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1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

2 **CITY OF SANTA FE ex rel.**
3 **SANTA FE POLICE DEPARTMENT,**

4 Petitioner-Appellant,

5 v.

NO. A-1-CA-35561

6 **ONE (1) 1987 TAN GMC UT**
7 **V.I.N. 1GKCT18R5H8523531**
8 **NEW MEXICO LICENSE NO. 381RDT,**

9 Respondent,

10 and

11 **MARK LOPEZ,**

12 Claimant-Appellee.

13 **APPEAL FROM THE DISTRICT COURT OF SANTA FE COUNTY**
14 **Sarah M. Singleton, District Judge**

15 Kelley Brennan, City Attorney
16 R. Alfred Walker, Assistant City Attorney
17 Santa Fe, NM

18 for Appellant

19 Mark Lopez
20 Santa Fe, NM

1 Pro se Appellee

2 **MEMORANDUM OPINION**

3 **FRENCH, Judge.**

4 {1} The City of Santa Fe (the City) appeals from an order of the district court
5 dismissing the City's petition for forfeiture of the vehicle at issue in this case. The
6 district court concluded that the City's vehicle forfeiture ordinance, Santa Fe, N.M.,
7 Code § 24-9 SFCC 1987 (2007) (Forfeiture Ordinance), permitting forfeiture of a
8 vehicle operated by a person whose license is revoked as a result of a prior DWI
9 conviction or who violates the restriction of a conditional license did not apply to
10 Mark Lopez's (Claimant) conduct. The sole issue on appeal is whether a vehicle
11 operated by a person whose license has been revoked as a result of a conviction for
12 driving while under the influence of drugs or alcohol (DWI) and who has received a
13 temporary ignition interlock license but let that license expire before the stop, is
14 subject to the Forfeiture Ordinance. We hold that the Forfeiture Ordinance does not
15 make any exceptions for drivers who, though they may have had temporary driving
16 privileges under an ignition interlock driver's license that has since expired, continue
17 to drive on a revoked license. We reverse the order of the district court.

18 **BACKGROUND**

1 {2} This appeal arises from a vehicle stop that occurred on November 8, 2015.
2 Unable to determine whether the registration of Claimant's vehicle was current
3 because the registration sticker on the license plate was obscured by the license plate
4 holder, an officer of the Santa Fe Police Department called dispatch to provide
5 Claimant's license plate number in order to check the vehicle's registration status.
6 Dispatch found that the registration was current, but when the officer inquired about
7 the driver's license status of the registered owner, dispatch informed the officer that
8 Claimant's license was revoked. The officer then stopped Claimant and asked for his
9 driver's license. Claimant provided an ignition interlock driver's license—obtained
10 after he was convicted of DWI on February 15, 2013—that expired on February 22,
11 2014, about twenty months prior to the stop. Claimant's vehicle contained an ignition
12 interlock device, though the officer did not check the device to ensure it was in proper
13 working condition. The only evidence in the record indicating that the device was
14 functioning was Claimant's assertion during a hearing before the district court. Two
15 days after the stop, on November 10, 2015, Claimant received another temporary
16 ignition interlock license.

17 {3} On November 18, 2015, in the Santa Fe Municipal Court, Claimant pled guilty
18 to driving without a license. On December 9, 2015, the City petitioned for forfeiture
19 of Claimant's vehicle pursuant to Section 24-9.3(B) of the Forfeiture Ordinance. The

1 City appeals from the district court’s judgment denying forfeiture of Claimant’s
2 vehicle.

3 **DISCUSSION**

4 **Standard of Review**

5 {4} “When there are no disputed material facts, an appellate court reviews all issues
6 on appeal under a de novo standard of review.” *City of Albuquerque v. One (1) 1984*
7 *White Chevy Ut.*, 2002-NMSC-014, ¶ 5, 132 N.M. 187, 46 P.3d 94. “Interpretation of
8 municipal ordinances and statutes is a question of law that we review de novo.”
9 *Stennis v. City of Santa Fe*, 2008-NMSC-008, ¶ 13, 143 N.M. 320, 176 P.3d 309. “We
10 follow the same rules of statutory interpretation when interpreting ordinances.” *City*
11 *of Santa Fe ex rel. Santa Fe Police Dep’t v. One (1) Black 2006 Jeep*, 2012-NMCA-
12 027, ¶ 7, 286 P.3d 1223.

