

CDL License Impacted by Defendant's Speeding Violation in His Personal Auto

Tennessee Court of Appeals reverses Trial Court

*By Melody L. Luetkehans,
NJC program attorney*

A Tennessee Trial Court judge granted a defendant permission to attend traffic school in lieu of a fine. The Appellate Court reversed as neither State nor federal law permits diversion for a commercially licensed operator.

Defendant Stark, a Kentucky CDL holder, was issued a ticket for speeding (80 mph in a 55 mph zone) in Nashville, Tennessee, while in his personal automobile. He testified he worked for UPS as a delivery driver and trainer and taught other drivers about safety and speeding. Furthermore, he testified the reason he was speeding was because he was unfamiliar with the interstate system in Nashville and missed the lower speed limit sign as he departed the interstate.

Defendant's attorney argued that since Mr. Stark was in his personal vehicle, he should be allowed to attend traffic school in lieu of a violation.

The state's attorney argued Tennessee and federal regulations prohibit the holder of a CDL from attending traffic school in lieu of punishment, or otherwise "masking" the citation or having it deferred. The state then asked that a \$50.00 fine and court costs be imposed against defendant.

At the conclusion of the proof, the trial judge empathized with the defendant on the impact this violation would have on the defendant's CDL. The Trial Court agreed to allow defendant to attend traffic school, and stated that the citation would be dismissed once that was completed and the court costs paid.

Tenn. Code Ann. §55-10-301(b) gives the trial court the discretion to order a traffic law violator to attend a driver education course ... in lieu of any portion of other penalty imposed ... This statute goes on to state, however, that subsection (b) "shall not apply to any person who holds a Class A, B, or C license and is charged with any violation, except a parking violation, in any type of motor vehicle." Tenn. Code Ann. §55-10-301(c). Class A, B, or C licenses are defined in Tenn. Code Ann. §55-50-102 as those issued for the operation of vehicles weighing more than 26,000 pounds, and are those typically referred to as "commercial" drivers' licenses.

Federal law, specifically, 49 C.F.R. §384.2262, states:

"The State must not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a CDL driver's conviction for any violation, in any type of motor vehicle, of a State or local traffic control law (except

a parking violation) from appearing on the driver's record, whether the driver was convicted for an offense committed in the State where the driver is licensed or another State.”

The Appeals Court found the federal regulation clear. The State cannot mask or defer imposition of judgment to prevent a CDL driver’s conviction for any type of traffic violation (besides parking) in any type of motor vehicle from appearing on the driver’s record, whether the offense was committed in the driver’s home state or different state. 49 C.F.R. §384.226.

Based upon the State and federal laws addressing this issue, the appellate court found the Trial Court erred in allowing the defendant to attend traffic school and in holding his traffic violation would be dismissed upon completion of traffic school. It found that since defendant holds a commercial driver’s license, that prevented the Trial Court from allowing him to benefit from this type of judicial diversion. Apparently, the Trial Court was influenced by the fact that defendant was driving a personal vehicle at the time of the violation, but the state and federal law make clear that this is of no consequence.

Metropolitan Government of Nashville and Davidson County v. Daryl K. Stark, 2008 WL 276005 (Tenn. Ct. App.)