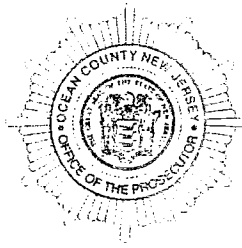


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July 7, 2016

Honorable Melanie S. Appleby, J.S.C.
Ocean County Superior Court,
Law Division, Criminal Part
120 Hooper Avenue – Courtroom #15
Toms River, New Jersey 09754

Re: State v. Elias Agredo-Narvaez, M.A. 16-02

Dear Judge Appleby:

Please accept this letter in lieu of a more formal brief in the above-referenced matter.

Procedural History¹

On October 18, 2015, defendant Elias Agredo-Narvaez (“Defendant”) was charged under N.J.S.A. 39:3-4, failure to register a motor vehicle. (1T10-1 to 10-4) (See also Da2)

On December 22, 2015, Defendant came before the Honorable Daniel F. Sahin, J.M.C. in the Jackson Township Municipal Court and made a motion to dismiss the complaint, which the court denied. On that same date, the trial in this matter began. (2T29-18 to 29-24).

¹ “Db” refers to Defendant’s brief.

“1T” refers to transcript of proceedings in Jackson Township Municipal Court on November 12, 2015.

“2T” refers to transcript of proceedings in Jackson Township Municipal Court on December 22, 2015.

“Da” refers to Defendant’s appendix.

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On December 22, 2015, Defendant was tried and found guilty of the above-referenced charge. (2T31-3 to 32-10). The Municipal Court sentenced Defendant to pay a fine of \$56.00 and \$33.00 in court costs. (2T32-16 to 32-19)

Defendant now appeals to this Court.

Statement of Facts

On October 18, 2015, Jackson Township Police Officer Stephen Cilento was on patrol in the area of Brewers Bridge Road and West County Line in Jackson Township. (2T14-8 to 15-3)

Officer Cilento observed a vehicle that he performed a random check on using a computer data terminal in his patrol vehicle. (2T15-5 to 15-15) In conducting the random “lookup” of Officer Cilento learned that vehicle registration was expired in August of 2015. (2T15-16 to 15-18) Based on this information, Officer Cilento then initiated a motor vehicle stop on vehicle. (2T15-19 to 15-25)

Officer Cilento then approached vehicle and observed the driver, Defendant behind the wheel of the vehicle. (2T16-1 to 16-7) The officer requested that Defendant, provide his motor vehicle credentials including, driver's license, vehicle registration, and insurance identification, which Defendant provided to the officer. (2T16-16 to 16-23)

Officer Cilento returned to his patrol vehicle and wrote traffic summons for an unregistered vehicle. (16-25 to 17-1). The officer handed the summons to Defendant, along with Defendant's motor vehicle credentials. (2T19-2 to 19-8) Officer Cilento also and contacted a towing company to retrieve Defendant's vehicle. (2T19-9 to 19-14)

Legal Analysis

POINT ONE:

**THE FINDINGS OF THE COURT BELOW AS
TO JURISDICTION SHOULD BE AFFIRMED**

Defendant argues that the court below did not have subject matter and personal jurisdiction to hear the matter within which Defendant was charged under N.J.S.A. 39:3-4. Defendant's argument has no merit. New Jersey Court Rule 7:1 clearly establishes jurisdiction over motor vehicle violations: "The rules in Part VII govern the practice and procedure in the municipal courts in all matters within their statutory jurisdiction, including . . . violations of motor vehicle and traffic . . . laws. . . ."

Defendant argues that the law should not apply to him because he is ". . . [n]ot a citizen of 'this State' . . ." (Db3) However, the statute that governs operating a motor vehicle without having the vehicle registered with the New Jersey Motor Vehicle Commission is clear. N.J.S.A. 39:3-4 provides, in part, that: ". . . [E]very resident of this State and **every nonresident** whose automobile . . . shall be driven in this State shall, before using such vehicle on the public highways, to register the same, and no automobile . . . shall be driven unless so registered. . . ." (emphasis supplied)

The record below shows that Judge Sahin made that finding on November 12, 2015, prior to the date of trial:

MR. NARVAEZ: . . . I am here on a special appearance and for the only purpose of challenging personal and subject matter jurisdiction.

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

Sir, when you operate a motor vehicle under the law in the State of New Jersey, you subject yourself to the laws and regulations of the State of New Jersey.

And if you do not wish to participate in the trial, that is your prerogative, but I'm going to hear the State's proofs with regard to the unregistered vehicle violation now. . . .

(1T15-3 to 15-16)

At trial, in response to Defendant's additional argument disputing personal jurisdiction, Judge Sahin made the following finding:

THE COURT: . . . I'm satisfied that the Court does have jurisdiction over you, Mr. Narvaez. When you are issued a license within the State of New Jersey, you agree by signing that license –

MR. NARVAEZ: I never agree. Nobody tell me any terms, sir.

THE COURT: By having the privilege of driving a vehicle within the State of New Jersey, you're bound by the rules and regulations of the State of New Jersey.

MR. NARVAEZ: I object to that, Your Honor.

THE COURT: And there's a State statute that does require you to have a registered vehicle. And I'm satisfied that the case is properly venued here. . . .
(2T9-6 to 9-19)

Based on the record below, the Municipal Court's findings as to both subject matter jurisdiction and personal jurisdiction should be affirmed.