13 {5} This appeal requires determination of whether the Forfeiture Ordinance applies
14 to the driver of a vehicle whose license is revoked because of a DWI conviction and
15 whose ignition interlock driver’s license, issued during the duration of the license
16 revocation, is expired. “The guiding principle in statutory construction requires that
17 we look to the wording of the statute and attempt to apply the plain meaning rule,
18 recognizing that when a statute contains language which is clear and unambiguous,

1 we must give effect to that language and refrain from further statutory interpretation.”
2 *Id.* ¶ 7 (internal quotation marks and citation omitted); *see State v. Johnson*, 2009-
3 NMSC-049, ¶ 10, 147 N.M. 177, 218 P.3d 863 (“The primary indicator of legislative
4 intent is the plain language of the statute.”). “[A] statute must be read and given effect
5 as it is written by the [legislative body], not as the court may think it should be or
6 would have been written if the [legislative body] had envisaged all the problems and
7 complications which might arise in the course of its administration.” *One (1) Black*
8 *2006 Jeep*, 2012-NMCA-027, ¶ 7 (internal quotation marks and citation omitted).
9 With this in mind, we turn to the language of the Forfeiture Ordinance, the rationale
10 of the district court’s decision, and the City’s argument.

11 **The Forfeiture Ordinance Applies to a Vehicle Operated by a Person Whose**
12 **License is Currently Revoked as a Result of a DWI Conviction and Who Has**
13 **Allowed a Temporary Ignition Interlock Driver’s License to Expire**

14 {6} The Forfeiture Ordinance provides for forfeiture of any vehicle that has been
15 declared to be a public nuisance. Santa Fe, N.M., Code § 24-9.4. A vehicle is a public
16 nuisance if it is:

- 17 A. Operated by a person who is arrested for a DWI offense; or
- 18 B. Operated by a person whose license is currently revoked or denied
19 as a result of a DWI arrest or conviction prohibiting them from
20 driving, and/or whose license is conditioned upon the use of an
21 ignition interlock device, and the terms and conditions of the
22 restrictions are violated.

1 Santa Fe, N.M., Code § 24-9.3. The district court concluded that Claimant’s situation
2 did not satisfy the requirements of Section 24-9.3(B) of the Forfeiture Ordinance:
3 Claimant “was not driving while his license was ‘currently revoked or denied as a
4 result of a DWI arrest or conviction,’ ” and he “was not driving while his license was
5 ‘conditioned on the use of an ignition interlock device, and the terms and conditions
6 of the restrictions are violated’ as required by” Section 24-9.3(B) of the Forfeiture
7 Ordinance, which would permit forfeiture of the vehicle to the City.

8 {7} The City argues that the terms of the Forfeiture Ordinance apply to Claimant
9 because once Claimant’s driving privileges were revoked because of his DWI
10 conviction, they remained revoked for the duration of the revocation period. Although
11 he obtained a valid, temporary ignition interlock driver’s license, that license expired,
12 leaving him with only a revoked driver’s license at the time of the stop, conduct that
13 is covered by the Forfeiture Ordinance. *See* Santa Fe, N.M., Code § 24-9.3(B)
14 (allowing forfeiture of a vehicle operated by a person whose driver’s license is
15 revoked because of a DWI conviction).

16 {8} We agree with the City. The applicable language of the ordinance is clear and
17 unambiguous: any motor vehicle operated by a person whose license is currently
18 revoked as a result of a DWI conviction is subject to forfeiture. Santa Fe, N.M., Code
19 § 24-9.3(B). Addressing the purpose of the ordinance, as stated in the section
20 preceding the one addressing its applicability, the City made clear its intent to abate

1 motor vehicle nuisances for the protection of the public by persons “who drive in
2 violation of driver’s license restrictions[.]” Santa Fe, N.M., Code § 24-9.2(A).

