

[Cite as *State v. Craze* , 2010-Ohio-812.]

COURT OF APPEALS
ASHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff-Appellee

-vs-

IAN CRAZE

Defendant-Appellant

JUDGES:

Hon. Julie A. Edwards, P.J.

Hon. William B. Hoffman, J.

Hon. Patricia A. Delaney, J.

Case No. 09 COA 017

OPINION

CHARACTER OF PROCEEDING:

Appeal from the Ashland Municipal Court,
Case No. 09 TRC 1461

JUDGMENT:

Affirmed

DATE OF JUDGMENT ENTRY:

March 4, 2010

APPEARANCES:

For Plaintiff-Appellee

For Defendant-Appellant

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Hoffman, J.

{¶1} Defendant-appellant Ian Craze appeals the April 6, 2009 Judgment Entry of the Ashland Municipal Court denying his motion to suppress evidence. Plaintiff-appellee is the State of Ohio.

STATEMENT OF THE FACTS AND CASE

{¶2} On March 1, 2009, at approximately 2:06 a.m., Trooper Penny Beaty of the Ohio State Highway Patrol was performing traffic duty on Claremont Street in Ashland, Ohio when Appellant's vehicle passed her traveling on the same road. Trooper Beaty followed Appellant's vehicle onto West Main Street. While following the vehicle Trooper Beaty observed the vehicle's registration sticker on the rear license plate was blocked from view. Trooper Beaty then initiated a stop of the vehicle as she could not read the sticker from a one-car length distance. Prior to the stop, Trooper Beaty ran the vehicle's license plate, and found the registration was valid. Trooper Beaty approached the vehicle with a flashlight, and was able to read the expiration date on the sticker only while standing near the trunk and shining her flashlight behind the frame around the license plate, which obstructed the view of the sticker.

{¶3} As a result of the stop, Appellant was charged with operating a vehicle while under the influence of alcohol, in violation of R.C. 4511.19(A)(1)(a), and with failing to display a registration sticker, in violation of R.C. 4503.21. Appellant filed a motion to suppress the evidence. The trial court overruled the motion. Appellant subsequently entered a plea of no contest to the charge of OVI, in violation of R.C. 4511.19(A)(1)(d). The State moved the trial court to nolle prosequi the charges of OVI,

in violation of R.C. 4511.19(A)(1)(a) and failure to display registration sticker, in violation of R.C. 4503.21. The trial court granted the motion.

{¶4} Appellant now appeals, assigning as error:

{¶5} “I. THE COURT ERRED TO THE DEFENDANT/APPELLANT’S PREJUDICE BY DENYING HIS MOTION TO SUPPRESS EVIDENCE BASED UPON A VIOLATION OF THE FOURTH AMENDMENT.”

{¶6} There are three methods of challenging on appeal a trial court's ruling on a motion to suppress. First, an appellant may challenge the trial court's findings of fact. In reviewing a challenge of this nature, an appellate court must determine whether said findings of fact are against the manifest weight of the evidence. *State v. Fanning* (1982), 1 Ohio St.3d 19, 437 N.E.2d 583; *State v. Klein* (1991), 73 Ohio App.3d 485; *State v. Guysinger* (1993), 86 Ohio App.3d 592, 621 N.E.2d 726. Second, an appellant may argue the trial court failed to apply the appropriate test or correct law to the findings of fact. In that case, an appellate court can reverse the trial court for committing an error of law. *State v. Williams* (1993), 86 Ohio App.3d 37, 619 N.E.2d 1141. Finally, assuming the trial court's findings of fact are not against the manifest weight of the evidence and it has properly identified the law to be applied, an appellant may argue the trial court has incorrectly decided the ultimate or final issue raised in the motion to suppress. When reviewing this type of claim, an appellate court must independently determine, without deference to the trial court's conclusion, whether the facts meet the appropriate legal standard in any given case. *State v. Curry* (1994), 95 Ohio App.3d 93, 641 N.E.2d 1172; *State v. Claytor* (1993), 85 Ohio App.3d 623, 620 N.E.2d 906; *Guysinger*. As the United States Supreme Court held in *Ornelas v. U.S.* (1996), 517 U.S. 690, 116 S.Ct. 1657,

1663, 134 L.Ed.2d 911, "... as a general matter determinations of reasonable suspicion and probable cause should be reviewed de novo on appeal."

{¶7} Appellant challenges the validity of the stop at issue; therefore, asserting the trial court should have suppressed the evidence garnered after the stop.

{¶8} R.C. 4503.21 mandates,

{¶9} "(A) No person who is the owner or operator of a motor vehicle shall *fail to display in plain view on the front and rear of the motor vehicle the distinctive number and registration mark, including any county identification sticker and any validation sticker issued under sections 4503.19 and 4503.191 of the Revised Code*, furnished by the director of public safety, except that a manufacturer of motor vehicles or dealer therein, the holder of an in transit permit, and the owner or operator of a motorcycle, motorized bicycle, manufactured home, mobile home, trailer, or semitrailer shall display on the rear only. A motor vehicle that is issued two license plates shall display the validation sticker only on the rear license plate, except that a commercial tractor that does not receive an apportioned license plate under the international registration plan shall display the validation sticker on the front of the commercial tractor. An apportioned vehicle receiving an apportioned license plate under the international registration plan shall display the license plate only on the front of a commercial tractor and on the rear of all other vehicles. *All license plates shall be securely fastened so as not to swing, and shall not be covered by any material that obstructs their visibility.* (Emphasis added.)"

