Opinion issued December 9, 2021

In The

Court of Appeals

For The

First District of Texas

NO. 01-20-00074-CR

RICHARD LYNN WAGGONER, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the County Court
Irion County, Texas
Trial Court Case No. CR19-3982

MEMORANDUM OPINION

A jury convicted appellant, Richard Lynn Waggoner, of the Class C misdemeanor offense of driving while license invalid.[1] The trial court assessed a $300 fine.

---

1 *See* TEX. TRANSP. CODE § 521.457(a).

On appeal, Waggoner challenges the trial court's jurisdiction over him. He further argues that the statute prohibiting driving with an invalid license is unconstitutional. We affirm.

Background

On June 24, 2019, Douglas Mase noticed a vehicle parked outside of a courthouse in Sherwood, Texas.[2] Waggoner and another man were walking around the courthouse with metal detectors. Mase was aware that the area had had recent problems with theft and burglary, and he called the nonemergency number of the Irion County Sheriff's Department to report this suspicious activity. Mase went inside a store for approximately five minutes, and when he came out, Waggoner and his companion were in the vehicle and driving away from the courthouse into a neighborhood.

Jennifer Riojas lives in Sherwood, and her daughter was outside playing. Her daughter came inside and informed her that a vehicle was driving slowly past the house. Riojas went outside and watched a vehicle drive around ten miles per hour down the street multiple times. She called the sheriff's department to report this

---

[2] The Texas Supreme Court transferred this appeal from the Court of Appeals for the Third District of Texas to this Court pursuant to its docket-equalization authority. *See* TEX. GOV'T CODE § 73.001 ("The supreme court may order cases transferred from one court of appeals to another at any time that, in the opinion of the supreme court, there is good cause for the transfer."). We are unaware of any conflict between the precedent of the Third Court of Appeals and that of this Court on any relevant issue. *See* TEX. R. APP. P. 41.3.

suspicious behavior and provide a description of the vehicle. By the time she ended the call, she could see Waggoner and another man getting out of the vehicle with metal detectors. She then saw the men start to drive away when a sheriff's deputy arrived. Riojas saw the deputy conduct a traffic stop of the vehicle.

Deputy Randy Swick received a dispatch concerning suspicious activity near the Sherwood courthouse. When he arrived in the area, he saw a vehicle matching the description he had been given in the dispatch. Waggoner was driving the vehicle. During the ensuing traffic stop, Waggoner produced a driver's license, but the license had expired and was no longer valid. Swick called the driver's license number into the dispatcher, who confirmed that Waggoner's license had been suspended. Swick also observed that the vehicle's registration was expired. When he asked Waggoner about the driver's license, Waggoner informed Swick that he did not need a license and he had a Supreme Court case that confirmed this. Swick decided not to arrest Waggoner for driving without a valid license, but he issued a citation to Waggoner.

After Swick issued the citation, Waggoner had a jury trial in Justice of the Peace Court, Precinct One, in Irion County. The jury in the justice court found Waggoner guilty of the offense of driving while license invalid and assessed a $500 fine. Waggoner then appealed to the County Court of Irion County, which conducted a trial de novo. At trial, Mase, Riojas, and Swick all testified. The trial court admitted

a certified copy of Waggoner's driving record issued by the Texas Department of Public Safety, which indicated that Waggoner's driver's license expired on February 28, 2018, and that he was denied renewal of the license indefinitely for "failure to appear."[3]

Waggoner testified on his own behalf. On cross-examination, he admitted that he was driving a vehicle on June 24, 2019, and that his driver's license was not valid because he had rescinded it. He disagreed that his license had been suspended for failure to appear, but he agreed that his license had been suspended for failure to pay a traffic ticket. Waggoner testified that he did not "have to have a driver's license," but he agreed that his license was invalid at the time of trial and at the time of the offense.

The jury in the county court found Waggoner guilty of the offense of driving while license invalid, and the trial court imposed a $300 fine. This appeal followed.

Jurisdiction of County Court

On appeal, Waggoner argues that the County Court of Irion County did not have jurisdiction over him, and therefore the judgment of conviction is void.

