STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL

July 22, 2016

Opinion No. 16-26

Requirement that person cited sign an electronic traffic citation issued in lieu of arrest

Question 1

When issuing an electronic traffic citation pursuant to Tenn. Code Ann. § 55-10-207, may the officer require the person cited to signify acceptance of the citation and the agreement to appear in court by signing a blank screen on the officer's electronic device, or would doing so violate Tenn. Code Ann. § 55-10-207, § 40-7-118(c), other Tennessee law, or the person's constitutional rights?

Opinion 1

Tennessee Code Annotated § 55-10-207 requires the person cited to sign the citation, whether the citation is written on paper or on an electronic device. But a stand-alone blank screen is not a citation, and the officer may not require the person cited to sign a blank screen that is not part of a citation, just as the officer may not require a person cited to sign a blank piece of paper that is not part of a paper citation. If the blank screen is clearly part of a statutorily compliant electronic citation—e.g., is just the last page of the citation and the pagination happens to be such that no other writing appears on that last page—the officer may require the person cited to sign on that screen because the officer would be requiring the person to sign the citation.

Question 2

If a person receiving an electronic traffic citation pursuant to Tenn. Code Ann. § 55-10-207 refuses to sign the citation because his signature would appear on a blank screen on the officer's electronic data device, may the officer make a physical arrest based on that refusal?

Opinion 2

Yes, but only if the person cited refuses to sign a citation. Under Tenn. Code Ann. § 55-10-207(h)(1) an officer has authority to physically arrest a person who refuses to sign an electronic traffic citation. The person is not required to sign a blank screen that is not part of a written citation, and refusal to do so would not authorize the officer to make a physical arrest.

Question 3

Must an officer who has issued an electronic traffic citation pursuant to Tenn. Code Ann. § 55-10-207 provide the cited person with a paper copy of the citation?

Opinion 3

Yes.

ANALYSIS

When a person is arrested for certain specified traffic offenses punishable as misdemeanors the arresting officer shall, or in some instances may, issue a traffic citation to the person in lieu of arrest. Tenn. Code Ann. § 55-10-207(b)(1), (2), and (3). "Traffic citation" is defined as a written citation prepared by a law enforcement officer either on paper or on an electronic data device with the intent that it shall be filed, electronically or otherwise, with a court having jurisdiction over the alleged offense. Tenn. Code Ann. § 55-10-207(a). Tennessee Code Annotated § 55-10-207(i)(1) through (13) specifies all the information that must appear, at a minimum, on the citation.

In addition to the detailed information about the alleged offense, the traffic citation, whether written on paper or on an electronic device, must contain a demand that the person cited appear in court and notice of the consequences of not appearing in court:

> The traffic citation shall demand the person cited to appear in court at a stated time and it shall state the name and address of the person cited, the name of the issuing officer, and the offense charged. Unless the person cited requests an earlier date, the time specified on the traffic citation to appear shall be as fixed by the arresting officer. The traffic citation shall give notice to the person cited that failure to appear as ordered is punishable as contempt of court.

Tenn. Code Ann. § 55-10-207(c)(1).

Whether the traffic citation is written or electronic, the person must sign the citation. Tenn. Code Ann. § 55-10-207(c)(1). The person "*shall* signify the acceptance of the traffic citation and the agreement to appear in court as directed by *signing the citation*." Tenn. Code Ann. § 55-10-207(c)(1) (emphasis added).

The person issued an electronic traffic citation "*shall* be provided with a paper copy of the traffic citation." Tenn. Code Ann. § 55-10-207(c)(3) (emphasis added).

There are statutory exceptions to the requirement to issue a traffic citation in lieu of arrest. Under § 55-10-207(h)(1), an officer is not required to issue a traffic citation in lieu of arrest "in any of the circumstances specified in § 40-7-118(c)," part of the more general "cite and release" statute. Under § 40-7-118(c)(6), no citation in lieu of arrest shall be issued if the person arrested "refuses to sign the citation."

