[Cite as *Cuyahoga Falls v. Eslinger*, 2004-Ohio-4953.]

STATE OF OHIO	)	IN THE COURT OF APPEALS
	)ss:	NINTH JUDICIAL DISTRICT
COUNTY OF SUMMIT	)	

CITY OF CUYAHOGA FALLS Appellee v. KEVIN N ESLINGER Appellant	C.A. No. 21951 APPEAL FROM JUDGMENT ENTERED IN THE CUYAHOGA FALL MUNICIPAL COURT COUNTY OF SUMMIT, OHIO CASE No. 03 TRD 16947

DECISION AND JOURNAL ENTRY

Dated: September 22, 2004

This cause was heard upon the record in the trial court. Each error assigned has been reviewed and the following disposition is made:

WHITMORE, Presiding Judge.

{¶1} Defendant-Appellant has appealed from the decision of the Cuyahoga Falls Municipal Court that found him guilty of parking in a handicapped parking space without displaying the proper windshield placard or special license plate. This Court affirms.

I

{¶2} On November 7, 2003, Appellant was cited for parking in a handicapped parking space without displaying a valid removable windshield placard, in violation of Cuyahoga Falls Municipal Code 351.04(f). On December

5, 2003, proceeding pro se, Appellant pleaded not guilty to the charge as contained in the citation. A hearing was held before a magistrate on January 8, 2004. On January 13, 2004, the magistrate released his decision finding Appellant guilty of the offense as contained in the citation and imposing a one hundred dollar fine. On January 22, 2003, Appellant filed objections of the magistrate's decision with the trial court. When Appellant filed his objections with the trial court, he failed to file a transcript of the January 8, 2004 hearing before the magistrate. On January 26, 2004, the trial court adopted the magistrate's decision.

{¶3} Appellant has timely appealed the trial court's decision, asserting one assignment of error.

II

Assignment of Error Number One

> "APPELLANT'S CONVICTION FOR PARKING IN A DESIGNATED HANDICAPPED PARKING SPACE WITHOUT DISPLAYING A REMOVABLE WINDSHIELD PLACARD WAS IN ERROR BY THE TRIAL COURT FOR THE REASONS PURSUANT TO THE LAW(S) AS THEY READ UNDER [CUYAHOGA FALLS MUNICIPAL CODE] 351.04[(f),] [R.C.] 4511.69(F)(1)(a)(b), [AND R.C.] 4506.21(A)."

{¶4} In his sole assignment of error, Appellant has argued that the trial court erred when it adopted the decision of the magistrate finding Appellant guilty of parking in a handicapped parking spot without displaying the proper placard. Specifically, Appellant has argued that the magistrate was biased against

Appellant because the magistrate chose to believe the testimony of a Cuyahoga Falls police officer rather than Appellant's conflicting testimony. We disagree.

{¶5} Civ.R. 53(E)(3)(c) governs objections to a magistrate's decision and states that "[a]ny objection to a finding of fact shall be supported by a transcript of all the evidence submitted to the magistrate relevant to that fact or an affidavit of that evidence if a transcript is not available." It has long been held by this Court that an appellant has the burden to supply the record that demonstrates the error presented on appeal. *Reese v. Village of Boston Hts.* (Jan. 22, 1992), 9th Dist. No. 15156, at 10, dismissed (1992), 64 Ohio St.3d 1438; see, also, App.R. 9(B) and App.R. 10(A). "This duty falls upon the appellant because the appellant has the burden on appeal to establish error in the trial court." *State v. Sugalski*, 9th Dist. No. 02CA0054-M, 2002-Ohio-6767, at ¶11, citing *Knapp v. Edwards Laboratories* (1980), 61 Ohio St.2d 197, 199; see App.R. 9(B).

{¶6} Our careful review of the record reveals that when Appellant filed his objections to the magistrate's decision, he did not submit a transcript of the magistrate's January 8, 2004 hearing to the trial court. Without a transcript of the hearing, the trial court was required to accept all of the magistrate's findings of fact as true and only review the magistrate's conclusions of law based upon the accepted findings of fact. *Conley v. Conley*, 9th Dist. No. 21759, 2004-Ohio-1591, at ¶7, citing *Brown v. Brown* (April 4, 2001), 9th Dist. No. 20177. It follows that this Court must do the same. *Galewood v. Terry Lumber & Supply*

Co. (March 6, 2002), 9th Dist. No. 20770, at 3, citing *Melendez v. Mankis* (Dec. 15, 1999), 9th Dist. No. 98CA007091.

{¶7} After reviewing Appellant's brief, we find that Appellant has challenged the trial court's factual finding that Appellant failed to display a placard while parking in a handicapped parking space. However, due to the fact that Appellant failed to provide the trial court with a transcript of the hearing before the magistrate when he filed his objections to the magistrate's decision, this Court does now know what evidence, if any, Appellant produced to support his allegation. Accordingly, this Court concludes that the trial court did not err when it adopted and affirmed the magistrate's decision. See *Conley*, supra. As such, Appellant's sole assignment of error lacks merit.

III

{¶8} Appellant's sole assignment of error is overruled. The judgment of the trial court is affirmed.

Judgment affirmed.

The Court finds that there were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Cuyahoga Falls Municipal Court, County of Summit, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(E). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

Exceptions.

BETH WHITMORE
FOR THE COURT

BATCHELDER, J.
BOYLE, J.
CONCUR

APPEARANCES:

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