Constitutional county courts, such as the Irion County Court, have "exclusive original jurisdiction of misdemeanors other than misdemeanors involving official

---

[3] The driving record also reflected that Waggoner was convicted of failure to appear for trial or court appearance on May 17, 2017, in municipal court in Coleman County.

misconduct and cases in which the highest fine that may be imposed is $500 or less." TEX. GOV'T CODE § 26.045(a); TEX. CODE CRIM. PROC. art. 4.07 ("The county courts shall have original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the justice court, and when the fine to be imposed shall exceed five hundred dollars."); *see also* TEX. CONST. art. V, § 16 ("The County Court has jurisdiction as provided by law."). Constitutional county courts have appellate jurisdiction "in criminal cases of which justice courts and other inferior courts have original jurisdiction." TEX. GOV'T CODE § 26.046; TEX. CODE CRIM. PROC. art. 4.08 ("The county courts shall have appellate jurisdiction in criminal cases of which justice courts and other inferior courts have original jurisdiction."). Justice of the peace courts have original jurisdiction "in criminal matters of misdemeanor cases punishable by fine only." TEX. CONST. art. V, § 19; *see also* TEX. GOV'T CODE § 26.218(a) ("In addition to other jurisdiction provided by law, the County Court of Irion County has original concurrent jurisdiction with the justice courts in all civil and criminal matters in which the justice courts have jurisdiction under general law.").

In this case, Waggoner was charged with driving while license invalid, in violation of Transportation Code section 521.457. *See* TEX. TRANSP. CODE § 521.457(a). This offense is a Class C misdemeanor. *Id.* § 521.457(e). Class C misdemeanors are punishable by a fine not to exceed $500. TEX. PENAL CODE

§ 12.23. As this offense was punishable by a fine only, the justice court of Irion County had original jurisdiction over this case, and the Irion County Court had appellate jurisdiction. *See* TEX. CONST. art. V, §§ 16, 19; TEX. GOV'T CODE § 26.046; TEX. CODE CRIM. PROC. art. 4.08.

The record reflects that Waggoner was convicted in a jury trial in the justice court, and he then appealed his case to the Irion County Court for a trial de novo. *See* TEX. CODE CRIM. PROC. art. 45.042(a)–(b) (providing that "[a]ppeals from a justice or municipal court . . . shall be heard by the county court" and that trial "shall be de novo"). The record also contains the charging instrument—a complaint alleging that Waggoner operated a motor vehicle on a public highway while his driver's license was invalid—which identified Waggoner and informed him of the allegations against him, vesting the Irion County justice court with jurisdiction to hear the case.[4] *See* TEX. CONST. art. V, § 12 (providing that presentment of charging instrument to court "invests the court with jurisdiction of the cause"); *Teal v. State*, 230 S.W.3d 172, 179–80 (Tex. Crim. App. 2007) (stating that charging instrument must allege that "a person" "committed an offense" to vest court with jurisdiction, and if allegations in charging instrument "are clear enough that one can identify the

[4] The complaint filed with the justice court was re-filed with the county court. Waggoner does not challenge the sufficiency of the charging instrument either in the trial court or on appeal. *See* TEX. CODE CRIM. PROC. art. 45.019 (setting out requirements for complaints in justice and municipal courts).

offense alleged," charging instrument is sufficient to confer subject-matter jurisdiction); *Borne v. State*, 593 S.W.3d 404, 410 (Tex. App.—Beaumont 2020, no pet.) (holding that presentment of charging instrument vested trial court with subject-matter jurisdiction over case). By filing an appeal bond in the justice court following his conviction, Waggoner perfected his appeal to the Irion County court, vesting that court with jurisdiction. *See* TEX. CODE CRIM. PROC. art. 45.0426.

To the extent Waggoner argues that the justice court and county court lacked jurisdiction over him because he is a "sovereign citizen," we note that our sister courts and federal courts have uniformly rejected this as a valid defense to prosecution. *See, e.g.*, *Borne*, 593 S.W.3d at 412–13 (collecting cases and stating that defendant's "alleged sovereign-citizen status does not mean he should be allowed to violate state laws without consequence, nor does it exempt [the defendant] from the jurisdiction of the Texas courts"); *Lewis v. State*, 532 S.W.3d 423, 430–31 (Tex. App.—Houston [14th Dist.] 2016, pet. ref'd) (discussing common trial strategies of "sovereign citizens"); *see also United States v. Benabe*, 654 F.3d 753, 767 (7th Cir. 2011) ("Regardless of an individual's claimed status of descent, be it as a 'sovereign citizen,' a 'secured-party creditor,' or a 'flesh-and-blood human being,' that person is not beyond the jurisdiction of the courts. These theories should be rejected summarily, however they are presented.").

We hold that both the justice court and county court of Irion County had jurisdiction to hear the case against Waggoner.

