

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CALHOUN )

IN THE COURT OF COMMON PLEAS )  
 )  
APPEAL NO. 2021-CP-09-00216 )

THE STATE AND SOUTH )  
CAROLINA DEPARTMENT OF )  
PUBLIC SAFETY, )

Respondent-Appellee, )

vs. )

JEROME GARCIA )

Appellant-Defendant. )

ORDER

RECEIVED

MAR 10 2023

SC Court of Appeals

HEMETIA HASTY  
CLERK OF COURT  
CALHOUN COUNTY  
ST. MATTHEWS, SC

2023 MAR -3 PM 12:46

FILED

This matter came before this Court on February 3, 2023, upon appeal by Jerome Garcia from the Magistrate Court. This Court has reviewed the record, including the notice of appeal and the Magistrate's return, and heard arguments of the parties. Present at the hearing was the Appellee represented by counsel and the Appellant, who proceeded pro se.

Based on the review of the record, the Appellant was found guilty by a jury of (1) driving under suspension, (2) permitting or operating a vehicle which is not registered and licensed, and (3) having an uninsured motor vehicle. The Appellant failed to appear at his trial and the Magistrate Court properly followed the procedure for a trial in absence.

On November 29, 2021, Appellant filed his first appeal. On December 16, 2021, the Magistrate filed a return regarding Appellant's first appeal; however, the first appeal was premature and untimely because there was no final judgment. On January 19, 2022, Appellant was arrested and sentenced to ninety (90) days. Following the entry of final judgment, Appellant filed his second appeal. In his second notice of appeal, Appellant did not list any exceptions. However,

even if this court were to address the exceptions raised in the first, untimely, notice of appeal the Magistrate court would be affirmed.

This Court finds that the Magistrate Court had jurisdiction over Appellant, the Magistrate Court properly held a trial in absence, and there was no violation of Appellant's Constitutional rights. This Court also finds there was no motion made to the Magistrate Court to reconsider its decision to hold a trial in absence or a motion for a new trial made to the Magistrate.

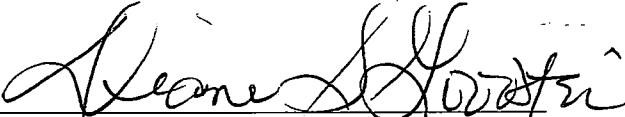
Furthermore, Appellant's argument that his license cannot be suspended because it is a right is meritless. (*see Taylor v. S.C. Dep't of Motor Vehicles*, 368 S.C. 33, 36, 627 S.E.2d 751, 753 (Ct. App. 2006), *aff'd*, 382 S.C. 567, 677 S.E.2d 588 (2009) stating "The license to operate a motor vehicle upon the public highways of this state is not a property right, but is a mere privilege subject to reasonable regulations under the police power in the interest of the public safety and welfare. Such privilege is always subject to revocation or suspension for any cause relating to public safety.").

As for Appellant's assertion that the notices were sent to the wrong address and he did not receive notice, this Court finds that claim without merit. First, it must be noted that Appellant himself put the wrong address on his Bond Form. While Appellant told this Court his address was "1412 Pinson Street," on his Bond form it is written, "1412 Pinston Street." This was the address used by the Magistrate's Clerk of Court. Further, it should be noted that Judge Bloom mailed items to "Pinson Street" and there are items where the "t" in "Pinston" appears to be redacted. In the return, the Magistrate determined "[t]he Defendant received multiple notices that he had a right to be in court and that if he failed to appear he could be tried in his absence." (Magistrates Return, pg. 6). Furthermore, the Return states the "court made a finding that notice

of all proceeding had been mailed to the Defendant's address at 1412 Pinson Street, Columbia SC 29203, via First Class U.S. Mail." (Magistrates Return, pg. 3).

Upon review of the Return issued by Judge Bloom and the arguments presented at the hearing, this Court finds that the Magistrate made no errors of law or abused his discretion. Based on the foregoing, the Magistrate court is **AFFIRMED!**

IT IS SO ORDERED!

  
Hon. Diane S. Goodstein  
Presiding Judge, First Judicial Circuit

February 22, 2022