

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR OSCEOLA COUNTY, FLORIDA

Case No. 2024 AP 000007 TR
Lower Tribunal Case No. 2011 TR 053669

BRENT T. GALBRAITH,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

Civil Infraction Appeal from the Traffic Court,
Osceola County, Florida,
Jill M. Hampton and Mary Ann Etzler, Hearing Officers.

Brent T. Galbraith, *pro se*, Appellant.

No appearance by Appellee.

PER CURIAM.

Appellant Brent T. Galbraith (“Galbraith”) appeals orders issued by two separate Civil Traffic Infraction Hearing Officers related to his 2011 civil traffic

infraction case. This Court has jurisdiction. §318.33, Fla. Stat.; Fla. R. Traf. Ct. 6.630(d); Fla. R. App. P. 9.030(c)(1)(A).

In August 2011, Galbraith was issued a Florida Uniform Traffic Citation for failure to pay a toll in violation of section 316.1001, Florida Statutes. After Galbraith failed to either pay the fine or opt for an infraction hearing on the citation, his driver's license was suspended. Then, over eleven years later, in July 2023, Galbraith filed a motion to dismiss the infraction case, asserting in relevant part that under section 318.15(1)(a), Florida Statutes, the civil penalties and license suspension must be removed from the court files since it has been over seven years since they were imposed. Traffic hearing officer Jill M. Hampton denied that motion in an order entered on July 24, 2023. While the order did not address specific reasons for the denial, it asserted that Galbraith, who is incarcerated, could "contact the Clerk of the Court for a payment plan option to resolve any outstanding fines, late fee(s) and/or costs for these citations" upon his release.

The hearing officer's order indicates that a copy of it was served on Galbraith at his correctional institution address, but almost one year after entry of the order, Galbraith filed a "Notice of Readiness and Request for Adjudication" in the case, seemingly indicating that Galbraith did not know his motion had been denied almost one year earlier. Shortly thereafter, the clerk received correspondence from Galbraith asserting that he had received information that his

motion had previously been denied but that he had not received a copy. Based on those filings, on October 1, 2024, traffic hearing officer Mary Ann Etzler issued an “Order Taking No Action” in the case, asserting that the motion to dismiss was previously ruled upon, providing Galbraith a copy of it, and finding that the “court ha[d] no jurisdiction to remove or amend any Florida Department of Motor Vehicle records, as those records are solely the purview of the Florida Department of Motor Vehicles.” (Emphasis in original.) This appeal followed.

Pursuant to Florida Rule of Appellate Procedure 9.110(b), a notice of appeal must be filed “with the clerk of the lower tribunal within 30 days of rendition of the order to be reviewed.” In this case, the notice was timely filed concerning the second “Order Taking No Action,” but not the initial order denying the motion to dismiss. Traffic hearing officer Etzler did not address whether she was treating Galbraith’s correspondence as a request for rehearing and relief due to excusable neglect akin to that provided within Florida Rule of Civil Procedure 1.540(b), although she did note the service of the original order denying relief on Galbraith. *See Perez v. State*, 16 Fla. L. Weekly Supp. 291a (Fla. 9th Cir. Ct. Feb. 24, 2009) (rule 1.540(b) considered by appellate court to address attorney’s excusable neglect for nonappearance at traffic court hearing on speeding infraction). Regardless, even if the notice of appeal on the order denying Galbraith’s motion is considered timely, this Court finds that the order should be affirmed on the merits.

Galbraith argues that the hearing officer erred in summarily denying his motion to dismiss, since it has been over eleven years since the traffic fines and penalties were imposed upon him for the traffic infraction citation in this case. He asserts that he is entitled to have the unpaid fines and suspension of his driving privilege removed from his record pursuant to section 318.15(1)(a), Florida Statutes, which states in part,

Any such suspension of the driving privilege which has not been reinstated, including a similar suspension imposed outside of this state, must remain on the records of the department for a period of 7 years from the date imposed and must be removed from the records after the expiration of 7 years from the date it is imposed. The department may not accept the resubmission of such suspension.¹

