Nebraska Supreme Court Online Library
www.nebraska.gov/apps-courts-epub/
11/25/2026 01:12 AM CST

CONCLUSION

After reviewing the record, we conclude that the review panel did not err in affirming the trial court's dismissal. Therefore, we affirm the review panel's order in its entirety.

AFFIRMED.

STATE OF NEBRASKA, APPELLEE, V.
STEVEN V. BURNS, APPELLANT.
747 N.W.2d 635

Filed February 12, 2008. No. A-07-762.

This opinion has been ordered permanently published by order of the Court of Appeals dated April 4, 2008.

1. **Statutes: Appeal and Error.** Statutory interpretation presents a question of law, for which an appellate court has an obligation to reach an independent conclusion irrespective of the determination made by the court below.
2. **Courts: Time: Appeal and Error.** Where no timely statement of errors is filed in an appeal from a county court to a district court, appellate review is limited to plain error.
3. **Criminal Law: Statutes.** It is a fundamental principle of statutory construction that penal statutes are to be strictly construed.
4. ____: ____. Although penal statutes are strictly construed, they are given a sensible construction in the context of the object sought to be accomplished, the evils and mischiefs sought to be remedied, and the purpose sought to be served.
5. **Statutes: Appeal and Error.** Statutory language is to be given its plain and ordinary meaning, and an appellate court will not resort to interpretation to ascertain the meaning of statutory words which are plain, direct, and unambiguous.
6. **Statutes.** If the language of a statute is clear, the words of such statute are the end of any judicial inquiry.
7. **Motor Vehicles.** Where a vehicle is equipped with two taillights, Neb. Rev. Stat. § 60-6,219(6) (Reissue 2004) requires both taillights to give substantially normal light output and to show red directly to the rear.

Appeal from the District Court for Sarpy County, WILLIAM B. ZASTERA, Judge, on appeal thereto from the County Court for Sarpy County, MAX KELCH, Judge. Judgment of District Court affirmed.

James E. Schaefer, of Gallup & Schaefer, for appellant.

Jon Bruning, Attorney General, and George R. Love for appellee.

INBODY, Chief Judge, and IRWIN and CASSEL, Judges.

CASSEL, Judge.

INTRODUCTION

Steven V. Burns appeals from a district court judgment affirming a county court conviction and judgment. He attacks the denial of his motion to suppress, asserting that because Neb. Rev. Stat. § 60-6,219 (Reissue 2004) authorizes a vehicle to be equipped with "one or more" taillights, a vehicle having two taillights, one of which is unilluminated, nonetheless "shows red directly to the rear" and is in compliance with § 60-6,219. The lower courts correctly rejected Burns' argument, and we affirm.

BACKGROUND

The State filed a complaint in county court charging Burns with one count of driving under the influence of alcohol, .15 or over, and one count of vehicle light violation. Burns filed a motion to suppress, which the county court heard on December 28, 2006. The only issue was whether the deputy sheriff had reasonable suspicion to stop the vehicle Burns was driving. The deputy observed a vehicle traveling westbound on Giles Road in Sarpy County, Nebraska, on September 20. He observed that the vehicle displayed only one red light on the rear of the vehicle. The vehicle was equipped with two taillights, on the left and right, but the left taillight was not working. The deputy performed a traffic stop and detected the odor of an alcoholic beverage on Burns' breath. The county court overruled the motion to suppress.

The State filed an amended complaint, dropping the ".15 or over" enhancement, and the matter was tried on stipulated evidence. The State dismissed the vehicle light violation, and the court found Burns guilty of driving under the influence. The county court sentenced Burns. He timely appealed to the district court, but filed no statement of errors. The district court for Sarpy County affirmed.

Burns timely appeals to this court. Pursuant to the authority granted to this court under Neb. Ct. R. of Prac. 11B(1) (rev. 2006), this case was ordered submitted without oral argument.

ASSIGNMENT OF ERROR

Burns' sole assignment of error claims that the district court erred in affirming the county court's order overruling Burns' motion to suppress.

STANDARD OF REVIEW

[1] Statutory interpretation presents a question of law, for which an appellate court has an obligation to reach an independent conclusion irrespective of the determination made by the court below. *State v. Griffin*, 270 Neb. 578, 705 N.W.2d 51 (2005).

[2] Where no timely statement of errors is filed in an appeal from a county court to a district court, appellate review is limited to plain error. *Id.*

ANALYSIS

Burns' argument relies upon § 60-6,219, which provides in pertinent part:

> (3) Every motor vehicle . . . shall be equipped with one or more taillights, at the rear of the motor vehicle . . . , exhibiting a red light visible from a distance of at least five hundred feet to the rear of such vehicle.
>
> . . . .
>
> (6) It shall be unlawful for any owner or operator of any motor vehicle to operate such vehicle upon a highway unless:
>
> (a) The condition of the lights and electric circuit is such as to give substantially normal light output;
>
> (b) Each taillight shows red directly to the rear, the lens covering each taillight is unbroken, each taillight is securely fastened, and the electric circuit is free from grounds or shorts.