3 {9} In *One (1) Black 2006 Jeep*, we held that the Forfeiture Ordinance applies to
4 a vehicle operated by a person whose license is currently revoked as a result of a DWI
5 conviction and who has not met the requirements for reinstatement of his or her
6 driver’s license following the end of the set revocation period. We held, “[T]he plain
7 language of Section 24-9.3(B) does not provide any exceptions for drivers whose
8 licenses are revoked and not reinstated. Nor does it explicitly—or implicitly—state
9 that a driver who operates a motor vehicle following a period of revocation of his
10 driving privileges, but prior to reinstatement, is exempt from having the vehicle he is
11 operating declared a public nuisance and subject to forfeiture.” *One (1) Black 2006*
12 *Jeep*, 2012-NMCA-027, ¶ 14.

13 {10} Here, as in *One (1) Black 2006 Jeep*, the plain language of the Forfeiture
14 Ordinance dictates our conclusion. The Forfeiture Ordinance does not provide any
15 exception for a driver whose license is currently revoked and who had temporary
16 driving privileges under the terms and conditions of an ignition interlock device but
17 allowed that temporary privilege to expire. Claimant does not dispute that at the time
18 he was stopped, his driver’s license was revoked and his temporary ignition interlock
19 driver’s license was expired. At the time of the stop, Claimant’s driver’s license was
20 currently revoked as a result of his 2013 DWI conviction. Thus, given the plain

1 language of the ordinance, Claimant engaged in exactly the conduct that renders his
2 vehicle a public nuisance subject to forfeiture. Furthermore, by operating his vehicle
3 while his license was revoked, Claimant drove in violation of driver's license
4 restrictions, precisely the conduct the City intended to curb by providing for forfeiture
5 of the instrumentality by which a driver violates license restrictions, the vehicle itself.
6 Claimant's having obtained a temporary ignition interlock driver's license and
7 continuing to drive after its expiration is also, in and of itself, a violation of driver's
8 license restrictions, and the stated purpose of the Forfeiture Ordinance is therefore
9 served by its application to Claimant. *See One (1) Black 2006 Jeep*, 2012-NMCA-027,
10 ¶ 14 (explaining that the "stated purpose and intent of enacting the [Forfeiture]
11 Ordinance is to protect the public from drivers who continue driving after license
12 revocation").

13 {11} The distinction made by the district court between an expired and revoked
14 license is not one that is made in our statutes or the Forfeiture Ordinance. At the
15 hearing to determine the application of the Forfeiture Ordinance to Claimant's
16 circumstance, the district court stated: "He was specifically found guilty of 'no
17 license,' but not found guilty of driving on a revoked license. So, to me that
18 means . . . his interlock license was expired and that's not what the ordinance says."
19 In other words, the district court appears to have interpreted the Forfeiture Ordinance
20 so as not to apply to a person of Claimant's status, one who has his or her license

1 revoked, obtains an ignition interlock driver's license, and then allows that license to
2 expire. However, the installation and existence of an ignition interlock device
3 accompanied by an expired temporary ignition interlock license does not change the
4 nature or the status of the driver's license, which remains revoked for the duration
5 specific to the DWI offense committed by the driver.

6 {12} We conclude that because Claimant was operating his vehicle without a valid
7 driver's license when he was stopped on November 8, 2015, his vehicle was subject
8 to forfeiture under the Forfeiture Ordinance. The result may seem harsh given that
9 Claimant had two temporary ignition interlock driver's licenses—one expired at the
10 time of the stop, and one that took effect two days after he was stopped—and that he
11 claims to have had a functioning ignition interlock device in his vehicle at the time of
12 the stop, but “we are not at liberty to create an exception to or engage in further
13 interpretation of the plain language of the statutes and [o]rdinance as written.” *One (1)*
14 *Black 2006 Jeep*, 2012-NMCA-027, ¶ 15.

15 **CONCLUSION**

16 {13} We hold that the Forfeiture Ordinance applies to the vehicle of a driver who is
17 stopped at a time the driver's license has been revoked as a result of a DWI conviction
18 and who obtained a temporary ignition interlock driver's license but allowed that
19 license to expire during the license revocation period. We reverse the order of the
20 district court.

1 {14} **IT IS SO ORDERED.**

2
3

STEPHEN G. FRENCH, Judge

4 **WE CONCUR:**

5

6 **LINDA M. VANZI, Chief Judge**

7

8 **JULIE J. VARGAS, Judge**