In The

Court of Appeals

Ninth District of Texas at Beaumont

NO. 09-14-00302-CR

JAMES CALVIN WILLIAMSON, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the County Court
Hardin County, Texas
Trial Cause No. 67272

MEMORANDUM OPINION

James Calvin Williamson appeals from his conviction for driving while license invalid, a Class C misdemeanor. *See* Tex. Transp. Code Ann. § 521.457(a)(2), (e) (West 2013). The case against Williamson originates from a complaint signed by Nathan Pierce, a trooper employed by the Texas Department of Public Safety. The information accompanying the complaint, which was filed in the Justice Court for Precinct Five in Hardin County, Texas, alleges that Williamson, on or about August 29, 2013, intentionally or knowingly drove his truck without a valid license. Williamson was convicted in the Justice Court of

driving with an invalid license. Exercising his right to have a trial de novo, Williamson then appealed his conviction to the County Court in Hardin County, Texas. *See* Tex. Code Crim. Proc. Ann. art. 45.042 (West 2006). Williamson demanded the charge be tried by jury. Following a jury trial in 2014, Williamson was found guilty of driving while his license was invalid, and the jury fined him $200.

We note our jurisdiction over judgments assessing a fine assessed in a county court that exceeds $100. *See* Tex. Code Crim. Proc. Ann. art. 4.03 (West 2015). In his pro se brief, Williamson raises four issues that argue (1) the trial courts never obtained proper jurisdiction over his case, (2) he was stopped without probable cause, (3) there was no evidence that Trooper Pierce had reasonable suspicion to stop his truck, and (4) the Texas Department of Public Safety failed to comply with Williamson's subpoena requesting the Department of Public Safety produce various records pertaining to Trooper Pierce and to the radar in Trooper Pierce's vehicle. Because Williamson's issues are without merit, his conviction is affirmed.

Jurisdiction

Williamson contends the Justice Court and the County Court of Hardin County lacked jurisdiction over his cases because no charging instrument was ever

properly presented to those courts. We will first address whether the Justice Court in Precinct Five acquired jurisdiction over Williamson's case.

The record on appeal includes a complaint dated September 30, 2013, signed by Nathan Pierce, charging Williamson with driving without a valid license. Trooper Pierce swore to the allegations in the complaint before the Justice of the Peace for Precinct Five in Hardin County. *See* Tex. Code Crim. Proc. Ann. art. 45.019 (West 2006). The complaint alleges that on or about August 29, 2013, Williamson intentionally or knowingly drove with an invalid license.

Justice Courts have original jurisdiction in criminal matters of misdemeanor cases that are punishable only by fines. Tex. Const. art. V, § 19. The complaint filed by Trooper Pierce charging Williamson with driving while his license was invalid alleges an offense that is punishable only by a fine. *See* Tex. Penal Code Ann. § 12.23 (West 2011) (making Class C misdemeanors punishable by a fine not to exceed $500).

The complaint is the instrument that initiates prosecutions in a Justice Court. Tex. Code Crim. Proc. Ann. art. 45.014(a) (West 2006); *see also* 42 George E. Dix & John M. Schmolesky, *Texas Practice: Criminal Practice and Procedure* § 25.1 (3d ed. 2011). Complaints are based on sworn affidavits that charge a particular defendant with having committed an offense. *Huynh v. State*, 901 S.W.2d 480, 481 n.3 (Tex. Crim. App. 1995); *see also* Tex. Code Crim. Proc. Ann. art. 45.018

(West 2006). Unless the defendant waives the filing of a complaint, the complaint must be filed if a defendant pleads not guilty to a fine-only offense. *See* Tex. Code Crim. Proc. Ann. art. 27.14(d) (West Supp. 2015).

