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**Feb 17 2023**

**SC Court of Appeals**

IN THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

Robert E. Hood, Circuit Court Judge

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Case No. 2022-001437

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Johnathan Daniels,

Appellant,

v.

City of Cayce,

Respondent.

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**INITIAL BRIEF OF RESPONDENT**

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**COUNTER-STATEMENT OF ISSUES ON APPEAL**

- I. DID THE CIRCUIT COURT CORRECTLY RULE THAT APPELLANT'S GUILTY PLEA IN MUNICIPAL COURT WAS KNOWING AND VOLUNTARY?**
- II. ARE APPELLANT'S REMAINING ISSUES AND ARGUMENTS ON APPEAL WAIVED AND PRECLUDED BY HIS GUILTY PLEA?**

## STATEMENT OF THE CASE

As a result of a traffic stop by a City of Cayce police officer on December 9, 2019, Johnathan Daniels (hereinafter, “Appellant”) was ticketed for violations of S.C. Code Ann. § 56-5-1520(G)(3) (speeding greater than 15 miles per hour but less than 25 miles per hour above the posted limit), S.C. Code Ann. § 56-1-20 (driver’s license required), and S.C. Code Ann § 56-3-110 (vehicle required to be registered and licensed). The State Code sets the penalty for the speeding charge as a fine of not less than \$50 nor more than \$75 (imprisonment is an alternative penalty only for speeding in excess of 25 miles per hour above the posted limit) (S.C. Code Ann. §§ 56-5-1520(G)(3) and (4)). The penalty for driving on a public highway without a driver’s license, first offense, is a fine of not less than \$50 nor more than \$100 or imprisonment for 30 days. S.C. Code Ann. § 56-1-440(A). The penalty for no driver’s license is a fine of not more than \$100 or imprisonment for not more than 30 days. S.C. Code Ann. § 56-5-6190. Subject matter jurisdiction of these charges was in the City of Cayce Municipal Court. S.C. Code Ann. §§ 56-5-6150 and 56-1-440(B).

Appellant, representing himself, subsequently filed various pre-trial motions and “objections,” including a motion to dismiss, motion for directed verdict, motion to reconsider, and motion to compel discovery. A jury trial also was requested by Appellant and a jury eventually was impaneled for jury trial on the three charges on October 29, 2021, in the City of Cayce Municipal Court.

Prior to the start of the jury trial, and pursuant to a negotiated plea agreement, Appellant entered a plea of guilty to the speeding charge (with a fine including court fees of \$180.63) and to the no driver’s license charge (with a fine including court fees of \$155) with a nolle prosequi of

the no vehicle registration charge. (Municipal Court Transcript, pp. 1-12; Municipal Return, pp. 1-3; Judge's Notes).

Appellant filed an appeal to the circuit court on November 4, 2021. A hearing on the appeal was held by the Honorable Robert E. Hood, Circuit Court Judge, on September 22, 2022. (Transcript of Record, pp. 1-32). A Rule 4 Order was issued on September 27, 2022 (Form 4 Order), and a formal Order affirming the decision of the municipal court and denying the appeal was filed on October 7, 2022 (Order filed October 7, 2022).

### **STANDARD OF REVIEW**

The standard of review in this Court in criminal cases is limited to correction of errors of law. State v. Green, 436 S.C. 492, 493, 872 S.E.2d 869, 869-870 (Ct. App. 2022). State v. Hall, 437 S.C. 107, 117, 876 S.E.2d 328, 333 (Ct. App. 2022).

### **ARGUMENT**

#### **I. THE CIRCUIT COURT CORRECTLY RULED THAT APPELLANT'S GUILTY PLEA WAS KNOWING AND VOLUNTARY.**

Appellant's admissions to the municipal court, to the circuit court, and to this Court are revealing and dispositive on this issue. The partial transcript of the proceedings in the municipal court (Municipal Court Transcript, pp. 3-8) includes the prosecutor's description of the negotiated plea bargain with agreed fines, Appellant's participation in that description by the prosecutor, an express plea of guilty, an express denial of threat or coercion, and an express statement of voluntariness of the plea. The exchange with the trial court on Appellant's denial of threat or coercion is set out at page 6 of the partial transcript (Municipal Court Transcript, p. 6, lines 8-11).

COURT:                   Has anyone threatened you or coerced you in any way to get you to plead guilty?

DEFENDANT: No, just circumstances are tough. You know? But uh, no one -- no one in particular threatened me or said anything.

Appellant's further statement in the Municipal Court underscored the voluntary basis of the guilty plea and Appellant's reasoning and risk calculation on possible penalties:

COURT: What if anything did you wanna say in addition to that?

DEFENDANT: Okay. Well, uh. Number – Well, number one, is this—this trial—this—this case has been [inaudible] some time. Two years and change, I think. Uh – or right around two years. So, I want everyone here to know that I have not been arguing just for the sake of arguing. Okay? I've – If you read the paperwork that I submitted to you, you'll see, I have religious issues that have forced my hand to continue to contest--the—the--not necessarily the speeding, as I mentioned earlier, but the other two charges fr—from a jurisdictional standpoint. [Pause] I had a problem with that. Still do. Uh, so, I appreciate—you know, being given the opportunity not to bear the full brunt and wrath of [chuckle] whatever is going on here, but, uh, yeah, I still have those religious problems with that, and that—that—that is something that bothers me, although, I am entering this plea voluntarily, because I have calculated—I don't wanna go to jail. I'm likely to go to jail, and uh—yeah. I just—I just want that on the record. So--

(Municipal Court Transcript, p. 7, lines 5-20).

