

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH	:	CR-SA 28-2015
	:	
v.	:	
	:	1848 MDA 2015
DARNELL D. HARRIS,	:	
Defendant	:	SUMMARY APPEAL

OPINION AND ORDER
Issued Pursuant to Pennsylvania Rule of Appellate Procedure 1925(a)

This Court issues the following Opinion and Order pursuant to P.R.A.P. 1925(a). This is an appeal from an Order entered September 30, 2015 on summary appeals under two dockets. Under the docket in which the appeal was filed, SA-28-2015, the charges were withdrawn and the citation dismissed. As such, the Court does not believe that any issues are properly before the Superior Court and that the appeal should be quashed.

Under SA-34-2015, the Court accepted a guilty plea from Darnell D. Harris to the charge of driving with a suspended commercial license and the second charge of speeding at a hazardous grade.¹ This Court re-imposed the fines and sanctions imposed by Magistrate District Judge Sortman as to those charges. On October 22, 2015, Mr. Harris filed his notice of appeal. Mr. Harris filed his notice of appeal and concise statement to the SA-28-2015 docket only.² In his statement of errors, Mr. Harris raised issues that more properly relate to SA-34-2015.

One issue raised is that Mr. Harris contends that this Court erred by failing to remand the cases back to the magistrate court to address alleged due process violations.³ However, this issue was not raised at the time of trial during the acceptance of the plea. “Issues not raised in the lower court are waived and cannot be raised for the first time on appeal.” See Pa.R.A.P. 302(a).

¹ 75 Pa.C.S. §1606 §C1(ii) and 75 Pa.C.S. §3365 C (by 22 m.p.h.), respectively.

² Mr. Harris filed his notice of appeal and concise statement to the SA-28-2015 docket only. He filed a request for transcript to the SA 34-2015. Although the appeal is under the docket SA-28-2015, those charges were dismissed leaving nothing for Mr. Harris to appeal under that docket.

³ Mr. Harris appears to object to the procedures requiring collateral under Pa. Crim. P. R. 408 and 413.

Furthermore, a de novo hearing before the Court of Common Pleas was afforded to Mr. Harris pursuant to Pa. Pa. Crim. P. R. 462 as to the guilty pleas entered before the Magistrate.

Another issue raised by Mr. Harris is that Mr. Harris contends that he did not knowingly enter the guilty pleas. “Our law presumes that a defendant who enters a guilty plea was aware of what he was doing. He bears the burden of proving otherwise.” Commonwealth v. Reid, 117 A.3d 777 (Pa. Super. 2015), *citing*, Commonwealth v. Pollard, 2003 PA Super 334, 832 A.2d 517, 523 (Pa. Super. 2003) (internal citation omitted). “The entry of a negotiated plea is a "strong indicator" of the voluntariness of the plea.” Commonwealth v. Reid, 117 A.3d 777 (Pa. Super. 2015), *citing*, Commonwealth v. Myers, 434 Pa. Super. 221, 642 A.2d 1103, 1106 (Pa. Super. 1994). Our Pennsylvania Supreme Court “has consistently held that a defendant's lack of knowledge of collateral consequences to the entry of a guilty plea does not render a plea unknowing or involuntary.” Commonwealth v. Leidig, 956 A.2d 399, 402-403 (Pa. 2008). The Pennsylvania Supreme Court has also recognized the loss of driving privileges as a collateral consequence. *See. e.g.*, Commonwealth v. Duffey, 536 Pa. 436; 639 A.2d 1174 (Pa. 1994).

In the present case, the Court concluded that Mr. Harris entered the guilty plea knowingly, voluntarily and intelligently. At the time set for a non-jury trial on the summary offenses, a plea was reached. The plea agreement was stated on the record. Pursuant to the agreement, Mr. Harris would plead to the charges under SA-34-2015 and the Commonwealth would withdraw the charges under SA-28-2015. Notes of Testimony for proceedings held September 22, 2015, (N.T.) at 2:14-16. After the plea arrangement was stated on the record, the following exchange took place.

THE COURT: All right. Mr. Harris, do you understand your options here and that basically you're going to have to pay fines in this one case to get rid of the other case.

THE DEFENDANT: Yes, I do, Your Honor. I did agree to a plea, but I would like to

request to speak with the Prosecutor again cause I'm a little confused about something. I would like to be called back up to speak with the Prosecutor. N.T. 3:2-24

After permitting Mr. Harris an opportunity to speak with the assistant district attorney, Mr.

Ciuca, the following exchange occurred on the record.

MR. CIUCA: Thank you, Your Honor. I believe Mr. Harris' questions have been answered and he would like to proceed with the plea agreement.

THE COURT: Okay. And, Mr. Harris, then you understand that you'll be admitting to basically two offenses here this morning, the first is driving with a canceled commercial license and the other one is speeding on a hazardous grade and the other charge against you will be dismissed. Is that your understanding?

THE DEFENDANT: Yes.

THE COURT: Okay. Any other preliminary questions that you have?

THE DEFENDANT: No, I don't. N.T. 3:2-24.

Thereupon the Court dictated an Order in accordance with the plea agreement.

The exchange evidences a knowing and voluntary plea agreement. Mr. Harris was afforded his right to trial; having negotiated his plea arrangement at the time scheduled for trial. It strains credulity that Mr. Harris could have been unaware of the option to go forward with the trial on all of the charges against him that he was summoned to attend. Instead of doing that, Mr. Harris negotiated a plea arrangement to dismiss the charge in SA 28-2015, and thus received a benefit from the plea negotiations. When Mr. Harris had a question, he spoke up and notified the Court. The Court granted him time to discuss the matter further with the prosecution to resolve his question. After speaking with the prosecutor, Mr. Harris specifically indicated on the record that he agreed to a plea and that he had no further questions. As such, the Court properly concluded that the guilty plea was knowingly, voluntarily and intelligently entered.

That Mr. Harris may have been unaware that his guilty plea would have consequences upon his driving privileges does not render his plea unknowing. See, e.g., Leidig, supra; and Duffey, supra.

A final issue raised is that the Mr. Harris was not advised of his appeal rights. This does not appear to raise grounds for reversing the plea. Furthermore, Mr. Harris filed an appeal.

Accordingly, this Court respectfully requests that the Appeal be quashed or in the alternative, that the Court's Order entered on September 30, 2015 be affirmed.

BY THE COURT,

December 24, 2015

Date

Richard A. Gray, J.

cc: District Attorney's Office (KO/TC)
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