Constitutionality of Statute

Waggoner also argues that Transportation Code 521.457—which prohibits a person from driving while his license is invalid—is unconstitutional because it impermissibly infringes upon a person's constitutional right to travel.

A. Standard of Review

When considering the constitutionality of a statute, we presume that the statute is valid. *Allen v. State*, 614 S.W.3d 736, 740 (Tex. Crim. App. 2019); TEX. GOV'T CODE § 311.021(1) ("In enacting a statute, it is presumed that . . . compliance with the constitutions of this state and the United States is intended . . . ."). We seek to interpret a statute such that its constitutionality is supported and upheld, and we make every reasonable presumption in favor of its constitutionality, unless the contrary is clearly shown. *Allen*, 614 S.W.3d at 740 (quoting *Peraza v. State*, 467 S.W.3d 508, 514 (Tex. Crim. App. 2015)).

A facial challenge to the constitutionality of a statute is a challenge to the statute itself as opposed to a particular application of the statute. *Id.* at 740–41. To succeed in this challenge, the defendant must establish that no set of circumstances exists under which the statute would be valid. *Id.* at 741; *State v. Rosseau*, 396 S.W.3d 550, 557 (Tex. Crim. App. 2013) ("[T]o prevail on a facial challenge, a party

must establish that the statute always operates unconstitutionally in all possible circumstances."). Thus, if there is any possible constitutional application of the statute, the defendant's facial challenge fails. *Allen*, 614 S.W.3d at 741. Waggoner, as the party challenging the statute, bears the burden to demonstrate its unconstitutionality. *Rosseau*, 396 S.W.3d at 557; *see Allen*, 614 S.W.3d at 741 (stating that facial challenge to statute is "the most difficult challenge to mount successfully").

B. Analysis

Generally, Texas law requires a person to hold a driver's license to operate a motor vehicle on a Texas highway. TEX. TRANSP. CODE § 521.021. A person required to hold a driver's license shall "have in the person's possession while operating a motor vehicle the class of driver's license appropriate for the type of vehicle operated" and "display the license on the demand of a magistrate, court officer, or peace officer." *Id.* § 521.025(a). A person commits a Class C misdemeanor if the person operates a motor vehicle on a highway:

> (1) after the person's driver's license has been canceled under [Transportation Code chapter 521] if the person does not have a license that was subsequently issued under this chapter;
>
> (2) during a period that the person's driver's license or privilege is suspended or revoked under any law of this state;
>
> (3) while the person's driver's license is expired if the license expired during a period of suspension; or

(4) after renewal of the person's driver's license has been denied under any law of this state, if the person does not have a driver's license subsequently issued under this chapter.

Id. § 521.457(a) (setting out elements of offense), (e) (providing that offense is Class C misdemeanor). Waggoner was convicted of violating section 521.457(a).

In the county court, Waggoner argued that a driver's license is not required, and he cited four cases from the Court of Criminal Appeals which stated that a "driver's license" is not "known to Texas law," and therefore a charging instrument that alleged a person had driven a motor vehicle upon a highway without a "driver's license" did not charge an offense. *See Callas v. State*, 320 S.W.2d 360, 360 (Tex. Crim. App. 1959) ("This Court has held that there is no such license known to Texas law as a 'driver's license.'"); *Hassell v. State*, 194 S.W.2d 400, 400–01 (Tex. Crim. App. 1946) (per curiam) (noting that Drivers' License Act in effect at time authorized three types of licenses—operators, commercial operators, and chauffeurs—but did not define "driver's license," therefore charging instrument that charged "the driving of a motor vehicle upon a public highway without such a [driver's] license, charges no offense"); *see also Campbell v. State*, 274 S.W.2d 401, 402 (Tex. Crim. App. 1955) (following *Hassell*); *Brooks v. State*, 258 S.W.2d 317, 318 (Tex. Crim. App. 1953) (same).

At the time the Court of Criminal Appeals issued these opinions, the pertinent statute requiring a license to operate a motor vehicle on Texas highways referred to

an "operator's license," not a driver's license. The current statutes in the Texas Transportation Code, including section 521.021, requiring a license generally, and section 521.457, prohibiting driving while a license is invalid, both refer to "driver's license." *See* TEX. TRANSP. CODE § 521.021 ("A person, other than a person expressly exempted under this chapter, may not operate a motor vehicle on a highway in this state unless the person holds a driver's license issued under this chapter."); *id.* § 521.457(a)(4) ("A person commits an offense if the person operates a motor vehicle on a highway . . . after renewal of the person's driver's license has been denied under any law of this state . . . ."). Texas law, therefore, recognizes the existence of a "driver's license."