Galbraith contends that the proper remedy in this case is to reverse the hearing officer's decision and remand the matter to the lower tribunal with instructions to grant the relief requested by him: removal of all records pertaining to his unpaid legal fines/penalties that are beyond seven years from the date imposed; removal of the drivers license suspension related to those fines that are over seven years old; dismiss the traffic infraction case below; and issue a D-6 clearance for Appellant to reinstate his driving privilege. Galbraith cites to *Cox v. State*, 2023-CV-000026-A-O (Fla. 9th Cir Ct. Oct. 1, 2024), a recent appellate division case in this circuit, as

¹ In the statute, “‘Department’ means Department of Highway Safety and Motor Vehicles, defined in s. 20.24, or the appropriate division thereof.” §318.13(1), Fla. Stat.

support for this position. However, while the appellant in that case made a similar argument involving section 318.15(1)(a) in a brief very similar to the one Galbraith filed in this case, *Cox* was not resolved on its merits.

As noted by hearing officer Etzler, this Court has no jurisdiction over the records of the Florida Department of Highway Safety and Motor Vehicles (“the department”) on Galbraith’s motion. It may well be that the department has already removed the suspension from their records pursuant to the statute. If not, Galbraith should address that issue directly with the department. *See Fla. Admin. Code R. 15A-1.0195* (provides for administrative review related to cancellation, suspension, or revocation of driver’s license).

However, as to the instant case before the lower tribunal, and the financial penalties related to it, Galbraith overlooks that nothing in section 318.15(1)(a) provides for the removal of the underlying fees, costs, and fines themselves, which had given rise to the suspension. Galbraith still owes the money, and his license will not be reinstated until the obligations are discharged. Indeed, section (2) of the very same statute specifically states that

After the suspension of a person’s driver license and privilege to drive under subsection (1), the license and privilege may not be reinstated until the person complies with the terms of a periodic payment plan or a revised payment plan with the clerk of the court pursuant to ss. 318.14 and 28.246 or with all obligations and penalties imposed under s. 318.18 and presents to a

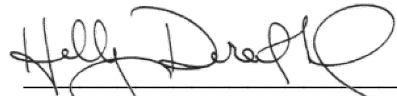
driver license office a certificate of compliance issued by the court, together with a nonrefundable service charge of \$60 imposed under s. 322.29, or presents a certificate of compliance and pays the service charge to the clerk of the court or a driver licensing agent authorized under s. 322.135 clearing such suspension. (Emphasis supplied.)

Further, Galbraith's license could be suspended again for failure to comply with a new payment plan or other arrangement with the clerk of the court upon his release from prison. In short, contrary to Galbraith's position, section 318.15(1)(a) is not a procedural vehicle for removing fees, costs, and fines imposed for traffic infractions. *See also* § 322.245(4), Fla. Stat. (after the suspension of a driver's license for failure to comply with court directives related to offenses delineated in that section, including the payment of fines, the license cannot be reinstated until the person complies with all court directives and pays the delinquency fee); §322.29, Fla. Stat. (a person applying for the return of a license suspended under s. 318.15 or s. 322.245 must present to the department certification from the court that he or she has complied with all obligations and penalties imposed and shall pay the department a nonrefundable service fee).

Accordingly, the orders below are **AFFIRMED**.

DONE and ORDERED in Chambers, at Kissimmee, Osceola County,

Florida, on this July 28, 2025



HOLLY N. DERENTHAL
Circuit Judge

CARSTEN and WILSON, JJ., concur.

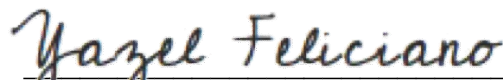
CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing was delivered on the July 28, 2025, to the following persons by ePortal/U.S. Mail:

Appellant: **BRENT GALBRAITH**, DC #X69895, Madison Correctional Institution, 382 Southwest MCI Way, Madison, Florida 32340;

Appellee: **FLORIDA DEPARTMENT OF TRANSPORTATION**, Violation Enforcement Section, P.O. Box 880069, Boca Raton, FL 33488-0069;

TRAFFIC COURT HEARING OFFICER, at TrafficHO@ocnjcc.org.



Judicial Assistant