

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
TERRY WAYNE ISADORE	:	
	:	
Appellant	:	No. 943 WDA 2023

Appeal from the Judgment of Sentence Entered July 18, 2023
 In the Court of Common Pleas of McKean County Criminal Division at
 No(s): CP-42-CR-0000528-2022

BEFORE: OLSON, J., KING, J., and LANE, J.

JUDGMENT ORDER BY OLSON, J.:

FILED: APRIL 15, 2024

Appellant, Terry Wayne Isadore, appeals from the judgment of sentence entered on July 18, 2023. We affirm.

On July 18, 2023, Appellant pleaded guilty to the summary offenses of: driving while operating privilege is suspended or revoked; driving an unregistered vehicle; driving a vehicle with no rear lights; and, using an improper class of license.¹ During the colloquy, the Commonwealth set forth the factual basis for Appellant’s plea:

The Commonwealth is prepared to prove beyond a reasonable doubt that on or about August 26, 2022, in McKean County, [Appellant] did operate a motor vehicle at a time when his operating privileges were suspended and he did drive or move the vehicle upon any highway or traffic-way which was not properly registered, and that [Appellant] operated on any highway a vehicle that was not equipped

¹ 75 Pa.C.S.A. §§ 1543(a), 1301(a), 4303(b), and 1504(a), respectively.

with a rear lighting system, and that he did unlawfully drive the motor vehicle upon a highway in the Commonwealth without a valid driver's license for the type or class of vehicle being driven. Specifically, he did not have a Type M license.

N.T. Guilty Plea, 7/18/23, at 7.

That day, the trial court sentenced Appellant to pay fines and court costs. **See** N.T. Sentencing, 7/18/23, at 7.

Appellant filed a timely notice of appeal. He raises one claim to this Court:

Pursuant to ***Birchfield v. North Dakota***, 579 U.S. 43 (2016) and other authorities, is [75 Pa.C.S.A. § 1543(a)] unconstitutional because it improperly criminalizes [Appellant's] earlier refusal to submit to a warrantless blood draw?

Appellant's Brief at 4.

Appellant pleaded guilty to driving a motor vehicle while his operating privilege was suspended or revoked, under 75 Pa.C.S.A. § 1543(a). This section declares:

Except as provided in subsection (b), any person who drives a motor vehicle on any highway or trafficway of this Commonwealth after the commencement of a suspension, revocation or cancellation of the operating privilege and before the operating privilege has been restored is guilty of a summary offense and shall, upon conviction or adjudication of delinquency, be sentenced to pay a fine of \$200.

75 Pa.C.S.A. § 1543(a).

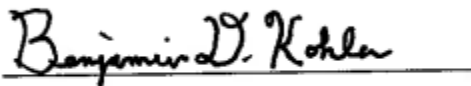
On appeal, Appellant claims that this section is unconstitutional because "it improperly criminalizes [Appellant's] earlier refusal to submit to a

warrantless blood draw . . . in violation of ***Birchfield***.” Appellant’s Brief at 10.

Appellant is incorrect. Section 1543(a) criminalizes the fact that Appellant drove his motor vehicle “after the commencement of a suspension . . . of the operating privilege and before the operating privilege has been restored.” 75 Pa.C.S.A. § 1543(a). The section does not concern itself with or require an “earlier refusal to submit to a warrantless blood draw.” **See** Appellant’s Brief at 10. Thus, Appellant’s constitutional attack upon Section 1543(a) fails.

Judgment of sentence affirmed. Jurisdiction relinquished.

Judgment Entered.

A handwritten signature in black ink that reads "Benjamin D. Kohler". The signature is written in a cursive style and is positioned above a solid horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

DATE: 04/15/2024