Waggoner contends that section 521.457 is unconstitutional because it infringes upon his constitutional right to travel. Courts have regularly concluded that this argument is not meritorious.

In 1915, the United States Supreme Court held:

> In the absence of national legislation covering the subject, a state may rightfully prescribe uniform regulations necessary for public safety and order in respect to the operation upon its highways of all motor vehicles, those moving in interstate commerce as well as others. And to this end it may require the registration of such vehicles and the licensing of their drivers, charging therefor reasonable fees graduated according to the horse-power of the engines, a practical measure of size, speed, and difficulty of control. This is but an exercise of the police power uniformly recognized as belonging to the states and essential to the preservation of the health, safety, and comfort of their citizens; and it does not constitute a direct and material burden on interstate commerce.

Hendrick v. Maryland, 235 U.S. 610, 622 (1915). The Supreme Court has also recognized that the right of interstate travel is a "basic constitutional freedom." *Mem'l Hosp. v. Maricopa Cty.*, 415 U.S. 250, 254 (1974); *see Saenz v. Roe*, 526 U.S. 489, 498 (1999) (stating that constitutional right to travel from one state to another "is firmly embedded in our jurisprudence"). However, the Supreme Court has not held that state laws requiring a driver's license or prohibiting driving without a valid license unconstitutionally infringe upon this right.

Both the Texas Supreme Court and the Court of Criminal Appeals have held that the ability to drive a motor vehicle upon public highways is a privilege, not a right, and a driver's license "is a privilege and not property or a property right." *See Gillaspie v. Dep't of Pub. Safety*, 259 S.W.2d 177, 181–82 (Tex. 1953); *Taylor v. State*, 209 S.W.2d 191, 192 (Tex. Crim. App. 1948) (op. on reh'g); *see also Tharp v. State*, 935 S.W.2d 157, 159 (Tex. Crim. App. 1996) (citing favorably Austin Court of Appeals opinion stating that driver's license and driving are not constitutionally protected rights but privileges) (quoting *Ex parte Arnold*, 916 S.W.2d 640, 642 (Tex. App.—Austin 1996, pet. ref'd)).

The privilege of driving a vehicle on Texas roadways "is subject to reasonable regulation under the State's police power in the interest of the welfare and safety of the general public." *Naff v. State*, 946 S.W.2d 529, 533 (Tex. App.—Fort Worth 1997, no pet.) (per curiam); *Coyle v. State*, 775 S.W.2d 843, 846 (Tex. App.—Dallas

1989, no pet.); *see also Riggle v. State*, 778 S.W.2d 127, 129 (Tex. App.—Texarkana 1989, no pet.) ("The use of highways in this State is a privilege which is subject to the State's regulation."). "[R]egulating licensing, inspection, and registration laws and requiring proof of financial responsibility as a protection for Texas citizens is a proper subject of the State's police powers and not a denial of due process." *Naff*, 946 S.W.2d at 533; *see also Carter v. State*, 702 S.W.2d 774, 778 (Tex. App.—Fort Worth 1986, pet. ref'd) (holding that revocation of driver's license for violation of Texas's traffic laws does not unconstitutionally burden right to travel and issuance of driver's license "does not confer upon the licensee a right that is independently entitled to protection against any and all governmental interference or restriction").

Transportation Code section 521.457, which prohibits persons from operating motor vehicles on Texas highways without a valid license, is a reasonable exercise of the State's police powers. Waggoner has not demonstrated that this statute is unconstitutional, either facially or as applied to him. We therefore overrule his challenge to the constitutionality of section 521.457. *See Allen*, 614 S.W.3d 740–41 (stating that statutes are presumed constitutional and that facial challenges to statute, in which opponent of statute seeks to establish that statute always operates unconstitutionally, is "the most difficult challenge to mount successfully").

To the extent Waggoner raises any other arguments in his appellate brief, we hold that these arguments are waived for failure to adequately brief them. *See* TEX.

R. APP. P. 38.1(i) ("The brief must contain a clear and concise argument for the contentions made, with appropriate citations to authorities and to the record.").

Conclusion

We affirm the judgment of the county court.

April L. Farris
Justice

Panel consists of Justices Kelly, Guerra, and Farris.

Do not publish. TEX. R. APP. P. 47.2(b).