

JACKSON TOWNSHIP MUNICIPAL COURT
OCEAN COUNTY, NEW JERSEY
SUMMONS NO. D 162083
APPEAL NO. _____

STATE OF NEW JERSEY,

vs.

TRANSCRIPT
OF
HEARING

ELIAS AGREDO-NARVAEZ,

Defendant.

Place: Jackson Township Municipal Court
102 Jackson Drive
Jackson, New Jersey 08757
Date: November 12, 2015

BEFORE:

HON. DANIEL F. SAHIN, J.M.C.

TRANSCRIPT ORDERED BY:

ELIAS AGREDO-NARVAEZ
1080-B East Veterans Highway
Jackson, New Jersey 08527

APPEARANCES:

MATTHEW DORRY, ESQ., Prosecutor for the
Township, Attorney for the State

ELIAS AGREDO-NARVAEZ, Pro Se
Defendant

Kathleen Connolly, Transcriber
COLE TRANSCRIPTION, L.L.C.
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Audio Recorded
Audio Operator, Not Listed

I N D E XTHE COURT

Opening Remarks: 3

Decision: 17

1 THE COURT: For the rest of you that are
2 here, I welcome all of you to Jackson Township
3 Municipal Court.

4 You do enjoy certain rights in this court.
5 You have an absolute right to a trial. You're presumed
6 innocent until proven guilty beyond a reasonable doubt.

7 You have a right to be represented by an
8 attorney. If you'd like to be represented by counsel
9 and have not yet had a chance to speak with counsel,
10 please let us know. We'll grant you a postponement,
11 afford you the opportunity to consult with, and
12 possibly retain, a lawyer.

13 If you've been charged with an offense that
14 involves significant consequences, meaning a fine of
15 \$750 or more, the loss of your New Jersey driving
16 privileges, or a term in prison and you cannot afford
17 an attorney, an attorney can be assigned to you.
18 You'll be asked to fill out a Public Defender
19 application. So long as you meet the financial
20 eligibility requirements, an attorney will, in fact, be
21 assigned.

22 You have an absolute right to an appeal. If
23 you are dissatisfied with any decision or any sentence
24 rendered here, you have an absolute right to challenge
25 that by way of appeal. Appeals are taken from this

1 Court to the Superior Court of Ocean County located in
2 Toms River. Very importantly, while you do enjoy an
3 absolute right of appeal, you have a very limited time
4 in which to file your appeal. You have only 20 days
5 from the date the Court enters sentence or judgment.
6 That 20 days cannot be extended, relaxed, or enlarged
7 under any circumstance.

8 If you've been charged with a moving
9 violation, while we do not assess points in this court,
10 you need to be aware that the Division of Motor
11 Vehicles will be made aware of what happens here. In
12 that regard, please be mindful of what impact a plea of
13 guilt or finding of guilt is going to have on your
14 driving privileges. This is particularly important for
15 those of you with commercial licenses. There can be
16 consequences for a commercial license holder where
17 there would otherwise be none for a regular license
18 holder.

19 If you're not a United States citizen, please
20 be aware certain pleas of guilt, certain findings of
21 guilt can have immigration consequences. I'm not
22 permitted to counsel you or to advise you in this
23 regard, but if you have any concern at all about your
24 immigration status, let us know. We'll postpone your
25 matter and afford you the opportunity to speak to

1 somebody who can give you that advice.

2 There has been some time that passed between
3 the date you received your summons and today's court
4 date. It is expected, in that time frame, you would
5 have gathered the funds necessary to satisfy your court
6 fines. Your court fines are due and payable in full
7 today.

8 If you are a U.S. veteran, there are certain
9 Veterans Assistance Programs that are available. These
10 are generally counsel-assistance programs. If you have
11 any interest in these programs, we have information at
12 the window outside.

13 A final remark, there can be no talking while
14 court's in session. There are microphones in the
15 courtroom. They are there for your protection should
16 you wish to take an appeal. If you're seen talking,
17 you're going to be asked to leave the courtroom, in
18 which case, your matter will be heard last. You will
19 also face a financial sanction. It's a very important
20 rule.

