

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Ismael Reyes-Rosa, :
Appellant :
v. : No. 2443 C.D. 2009
: Submitted: June 11, 2010
Bureau of Administrative :
Adjudication and The Philadelphia :
Parking Authority :

OPINION NOT REPORTED

MEMORANDUM OPINION
PER CURIAM

FILED: July 8, 2010

Ismael Reyes-Rosa (Reyes-Rosa) appeals *pro se* from an order of the Philadelphia County Court of Common Pleas (trial court) affirming the decision of the Bureau of Administrative Adjudication (BAA), an agency of the Philadelphia Parking Authority, that he parked in a “bus zone” in violation of the Philadelphia Code (Code) and was properly fined for that violation.

On November 6, 2008, Reyes-Rosa came to pick up his mother from an ophthalmology appointment and could not find a place to park in front of the doctor’s office building. He decided to park his car across the street from the doctor’s office in a “bus zone.” He left his car unattended for 15 minutes. After he returned to his car with his mother, he found that he had been issued a parking ticket which carried a fine of \$41.

Reyes-Rosa requested a hearing to contest the ticket and fine, and a hearing was held before the BAA. He argued that he was actually parked in the “warning area” before the “bus zone” and attempted to present evidence of the street signs to show where his car was in relation to those signs via photographs from his cell phone; however, his battery died and he was unable to do so. Because he was unable to produce any evidence and the ticket was admitted into evidence, the hearing officer found him liable. Reyes-Rosa exercised his right to another hearing and he again attempted to enter into evidence the cell phone photographs, but he was still found liable due to the poor quality of those cell phone photographs and the ticket which was admitted into evidence.

Reyes-Rosa appealed to the trial court again arguing that he was only parked in the “warning area” and that the BAA failed to properly interpret the Code because Section 12-904(1) of the Code states that the “operator of a passenger vehicle may temporarily stop at a bus stand for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus about to enter such stand.” Further, Section 12-904-(1) states: “where a sign prohibits parking, the operator of a passenger vehicle may nevertheless stop...for the purpose of loading or unloading passengers.” Reyes-Rosa argued that he was getting his mother from the doctor and neither of those Code sections stated anything about being away from the vehicle. The trial court denied his appeal, first noting that the Section 12-904(1) used the word “temporarily,” and Reyes-Rosa admitted that he had been away from his car for 15 minutes, longer than the Code anticipated. Additionally, the purpose of loading

and unloading was not intending to leave the vehicle but merely for doing what the plain meaning of the words in the Code stated – loading and unloading.

Reyes-Rosa also argued that Section 12-2804(1) of the Code required that the parking enforcement officer (PEO) who issued the ticket had to attend the hearing. The trial court stated that he was mistaken as to his interpretation of the Code citing Section 12-2807(2) of the Code, which stated that a PEO that issued a ticket was not required to appear at a hearing unless the respondent had denied liability and the hearing examiner determined that the PEO's presence was required, which was not the case here. This appeal by Reyes-Rosa followed.¹

On appeal, Reyes-Rosa makes the identical arguments he made before the trial court:

- Sections 12-909(1) and 12-904(1) of the Code do not prohibit any vehicle to be left unattended for a short period of time to ensure passengers' safety and comfort by assisting any passengers in need of special assistance; and
- The PEO was required to attend the hearing before the BAA.²

¹ Our scope of review of the trial court's order is limited to determining whether constitutional rights were violated, an error of law was committed, or whether the findings of fact are not supported by substantial evidence. 2 Pa. C.S. §754(b).

² Reyes-Rosa also argues that he was only in the "warning area" of the "bus zone." However, before the trial court, he testified as follows:

(Footnote continued on next page...)

Because Reyes-Rosa has admitted that he violated the Code by parking in the “bus zone,” we only have this to add to the trial court’s explanation. Just because Reyes-Rosa believes that he should be allowed to leave his vehicle unattended in a bus zone for any amount of time to assist an individual for whatever reason, in this case, his mother coming from an eye appointment, the two Code sections that he relies upon do not state that an individual may leave his vehicle unattended. They only allow for “loading and unloading.” Section 12-909(1) specifies that “the operator of a passenger vehicle may temporarily stop at a bus stand for the purpose of and while *actually* engaged in loading or unloading

(continued...)

The Court: So your argument is that because you parked by the sign but not on the blocked out part of the street, you were still legally parked; is that correct.

Reyes-Rosa: No, no, my argument is that according to the law, you can use the space on that bus stop due to the fact for the loading and unloading of passengers, which is what I was doing. I left my mother that day to have an eye exam.

* * *

The Court: Your argument is that this was in an area that you could load or unload a passenger, and that’s what you were doing?

Reyes-Rosa: Actually, yes, but the area that I was parked is a regular parking area. The only problem that I have about it is that because of the size of my vehicle, two feet are past the warning sign that said there’s a bus stop ahead, no parking, which is about 20 feet from the actual parking where the bus stop is located, which is underneath the bridge.

(November 12, 2009 Notes of Testimony at 6-8.) This was an admission by Reyes-Rosa that he violated the Code by parking in the bus zone.

passengers when such stopping does not interfere with any bus about to enter such stand.” Reyes-Rosa was not actually engaged in helping his mother into the car. Moreover, Section 12-909(1) specifies: “Where a sign prohibits parking...” That means that a person cannot park his or her car even for a short time, i.e., leave the car unattended for 15 minutes. A “temporary stop” cannot be interpreted to mean leaving the vehicle unattended when the rest of the Section goes on to state “for purposes of “loading and unloading.” Consequently, Reyes-Rosa’s argument is without merit.

As to his argument that the PEO had to appear at his hearing before the BAA, Section 12-2807(2) provides that the PEO is not required to appear unless Reyes-Rosa denied liability and the hearing examiner determined that the PEO’s presence was required. Because Reyes-Rosa admitted that he parked in the bus zone, this argument is without merit as well.

Accordingly, the order of the trial court is affirmed.

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PER CURIAM

ORDER

AND NOW, this 8th day of July, 2010, the order of the Philadelphia County Court of Common Pleas, dated December 10, 2009, is affirmed.