

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
SANDUSKY COUNTY

State of Ohio

Court of Appeals No. S-12-009

Appellee

Trial Court No. 11 TRD 2400

v.

Kim L. Victor

DECISION AND JUDGMENT

Appellant

Decided: May 31, 2013

* * * * *

Thomas L. Stierwalt, Sandusky County Prosecuting Attorney,
and Norman P. Solze, Assistant Prosecuting Attorney, for appellee.

Kim L. Victor, pro se.

* * * * *

OSOWIK, J.

{¶ 1} This is a pro se appeal from a judgment of the Sandusky County Court No. 1, Criminal Division, that found appellant guilty of a vehicular speeding charge and imposed a \$35 fine. For the following reasons, the judgment of the trial court is affirmed.

{¶ 2} On June 17, 2011, appellant was charged with violating R.C. 4511.21(C) for driving in excess of the posted speed limit on a portion of the Ohio Turnpike in Sandusky

County, Ohio. The Ohio State Highway Patrol officer who issued the citation testified that he was trained and certified by the Ohio State Highway Patrol to operate the laser speed measuring device and that the unit used to measure appellant's speed had been properly internally and externally calibrated. The officer further testified that, after he observed appellant's vehicle approaching at a speed that appeared in excess of the posted speed limit, he used the laser speed measuring device and determined that appellant was traveling at a speed of 76 miles per hour in a 50 mile per hour construction zone. Appellant was issued a citation and entered a plea of not guilty. Appellant later changed his plea to no contest and, following a trial to the bench, was found guilty. After some discussion, the trial court recognized that shortly before appellant was cited, the speed limit in the area of the offense had been raised to 70 miles per hour. Accordingly, the court reduced appellant's fine to \$35 and assessed costs of \$114. It is from that judgment that appellant appeals.

{¶ 3} Appellant sets forth the following eight assignments of error:

Assignment of Error Number One

Did the Sandusky County Trial Court abuse its discretion, create manifest injustice, manifest constitutional error, acted [sic] arbitrary and capricious, and blatantly violate the appellant of clearly established due process and equal protection of the law, protected under both the Ohio and U.S. Constitutions as well as Ohio and federal court binding precedent by

denying the appellant asked for discoveries in the possession of the prosecutor?

Assignment of Error Number Two

Did the trial court commit reversible error by finding the appellant guilty of speeding through the use of inadmissible evidence and/or witness testimony?

Assignment of Error Number Three

Did the prosecutor fail to disclose evidence favorable to the appellant and violate Ohio court rules by not continuing that duty to disclose the discoveries?

Assignment of Error Number Four

Did the trial court abuse its discretion and create manifest constitutional error by overruling the appellant's objections at trial to the use of the evidence presented by the prosecution that the appellant had asked for in [his] timely filed request for discoveries?

Assignment of Error Number Five

Did the trial court abuse its discretion and create manifest constitutional error by denying the appellant's "Motion to Compel the Plaintiff for the Amended Request for Discoveries"?

Assignment of Error Number Six

Did the trial court abuse its discretion and acted arbitrary and capricious when taking judicial notice and violating Ohio Supreme Court rules for the reporting and opinion Rep. R. 4?

Assignment of Error Number Seven

Did the trial court abuse its discretion by not granting the appellant's motion to dismiss all charges and/or the motion for acquittal?

Assignment of Error Number Eight

Did the trial court abuse its discretion and create manifest constitutional error by denying the appellant's motion for a jury trial a fundamental federal constitutional right?

{¶ 4} This court has thoroughly reviewed appellant's claimed errors as well as the entire record of proceedings in the trial court, including the transcript of appellant's bench trial. Appellant's eight assignments of error set forth claims relating to discovery, the state's evidence, the court's rulings on appellant's various objections during trial and his motion to dismiss, the accuracy of the laser device used by the officer who issued appellant's citation, and appellant's request for a jury trial. Appellant's assignments of error are repetitive and some are supported by only one or two sentences of argument.

{¶ 5} In this case, upon our review of the record, we find that the state complied with Crim.R. 16 in responding to appellant's initial demand for discovery. There is no evidence that the trial court abused its discretion in denying appellant's motion to compel

further discovery. As to appellant's claims that the trial court erred by denying his motion to dismiss and finding him guilty, we find again that the record fully supports the finding of guilt. *See State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997); *State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991); *State v. Schwichtenberg*, 6th Dist. No. OT-94-22, 1995 WL 96789 (Mar. 10, 1995). As to appellant's argument that he was denied his right to a jury trial, we note that he was charged with a minor misdemeanor, which is punishable only by a fine. Appellant was not entitled to a jury trial. *See* R.C. 2945.17(B)(1).

{¶ 6} Based on the foregoing and the law, we find that appellant's first, second, third, fourth, fifth, sixth, seventh and eighth assignments of error are not well-taken.

{¶ 7} Upon consideration whereof, the judgment of the Sandusky County Court No. 1, Criminal Division, is affirmed. Costs of this appeal are assessed to appellant.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Mark L. Pietrykowski, J.

Thomas J. Osowik, J.

Stephen A. Yarbrough, J.
CONCUR.

JUDGE

JUDGE

JUDGE

<p>This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at: http://www.sconet.state.oh.us/rod/newpdf/?source=6.</p>
