

IN THE COURT OF APPEALS OF IOWA

No. 3-512 / 92-1639

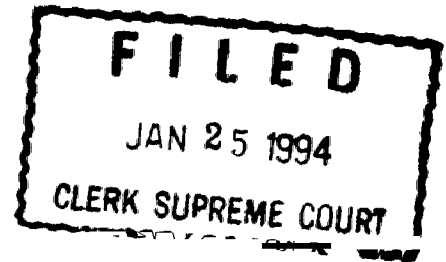
STATE OF IOWA,

Appellee,

vs.

JERRY R. GLADMAN,

Appellant.



Appeal from the Iowa District Court for Taylor County,
Richard D. Morr, Judge.

The defendant appeals from his conviction, following a jury trial, for driving while license revoked, in violation of Iowa Code section 321J.21 (1991). **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Patricia Reynolds Lapointe, Assistant State Appellate Defender, for appellant.

Bonnie J. Campbell, Attorney General, Martha E. Boesen, Assistant Attorney General, and Ronald D. Bonnett, County Attorney, for appellee.

Heard by Oxberger, C.J., and Sackett and Habhab, JJ.

OXBERGER, C.J.

On May 31, 1990, defendant Jerry Gladman was arrested for operating a motor vehicle while intoxicated, in violation of Iowa Code section 321J.5 (1989). Gladman signed an implied consent form provided by the Iowa Department of Transportation. This form provided:

NOTICE OF REVOCATION: You are hereby notified that, effective twenty days from the date of this notice, your privilege to operate motor vehicles in Iowa is revoked pursuant to Iowa Code chapter 321J for a period of 180 days and shall remain revoked until you post proof of financial responsibility as required by Iowa Code chapter 321A. You are required by law to surrender to the undersigned peace officer all Iowa driver licenses or permits in your possession.

Gladman had a Missouri driver's license, and so, was not required to surrender his license to Iowa authorities. Gladman never posted proof of financial responsibility in Iowa.

On March 12, 1991, Gladman was stopped by a police officer for driving without any tail lights. Upon checking Gladman's Missouri driver's license, the officer discovered his privilege to operate a motor vehicle in Iowa had been revoked. Gladman was then charged with operating a motor vehicle while license denied or revoked, in violation of Iowa Code section 321J.21 (1991).

Defendant was tried before a jury. The jury returned a verdict finding him guilty of driving while license revoked, which is a serious misdemeanor. Defendant was placed on probation for one year and ordered to pay costs. He now appeals.

Defendant contends the district court erred in failing to grant his request for a jury instruction adding knowledge as an element of the offense of driving while license revoked. He claims the State should have sent him notice by mail informing him his privilege to drive in Iowa had been revoked and advising him of the steps he needed to take to have his license reinstated. Defendant claims he was not aware his driving privileges in Iowa had been revoked.

A trial court has the duty to instruct the jury on all material issues supported by the law and the evidence. State v. Watkins, 463 N.W.2d 15, 17 (Iowa 1990). The trial court's decision on instructions will not be disturbed absent an abuse of discretion. State v. Cunningham, 463 N.W.2d 887, 889 (Iowa App. 1990).

We determine knowledge is not an element of driving while license revoked. In considering an earlier statute, the supreme court stated:

[Defendant] claims [it] is necessary to show criminal intent or guilty knowledge. The simple answer to this claim is the legislature did not so provide. And the crime charged is one the legislature is well within its power in not requiring criminal intent. Driving while a license is revoked or registration suspended is not malum in se and it does not involve moral turpitude.

State v. Sonderleiter, 251 Iowa 106, 108, 99 N.W.2d 393, 395 (1959) (citations omitted).

The elements for the crime of driving while license revoked were set forth in State v. Thompson, 357 N.W.2d 591

(Iowa 1984). The State must show beyond a reasonable doubt that (1) defendant's license had been revoked, and (2) defendant had operated a motor vehicle while his or her license was thus revoked. Id. at 594. We have previously noted there is no requirement in Thompson that the State prove the defendant had knowledge of the revocation. State v. Carmer, 465 N.W.2d 303, 304 (Iowa App. 1990).

We determine the district court did not abuse its discretion in refusing to instruct the jury that the State had an obligation to prove defendant had knowledge his license was revoked due to our conclusion that knowledge is not an element of the crime of driving while license revoked.

Defendant also contends the district court abused its discretion in refusing to admit certain evidence. He sought to introduce a certified copy of the disposition of his OWI case on September 10, 1990, in the Page County Criminal Court Calendar. The entry in question stated, in part, "Defendant's driver's license is suspended for 30 days." Defendant claims this entry is relevant to show his license was not suspended when he was arrested on March 12, 1992.

Whether the necessary minimum level of logical connection between the offered evidence and the fact to be proven exists is a legal question lying within the broad discretion of the trial court. State v. Tracy, 482 N.W.2d 675, 680-81 (Iowa 1992). Under Iowa Rule of Evidence 401,

evidence is relevant is it has a tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

Under section 321A.17(2), the legislature specifically provided that a license revocation shall remain in effect until proof of financial responsibility is shown. State v. Webb, 493 N.W.2d 868, 871 (Iowa App. 1992). Defendant admitted he never presented proof of financial responsibility in Iowa. Therefore, his license revocation remained in effect.

We determine the district court did not abuse its discretion in finding the evidence in question was not relevant. The evidence of the calendar entry would not tend to make it more probable or less probable that defendant's license was revoked on the date of his arrest.

We affirm defendant's conviction for the crime of driving while license revoked.

AFFIRMED.