21 (Whereupon, the Court heard other matters.)

22 (Whereupon, the Defendant speaks with a heavy
23 accent and is difficult to understand at times.)

24 THE COURT: I'll take Martinez. No, Narvaez.
25 I apologize. Narvaez.

1 MR. NARVAEZ: I'm here in regard to that
2 matter.

3 THE COURT: Is that you?

4 MR. NARVAEZ: I am here in regard to the
5 matter.

6 THE COURT: Okay. Do you want to come
7 forward?

8 MR. NARVAEZ: I'm okay over here, sir.

9 THE COURT: Well, I'm asking you to come
10 forward. There's a sound recording, and it's important
11 for the record to be clear, sir.

12 MR. NARVAEZ: -- it is recorded?

13 THE COURT: That's correct.

14 MR. NARVAEZ: Are we on the record?

15 THE COURT: We are on the record, sir.

16 MR. NARVAEZ: Are we in a real court?

17 THE COURT: You can come forward, sir.

18 MR. NARVAEZ: Sir, I'd rather stay here.

19 THE COURT: Okay. Well, I'm going to tell
20 you something. You could stay there all night if
21 that's your attitude. I'll come back to your matter.

22 (Whereupon, the Court heard other matters.)

23 THE COURT: Narvaez.

24 Sir, you still don't want to come forward?

25 Sir, I received your paperwork. I've

1 reviewed it. And my review of the matter suggests
2 you're only being charged with a very minor violation,
3 an unregistered vehicle. You have a right to a trial
4 in the matter, and if you don't want to have a trial
5 and you want to just plead guilty to the violation, it
6 would be a modest fine. You'd be looking at \$56 and
7 \$33 in court costs.

8 If you want to plead not guilty to the
9 offense, then the State would be required to establish
10 its proofs. I understand that you may not want to
11 participate in these proceedings, but I would suggest
12 to you that it's really such a minor matter that it
13 would be in your best interest to participate in the
14 proceedings.

15 As I said, you're looking at a \$56 fine, \$33
16 in court costs. The most I could fine you would be
17 \$100.

18 MR. NARVAEZ: I appreciate very much for the
19 advice, sir, but for the record, first of all, I am
20 here just in a special appearance. This is never to be
21 intended, and is not a general appearance. Secondly, I
22 haven't seen a charging instrument yet, so there is no
23 way I can plead without such an instrument. I have not
24 seen any charges, just papers that have no signatures,
25 no seals, no complaint sworn to, just, to me, it's a

1 defective service, and I put it on the record, it
2 should be abated because of lack of personal and
3 subject matter adjudication.

4 THE COURT: Okay. In the letter that you had
5 sent to me, you gave me the summons that you received,
6 and that is the charging instrument for purposes of
7 today. That's the complaint. And I'm satisfied you
8 received it since you sent it to me.

9 MR. NARVAEZ: Well, secondly, I must state
10 for the record, in those documents that you received,
11 there is documented avenues (sic) error of identity,
12 which I tried to, I have copies in case you haven't
13 received, but again, if this is a Court of record, the
14 record should be corrected. And the only thing I can
15 say in regard to that is that I haven't received a
16 charging instrument. Even if I did, the Defendant, it
17 is my property and that's the only reason why I'm here
18 taking care of that matter.

19 THE COURT: Okay.

20 MR. NARVAEZ: That trade name, or the
21 fictitious name you're trying to charge is my property,
22 sir. So unless -- I don't see a Prosecutor right here,
23 but if I see him, I think if you are a judge and this
24 is a Court of record, he should be ordered to bring
25 charges against me but that's not the case.