{¶10} At the hearing on the motion to suppress Trooper Beaty testified:

{¶11} "A. The vehicle had a blocked registration sticker that could not be read.

{¶12} "The Court: Repeat that, please.

{¶13} “The Witness: It had a blocked registration sticker, which was not able to be viewed.

{¶14} “The Court: All right.

{¶15} “By Mr. Montague:

{¶16} “Q. Would you - - how I how can I phrase this? Well, let’s back up. Trooper Beaty, where were you when you first tried to read the registration sticker?

{¶17} “A. I was on West Main Street.

{¶18} “Q. Behind it?

{¶19} “A. Yes.

{¶20} “Q. How far behind?

{¶21} “A. Um, probably maybe I got up to about a car length away.

{¶22} “Q. All right. And from that position you were unable to read the registration sticker?

{¶23} “A. Correct.

{¶24} “Q. A car length is how far away?

{¶25} “A. Estimate ten feet.

{¶26} “Q. Now, I want you to please describe to the Court what your angle of observation was from your cruiser to the license plate of this, the rear license plate, of this vehicle was as you tried to read it. I mean were you down low or were you up higher, pretty much in the same plane, or what? That’s what I’m talking about.

{¶27} “A. I’d say pretty much in the same plane a little bit.

{¶28} “Q. All right. Were you able to tell from your vantage point what was blocking the view that you would have of the registration sticker?

{¶29} “A. There was a license plate frame around the license plate that was blocking the sticker.

{¶30} “Q. The registration sticker you told us, it's black in color.

{¶31} “A. Yes.

{¶32} “Q. And it's to be located where on the license plate?

{¶33} “A. On the right, lower left-hand corner - - or I'm sorry. Right, lower corner of the license plate.

{¶34} “Q. So is that what you stopped the vehicle for?

{¶35} “A. Yes.

{¶36} ‘Q. After making the traffic stop then, Trooper Beaty, what did you do?

{¶37} “A. I approached - - I started and approached the vehicle and on my approach, even walking up to the vehicle I still couldn't view the registration sticker. So I stopped, and I had to shine my flashlight actually behind the license plate frame. And then I could view the expiration date on the sticker.

{¶38} “Q. All right. So where were you when you were able to observe it then, please?

{¶39} “A. I was standing at the trunk of the vehicle shining my flashlight behind the frame.

{¶40} “Q. All right. Now it did have license plate lights.

{¶41} “A. Yes.

{¶42} “Q. But tell us whether or not they helped you view this sticker behind the bracket at all?

{¶43} “A. No.

{¶44} “Q. While you were following it?

{¶45} “A. No.”

{¶46} Tr. at 7-10.

{¶47} On cross-examination, Appellant’s counsel introduced two photograph exhibits and questioned Trooper Beaty as to the photographs:

{¶48} “Mr. Spaulding: Thank you. I’m handing her what’s marked as Defendant’s Exhibit’s A as well as Defendant’s Exhibit’s B.

{¶49} (Defendant’s Exhibits A and B referenced for purposes of identification.)

{¶50} “By Mr. Spaulding:

{¶51} “Q. Do you believe that’s a pretty accurate representation of the license plate on the night you pulled this Defendant over?

{¶52} “A. No. I would say no.

{¶53} “Q. What’s different about it?

{¶54} “A. Well because you can see more of the registration sticker. And the bracket, the frame around the bracket looks like its actually lowered down on the plate.

{¶55} “Q. Do the holes line up?

{¶56} “A. Not from the bottom, they don’t. Not perfectly, no.

{¶57} “Q. In which Exhibit A or B?

{¶58} “A. I see it more predominantly in B from the angle of the photo.

{¶59} “Q. So you’re suggesting that before that photo was taken, the license plates were adjusted or something?

{¶60} “A. I don’t know. I’m just saying that that’s not the way that it was the night of the stop.

{¶61} “Q. How about the license plate? Do you believe that to be the same license plate?”

{¶62} “A. I believe so. I don’t have a reason to say - -

{¶63} “Q. If I tell you it’s the same license plate, you don’t have any reason to believe it’s not.

{¶64} “A. Right, I have no reason to believe it wouldn’t be.

{¶65} “Q. And that is an accurate representation of the bracket that you claim was blocking the registration sticker?”

{¶66} “A. That’s the bracket that was blocking it.”

{¶67} As set forth above, Ohio Revised Code 4301.21 requires that a motorist display in plain view the distinctive number and registration mark including any county identification sticker and any validation sticker. Trooper Beaty testified she could not read the registration sticker while traveling one-car distance behind, and only could read the sticker while standing at the vehicle’s trunk with a flashlight behind the frame. She further testified Defendant’s Exhibits A and B were not a fair and accurate representation of the view that she had of the license plate and that the license plate bracket attached to this license plate obscured the validation sticker from her vantage point. Based upon the above, the stop at issue was valid and the trial court did not err in denying Appellant’s motion to suppress.

{¶68} The judgment of the Ashland Municipal Court is affirmed.

By: Hoffman, J.

Edwards, P.J. and

Delaney, J. concur

s/ William B. Hoffman
HON. WILLIAM B. HOFFMAN

s/ Julie A. Edwards
HON. JULIE A. EDWARDS

s/ Patricia A. Delaney
HON. PATRICIA A. DELANEY

