

COURT OF APPEALS  
MORROW COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff-Appellee

-vs-

ANGELA M. JOHNS

Defendant-Appellant

: JUDGES:

:  
: Hon. William B. Hoffman, P.J.  
: Hon. Sheila G. Farmer, J.  
: Hon. Patricia A. Delaney, J.

:  
: Case No. 14CA0006

:  
: OPINION

CHARACTER OF PROCEEDING:

Appeal from the Morrow County  
Municipal Court, Case No.  
2013TRD4931

JUDGMENT:

AFFIRMED

DATE OF JUDGMENT ENTRY:

April 28, 2015

APPEARANCES:

For Plaintiff-Appellee:

MORROW CO. PROSECUTOR  
THOMAS J. SMITH  
60 E. High St.  
Mt. Gilead, OH 43338

For Defendant-Appellant:

ANGELA JOHNS, pro se  
P.O. Box 141141  
Cleveland, OH 44114

*Delaney, J.*

{¶1} Appellant Angela M. Johns appeals from the Journal Entry – Court Trial of January 16, 2014 of the Morrow County Municipal Court convicting and sentencing her upon one count of speeding pursuant to R.C. 4511.21(D)(1). Appellee is the state of Ohio and did not file a brief.

### **FACTS AND PROCEDURAL HISTORY**

{¶2} The following facts are adduced from the record of a bench trial before the Morrow County Municipal Court.

{¶3} On July 1, 2013, Sgt. Toby J. Smith of the Ohio State Highway Patrol, Mansfield Post, was in uniform and driving a marked state patrol cruiser as he monitored traffic in a construction zone on I-71 South. Smith's cruiser was parked at approximately mile marker 151 in Morrow County. A construction zone extended from about mile marker 158 to mile marker 150 with a clearly posted speed limit of 55 m.p.h. Signs were also posted approaching the construction zone warning of the reduced speed limit ahead.

{¶4} Between 7:00 and 8:00 p.m. on that date, workers were present in the construction zone.

{¶5} Smith observed appellant in the passing lane operating a black Lexus. He visually estimated her speed as in excess of 55 m.p.h. and measured her speed with an "LTI 20/20 Ultra Light" laser device. Smith testified the beam of the laser was placed on appellant's vehicle and there was no interference from any other vehicles. Traffic was light to moderate and he did not note any adverse weather conditions. The laser measured appellant's speed as 74 m.p.h.

{¶6} Smith maintained visual contact with appellant's vehicle after he checked her speed. He turned on his lights, pulled out, traffic-stopped appellant, and told her why he pulled her over. He also offered to show her the laser. Smith did not recall any statements made by appellant.

{¶7} Appellant testified on her own behalf and said she had been traveling 70 m.p.h. for over 60 miles as she proceeded southbound from the Cleveland area. She never saw any posted speed-limit reduction sign because she was in the middle of a pack of traffic including semis but she slowed when she saw orange barrels in the construction zone. Appellant said Smith was standing outside his cruiser with the laser device monitoring vehicles and he waved over her car and another car; after both vehicles were stopped he asked if they were traveling together and they were not. Appellant said Smith did not offer to show her the laser device. Appellant maintained Smith had clocked a vehicle other than hers.

{¶8} Appellant was charged by Uniform Traffic Ticket upon one violation of R.C. 4511.21(D)(1), 74 m.p.h. in a 55-m.p.h. zone. The trial court found appellant guilty as charged, noting she acknowledged she was traveling 70 m.p.h. and said she sped up to pass trucks in the vicinity of the construction zone; Smith observed her in the passing lane. Appellant was fined \$114 plus court costs and she asked whether the trial court would assess points against her license. The trial court explained points are assessed by the Bureau of Motor Vehicles.

{¶9} Appellant now appeals from the judgment entry of her conviction and sentence.

{¶10} Appellant raises one assignment of error:

### ASSIGNMENT OF ERROR

{¶11} “SUBJECT MATTER JURISDICTION WAS NEVER ESTABLISHED IN THE TRIAL COURT PURSUANT TO O.R.C. SECTION 9.68, AS THERE WAS NO VALID CHARGING COMPLAINT BEFORE THE CRIMINAL COURT AT THE TIME OF THE ARRAIGNMENT, ONLY A TRAFFIC TICKET WHICH FAILS TO MEET THE REQUIREMENTS OF A COMPLAINT. THUS, THE TRAFFIC TICKET WAS SIGNED BY A STATE TROOPER, WHO IS MERELY A WITNESS AND WHO IS NOT AUTHORIZED BY LAW AS A PROSECUTING ATTORNEY TO REPRESENT THE PEOPLE. ADDITIONALLY, THE PROSECUTION KNOWINGLY PROSECUTED A MATTER IN WHICH THERE WAS NO COMPLAINT AND FOR WHICH THE APPELLANT HAD NEVER ENTERED A PLEA AND JURISDICTION NEVER ESTABLISHED. (*sic*)”

### ANALYSIS

{¶12} Appellant argues her traffic charge upon one count of speeding in a construction zone via Uniform Traffic Ticket was invalid because she was required to be charged by criminal complaint. We disagree.

{¶13} We first note appellant's pro se brief does not comply with App.R.16(A) because it does not contain a statement of the case, a statement of facts, or references to alleged error in the record. Appellant's brief also raises a number of arguments unrelated to the sole assigned error. As the Tenth District Court of Appeals aptly summarized in *State ex rel. Petro v. Gold*, 166 Ohio App.3d 371, 392, 2006-Ohio-943, 850 N.E.2d 1218, at ¶ 51 (10th Dist.):

[The] burden of affirmatively demonstrating error on appeal rests with the party asserting error. App.R. 9 and 16(A)(7); *State ex rel. Fulton v. Halliday*, 142 Ohio St. 548, 53 N.E.2d 521 (1944). Pursuant to App.R. 16(A)(7), an appellant must present his or her contentions with respect to each assignment of error and the reasons in support of those contentions, including citations of legal authorities and parts of the record upon which the appellant relies. An appellate court may disregard arguments if the appellant fails to identify the relevant portions of the record on which the errors are based. App.R. 12(A)(2). “[F]ailure to comply with the rules governing practice in the appellate courts is a tactic which is ordinarily fatal.” *Kremer v. Cox*, 114 Ohio App.3d 41, 60, 682 N.E.2d 1006 (9th Dist.1996).

{¶14} Although appellant did not request a transcript of the proceedings below, a transcript was filed, and we prefer to address appellant’s sole assignment of error substantively rather than strike the brief.

{¶15} Appellant argues her conviction upon one count of speeding fails because no “complaint” was filed as a charging instrument. Pursuant to Ohio Traf.R. 3(A), however, “[i]n traffic cases, the complaint and summons shall be the ‘Ohio Uniform Traffic Ticket’ as set out in the Appendix of Forms.” We have reviewed the record and note appellant was properly charged via a Uniform Traffic Ticket.

{¶16} Appellant makes a number of other arguments regarding facts admitted at trial, points assessed for the violation, and scheduling of court dates. These arguments

are not assigned as errors, make no reference to the record, and are not supported by applicable case law. We therefore decline to address those arguments.

{¶17} Appellant's sole assignment of error is overruled.

### **CONCLUSION**

{¶18} Appellant's assignment of error is overruled and the judgment of the Morrow County Municipal Court is affirmed.

By: Delaney, J. and

Hoffman, P.J.

Farmer, J., concur.