[3,4] It is a fundamental principle of statutory construction that penal statutes are to be strictly construed. *State v. Gozzola*, 273 Neb. 309, 729 N.W.2d 87 (2007). Although penal statutes

are strictly construed, they are given a sensible construction in the context of the object sought to be accomplished, the evils and mischiefs sought to be remedied, and the purpose sought to be served. *State v. Aguilar*, 268 Neb. 411, 683 N.W.2d 349 (2004).

[5,6] Statutory language is to be given its plain and ordinary meaning, and an appellate court will not resort to interpretation to ascertain the meaning of statutory words which are plain, direct, and unambiguous. *State v. Wester*, 269 Neb. 295, 691 N.W.2d 536 (2005). If the language of a statute is clear, the words of such statute are the end of any judicial inquiry. *State v. Rhea*, 262 Neb. 886, 636 N.W.2d 364 (2001).

Burns argues that because § 60-6,219(3) allows a vehicle to be equipped with one taillight, a vehicle actually equipped with two taillights need only have one in operation. He argues that the provision of § 60-6,219(6)(b) requiring that "[e]ach taillight shows red directly to the rear" does not impose a requirement that both taillights be illuminated. We reject this strained interpretation.

Even viewed in isolation, the plain and unambiguous meaning of § 60-6,219(6)(b) that "[e]ach taillight shows red directly to the rear" clearly requires the light source to be illuminated. A taillight which is not operable cannot reasonably be understood to "show" red directly to the rear. Moreover, § 60-6,219(6)(a) requires "[t]he condition of the lights and electric circuit is such as to give substantially normal light output." In other words, the light must be illuminated in the normal fashion.

[7] While it is lawful to have a vehicle designed for only one taillight, Burns' vehicle was equipped with two taillights. Where a vehicle is equipped with two taillights, the language of § 60-6,219(6) requires both taillights to "give substantially normal light output" and to "[show] red directly to the rear." If one of the taillights is not illuminated, it fails to comply with both of these statutory requirements. It follows that Burns was committing a traffic violation, providing probable cause for the traffic stop. See *State v. Voichahoske*, 271 Neb. 64, 709 N.W.2d 659 (2006) (traffic violation, no matter how minor, creates probable cause to stop driver of vehicle).

CONCLUSION

The lower courts did not err in rejecting Burns' incorrect statutory interpretation. Therefore, we find no error, much less plain error, in the rulings of the courts below.

AFFIRMED.

TERRY L. WORLEY, APPELLANT, V. ROBERT P. HOUSTON, DIRECTOR OF THE DEPARTMENT OF CORRECTIONAL SERVICES, AND RONALD REITHMULLER, RECORDS ADMINISTRATOR, APPELLEES.

747 N.W.2d 639

Filed April 15, 2008. No. A-07-151.

1. **Prisoners: Sentences.** Pursuant to Neb. Rev. Stat. § 83-1,107(2) (Cum. Supp. 1996), the chief executive officer of a facility shall reduce the term of a committed offender by 3 months for each year of the offender's term and pro rata for any part thereof which is less than a year.
2. ____: ____. Pursuant to Neb. Rev. Stat. § 83-1,107(3) (Cum. Supp. 1996), the chief executive officer shall reduce the term of a committed offender up to an additional 3 months for each year of the offender's term and pro rata for any part thereof which is less than a year upon participation in or completion of a personal program.
3. ____: ____. Pursuant to Neb. Rev. Stat. § 83-1,107 (Cum. Supp. 1996), the total of all the reductions of the term of a committed offender shall be credited from the date of sentence, which shall include any term of confinement prior to sentence and commitment as provided pursuant to Neb. Rev. Stat. § 83-1,106 (Reissue 1999), and shall be deducted from the maximum term, to determine the date when discharge from the custody of the state becomes mandatory.
4. **Summary Judgment.** Summary judgment is proper when the pleadings and evidence admitted at the hearing disclose that there is no genuine issue as to any material fact or as to the ultimate inferences that may be drawn from those facts and that the moving party is entitled to judgment as a matter of law.
5. **Summary Judgment: Appeal and Error.** In reviewing a summary judgment, an appellate court views the evidence in the light most favorable to the party against whom the judgment is granted and gives such party the benefit of all reasonable inferences deducible from the evidence.
6. **Statutes: Appeal and Error.** Statutory interpretation is a matter of law, in connection with which an appellate court has an obligation to reach an independent, correct conclusion irrespective of the determination made by the court below.
7. **Prisoners: Sentences.** Pursuant to Neb. Rev. Stat. § 83-1,107(2) (Cum. Supp. 1996), good time is credited at the time of a prisoner's sentence and is based on the prisoner's maximum term.