In Williamson's case, Williamson did not waive the filing of the complaint, and a complaint signed by Trooper Pierce appears in the record that is before us. When the prosecution occurs in a Justice Court, the complaint is the only charging instrument that is required. *Ex parte Nitsche*, 170 S.W. 1101, 1103 (Tex. Crim. App. 1914), *overruled in part on other grounds by King v. State*, 473 S.W.2d 43, 51 (Tex. Crim. App. 1971). The complaint filed in Williamson's case in the Justice Court demonstrates that the Justice Court of Precinct Five acquired jurisdiction over Williamson's case. *See Nitsche*, 170 S.W. at 1103.

Next, we consider Williamson's allegation that the charging document filed in the County Court was insufficient to give the County Court jurisdiction over his case. The appellate record contains a sworn "Complaint" that was filed in the County Court. In it, the affiant states that she has good reason to believe that on or about August 29, 2013, Williamson "did then and there: operate a motor vehicle on a public highway during a period that the defendant's driver's license was suspended or revoked under Chapter 521 of the Texas Transportation Code." The records from the County Court also include an "Information," which was signed by the County Attorney; the "Information" is found immediately below the

"Complaint." The "Information" includes a file stamp, indicating that the "Information" was filed with the Hardin County Clerk's office on January 27, 2014. The "Information" states:

INFORMATION

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

I, REBECCA R WALTON, County Attorney of Hardin County, Texas, come in behalf of the State of Texas, and present in and to the County Court of Hardin County, Texas, that **JAMES CALVIN WILLIAMSON** heretofore on or about the **29th day of August, A.D. 2013**, in said County of Hardin and State of Texas, did then and there:

> operate a motor vehicle on a public highway during a period that the defendant's driver's license was suspended or revoked under Chapter 521 of the Texas Transportation Code.

Against the Peace and Dignity of the State.

The record shows that a complaint and an information were filed with the County Court. "An information is a written instrument presented to a court by an attorney for the State charging a person with the commission of an offense." Tex. Const. art. V, § 12(b). "The presentment of an indictment or information to a court invests the court with jurisdiction of the cause." *Id.* "An information is considered as 'presented,' when it has been filed by the proper officer in the proper court." Tex. Code Crim. Proc. Ann. art. 12.07 (West 2015). "It has long been the rule that presentment of an information may be accomplished by the prosecuting attorney

delivering the information to the clerk's office." *Queen v. State*, 701 S.W.2d 314, 315-16 (Tex. App.—Austin 1985, pet. ref'd). The "Information" in the record before us demonstrates the County Court acquired jurisdiction over Williamson's case. Tex. Const. art. V, § 12(b). Williamson's first issue, which challenges the jurisdiction of the Justice and County Courts, is without merit and is overruled.

Reasonable Suspicion for Stop

In his second and third issues, Williamson contends that Trooper Pierce lacked reasonable suspicion to stop his truck and that Trooper Pierce did not have probable cause to conduct the stop. "An officer may make a warrantless traffic stop if the 'reasonable suspicion' standard is satisfied." *Jaganathan v. State*, No. PD-1189-14, 2015 WL 5449576, at *2 (Tex. Crim. App. Sept. 16, 2015). "[A]n officer is generally justified in briefly detaining an individual on less than probable cause for the purposes of investigating possibly-criminal behavior where the officer can 'point to specific and articulable facts, which, taken together with rational inferences from those facts, reasonably warrant [the] intrusion.'" *Carmouche v. State*, 10 S.W.3d 323, 328 (Tex. Crim. App. 2000) (quoting *Terry v. Ohio*, 392 U.S. 1, 21 (1968)). "Reasonable suspicion exists if the officer has specific, articulable facts that, when combined with rational inferences from those facts, would lead him to reasonably conclude that a particular person actually is, has been, or soon will be engaged in criminal activity." *Ford v. State*, 158 S.W.3d 488,

492 (Tex. Crim. App. 2005). This determination is made by considering the totality of the circumstances, giving the factfinder almost total deference to the determination of historical facts, and reviewing de novo the trial court's application of law to facts not turning on credibility. *Id*. at 493.