POINT TWO:

THE FINDINGS OF THE COURT BELOW THAT DEFENDANT WAS GUILTY OF VIOLATING N.J.S.A. 39:3-4 SHOULD BE AFFIRMED

The court below found Defendant guilty of failing to have his motor vehicle properly registered with the New Jersey Motor Vehicle Commission. In addition to the testimony presented by the State as previously mentioned herein, *infra*, Point I, State's brief, the court heard the testimony of Officer Stephen Cilento as to the motor vehicle stop of Defendant's vehicle on October 18, 2015:

Q: And what did you observe at that time?

A: I observed a four-door Buick operated by the Defendant that I did a random lookup in our Infocop system that told me that registration was expired.

Q: And you ran the cop (sic) system, is that a computer data terminal that's in the car?

A: Yes.

Q: Is it common for you to look cars up at random and check to see if everything is fine?

A: Yes.

Q: Did you do so in this case?

A: Yes, sir.

Q: And what did you find in this case upon doing a random lookup?

A: The registration had expired in August of 2015.
(2T15-4 to 2T15-18)

Officer Cilento further testified that upon learning that the vehicle's registration was expired, he initiated a motor vehicle stop and approached the vehicle. (2T15-22 to 16-2) The officer then requested that Defendant provide his motor vehicle credentials:

Q: Upon approaching the Defendant, what did you do at that point?

A: I asked for his driving credentials.

Q: And those credentials consist of what?

A: His driver's license, registration, and proof of insurance.

Q: Did he provide them to you?

A: He eventually did.

Q: At that point, what did you do?

A: I returned to my vehicle, wrote him the traffic summons and requested a tow company to come retrieve the unregistered vehicle.

Q: And when you wrote him a traffic summons, what exactly was that traffic summons for?

A: For an unregistered vehicle.

Q: Did you write a ticket at that time?

A: Yes.

Q: Did you match that information to the Dispatch information on proper registration?

A: Yes.

Q: And what did the information show?

A: Both showed that, it confirmed that it was expired in August of 2015.
(2T16-16 to 17-16)

Officer Cilento also testified that he served the Defendant with the traffic summons:

Q: And you issued him [Defendant] a summons for 39:3-4, expired registration?

A: Yes.

Q: Did you hand him his credentials back?

A: I did.

Q: Did you hand him his ticket?

A: I did.

Q: Would that vehicle then be ticketed for being unregistered; what did you do?

A: I requested a tow company remove it from the roadway.

Q: Was the vehicle removed from the roadway?

A: Yes, it was.

Q: Did you provide the Defendant further instructions on how to proceed thereafter?

A: Yes, I did.
(2T19-2 to 19-17)

On redirect examination, Officer Cilento also confirmed that the license plate matched the information provided by mobile data terminal that established Defendant's registration was expired:

Q: Officer Cilento, when you wrote this ticket, did you note the license plate number on the ticket?

A: Yes, I did.

Q: What was the license plate number again, the number?

A: It's Alpha 87 Delta Hotel X-Ray [A87DHX].

Q: And when you wrote that on the ticket, did that match what the mobile data terminal told you was an expired registration?

A: Yes, it did.
(2T28-15 to 28-24)

During trial, Defendant argued that the State had failed to meet its burden because Defendant disputed the definition of "operation" of a motor vehicle, contending that the State did not prove he operated the vehicle. (2T31-8 to 31-21) The court found Defendant's argument was irrelevant, since Officer Cilento observed Defendant driving the vehicle and initiated a motor vehicle stop. (2T15-11 to 15-25)

In finding Defendant guilty of having an unregistered vehicle under N.J.S.A. 39:3-4, the court addressed the issue of "operation" and found that the State had met its burden beyond a reasonable doubt:

THE COURT: . . . I'm satisfied that the State had presented evidence that you were operating an automobile as defined by the statute. . . . And with regard to the operation issue, there need not be operation to prove a violation of an unregistered vehicle. . . . Again, the statute doesn't require operation, and even if it did, the State presented evidence that you were driving the vehicle.

MR. NARVAEZ: What is the evidence?

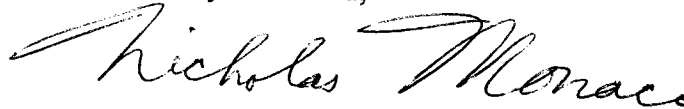
THE COURT: He [Officer Cilento] had indicated that he pulled you over while you were driving the vehicle.

And for all those reasons, Mr. Narvaez, I'm satisfied that the State has met its burden of proof in this matter. The pertinent statute I've recited, it requires you to have a vehicle in the State of New Jersey that's duly registered under the law. And I'm satisfied that the State has met its burden of proof. I, therefore, enter a finding of guilt with regard to the charge.
(2T31-3 to 32-10)

Conclusion

For the foregoing reasons, this Court must affirm the conviction and sentence of the Jackson Township Municipal Court.

Respectfully submitted,



O. Nicholas Monaco, Assistant Prosecutor
On The Brief
Attorney ID 01460-1999

Samuel Marzarella, Chief Appellate Attorney
Of Counsel