

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2005-000530-001 DT

11/04/2005

HON. MARGARET H. DOWNIE

CLERK OF THE COURT
L. Rasmussen
Deputy

FILED: 11/08/2005

STATE OF ARIZONA

CARON L CLOSE

v.

SHARI ROBIN ZANOFF (001)

SHARI ROBIN ZANOFF
3370 N HAYDEN RD #123
SCOTTSDALE AZ 85251

REMAND DESK-LCA-CCC
SCOTTSDALE CITY COURT

REMAND FOR DISMISSAL

Lower Court Case No. PR200453482

The court has jurisdiction over this appeal pursuant to the Arizona Constitution, Article VI, Section 16, and A.R.S. § 12-124(A). It has considered the record of the proceedings from the trial court, exhibits made of record, and the memoranda submitted.

On December 16, 2004, a vehicle registered to Appellant Shari Robin Zanoft was photographed by a photo radar machine on Frank Lloyd Wright Boulevard in Scottsdale. The machine marked the vehicle's speed at 56 mph in a zone posted 45 mph.

The State claims that Appellant was not only mailed a computer-generated complaint, but that someone received service of process on her behalf at her home on March 9, 2005. Appellant asserts that she was on a plane to Costa Rica at the exact moment when the alleged receipt of service of process occurred, and that she lives alone. Further, Appellant claims that the first notice she had of the traffic violation was on April 13, 2005, when she received a letter from the Arizona Department of Transportation – Motor Vehicle Division -- stating that a default judgment had been entered against her for failure to appear. On April 14, 2005, Appellant filed a Motion to Set Aside Default Judgment, which the lower court denied the same day. Appellant, having filed a timely notice of appeal, now brings the matter before this court.

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On appeal, Appellant raises a number of issues. The court first considers her contention that the computer-generated traffic complaint was insufficient to confer jurisdiction on the trial court. Specifically, Appellant asserts that because the traffic complaint was issued with only a computer-generated printed name of a person who had no information concerning her name, the identity of the driver, or the alleged facts, it did not comport with A.R.S. § 28-1561(A). That provision states:

Uniform traffic complaint forms need not be sworn to if they contain a form of certification by the issuing officer in substance as follows: "I hereby certify that I have reasonable grounds to believe and do believe that the person named herein committed the offense or civil violation described herein contrary to law."

While the complaint at issue does include the certification *language* required by the statute, our appellate courts have imposed restrictions on the use of computer-generated certifications:

While *Barckley* does suggest that a "pen-and-ink" signature may be superfluous, it is only in circumstances where some human involvement in the certification process can be inferred from the face of the document. Where, as here, the record is barren of facts from which we may infer that the intent to certify is contemporaneous with and unique to the production of the specific record and is independent of computer control, additional foundation is required to establish the requisite "human involvement".... [emphasis added]

State v. Johnson, 184 Ariz. 521, 911 P.2d 527 (App. 1994).

The citation at issue is clearly deficient. As such, it failed to confer jurisdiction on the trial court. Based on this conclusion, the court need not reach Appellant's other arguments.

IT IS ORDERED reversing the judgment of default, the finding of responsibility, and the fine imposed by the Scottsdale Municipal Court.

IT IS FURTHER ORDERED remanding this matter to the Scottsdale Municipal Court with directions to dismiss the traffic complaint against Appellant and refund any fines or bonds posted by Appellant.