1 THE COURT: Why don't we get the Prosecutor
2 then.

3 Would you be so kind as to get him?

4 MR. NARVAEZ: And I want it to be noted on
5 the record, it's very easy --

6 THE COURT: Why don't you wait for him to
7 arrive.

8 MR. DORRY: Your Honor.

9 THE COURT: All right. Mr. Dorry, this
10 matter is State vs. Elias Narvaez. Mr. Narvaez is
11 present only in limited capacity for his earlier
12 account on the record.

13 The issue, first of all, is that there had
14 been no charging instrument. I noted for the record
15 and explained to the gentleman that he had sent me a
16 letter with a copy of the complaint, so the summons
17 that he had received is here. I've indicated to him
18 I'm satisfied that he did receive it because he sent it
19 to me.

20 MR. DORRY: Correct. And there's only two
21 ways an individual can receive it, either by certified
22 mail or by hand-delivery, which is evident, essentially
23 by admission, by sending the handed copy back.

24 THE COURT: So the allegation in the
25 complaint is what, Mr. Dorry?

1 MR. DORRY: The allegation is operating, I
2 believe, a motor vehicle unregistered, in violation of
3 N.J.S.A. 39:3-4 on October 18, 2015 within the *
4 jurisdiction of Jackson Township.

5 THE COURT: Now, do you understand the
6 allegation?

7 MR. NARVAEZ: Absolutely not, sir.

8 THE COURT: The allegation is that you had a
9 vehicle that was not registered with the New Jersey
10 *Department of Motor Vehicles. When you drive a vehicle
11 in the State of New Jersey, it's required you be
12 registered with the Division of Motor Vehicles.* That's
13 the allegation.

14 As I explained to you, the charge would bring
15 with it a fine --

16 MR. NARVAEZ: I still do not understand.
17 And, again, you have an oath and a duty if the
18 Prosecutor has charges, a charging instrument against
19 me, then it should be brought for the record.
20 Otherwise, I do not understand.

21 THE COURT: Well, it is appearing here. It's
22 Summons No. 162083, the summons which you sent back to
23 me.

24 MR. NARVAEZ: Well, if there is no affidavit,
25 there is no sworn affidavit, that is not a complaint.

1 That is not a charging instrument. Judge, you should
2 know that.

3 MR. DORRY: Your Honor, with regard to that,
4 then the Defendant should read the New Jersey Statutes
5 because the charging instrument is the document that's
6 before you, the handwritten summons.

7 MR. NARVAEZ: Well --

8 THE COURT: And just so the record is clear,
9 the summons indicates, the undersigned further states
10 that there is just and reasonable grounds to believe
11 that you committed the above offense and will file this
12 complaint in the court charging you with that offense,
13 and it's signed by the officer, Badge No. 274.

14 MR. NARVAEZ: Great. Then let's see that
15 document. What is the charging instrument? Where's
16 the sworn affidavit?

17 THE COURT: This is the document --

18 MR. NARVAEZ: Sir, is that a sworn affidavit?

19 THE COURT: This is sworn. This is all
20 that's required under New Jersey law.✕

21 MR. NARVAEZ: Is it a sworn affidavit, sir?

22 THE COURT: It's sworn, sir.

23 MR. NARVAEZ: Okay. Then if it's a charging
24 instrument, should that be delivered according to the
25 law? The officer who delivered that to the Defendant

1 is a party to this matter which immediately eliminates
2 any subject matter and personal jurisdiction.

3 THE COURT: What is your allegation?

4 MR. NARVAEZ: I claim defective service under
5 the Defendant, sir.

6 THE COURT: No. I can only deal with --
7 that's what I was just going to ask you. I can only
8 deal with one thing at a time, so let's deal with one
9 issue at a time.

10 What is your allegation as to defective
11 service?

12 MR. NARVAEZ: That is not a valid charging
13 instrument.

14 THE COURT: Okay. Do you acknowledge
15 receiving this paper that you --

16 MR. NARVAEZ: I do not acknowledge anything,
17 sir. I'm here for the Defendant.

18 THE COURT: Okay. Well, can you explain to
19 me how you became in possession?

20 MR. NARVAEZ: I cannot explain that, sir. I
21 am here just to make a challenge to personal and
22 subject matter jurisdiction. It is not my job to
23 explain anything in this matter. Just for the record,
24 once again, I am here to challenge personal and subject
25 matter jurisdiction. If there is a charging

1 instrument, fine, we proceed. If not, you have a duty
2 to order the Prosecutor to dismiss or drop the charges.

