

IN THE UTAH COURT OF APPEALS

-----ooOoo-----

American Fork City,	)	MEMORANDUM DECISION	
	)	(Not For Official Publication)	
Plaintiff and Appellee,	)		
	)	Case No. 20090240-CA	
v.	)		
	)	F I L E D	
Paisley Rose Cummings,	)	(May 21, 2009)	
	)		
Defendant and Appellant.	)	<table border="1"><tr><td>2009 UT App 140</td></tr></table>	2009 UT App 140
2009 UT App 140			

-----

Fourth District, American Fork Department, 085107156  
The Honorable Howard H. Maetani

Attorneys: Paisley Rose Cummings, American Fork, Appellant Pro  
Se  
James H. Hansen and Timothy G. Merrill, Pleasant  
Grove, for Appellee

-----

Before Judges Bench, Davis, and McHugh.

PER CURIAM:

Paisley Rose Cummings appeals her conviction of expired registration. This case is before the court on a sua sponte motion for summary disposition.

In November 2008, Cummings was involved in a traffic accident and was cited for failure to yield and expired registration, both class C misdemeanors. After Cummings filed a withdrawal of her consent to use the citation as an Information, American Fork City (the City) filed a formal Information. She was served with a copy of the Information in open court at the time of her first appearance. Although Cummings apparently made no written request for discovery and although no such request appears in the record, she claims to have orally requested discovery. On February 12, 2009, the prosecutor mailed Cummings discovery consisting of a copy of the Information, Incident Report, and Accident Report. Cummings appeared at the February 18, 2009 bench trial, and hand-delivered an untimely Motion to Suppress Testimony and Evidence and a Request for Prosecution to Identify All Witnesses and Exhibits.

The City represents that based upon the late-filed motions, the district court judge informed Cummings that he would need to schedule a hearing on her motions or she could proceed to trial

as scheduled. Cummings chose to proceed to trial rather than pursue the motions. The City then moved to dismiss the failure to yield charge and the trial continued as to the expired registration charge only. Cummings was convicted and fined \$47.

Cummings contends that she was not properly served with a summons and copy of the Information. However, the City states that Cummings was served with a copy of the Information in open court after she withdrew her consent to use the traffic citation as an Information. Rule 10(a) of the Utah Rules of Criminal Procedure states:

Arraignment shall be conducted in open court and shall consist of reading the indictment or information to the defendant or stating to him the substance of the charge and calling on him to plead thereto. He shall be given a copy of the indictment or information before he is called upon to plead.

Utah R. Crim. P. 10(a). The City represents that this procedure was followed. Cummings has cited no credible evidence to refute the City's representation that she was provided with a copy of the Information at her first appearance. Cummings's claim that she was denied due process is therefore without merit.

The record does not contain a written discovery request. The City states that it provided a complete copy of its file to Cummings prior to trial. Cummings's claim that she was denied discovery is not supported by the record and lacks credibility. Furthermore, she does not demonstrate any prejudice. Cummings was convicted solely of the expired registration charge after the City moved to dismiss the failure to yield charge. The evidence supporting the expired registration charge consisted of the officer's testimony in support of a photograph of Cummings's vehicle showing the expired registration sticker. Cummings has not provided a transcript of the bench trial. She does not argue that the evidence was insufficient to support her conviction of expired registration and does not challenge the sentence.

Accordingly, we affirm.

---

Russell W. Bench, Judge

---

James Z. Davis, Judge

---

Carolyn B. McHugh, Judge