements and specifies a variety of details that must be included for such an agreement

to be effective. Similarly, Neb. Rev. Stat. § 13-2504 (Reissue 2007) (the Joint Public Agency Act referred to in § 29-215) sets forth the guidelines for the enactment of interlocal agreements and specifies a variety of details that must be included for such an agreement to be effective. There was no testimony in this case to indicate that the interlocal agreement between the Bellevue Police Department and the other "metro area agencies" authorized the warrantless arrest of Ohlrich by the detectives.

While an interlocal agreement could exist that authorizes Bellevue law enforcement officers to arrest or detain suspects in Omaha or Douglas County, and while the interlocal agreement referred to by Detective Legband in this case may authorize this conduct, the State failed to adduce evidence to establish that. As a result, the district court erred in finding that the evidence adduced at the motion to suppress hearing established that the arrest was authorized by the interlocal agreement and erred in not suppressing evidence subsequently obtained. As such, we vacate Ohlrich's conviction and sentence, and remand the case for further proceedings. The district court is directed to grant the motion to suppress and conduct further proceedings accordingly. See *State v. McCulloch*, 274 Neb. 636, 742 N.W.2d 727 (2007) (Double Jeopardy Clause does not forbid retrial so long as sum of evidence admitted by trial court, whether erroneously or not, would have been sufficient to sustain guilty verdict).

V. CONCLUSION

The district court erred in finding that the arrest was authorized by an interlocal agreement because the State failed to demonstrate that the interlocal agreement authorized the action of the detectives in this case. We vacate Ohlrich's conviction and sentence, and remand the case for further proceedings.

CONVICTION AND SENTENCE VACATED, AND CASE REMANDED FOR FURTHER PROCEEDINGS.