3 THE COURT: Mr. Prosecutor?

4 MR. DORRY: Your Honor, with regards to the
5 service, the allegation can be established in the trial
6 appearance. We can have the officer testify to exactly
7 how he served it, which I anticipate is going to be
8 hand-delivered at the scene of the incident itself.

9 THE COURT: Okay.

10 MR. DORRY: With regard to the allegation of
11 subject matter jurisdiction, wholly separate argument
12 and easy to establish. X Article 1 through 3 of the
13 United States Constitution establishes the three
14 branches of the Federal Government, namely, the
15 Executive, Legislative, and Judiciary.

16 The tenth amendment to the Bill of Rights
17 establishes that anything that is not vested within the
18 Federal Government through the Congress or Federal
19 Courts remains vested with the states. New Jersey
20 State, by statute, established the subject matter*
21 jurisdiction for this Court to hear motor vehicle
22 violations within the confines of that jurisdiction.

23 MR. NARVAEZ: I object to that. X

24 MR. DORRY: So in this -- if you'd let me
25 finish.

1 MR. NARVAEZ: Subject matter --

2 THE COURT: You'll have a chance to speak as
3 soon as he's finished.

4 MR. DORRY: By New Jersey Statute -- although
5 I do not have it right in front of me -- there is a
6 clear New Jersey Statute that establishes the
7 jurisdiction of Municipal Courts within the State of
8 New Jersey to have jurisdiction to hear violations of
9 Title 39 and Title 2C violations within the confines of
10 that jurisdiction, namely, Jackson Township.

11 The allegations in this case are that the
12 Defendant standing to my left operated a vehicle that*
13 is unregistered and is in violation of 39:3-4 within
14 the jurisdiction of Jackson Township.

15 THE COURT: With regard to the personal
16 jurisdiction issues?

17 MR. DORRY: With regard to the personal
18 jurisdiction issues, he's here, he was present at the
19 time of the incident.

20 MR. NARVAEZ: Objection. I'm here in a
21 special appearance. This is not a general appearance.

22 MR. DORRY: Then if he's not going to be
23 appearing, then we'll have a trial in absentia.

24 THE COURT: Okay. All right. Then, sir, you
25 have anything else you want to say with regard to that

1 matter?

2 MR. NARVAEZ: I want everything to be on the
3 record. I am here on a special appearance and for the
4 only purpose of challenging personal and subject matter
5 jurisdiction.

6 THE COURT: All right. Well, as I've said to
7 you previously, I'm satisfied, first of all, that the
8 State does, indeed, establish the subject matter
9 jurisdiction.

10 Sir, when you operate a motor vehicle under
11 the law in the State of New Jersey, you subject
12 yourself to the laws and regulations of the State of
13 New Jersey. And if you do not wish to participate in
14 the trial, that is your prerogative, but I'm going to
15 hear the State's proofs with regard to the unregistered
16 vehicle violation now. If you want to participate,
17 you're welcome to, and if you don't --

18 MR. NARVAEZ: I don't care to that -- I would
19 like to remind the Court that the statutes must be
20 written to confront Federal law. Title 39 must be in
21 compliance, and according to Title 49, which is Title
22 U.S. Code 49, Transportation, in there, motor vehicle,
23 motor vehicle is not identified as personal conveyance.
24 Motor vehicle is a vehicle used for transportation of
25 person or merchandise.

1 Now, there is any proof that the Defendant
2 was driving a commercial vehicle, absolutely not. The
3 Defendant was not driving. The Defendant was
4 traveling. If we are going to talk about the law, then
5 we have to bring, the Prosecutor must name all the
6 parties to the matter, which include the State. Where
7 is the State right here? This only qualifies as a
8 (indiscernible). There is no victim right here. This
9 is only, again, a defective service and, by now, the
10 Judge should have accomplished his duty to order the
11 Prosecutor to either bring a valid charging instrument
12 or drop the charges.

