

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Pittsburgh Parking Authority :
 :
 v. : No. 574 C.D. 2011
 : Submitted: November 10, 2011
 Nadine L. Wharton, :
 Appellant :

BEFORE: HONORABLE DAN PELLEGRINI, Judge
 HONORABLE RENÉE COHN JUBELIRER, Judge
 HONORABLE ROBERT SIMPSON, Judge

OPINION NOT REPORTED

**MEMORANDUM OPINION
BY JUDGE SIMPSON**

FILED: December 30, 2011

In this appeal, Nadine L. Wharton (Wharton), representing herself, seeks review of an order of the Court of Common Pleas of Allegheny County (trial court) that dismissed her appeal of a parking ticket issued by the Pittsburgh Parking Authority (PPA), and imposed a fine in the amount of \$132.00 plus costs. Wharton contends she did not see the parking sign PPA ticketed her for violating, and even if she had seen the sign, the parking signs in the relevant vicinity are contradictory. Upon review, we affirm.

In August 2010, Wharton parked her car along Locust Street directly across from Mercy Hospital in the City of Pittsburgh. Sometime after Wharton parked, Corey Bowden (Bowden), a PPA employee, ticketed Wharton for parking in a no parking/no stopping zone. Wharton appealed.

Thereafter, a PPA enforcement officer determined the issued ticket was valid, and Wharton parked in a designated no parking/no stopping area. Thus, the PPA enforcement officer concluded Wharton was guilty. Wharton filed a summary appeal to the trial court, and a de novo hearing was scheduled.

At the trial court hearing, PPA presented the testimony of Bowden and Marlene Regan (Regan), and Wharton testified on her own behalf. For PPA, Bowden testified to the location and description of the relevant parking signs on Locust Street, and Regan testified to how PPA calculated the amount of the fine and accumulated fees. Specifically, Bowden testified there are two marked parking zones where Wharton parked on Locust Street. Notes of Testimony (N.T.), 1/25/11, at 4. One area is an ambulance loading zone, which is posted partially as no parking/no stopping and partially for 30 minute parking. Id. The adjacent zone is in its entirety a no parking /no stopping zone. Id. He observed Wharton parked in the latter zone, clearly posted as no parking /no stopping. Id.

In response, Wharton testified she did not see the applicable sign because she parked behind a truck and a van, which completely obscured her view of the sign. N.T. at 10. Additionally, the signs Wharton noticed only indicated a parking restriction existed behind her location; therefore, any other sign would have caused confusion. Id.

After hearing Wharton's testimony, the trial court determined Wharton parked in a no parking/no stopping area, and her failure to see and understand the applicable sign was not an excuse. Therefore, the trial court found

Wharton guilty, and it imposed a fine and fees. Wharton now appeals to this Court.¹

In her brief, Wharton contends the trial court erred in finding she parked in violation of posted signage. Additionally, Wharton argues the trial court improperly prevented her from submitting photographs to support her argument.

Section 3353(a)(1)(x) of the Vehicle Code (Code) states, “[e]xcept when necessary ... no person shall ... [s]top, stand or park a vehicle ... [a]t any place where official signs prohibit stopping.” 75 Pa.C.S. §3353(a)(1)(x). Parking violations fall within the ambit of public welfare offenses; therefore, a court may impose strict criminal liability on a vehicle owner, unless the owner rebuts the inference that he was the driver who parked the vehicle. Commonwealth v. Rudinski, 555 A.2d 931 (Pa. Super. 1989).

Here, Wharton does not refute she is the vehicle owner and the driver who parked it where she was ticketed. Rather, Wharton essentially argues she lacked criminal intent. Specifically, she claims she did not observe a street sign prohibiting her from parking where she did, and alternatively, the street signs on Locust Street are contradictory and confusing. However, intent is not an element of this summary offense, and strict criminal liability is applicable. See Bolden v.

¹ This Court’s review of a trial court’s determination of an appeal from a summary conviction is limited to determining whether an error of law occurred, or whether the trial court’s findings are supported by substantial evidence. Commonwealth v. Smyers, 885 A.2d 107 (Pa. Cmwlth. 2005).

Chartiers Valley Sch. Dist., 869 A.2d 1134 (Pa. Cmwlth. 2005); Rudinski (citing U.S. v. Park, 421 U.S. 658 (1975) (upholding the constitutionality of strict criminal liability in the area of public welfare offenses)). Therefore, whether Wharton saw or was mistaken about the posted signage is not relevant to our determination of strict criminal liability. Thus, her argument is meritless. See Bolden; Rudinski

Additionally, Wharton’s claim that the trial court improperly denied her attempt to submit photographic evidence into the record is without merit. Our review of the record reveals that Wharton did not request the trial court admit her photographs into evidence. Moreover, Wharton only presented her photographs at the hearing to explain why the parking signs confused her. N.T. at 11-14. However, Wharton’s mental state is not a material fact of her case; therefore, proof of it is irrelevant.² See Pa.R.E. 402; Braun v. Target Corp., 983 A.2d 752, 760 (Pa. Super. 2009) (“Questions regarding the ... exclusion of evidence are subject to an abuse of discretion standard or review.”). Thus, the trial court did not abuse its discretion in excluding Wharton’s photographs. See id.

Accordingly, we affirm.

ROBERT SIMPSON, Judge

Judges Leavitt and Brobson did not participate in the decision in this case.

² Additionally, Wharton attempts at this time to submit several pictures of the signs on Locust Street by appending them to her brief to this Court. However, as these photographs were not made part of the record before the trial court, we cannot consider them in our review. See Kochan v. Dep’t of Transp., Bureau of Driver Licensing, 768 A.2d 1186 (Pa. Cmwlth. 2001).

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ORDER

AND NOW, this 30th day of December, 2011, the order of Court of Common Pleas of Allegheny County is **AFFIRMED**.

ROBERT SIMPSON, Judge