

2019 IL App (1st) 181398-U

No. 1-18-1398

Order filed July 23, 2019

Second Division

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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VILLAGE OF NORRIDGE,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. YE 013720
	)	
GHALEB AZROUI,	)	Honorable
	)	Steven M. Wagner,
Defendant-Appellant.	)	Judge, presiding.

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JUSTICE PUCINSKI delivered the judgment of the court.  
Presiding Justice Lavin and Justice Mason concurred in the judgment.

**ORDER**

¶ 1 *Held:* Circuit court's judgment finding defendant guilty of improper use of an electronic communication device while driving, and denying defendant's motion to vacate that judgment, affirmed where defendant failed to provide a sufficient record to show that the circuit court erred in entering judgment.

¶ 2 Defendant Ghaleb Azroui appeals *pro se* from an order of the circuit court of Cook County denying his motion to vacate the court's prior order finding him guilty of improper use of an electronic communication device while driving (625 ILCS 5/12-610.2(b) (West 2018)). On

appeal, defendant contends that the circuit court did not give him an opportunity to present his case. Defendant further argues that the court was prejudiced against him and did not treat him fairly. In addition, defendant contends that the police officer committed perjury when he testified that defendant drove over a half-mile while on his phone. We affirm.

¶ 3 Documents in the record show that on March 28, 2018, a Norridge police officer issued defendant a traffic citation for improper use of an electronic communication device while driving in the 4800 block of North Cumberland Avenue. Defendant indicated on the ticket envelope that he was pleading not guilty and requested a court hearing. The court docket sheets show that on May 8, 2018, the circuit court held a hearing at which it found defendant guilty and assessed him \$289 in fines, fees and court costs. The record before this court does not include a transcript or alternative report of proceedings for this hearing.

¶ 4 On May 16, 2018, defendant filed a *pro se* motion to vacate the judgment. Defendant's motion consists of a one-page form merely indicating that he was requesting that the judgment be vacated, with no further contentions or argument.

¶ 5 On June 11, 2018, the circuit court held a hearing on defendant's motion to vacate. A transcript from that hearing is included in the record. Defendant argued that the guilty finding was unjust and unfair. Defendant claimed that the police officer who testified at the prior hearing had "provided some wrong information." Defendant also argued that in a case that was called before his, the court dismissed the ticket for a man who had been charged with "playing" on his cell phone, but the court did not dismiss defendant's ticket. Defendant asserted that he had received an important call, and that "anyone can answer [an] important call."

¶ 6 The trial court stated that it had heard the evidence in defendant's case, which included testimony from both defendant and the police officer regarding the offense. The court stated that it found the police officer's testimony more credible than defendant's, and therefore found defendant guilty. The court also explained that no two cases are alike, and that each case is judged on its own merits based on the evidence presented. The court then stated that defendant's motion was denied.

¶ 7 Defendant continued to argue that he had evidence that the police officer had committed perjury. He also pointed out again that the court had dismissed a ticket for another man who had also been charged with using a cell phone while driving. The court again stated that defendant's motion was denied, and that its previous order finding defendant guilty would stand.

¶ 8 Defendant then stated that he wanted to appeal. The court stated that defendant could appeal, and admonished him that in addition to filing a notice of appeal, "[y]ou'll also have to file a bystander's report based on your recollection of the event, the prosecutor's recollection of the event, and the police officer's recollection of the event."

¶ 9 Defendant persisted with his argument that his testimony was truthful and that the police officer committed perjury. The court stated that it listened to the evidence in the case and weighed everyone's credibility. The court explained that it did not find the officer's testimony more credible by virtue of the fact that he was a police officer, and that defendant stood on the same footing as the officer when he testified. The court further stated "[w]hat I believed at the time was the Village of Norridge had met their burden of proof; therefore, the evidence that they presented was sufficient for the Court to enter a finding of guilty, which is the order that I

entered.” The court then stated that defendant’s motion to “reconsider” was denied, and that its previous order finding him guilty would stand.

¶ 10 On appeal, defendant contends that the circuit court did not give him an opportunity to present his case. He further argues that the court was prejudiced against him and did not treat him fairly. Defendant again points out that the court dismissed a ticket for a man in another case who had also been charged with using a cell phone while driving, and argues that the court was supposed to dismiss his ticket also, as most judges do for the first offense. Defendant also maintains that the police officer committed perjury when he testified that defendant drove over a half-mile while on his phone. In addition, defendant asserts that the law allows drivers to use cell phones in an emergency.

¶ 11 Plaintiff has not filed a responsive appellee’s brief. This court, however, has elected to consider this appeal under the principles set forth in *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 131-33 (1976).

¶ 12 Section 12-610.2(b) of the Illinois Vehicle Code (625 ILCS 5/12-610.2(b) (West 2018)) provides that “[a] person may not operate a motor vehicle on a roadway while using an electronic communication device.” In regards to using a cell phone in an emergency situation, the statute does not apply to “a driver using an electronic communication device *for the sole purpose of reporting an emergency situation* and continued communication with emergency personnel during the emergency situation.” (Emphasis added.) 625 ILCS 5/12-610.2(d)(2) (West 2018).

¶ 13 We find that our review of this appeal is hampered by an incomplete record. An appellant has the burden of presenting a sufficiently complete record of the circuit court proceedings to support any claims of error, and in the absence of such a record, this court will presume that the

circuit court's order conformed with the law and had a sufficient factual basis. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). Any doubts arising from an incomplete record will be resolved against the appellant. *Id.*

¶ 14 Pursuant to Supreme Court Rule 323 (eff. July 1, 2017), in lieu of a circuit court transcript, an appellant may file a bystander's report (Rule 323(c)) or an agreed statement of facts (Rule 323(d)). Here, the trial court specifically advised defendant that he should submit a bystander's report comprised of the combined recollection of defendant, the prosecutor and the police officer. However, the record does not contain a report of the court proceedings from the May 8 hearing where defendant was found guilty in any format.

¶ 15 The record before this court consists of the transcript from the June 11 hearing on defendant's motion to vacate the judgment, and one 16-page volume of common law documents containing the court's docket sheets, a copy of the traffic citation, defendant's motion to vacate, defendant's motion to waive filing fees, and his notice of appeal. Based on this record, we know that the trial court conducted a hearing on May 8 where it listened to evidence and arguments presented by the Village of Norridge and defendant. We know that the court heard testimony from the police officer who issued defendant the traffic citation and from defendant. However, without a report of proceedings from the May 8 hearing, this court has no knowledge of what evidence was presented, what the testimony revealed, or what arguments the parties made before the court. At the June 11 hearing, the court stated that it found the police officer's testimony more credible than defendant's, and that the evidence presented by the Village was sufficient for the court to find defendant guilty. It was defendant's burden to present a sufficiently complete record and there is nothing in the record before us to demonstrate that defendant reported an

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emergency situation as required by the Illinois Vehicle Code. See 625 ILCS 5/12-610.2(b), (d)(2) (West 2018). Under these circumstances, this court must presume that the circuit court acted in conformity with the law and ruled properly after considering the evidence before it. *Corral v. Mervis Industries, Inc.*, 217 Ill. 2d 144, 156-57 (2005); *Foutch*, 99 Ill. 2d at 391-92.

¶ 16 For these reasons, we affirm the judgment of the circuit court of Cook County.

¶ 17 Affirmed.