13 It is not about commercial vehicle or motor
14 vehicle. It refers --

15 THE COURT: It doesn't --

16 MR. NARVAEZ: -- as an automobile. If you
17 read that instrument right there, it says unregistered
18 vehicle.

19 THE COURT: That's correct.

20 MR. NARVAEZ: If you go online where the
21 public record is, you will find a motor vehicle. When
22 you go to the definitions in Title 49, vehicle,
23 automobile, motor vehicle, they totally, absolutely
24 different things and have nothing to do with personal
25 traveling for personal matters.

1 THE COURT: Well, I'm going to make a ruling
2 that a Buick, 1997 Buick, four door, with a Plate No.
3 A87DHX is, indeed, a vehicle for purposes of the
4 statute.

5 MR. DORRY: And, Your Honor, if I may
6 supplement that. 39:1-1 defines motor vehicle includes
7 all vehicles propelled otherwise than by muscular
8 power, excepting such vehicles as run only upon rails
9 or tracks and motorized bicycles.

10 MR. NARVAEZ: And will be excerpt (sic) from
11 the language of the ordinance that distinction is to be
12 drawn between the terms operator, driver, the operator
13 of the service car being the person who is licensed to
14 have the car on the street in the business of carrying
15 passengers for hire while the driver is the one who
16 actually drives the car; however, in the actual
17 persecution (sic) of business, it was possible for the
18 same person to be both operator and driver.

19 Nunez vs. Union Identity Con -- Company
20 (phonetic) -- I'm sorry -- 60SE2D65A. To fully clarify
21 that the position of operator, the court officer that
22 this was a vehicle for hire and that it was in the
23 business of carrying passengers. This definition would
24 seem to describe a person who is using the road for
25 place of business or, in other words, a person engaged

1 in the privilege of using the road for gain.

2 Now, there is a letter right here that was
3 included in the document --

4 THE COURT: Is that argument contained in the
5 materials that you sent to me? I don't remember --

6 MR. NARVAEZ: It is. It is.

7 THE COURT: -- I don't remember you
8 challenging the --

9 MR. NARVAEZ: And it's Page 14 of that
10 document. If you look to Line 476, it's starting there
11 and it ends on 4, Line 4, I'm sorry, 486.

12 THE COURT: That passage is -- that segment
13 of your papers is speaking of the term operator, not
14 vehicle. If you're making a challenge to the term
15 vehicle, I'm not seeing it. Where is it?

16 MR. NARVAEZ: I will, if you give me a
17 second, Judge, I will provide it to you.

18 THE COURT: Well, the thing is, it hasn't
19 been provided to the Prosecutor, so the argument --

20 MR. NARVAEZ: Again, it would have been, the
21 Court had to have a very good chance to either bring an
22 instrument charging the Defendant, the one that can be
23 used in a Court of record or the charges should be
24 dropped.

25 THE COURT: Okay. Well, I'll give you --

1 MR. NARVAEZ: That's the duty of the Judge.
 2 THE COURT: I'll give you an opportunity to
 3 brief that issue, sir, relative to the definitions of
 4 vehicles and whether or not that is, indeed, a defense
 5 for you. So why don't you submit a supplemental brief
 6 with regard to that issue.
 7 MR. NARVAEZ: Definitely.
 8 THE COURT: We'll reschedule the matter for
 9 two weeks and then we'll see you back here in two
 10 weeks.
 11 MR. DORRY: Copy of which to be provided to
 12 my office.
 13 THE COURT: The Prosecutor, obviously, has to
 14 get a copy, as well, sir.
 15 MR. NARVAEZ: Okay. So for the record --
 16 THE COURT: Three weeks, three weeks.
 17 MR. NARVAEZ: Okay. For the record then,
 18 there is also needed a certified copy of the statute
 19 and prescribed regulations that is allegedly violated.
 20 MR. DORRY: Your Honor, a copy of --
 21 THE COURT: It appears in the books, but do
 22 you have a problem providing -- why don't you just give
 23 him a photocopy.
 24 MR. DORRY: I'll make a photocopy of --
 25 THE COURT: Photocopy the statute right now