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 the intent in the plain and ordinary meaning of its language. *Brown v. Erachem Comilog, Inc.*, 231 S.W.3d 918, 921 (Tenn. 2007). Courts "must always begin with the words that the General Assembly has chosen" and "must give these words their natural and ordinary meaning." *Lee Medical, Inc. v. Beecher*, 312 S.W.3d 515, 526 (Tenn.

2010). These words must also be construed "in the context in which they appear in the statute and in light of the statute's general purpose." *Id.* 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)). A statute will be construed reasonably and not in a fashion that will lead to an absurd result. *Abdur'Rahman v. Bredesen,* 181 S.W.3d 292, 313 (Tenn. 2005) (citing *McClellan v. Board of Regents of State University,* 921 S.W.2d 684, 689 (Tenn. 1996)).

1. The applicable statutory provisions are unambiguous. When a citation is issued in lieu of arrest, Tenn. Code Ann. § 55-10-207(c)(1) requires the person cited to *sign the citation.* This requirement applies to both electronic and paper citations. The purpose of the signature is to signify the cited person's acceptance of the citation and his agreement to appear in court as directed. In other words, by signing he agrees to certain conditions, in exchange for which he avoids arrest.

By statutory definition, the citation is a writing, in either electronic or paper format, that provides the person cited with information about the alleged violation and the terms and conditions of citation in lieu of an arrest. The person cited in lieu of arrest must sign the written citation, i.e., the paper or electronic version of the citation. It may be that the electronic pagination of the citation results in a last page that contains nothing but the signature line. If the person cited is being asked to sign a "blank screen" only because the pagination of the citation is such that the signature line falls on a page by itself but is clearly part of a citation that meets all of the statutory requirements and the cited person has the opportunity to read what he is signing, the officer may require the cited person to sign what otherwise appears to be a "blank screen." Doing so does not violate the person's legal rights. The officer may not, however, require the cited person to sign a blank screen on the officer's electronic data device if that screen is not part of a written citation. For example, the officer may not simply give the cited person an oral explanation of the citation and then require him to sign a blank screen.

Due process, as guaranteed by the State and federal constitutions, would require that the cited person be given full information about the traffic offense for which he is being cited and fair notice of the court date and the consequences of failure to appear in court. *See Mullane v. Cent. Hanover Bank & Trust Co.,* 339 U.S. 306, 314 (1950) (proper notice is "an elementary and fundamental requirement of due process" and notice "must be of such nature as reasonable to convey the required information" about the pending action). The statute appears to be designed to provide the person cited with fair notice of the alleged offense and the terms and conditions of accepting a citation in lieu of arrest, so that, if the statutory requirements are followed, due process will have been accorded the person cited. But requiring a person to sign a blank piece of paper or a blank electronic screen that is not part of a written citation would not comply with the due process requirement of fair and adequate notice.

2. Assuming that the "blank screen" is in fact part of a citation written on the officer's electronic data device, then the officer may physically arrest the person who refuses to sign that citation on that screen.

Under § 55-10-207(h)(1), an officer is not required to issue a traffic citation in lieu of arrest "in any of the circumstances specified in § 40-7-118(c)." Accordingly, as applicable here, an

officer is not required to issue a citation in lieu of arrest when a person cited refuses to sign a citation. Tenn. Code Ann. § 40-7-118(c)(6). Under those circumstances, a cited person's refusal to sign the electronic traffic citation subjects him to physical arrest pursuant to Tenn. Code Ann. § 55-10-207(h)(1), because, when he refuses to sign the citation he is refusing to provide assurance that he will appear in court to answer the allegation against him.

3. An officer violates Tenn. Code Ann. § 55-10-207 by not providing the person with a paper copy of the electronic traffic citation. The statute is clear: the person issued an electronic traffic citation "shall be provided with a paper copy of the traffic citation." Tenn. Code Ann. § 55-10-207(c)(3).

HERBERT H. SLATERY III
Attorney General and Reporter

ANDRÉE SOPHIA BLUMSTEIN
Solicitor General

Requested by:

The Honorable Timothy Hill
State Representative
23 Legislative Plaza
Nashville, TN 37243