

[Cite as *State v. McCliment*, 2015-Ohio-1119.]

STATE OF OHIO, MAHONING COUNTY

IN THE COURT OF APPEALS

SEVENTH DISTRICT

STATE OF OHIO,)	
)	CASE NO. 14 MA 68
PLAINTIFF-APPELLEE,)	
)	
- VS -)	OPINION
)	
COREY McCLIMENT,)	
)	
DEFENDANT-APPELLANT.)	

CHARACTER OF PROCEEDINGS:	Criminal Appeal from Common Pleas Court, Case No. 93 CR 432.
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JUDGMENT:	Affirmed.
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APPEARANCES:	
For Plaintiff-Appellee:	Attorney Paul J. Gains Prosecuting Attorney Attorney Ralph M. Rivera Assistant Prosecuting Attorney 21 W. Boardman St., 6th Floor Youngstown, OH 44503

For Defendant-Appellant:	Attorney Edward Czopur Attorney J. Michael Thompson 42 N. Phelps Street Youngstown, OH 44503
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JUDGES:
Hon. Mary DeGenaro
Hon. Gene Donofrio
Hon. Carol Ann Robb

Dated: March 24, 2015

[Cite as *State v. McCliment*, 2015-Ohio-1119.]
DeGENARO, J.

{¶1} Corey McCliment, Appellant, challenges the Mahoning County Common Pleas Court's decision granting him limited driving privileges for employment, educational, vocational and medical purposes, but denying his motion to terminate the mandatory lifetime revocation of his driver's license that was previously imposed. McCliment's argument that the trial court should have granted him equitable relief is meritless. Although McCliment sought relief pursuant to R.C. 4510.021, that statute only grants a trial court the discretion to grant limited driving privileges, it is silent regarding reinstatement of a revoked driver's license; that relief must be sought pursuant to R.C. 4510.54. Instead, McCliment sought to invoke the trial court's equitable jurisdiction to reinstate his driver's license, which was properly rejected as there exists an adequate remedy at law. Accordingly, the decision of the trial court is affirmed.

{¶2} On April 23, 1993, McCliment was indicted on one count of aggravated vehicular homicide under former R.C. 2903.06(A)(B)(C), a third degree felony. The charges stemmed from his role in the death of a single motorist after a traffic incident. Ultimately McCliment pled guilty on January 5, 1994, to an amended charge of vehicular homicide while under the influence of alcohol under former R.C. 2903.07(A)(B)(C), a first degree misdemeanor. The trial court sentenced McCliment to six months in jail, \$1000 fine and a mandatory, permanent revocation of his driver's license pursuant to R.C. 4507.16(D)(1) and 2903.07(B). McCliment did not appeal.

{¶3} On March 17, 2014, McCliment filed a motion, supplemented on June 3, 2014, requesting a modification of his permanent driver's license revocation. Specifically, McCliment first argued that the trial court should exercise its equitable powers and reinstate his driver's license, reasoning that subsequent to his original plea and sentencing, "the General Assembly has revised the schedule of license suspensions attached to vehicular crimes in such a way that mandatory lifetime suspensions no longer attach either to his original charge or that of which he was convicted." In the alternative, citing to R.C. 4510.021, McCliment requested that the trial court grant him occupational and medical driving privileges as well as privileges to drive in order to take a driver's license examination. After two hearings the trial court

granted McCliment occupational, educational, vocational, and medical driving privileges as authorized by R.C. 4510.021. Apparently unpersuaded by arguments seeking equitable relief, the trial court denied McCliment's alternative request to reinstate full driving privileges and terminate his lifetime license revocation imposed in 1994 at his original sentencing.

{¶4} McCliment's sole assignment of asserts:

"The trial court erred when it failed to exercise its jurisdiction, whether legal or equitable, to decide the question of Appellant's license reinstatement, given the elimination of the collateral sanction of license revocation by the General Assembly in 2000."

{¶5} McCliment concedes that a mandatory permanent license revocation was imposed in 1994, and does not challenge the propriety of that action at the time he was sentenced. Instead, McCliment argues that in light of revisions to the law, which have removed the mandatory lifetime revocation provision, he should have his license reinstated; that the specific facts of this case required the trial court to exercise equitable jurisdiction.

{¶6} The Supreme Court of Ohio recently noted in *State v. Manocchio*, 138 Ohio St.3d 292, 2014-Ohio-785, 6 N.E.3d 47, where the defendant was subject to a lifetime license suspension and sought termination of the suspension and/or restoration of limited driving privileges: "[T]he General Assembly has carved out two procedures by which drivers under license suspensions may seek to drive and has given them distinct labels. One procedure allows limited driving privileges. R.C. 4510.021 and related statutes. The other allows termination or modification of the suspension. R.C. 4510.54." *Id.* at ¶18.

{¶7} R.C. 4510.021 grants trial courts the discretion to grant limited driving privileges during any suspension, specifying:

the purposes, times, and places of the privileges and may impose any

other reasonable conditions on the person's driving of a motor vehicle.

The privileges shall be for any of the following limited purposes:

- (1) Occupational, educational, vocational, or medical purposes;
- (2) Taking the driver's or commercial driver's license examination;

{¶8} R.C. 4510.54(A) sets forth the process whereby a driver whose driving privileges have been either revoked or suspended for life can seek reinstatement:

[A] person whose driver's or commercial driver's license has been suspended for life under a class one suspension or as otherwise provided by law or has been suspended for a period in excess of fifteen years under a class two suspension may file a motion with the sentencing court for modification or termination of the suspension.

{¶9} A bedrock principle of Ohio jurisprudence is that a trial court will not fashion an equitable remedy where there is an adequate remedy at law. *Schaefer v. First Nat. Bank*, 134 Ohio St. 511, 519, 18 N.E.2d 263 (1938). Thus, if McCliment has an adequate remedy at law, he cannot seek, nor could the trial court grant him equitable relief.

{¶10} In the present case, pursuant to R.C. 4510.021 McCliment sought limited driving privileges, which the trial court properly granted because it had the authority to do so. McCliment alternatively sought termination of the lifetime revocation of his license and reinstatement of full driving privileges. Instead of seeking relief pursuant to R.C. 4510.54, McCliment invoked the trial court's equitable jurisdiction to grant him this relief.

{¶11} Because McCliment has an adequate remedy at law, to wit, filing a motion for reinstatement pursuant to R.C. 4510.54, the trial court properly declined to grant an equitable remedy. Thus, we need not address the merits of his equity argument. Accordingly, McCliment's assignment of error is meritless, and the

judgment of the trial court is affirmed.

Donofrio, P.J., concurs.

Robb, J., concurs