

Penny for YOUR THOUGHTS?

WRITTEN BY JOHN G. BROWNING

EVERY NOW AND THEN, ONE WITNESSES an example of “the little guy fighting back” or of “taking on City Hall” in a creative way that makes one chuckle and say, “I wish I’d thought of that.” In 2016, Brett Sanders, of Frisco, fought what he considered an unfair traffic ticket and lost. So he decided to pay the \$220.60 fine in his own way and made a statement in doing so.

Sanders paid in cash—pennies, to be exact, 22,060 of them, contained in two huge spackle buckets with the words “Extortion money” spray-painted on them. City of Frisco Spokesperson Dana Baird said it took multiple staff members three hours and two coin-cashing machines to count the payment, which turned out to be a slight overpayment of \$7.81 since the total fine plus court costs should have amounted to \$212. And since we live in an age of social media, Sanders preserved his monetary demonstration of civil disobedience on video and posted it on YouTube, where it received more than a million views. The viral video led to interviews with CNN, NBC News, the *Washington Post*, and other media outlets. Sanders, an IT consultant, said he wanted to “make a bigger point that laws are not always just” and decided that he “would comply in the most disrespectful, most flamboyant way I could. It was peaceful resistance and compliance at the same time.”

Sanders is hardly alone in how he decided to give local government a penny for his thoughts (well, OK—a LOT of pennies). A man who goes by the YouTube moniker “Bacon Moose” shared a YouTube video of his payment of a \$137 traffic fine in the form of 137 \$1 bills crafted into origami pigs and placed in two Dunkin’ Donut boxes (the \$1 piggies took more than four hours to prepare). In 2017, Nick Stafford, of Cedar Bluff, Virginia,

disagreed with the Department of Motor Vehicles’ levy of sales tax on two new cars he had purchased (including one for his son). He called the DMV for answers but kept getting the runaround, and so he filed a Freedom of Information Act request. When that was ignored, Stafford filed three lawsuits—one against the DMV itself and two against specific DMV employees. A judge dismissed the suits when the DMV relented and provided the information Stafford had sought.

But Stafford wasn’t through yet with making his point about government transparency. When he paid the DMV the roughly \$3,000 in sales tax for the cars, he did so by delivering five wheelbarrows filled with 300,000 pennies to the DMV office. With the costs of the wheelbarrows and employees to unwrap rolls of coins to dump them in before wheeling them in, Stafford estimates he spent over \$1,000 to make his point.

However, not every act of coinage protest goes smoothly. When Brent Busch, of Cedar Rapids, Iowa, received a \$455 fine for photographing police during a train derailment, he filled buckets with 45,500 pennies (weighing 290 pounds) and carried them into the Linn County Courthouse on a handcart to deliver them to the court clerk who refused payment, citing “courthouse policy.” The American Civil Liberties Union had a different opinion, since federal law requires that coins be accepted for the payment of debts. The Coinage Act of 1965 states that “United States coins and currency . . . are legal tender for all debts, public charges, taxes, and dues.” However, the law also allows private businesses to set limits on what they’ll accept as forms of payment, which is why your local gas station or convenience store can state that they won’t accept bills over a certain denomination. When Jason West, of Utah, went to pay a disputed \$25 doctor’s bill with nearly 14 pounds of pennies, for example, payment was not only refused but West was charged with disorderly conduct. That carried a fine of \$140, which I hope he paid by check.

Of course, not all “protests by coin” are acts of civil disobedience; some are motivated just by spite. When the estranged father of 18-year-old Avery Sanford, of Henrico,

Virginia, made his final child support payment of \$800, he did so by renting a trailer and dumping 80,000 pennies in front of the home Sanford shares with her mother, Raven Sickal. But the pair responded with an act of grace—shoveling up the coins and donating the \$800 to Safe Harbor, a local domestic violence shelter. The ensuing publicity triggered a domino effect of goodwill, with nearly \$50,000 in donations from all over the country and even internationally pouring into the shelter.

In fact, such “spite payments” can land a person or business in even more legal hot water. In late January 2021, Andreas Flaten called the U.S. Department of Labor’s Wage and Hour Division to report that his former employer, Georgia auto repair shop 811 Autoworks, had never paid him his final paycheck. After initially refusing to pay, and then learning of Flaten’s reporting, 811 Autowork’s owner, Miles Walker, decided to pay Flaten after all—but in his own way. On March 12, 2021, Walker dumped about 91,500 oil-covered pennies on Flaten’s driveway. On top of the mound of oily coins, Walker left a copy of Flaten’s pay stub with an expletive written on the outside. Walker even followed up with a defiant post on his company website, making vague accusations about Flaten and stating “know that no one would go to the trouble we did to make a point with out [sic] being motivated.” A few months later, the U.S. Department of Labor sued Walker and his company in federal court, alleging not only “repeated and willful” wage and hour violations, but also illegal retaliation against Flaten through the penny dump on his driveway.

So just remember: the next time you’re tempted to give someone a penny (or a lot of them) with your thoughts, take a breath and consider whether your act is motivated by peaceful protest or by pettiness. **TBJ**



JOHN G. BROWNING

is a former justice of the 5th Court of Appeals in Dallas. He is a past chair of the State Bar of Texas Computer & Technology Section. The author of five books and numerous articles on social media and the law, Browning is a nationally recognized thought leader in technology and the law.