Additionally, the partial transcript also undercuts Appellant's position on the trial court's alleged misstatement of a possible jail penalty for the speeding charge. The partial transcript of the municipal court proceedings clearly shows that the Appellant was aware of the negotiated penalty for all guilty plea charges, and the trial judge's acceptance of those penalties, before Appellant entered a guilty plea. The prosecutor recited a negotiated penalty of fine only of \$183.63 on the speeding charge and a fine only of \$155.00 on the no driver's license charge, and a nolle prosequi of the failure to register vehicle charge. After the description of the negotiated plea, the trial court stated, according to the partial transcript, "I'll tell you that I'm accepting it, and I'm also accepting

the recommendation.” The guilty plea followed. (Municipal Court Transcript, p. 4, line 11 – p. 7, line 4). Appellant knew the penalties to be imposed before he voluntarily entered the guilty plea.

Appellant admitted to the circuit court, in line with the Return/Judges Notes of the trial judge (Judge Notes), that he had been advised, in previous court appearances in the case, of his rights to jury trial, bench trial, and an attorney. (Transcript of Record in Circuit Court, p. 26, lines 17-21). In the appeal hearing before the circuit court, Appellant also admitted that he was guilty of the speeding charge. (“The speeding ticket though, I, I knew that—I mean I, I was speeding. I was guilty of that.”) (Transcript of Record in Circuit Court p. 5, lines 19-20). Similarly, in this Court, Appellant has admitted the substance of the offenses of no driver’s license and no vehicle registration. In Brief, Appellant (using the third person) admitted “Appellant does not use a driver’s license or vehicle registration . . .” (Initial Brief of Appellant, p. 10).

In order for a defendant to knowingly and voluntarily plead guilty, he must have a full understanding of the consequences of his plea. State v. Hazel, 275 S.C. 392, 394, 271 S.E.2d 602, 603 (1980). Here, the ruling of the circuit court is supported by the partial transcript of the plea and by Appellant’s own admissions. The transcript of the plea shows that Appellant was aware of the nature of the offenses and the penalties at issue, and contains Appellant’s own statements that the plea was voluntary and uncoerced and was the result of his weighing of the risk of trial with the plea result.

## **II. APPELLANT’S REMAINING ARGUMENTS ON APPEAL ARE WAIVED AND PRECLUDED BY HIS GUILTY PLEA.**

Appellant’s guilty plea to the charges of speeding and no driver’s license waived all of his arguments on appeal except the argument as to the knowing and voluntary nature of his plea. “Few principles of South Carolina criminal law are as ingrained as the notion that a knowing, voluntary, and intelligent guilty plea ‘constitutes a waiver of nonjurisdictional defects and claims of violations

of constitutional rights.” State v. Sims, 423 S.C. 397, 400, 814 S.E.2d 632, 633 (Ct. App. 2018), citing State v. Rice, 401 S.C. 330, 331-32, 737 S.E.2d 485 (2013).

Appellant has asserted throughout the long history of his case and in this appeal that his claim under the South Carolina Religious Freedom Act (hereinafter, “the Act” or “SCRFA”) (S.C. Code Ann. § 1-32-10 et seq.) is jurisdictional. However, Appellant cites no supporting South Carolina authority for that position, and the City is aware of none. Moreover, the text of SCRFA clearly and expressly provides that a violation of the Act may be asserted “as a claim or defense in a judicial proceeding.” S.C. Code Ann. § 1-32-50.

Unlike the Protection of Persons and Property Act (S.C. Code Ann. §§ 16-11-410 et seq.) discussed in State v. Sims, SCRFA contains no words providing immunity from criminal prosecution and, therefore, provides no basis for a jurisdictional argument. Rather, it appears from the language of the Act that SCRFA is not a conclusive defense to a criminal prosecution until the defense is established, first, by the claiming party’s proof of a “substantial burden” by the State on exercise of religion, and, second, by the State’s failure to demonstrate “compelling State interest” by the “least restrictive means.” S.C. Code Ann. § 1-32-40.

Under the State v. Sims analysis, a SCRFA claim is not a jurisdictional claim or other claim that would have prevented the State (through the City) from prosecuting Appellant in the first place. See also, State v. Green, 436 S.C. 492, 872 S.E.2d 869 (Ct. App. 2022) (a speedy trial claim is nonjurisdictional). Appellant’s guilty plea precluded the establishment and operation of his asserted SCRFA defense to the charges to which he entered a guilty plea.

Similarly, Appellant’s other arguments on appeal are waived and precluded by the guilty plea. Under South Carolina law, as explained in State v. Sims, this waiver includes constitutional claims. The City urges that this waiver and preclusion also applies to all claims arising prior to the

plea, including Appellant’s claims and appeal grounds related to alleged “retaliatory prosecution,” alleged lack of discovery or compliance by the City with discovery, and alleged estoppel by reason of the failure of other jurisdictions to prosecute Appellant for similar offenses.

Additionally, Appellant’s argument concerning the sufficiency of the trial court transcript fails to recognize the status of the Cayce Municipal Court as a “summary court.” See State v. Bellardino, 429 S.C. 563, 567, 841 S.E.2d 621, 623, fn 2 (2020), and its explanation of the difference between a “court of record” that must record all proceedings – word for word – for appellate review, and a “summary court” (magistrate or municipal court) that need only summarize what occurred for appellate review. See also, S.C. Code § 14-25-105 authorizing a return by the municipal court with a transcript of testimony “[w]hen the testimony has been taken by a reporter as provided herein . . .”

### CONCLUSION

For the reasons stated and apparent from the record, the City urges that this Court affirm the judgment of the circuit court affirming the conviction in the municipal court.

February 17, 2023

Respectfully submitted,



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