



Legal Update

February 25, 2015

The SJC held that there was insufficient evidence to prove that the defendant had notice his license was suspended.

Commonwealth v. Razak Oyewole, SJC, No. 11664, (2014)

Background: The defendant, Razak Oyewole (hereinafter referred to as “Oyewole”), pled guilty to the charge of operating while under the influence of liquor. As a result of his admission, the defendant’s license was suspended for sixty days. A Wilmington police officer stopped the defendant when he observed the defendant driving his motor vehicle with its lights off at 12:30 A.M. The defendant was the driver and only occupant of the vehicle. The officer requested the defendant's license, which the defendant produced. The officer confiscated the license and placed the defendant under arrest. The defendant was arrested and charged with operating a motor vehicle with a suspended license under G. L. c. 90, § 23. The defendant was convicted and appealed arguing that the Commonwealth failed to prove beyond a reasonable doubt that the defendant operated his motor vehicle in violation of G. L. c. 90, § 24[1][a]); and (4) The issue before the SJC was whether there was sufficient evidence to establish that the defendant violated the above statute.

Conclusion: The SJC reversed the conviction and concluded that the defendant did not have sufficient notice that his license was suspended. The SJC found that the Commonwealth proved three of the four elements to prove that the defendant violated G. L. c. 90, § 23. Based on the evidence presented at trial, it was possible to infer that the defendant did not have notice that his license was suspended because he still had his license in possession when the officer stopped him. Although the docket sheet from the OUI case permits an inference

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that the defendant was present when his license was suspended, there is no evidence that established that the Commonwealth communicated to the defendant that his license was suspended. Additionally, when the defendant was stopped, he had his license in his possession and gave it to the police officer. According to the statute, when a license is suspended in connection with a conviction for operating while under the influence pursuant to G.L. c.90, §24D, the license must be surrendered to the probation department. Here, the defendant apparently did not surrender his license and as a result, it is reasonable to infer that the defendant was never notified that his license was suspended.

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