

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DONALD GOLDSBOROUGH,	§
	§ No. 20, 2013
Plaintiff Below,	§
Appellant,	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
	§ in and for Kent County
STATE OF DELAWARE,	§
	§ C.A. No. K12A-06-004
Defendant Below,	§
Appellee.	§

Submitted: February 27, 2013

Decided: April 9, 2013

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

ORDER

This 9th day of April 2013, upon consideration of the appellant’s opening brief and the appellee’s motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The plaintiff-appellant, Donald Goldsborough, appeals from a Superior Court December 26, 2012 order affirming a June 6, 2012 order of the Court of Common Pleas that, in turn, affirmed the denial by the Justice of the Peace Court of his motion for a new trial after being adjudged “responsible” for failing to obey a red traffic signal. The defendant-appellee, the State of Delaware, moves to affirm the Superior Court’s

judgment on the ground that it is manifest on the face of the opening brief that the appeal is without merit.¹ We agree and affirm.

(2) On December 22, 2010, Goldsborough was making a left turn from Route 13 North onto Loockerman Street in Dover, Delaware, when he ran a red light. His license plate number was recorded by a “traffic light signal violation monitoring system,” and he was issued a “notice of civil violation” by the Dover Police and the Delaware Department of Transportation (“DelDOT”) for failing to comply with a red traffic signal under 21 *Del. C.* § 4101(d).

(3) At Goldsborough’s request, a bench trial was held in the Justice of the Peace Court on April 14, 2011. At the trial, an expert from DelDOT testified that the speed limit was 25 miles per hour and that the yellow light interval at the intersection of Route 13 and Loockerman Street was 3 seconds. That testimony supported the issuance of the ticket. Goldsborough presented no evidence at the hearing. Based upon the evidence presented, the Justice of the Peace Court entered a judgment of “responsible” against Goldsborough and assessed him a fine of \$110.00.

(4) On May 3, 2011, 19 days later, Goldsborough moved to reopen, claiming that he had newly discovered evidence that he wanted the Justice of

¹ SUPR. CT. R. 25(a).

the Peace Court to consider. The new evidence consisted of two photographs of speed limit signs from two different intersections—the intersection of Route 13 and Loockerman Street, and the intersection of Route 13 and Division Street—that, according to Goldsborough, showed that the speed limit in the left turn lane was 35 miles per hour, and not 25 miles per hour, which in turn required a longer yellow light interval than 3 seconds. The Justice of the Peace Court, treating the motion as one for a new trial under Rule 59,² denied it on the grounds of untimeliness and relevance. Although not explicitly analyzing the motion under Rule 60,³ the Justice of the Peace Court also noted that the photographs did not constitute newly discovered evidence.

(5) On June 14, 2011, Goldsborough appealed the Justice of the Peace Court’s decision to the Court of Common Pleas, claiming that the Justice of the Peace Court had abused its discretion in denying his motion. In support of his argument that the photographs were relevant, Goldsborough submitted another photograph that had not been previously

² J.P. CT. CIV. R. 59(a) and (c) (a motion for a new trial must be served and filed within 10 days after judgment).

³ J.P. CT. CIV. R. 60(b) (2) (a party may be relieved of a final judgment on the ground of newly discovered evidence which, by due diligence, could not have been discovered at the time of trial).

submitted that purportedly supported his argument that the speed limit at the intersection was actually 35, rather than 25, miles per hour.

(6) On June 6, 2012, the Court of Common Pleas issued an order affirming the decision below on the grounds that Goldsborough's motion was untimely under Rule 59, and that the photographs he sought to have considered by the Justice of the Peace Court did not constitute newly discovered evidence under Rule 60. The Court of Common Pleas did not consider the new and additional photograph submitted by Goldsborough, because it had not been presented to the Justice of the Peace Court in the first instance.

(7) Goldsborough then appealed to the Superior Court, again on the ground that the Justice of the Peace Court had abused its discretion when it denied his motion for a new trial. On December 26, 2012, the Superior Court held that the Justice of the Peace Court had properly denied Goldsborough's motion as untimely and had properly determined that the evidence he sought to introduce post-trial was not newly-discovered. The Superior Court further held that the Justice of the Peace Court's determination that the speed limit at the intersection was 25 miles an hour was fully supported by the evidence presented at the hearing and that there was no error of law. Finally, the Superior Court held that the Court of

Common Pleas properly refused to consider the additional photograph presented by Goldsborough because it was not part of the record below.

(8) On appeal to this Court, Goldsborough claims that: (a) his case was “mishandled” by the Justice of the Peace Court; (b) he was entitled to a jury trial; (c) the Delaware laws pertaining to “red light enforcement” infringe the constitutional rights of Delaware residents; (d) he is personally entitled to damages in the amount of \$1,030.50, representing fines and court costs; (e) an additional \$2,786.507.00 in fraudulent fines is owed to motorists in Dover during 2010 and 2011; and (f) this Court should order the State to change the yellow light interval on Route 13 to at least a four-second interval.⁴

(9) On appeal to this Court from the Superior Court’s affirmance of a decision of the Court of Common Pleas that itself affirmed a decision of the Justice of the Peace Court, this Court will uphold the Superior Court’s judgment if there is no legal error and the factual findings of the trial court are supported by the record and are the product of an orderly and logical reasoning process.⁵ We have reviewed the record in this case carefully and

⁴ On March 27, 2013, following the completion of briefing, Goldsborough filed a “request for amendment” in this Court. He now seeks \$3,518,761.89 on behalf of motorists fraudulently fined in Dover.

⁵ *Hsu v. Great Seneca Fin. Corp.*, 9 A.3d 476 (Del. 2010) (citing *Moss v. Prudential-Bache Sec., Inc.*, 581 A.2d 1138, 1140 (Del. 1990)).

conclude that there was no legal error on the part of the Superior Court in affirming the decision of the Court of Common Pleas and no abuse of discretion. Moreover, we agree with the Superior Court that the findings of the Justice of the Peace Court were supported by the record and were the product of an orderly and logical reasoning process. Therefore, Goldsborough's claim that his case was "mishandled" is without merit. As for Goldsborough's additional claims, the record reflects that they were asserted for the first time on this appeal. We therefore decline to consider them.⁶

(10) It is manifest on the face of the opening brief that this appeal is without merit because the issues presented are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED, and Goldsborough's late-filed "request for amendment" is hereby stricken.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

⁶ SUPR. CT. R. 8.