

[Cite as *State v. O'Connor*, 2015-Ohio-833.]

STATE OF OHIO, MAHONING COUNTY

IN THE COURT OF APPEALS

SEVENTH DISTRICT

STATE OF OHIO)	CASE NO. 13 MA 169
)	
PLAINTIFF-APPELLEE)	
)	
VS.)	OPINION
)	
ARIAN SIRIUS O'CONNOR)	
)	
DEFENDANT-APPELLANT)	

CHARACTER OF PROCEEDINGS: Criminal Appeal from the County Court
No. 4, of Mahoning County, Ohio
Case No. 13 TRD 6389

JUDGMENT: Affirmed.

APPEARANCES:

For Plaintiff-Appellee: Atty. Paul J. Gains
Mahoning County Prosecutor
Atty. Ralph M. Rivera
Assistant Prosecuting Attorney
21 West Boardman Street, 6th Floor
Youngstown, Ohio 44503

For Defendant-Appellant: Arian S. O'Connor, Pro se
1315 Salt Springs Road
Youngstown, Ohio 44509

JUDGES:

Hon. Cheryl L. Waite
Hon. Gene Donofrio
Hon. Mary DeGenaro

Dated: March 3, 2015

[Cite as *State v. O'Connor*, 2015-Ohio-833.]
WAITE, J.

{¶1} Appellant Arian S. O'Connor appeals his conviction on one count of driving under suspension, R.C. 4510.11(A), a first degree misdemeanor. Appellant argues that Arian S. O'Connor is not his real name and that the traffic ticket was invalid for using that incorrect name. The record reflects that Appellant did not timely challenge the sufficiency of the name listed on the traffic ticket, and that Appellant was properly identified as Arian S. O'Connor at trial. The remainder of Appellant's argument appears to challenge the evidence proving that Arian S. O'Connor is actually a living person. The record contains the proper evidence to convict Appellant of driving under suspension, and the judgment of the trial court is affirmed.

{¶2} On the evening of September 14, 2013, Appellant was driving a 2000 GMC Yukon near the intersection of Four Mile Run Road and Crum Road in Austintown, Mahoning County, Ohio. He hurriedly pulled out in front of a police car being driven by Austintown Police Officer Joshua Watkins. Watkins ran a license check of Appellant's vehicle, and found that Appellant's license had been suspended. Watkins stopped the vehicle and asked Appellant for his license and registration. Appellant did not produce the documents and refused to give his name. Watkins determined Appellant's name, address, date of birth, Social Security number, height and weight through LEADS. Watkins cited Appellant for driving under suspension in violation of R.C. 4510.11(A), a first degree misdemeanor. Appellant's driver's license had been suspended by Youngstown Municipal Court.

{¶3} Appellant was uncooperative during the criminal proceedings in this case and at times refused to appear in court. He eventually did appear at trial on

October 16, 2013. At trial, Appellant admitted that his license had been suspended. (Tr., p. 18.) Officer Watkins testified as to all the particulars of the traffic stop, his conversation with Appellant, and the issuance of the traffic ticket. The court found Appellant guilty and sentenced him to a \$500 fine. This timely *pro se* appeal followed.

{¶14} Appellant has not filed any assignments of error. App.R. 16(A)(3) provides that an appellant's brief must contain a statement of the assignments of error presented for review, with reference to the place in the record where each error is reflected. Although Appellant is representing himself on appeal, *pro se* litigants are bound by the same rules and procedures as litigants who retain counsel. *Meyers v. First National Bank of Cincinnati*, 3 Ohio App.3d 209, 210, 444 N.E.2d 412 (1st Dist.1981). An egregious violation of App.R. 16 gives us the authority to dismiss the appeal, to rely on the presumption of regularity of the trial court proceedings and affirm the judgment, or to use our best efforts to construe any issues being raised. *Leone v. Leone*, 7th Dist. No. 98 CA 135, 2000 WL 179172. In the interests of justice, we will attempt to construe the arguments being made.

{¶15} Appellant argues that his name is not Arian S. O'Connor, but rather, Noble Bull Horn Sirius O'Connor Bey. He contends that the name Arian S. O'Connor is associated with a trust account and not a real person. Whether or not a trust exists under the name Arian S. O'Connor, it does not excuse the person identified as being Arian S. O'Connor from criminal liability for his actions. Appellant essentially argues that the complaint was filed under the wrong name. When a defendant objects that

an indictment or charging instrument has identified him or her by an incorrect name, the basis of the objection is the sufficiency of the indictment or charging instrument. *State ex rel. Simpson v. Lazaroff*, 75 Ohio St.3d 571, 571, 664 N.E.2d 937 (1996). An indictment or criminal complaint serves to document the accusation of a person for a crime, not as an accusation against a particular name. *Id.*

{¶6} Appellant was required to raise this argument prior to trial pursuant to Crim.R. 12(C)(2). *State v. Jones*, 6th Dist. No. L-09-1181, 2009-Ohio-6498, ¶15; *State v. Bragwell*, 7th Dist. No. 06-MA-140, 2008-Ohio-3406, ¶14-15. Although Appellant filed a motion to dismiss prior to trial, the basis of the motion was not clear. It is apparent that the motion did not state that the traffic ticket was being challenged due to containing the incorrect name of the accused. Therefore, this argument has been waived. Assuming it had not been waived, the record reveals that the officer who stopped Appellant and issued the ticket conducted a LEADS search of the vehicle and obtained a printout with Appellant's photo, Social Security number, date of birth, height, weight, and other identifying characteristics, including his name. Appellant himself admitted at trial that his license was suspended. No matter what Appellant wishes to call himself, he was properly identified in the record as Arian S. O'Connor, a man with a suspended driver's license, and this argument has no merit.

{¶7} Appellant believes that the trial judge could not enter a plea for him when he refused to enter his own plea. However, Crim.R. 11(A) states: "If a defendant refuses to plead, the court shall enter a plea of not guilty on behalf of the defendant." This argument is also without merit.

{¶18} Appellant urges that he (or his alter ego Noble Bull Horn Sirius O'Connor Bey) is a member of a Native American tribe called the Washitaw Nation of Muurs or Washitaw Tribe of Moors; that such tribe is not required to abide by the laws of Ohio; that he is permitted to drive in Ohio without a license as long he is not engaged in commercial driving; and that Arian S. O'Connor no longer exists as a person because a trust was formed that somehow involves the name or persona of Arian S. O'Connor. The alleged basis for all these beliefs is not clear from the record. At least two Federal Courts of Appeals have declared that the Washitaw Nation of Muurs is fictional and is not recognized by the United States Government. *Bybee v. City of Paducah*, 46 Fed.Appx. 735, 736 (6th Cir.2002); *Sanders-Bey v. U.S.*, 267 Fed.Appx. 464, 466 (7th Cir.2008). The record is clear that Appellant, under the name Arian S. O'Connor, once had a driver's license, that this license was suspended by the Youngstown Municipal Court, and that he is responsible for the offense of driving in Austintown on September 14, 2013, while his license was still suspended. Appellant's attempt to obscure these basic facts by reference to a fictional Native American tribe is unpersuasive.

{¶19} The record supports the judgment of the trial court, and the judgment is affirmed.

Donofrio, P.J., concurs.

DeGenaro, J., concurs.