Trooper Pierce testified that on August 29, 2013, he observed the vehicle Williamson was driving southbound on US Highway 69 exceeding the 45-mile-an-hour speed limit. Pierce stated that after observing what he believed to be a vehicle that was travelling above the posted limit, he verified the vehicle's speed with his radar. After Trooper Pierce stopped Williamson, Williamson told Trooper Pierce that he did not have a license. After checking a license database by using a computer located in his vehicle, Trooper Pierce determined that Williamson did have a license but that it had expired. Trooper Pierce gave Williamson a warning for speeding and a ticket for driving with an invalid license.

In reviewing the evidence relevant to the stop, we consider the evidence admitted during the trial in the light most favorable to the verdict. *See Hooper v. State*, 214 S.W.3d 9, 13 (Tex. Crim. App. 2007) (citing *Jackson v. Virginia*, 443 U.S. 307, 318-19 (1979)). In cases where the evidence is in conflict, the jury acts as the sole judge of the credibility of the witnesses, and it judges the weight to give to their testimony. *See Montgomery v. State*, 369 S.W.3d 188, 192 (Tex. Crim. App. 2012). In Williamson's case, and based on Trooper Pierce's testimony, the

jury was entitled to believe that Williamson was stopped for speeding. Under the totality of the circumstances, Williamson has failed to demonstrate on appeal that his warrantless stop and his temporary detention were not justified by the circumstances the jury decided to credit, as they were described by Trooper Pierce. *See Ford*, 158 S.W.3d at 492-93. Issues two and three are overruled.

Subpoena

In issue four, Williamson complains the Texas Department of Public Safety failed to comply with his subpoena. The clerk's record contains a subpoena duces tecum to the custodian of records of the Texas Department of Public Safety, at an address listed for the patrol office located in Woodville, Texas. The subpoena directs that a witness appear in the County Court of Hardin County on June 10, 2014, directs the witness produced by the Department to produce documents showing the daily activities and location of Trooper Pierce on December 6, 2013, and to produce a list of all electronic devices issued to Trooper Pierce, with maintenance logs, to show any defects or repairs and proper calibration of the radar or speed detection devices issued to Trooper Pierce.

Before the trial started on June 10, 2014, Williamson informed the trial court that he had requested a subpoena duces tecum and he questioned whether the Department had complied; however, Williamson did not request a continuance. During Trooper Pierce's testimony, Trooper Pierce stated that he is a records

custodian of the Woodville Highway Patrol Office, and he indicated that he had with him a copy of a radar log and daily activity reports covering his activities on December 6, 2013. Although Williamson was ticketed by Trooper Pierce on August 29, 2013, Williamson identified a date in December 2013 as the date that he wanted the Department to produce the various records that he was seeking through his subpoena. Trooper Pierce testified that because he was not working that day, he issued no citations on December 6, 2013. Trooper Pierce also testified that Williamson's offense occurred on August 29, 2013, which is consistent with the date alleged in the complaint and information filed in the justice and county courts.

Thus, the record shows the trial court heard testimony that a custodian of records appeared in court on the designated date with some of the records that appear responsive to Williamson's subpoena. Williamson did not ask for a continuance, and he did not ask the trial court to issue an attachment to compel a witness from the Department to produce any records that Trooper Pierce did not bring with him to court. Williamson also did not develop any testimony during the trial to show that the radar Trooper Pierce used to measure the speed of his truck had not been properly calibrated or maintained. We conclude that Williamson has failed to demonstrate that any harm resulted from the Department's alleged failure to comply with the subpoena the trial court issued at Williamson's request to the

Department asking that a witness appear with various records during his trial. *See* Tex. R. App. P. 44.2(b). We overrule issue four.

Conclusion

Because Williamson's issues are without merit, the final judgment convicting Williamson for driving with an invalid license is affirmed.

AFFIRMED.

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HOLLIS HORTON
Justice

Submitted on June 5, 2015
Opinion Delivered January 20, 2016
Do Not Publish

Before Kreger, Horton, and Johnson, JJ.