STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL

February 4, 2016

Opinion No. 16-03

Authorized punishments for violation of Tennessee Code Annotated § 55-8-197

Question

Is the punishment for a conviction of a Class A or B misdemeanor under Tenn. Code Ann. § 55-8-197 limited to the fines provided in Tenn. Code Ann. § 55-8-197(c), or could a person convicted of an offense under § 55-8-197 be sentenced to serve a term of imprisonment pursuant to Tenn. Code Ann. § 40-35-111(e)?

Opinion

Yes, punishment for a conviction of a Class A or B misdemeanor under Tenn. Code Ann. § 55-8-197 is limited to the fines provided in Tenn. Code Ann. § 55-8-197(c).

ANALYSIS

Tennessee Code Annotated § 40-35-111(e) provides generally for punishments for Class A and Class B misdemeanors:

> (e) The authorized terms of imprisonment and fines for misdemeanors are:
>
> > (1) Class A misdemeanor, not greater than eleven (11) months, twenty-nine (29) days or a fine not to exceed two thousand five hundred dollars ($2,500), or both, unless otherwise provided by statute;
> >
> > (2) Class B misdemeanor, not greater than six (6) months or a fine not to exceed five hundred dollars ($500), or both, unless otherwise provided by statute[.]

Tenn. Code Ann. § 40-35-111(e)(1) & (2)(emphasis added). The emphasized language "unless otherwise provided by statute" plainly allows for the possibility that another statute could vary the punishments for certain Class A and Class B misdemeanors. See State v. Turner, 193 S.W.3d 522, 527 (Tenn. 2006).

Another statute does, in fact, provide "otherwise" in the context of Tenn. Code Ann. § 55-8-197, which makes certain traffic violations that result in serious bodily injury or death misdemeanors. The punishments specified for those particular misdemeanors are fines, with the

class of the misdemeanor and the amount of the fine dependent on whether the accident results in bodily injury or whether it results in death:

> (c)(1) A violation of subsection (a) is a class B misdemeanor punishable by a fine of two hundred and fifty dollars ($250) if the accident results in serious bodily injury of another.
>
> (2) A violation of subsection (a) is a class A misdemeanor punishable by a fine of five hundred dollars ($500) if the accident results in the death of another.

Tenn. Code Ann. § 55-8-197(c)(1) & (2). Thus, these two specific misdemeanors are punishable by fines and not by imprisonment, contrary to the punishment provisions for misdemeanors in general.

A basic principle of statutory construction is to ascertain and give effect to legislative intent without unduly restricting or expanding a statute's intended coverage. *State v. Turner*, 193 S.W.3d 522, 526 (Tenn. 2006) (citing *State v. Davis*, 173 S.W.3d 411, 413-14 (Tenn. 2005)). If a statute is clear and unambiguous, courts will find that intent in the plain and ordinary meaning of its language. *Brown v. Erachem Comilog, Inc.*, 231 S.W.3d 918, 921 (Tenn. 2007). Statutes on the same subject must be construed together harmoniously, so that they do not conflict. *Turner*, 193 S.W.3d at 526 (citing *In re Akins*, 87 S.W.3d 488, 493 (Tenn. 2002)). Specific statutory language will control over a general conflicting statutory provision. *Id.* (citing *Arnwine v. Union County Bd. of Educ.*, 120 S.W.3d 804, 809 (Tenn. 2003)).

The plain meaning of Tenn. Code Ann. § 40-35-111(e) is that the punishments for misdemeanors set forth in that statute apply unless another statute provides for different punishments. In other words, Tenn. Code Ann. § 40-35-111(e) provides the default for punishments for misdemeanors in general absent some different statutory provision for a specific misdemeanor. Tennessee Code Annotated § 55-8-197(c)(1) and (2) do in fact provide different punishments specifically for misdemeanor violations under that statute. Even if Tenn. Code Ann. § 40-35-111(e) did not expressly contemplate that a different punishment could be authorized by another statute, the two seemingly conflicting statutes—§ 40-35-111(e) and § 55-8-197(c)—are easily harmonized, because the specific provision controls the more general. Accordingly, the punishments specified in § 55-8-197 are the applicable punishments for violations of that statute and they are, by the plain language of the statute, limited to fines; they do not include imprisonment.

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