1 and provide it to the gentleman, and then we'll adjourn
 2 the matter three weeks for briefing on the definition
 3 of vehicle.
 4 MR. NARVAEZ: Regardless of that, I still
 5 insist personal and subject matter jurisdiction has not
 6 been established according to the law.
 7 THE COURT: Well, I'm ruling --
 8 MR. NARVAEZ: It is only hearsay.
 9 THE COURT: I'm ruling against you in that
 10 regard, Mr. Narvaez.
 11 MR. NARVAEZ: Exception.
 12 THE COURT: You have an absolute right to
 13 appeal that decision. You have a right to bring a
 14 challenge at the Superior Court level. This is an
 15 appeal. It's important for you to know that the appeal
 16 right runs 20 days from the date of the entry of any
 17 judgment. I'm going to give you some time. So nothing
 18 is happening today. Three weeks from now, if I should
 19 rule against you, that time period of 20 days will
 20 begin to run. Okay?
 21 So we'll see you back here in three weeks.
 22 MR. NARVAEZ: May I please have a business
 23 card?
 24 MR. DORRY: Sorry, I actually don't have any
 25 cards.

1 MR. NARVAEZ: How come you guys never have a
2 business card? The officer supposed to have business
3 card; they never carry one. Is this a good thing?

4 THE COURT: It's not --

5 MR. NARVAEZ: I have a personal business card
6 I can provide you.

7 THE COURT: It's not a requirement.

8 MR. NARVAEZ: It's not a requirement?

9 THE COURT: No.

10 MR. NARVAEZ: You're in business. Business
11 supposed to have a business card. I have a business
12 card.

13 THE COURT: Maybe Mr. Dorry is so busy that
14 he doesn't even need more business.

15 MR. NARVAEZ: May I provide you with a
16 business card, sir? I mean, I should --

17 THE COURT: I don't need one. I don't need
18 one. I'll put it in the file if you want me to.

19 MR. NARVAEZ: Please.

20 THE COURT: If you'd be so kind, Ed.

21 Do you have a copy of the statute, Mr. Dorry?

22 All right, then, we'll put that in the file.

23 MR. NARVAEZ: Are you going to send
24 notification to the Defendant or just --

25 THE COURT: You'll be noticed, but it's going

1 to be three weeks from today, so it will be --

2 THE CLERK: December 3rd.

3 THE COURT: -- December 3rd, but a notice
4 will go out. Stick around while we can get you the
5 statute. He's going to provide you a copy of the
6 statute.

7 MR. NARVAEZ: I appreciate your help, sir.

8 THE COURT: Good day, sir.

9 MR. NARVAEZ: I appreciate you're trying to
10 make me comprehend a little bit more. I hope I'm doing
11 a good job. (Indiscernible) going with the flow. I am
12 exercising what I consider to be due diligence, so
13 hopefully I'm making a difference.

14 THE COURT: Three weeks from today we'll
15 know, I guess.

16 MR. NARVAEZ: Yes, sir.

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C E R T I F I C A T I O N

I, KATHLEEN CONNOLLY, the assigned transcriber, do hereby certify the foregoing transcript of proceedings on November 12, 2015, Judge's Opening Remarks, digital index number from 11:40 a.m. to 11:43 a.m., proceedings, digital index number from 12:11 p.m. to 12:12 p.m. and 1:32 p.m. to 1:51 p.m., is prepared in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate compressed transcript of the proceedings as recorded.

/s/Kathleen Connolly

Kathleen Connolly AOC#441
COLE TRANSCRIPTION, L.L.C.
Dated: February 16, 2016