

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

ANGELO BARRERA

Appellant,

CASE NO.: CVA1 07-02
LOWER COURT CASE NO.:
2006-TR-191094-O

v.

STATE OF FLORIDA

Appellee.

_____/

Appeal from the Traffic Hearing Officer,
in and for Orange County, Florida.

Angelo Barrera, pro se.

No appearance for Appellee.

Before WHITEHEAD, MUNYON, and MCDONALD.

**FINAL ORDER AFFIRMING TRAFFIC HEARING OFFICER'S
JUDGMENT**

Appellant, Angelo Barrera, timely appeals the Traffic Hearing Officer's decision finding him guilty of failing to obey a traffic control device, pursuant to section 316.074(1), Florida Statutes. Specifically, Appellant was charged with driving 55 miles per hour in a 35 miles per hour speed limit zone. This Court has jurisdiction. Fla. R. App. P. 9.030(c)(1)(C); Fla. R. Traf. Ct. 6.630(e). Appellant challenges the Traffic Hearing Officer's finding and appears *pro se* before this Court. The State did not file an Answer Brief in connection with this appeal.

On October 23, 2006, at 7:33 A.M., Officer Robert Buffington of the Orlando Police Department clocked the Appellant travelling at 55 m.p.h. in a 35 m.p.h. zone, specifically in the 1400 Block of Bennett Rd. Officer Aguilera proceeded to pull over the Appellant and issued him a Florida Uniform Traffic Citation for violation of a traffic control device.

Appellant elected to attend a hearing, in order to contest the citation on December 18, 2006. According to the Appellant, on the day of the hearing he arrived at the courtroom to plead his case at 8:45 A.M. At approximately 10:00 A.M. Appellant asked permission from a court deputy to leave the courtroom to place money in his metered parking spot. Appellant alleges that the court deputy permitted him to leave and promised that he would explain Appellant's absence to the hearing officer should the Appellant's case be called. While Appellant was away from the courtroom, the Traffic Hearing Officer called Appellant's case, and finding him absent, found him guilty of violating a traffic control device and ordered him to pay \$235.00 in fines and court costs as well as ordered him to attend an eight hour defensive driving class.

Appellant presents numerous arguments for this Court to review. First, Appellant claims that the officer failed to indicate what traffic control device Appellant violated. Second, Appellant claims that the officer failed to identify which direction the Appellant was travelling. Next, Appellant claims that the officer incorrectly marked down the color of the Appellant's vehicle when issuing the citation. Finally, Appellant's last argument alleges that he was present when the traffic hearing officer opened court, but received permission from a court deputy to leave the courtroom in order to add money to his parking meter. Appellant alleges that he returned from the parking meter to find that

court had been adjourned, and after asking a deputy to ask the hearing officer to re-open his case (a request that was denied), Appellant had no choice but to appeal.

Despite the Appellant being absent from the hearing and therefore not having a transcript of the proceeding available for this Court to review, we will address Appellant's arguments in order to fully put this appeal to rest. With regards to the first argument, the officer certainly recorded that the Appellant violated a traffic control device, pursuant to Florida Statutes section 316.074(1). Under Florida Statutes section 316.003(23), official traffic control devices are: "[a]ll signs, signals, markings, and devices, not inconsistent with this chapter, placed or erected by the authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic." Fla. Stat. §316.003(23). By indicating that the Appellant was "clocked at 55 mph," in a posted 35 mph zone, the citing officer sufficiently recorded Appellant's violation of a traffic control device.

The next two arguments are insufficient to support a claim on appeal. The cited vehicle's direction of travel is not required on a Florida Uniform Traffic Citation for such a citation to be legally sufficient. A simple mistake as to the color of the cited vehicle also will not support a claim, especially considering that the Appellant's driver's license, tag number, make, and model of vehicle were all correctly recorded on the FUTC.

Appellant's last argument also fails to compel this Court to overturn the Traffic Hearing Officer's decision. Appellant cites no precedent, and presents nothing more than unverified claims regarding his version of the events during that hearing day. Without more this Court cannot overturn the hearing officer's decision. Decisions of the trial court come to the appellate court with a presumption of correctness, and the burden falls on the

Appellant to prove that an error was made by the hearing officer. *Squires v. Darling*, 834 So.2d 278 (Fla. 5th DCA 2003); *Applegate v. Barnett Bank of Tallahassee*, 377 So. 2d 1150, 1152 (Fla. 1979). This Court finds that Appellant has not met his burden of proving any error on the part of the Traffic Hearing Officer.

Accordingly, it is hereby **ORDERED AND ADJUDGED** that the Traffic Hearing Officer's "Infraction Disposition," dated December 18, 2006, is **AFFIRMED**.

DONE AND ORDERED in Chambers, at Orlando, Orange County, Florida on this 20 day of April, 2009.

/S/
REGINALD WHITEHEAD
Circuit Judge

/S/
LISA M. MUNYON
Circuit Judge

/S/
ROGER J. MCDONALD
Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been furnished via U.S. mail on this 20 day of April , 2009, to the following:

ANGELO BARRERA, P.O. Box 26593, Jacksonville, FL 32226; and **Office of the State Attorney**, Appeals Unit, 415 N Orange Ave., Orlando, FL 32801.

_____/S/_____
Judicial Assistant