

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

January 9, 1996

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62(1), STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 95-1587

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

COUNTY OF SHAWANO,

Plaintiff-Respondent,

v.

JUDITH K. MINNIECHESKE,

Defendant-Appellant.

APPEAL from a judgment of the circuit court for Shawano County: EARL W. SCHMIDT, Judge. *Affirmed.*

MYSE, J. Judith K. Minniecheske, pro se, appeals a judgment of conviction for operating a motor vehicle at a speed in excess of the fixed limits in violation of § 346.57(4)(h), STATS. Minniecheske contends that: (1) the court lacked jurisdiction because the citation did not conform to the requirements of a criminal complaint; (2) the citation was void because the license plate displayed on the vehicle and noted on the citation did not bear an imprint that it was a prison product; (3) the trial court erred by entering a plea of not guilty on behalf of the defendant; and (4) the court erred by refusing to recuse itself as demanded by Minniecheske.

This court concludes that: (1) a traffic citation need not comply with the requirements of a criminal complaint; (2) the lack of designation on the license plate as a prison product is irrelevant to the validity of the citation; (3) the court was authorized to enter a plea of not guilty on Minniecheske's behalf; and (4) the court properly denied the motion for recusal. Therefore, the judgment is affirmed.

Deputy Ronald L. Grunewald of the Shawano County Sheriff's Department is a certified radar operator and was operating a squad car with a radar unit on December 13, 1994. Grunewald testified that he observed a 1986 Pontiac operating at a high rate of speed. He obtained a radar reading which indicated that the Pontiac was traveling seventy-two miles per hour in a fifty-five mile-per-hour speed zone. Though controverted, Grunewald testified that there were no vehicles between his squad car and the 1986 Pontiac driven by Minniecheske. Based on Grunewald's testimony the court found Minniecheske guilty of speeding and assessed a fine of \$89.60, costs of \$16 and four points against Minniecheske's driving record.

Each of the challenges Minniecheske raises to her conviction presents a question of law this court reviews de novo. See *Socha v. Socha*, 183 Wis.2d 390, 393, 515 N.W.2d 337, 338 (Ct. App. 1994); *State v. Rochelt*, 165 Wis.2d 373, 379, 477 N.W.2d 659, 661 (Ct. App. 1991); *Gonzalez v. Teskey*, 160 Wis.2d 1, 7-8, 465 N.W.2d 525, 528 (Ct. App. 1990).

Minniecheske first claims that the court failed to obtain jurisdiction over her person because the traffic citation did not conform to the requirements of a criminal complaint as set forth in § 968.01, STATS. Minniecheske was given a traffic citation for violation of § 346.57(4)(h), STATS., which is a non-criminal forfeiture action. See § 346.60, STATS. Because this is a civil forfeiture action, the uniform traffic citation the officer used in this case is sufficient to give the court jurisdiction over the person under § 345.11(5), STATS. See *State v. White*, 97 Wis.2d 193, 201, 295 N.W.2d 346, 350 (1980). Section 345.11(5) provides:

Notwithstanding any other provision of the statutes, the use of the uniform traffic citation promulgated under sub. (4) by any peace officer in connection with the enforcement of any state traffic laws, any local traffic

ordinances in strict conformity with the state traffic laws or s. 218.01(2)(a) shall be deemed adequate process to give the appropriate court jurisdiction over the person upon the filing with or transmitting to the court of the uniform traffic citation.

Further, § 345.30, STATS., confers jurisdiction upon the trial court over actions for violations of traffic regulations. Accordingly, there is no merit to Minniecheske's contention that the court did not obtain jurisdiction over her person or the subject matter by failure to conform to the statutory requirements applicable to criminal complaints.

Minniecheske next argues that her traffic citation is void because her Wisconsin license plate was not labeled as a prison product as required under § 132.13(1), STATS. She, however, advances no authority for her conclusion that this voids the traffic citation. The denomination of the license plate as a prison product is irrelevant to the validity of the citation.

Next, Minniecheske contends the trial court erred when it entered a plea of not guilty on her behalf. She, however, cites no prejudice from the court entering a plea of not guilty nor does she assert that her rights were in any way compromised by virtue of the entering of the plea. Because a trial court is authorized by § 345.40, STATS., to enter a plea of not guilty on behalf of a defendant and Minniecheske asserts no prejudice as a result of the court doing so, there is no merit to her suggestion that the court committed reversible error by entering the plea.

Minniecheske also challenges the court's refusal to recuse itself based upon her motion asserting that there was a conflict of interest as a result of a number of appearances she and her family have had before Judge Earl Schmidt. The standard for recusal contains both a subjective and objective component. *Rochelt*, 165 Wis.2d 378, 477 N.W.2d at 661. The judge must subjectively determine his or her ability to preside impartially over the proceeding and it must be objectively determined whether the judge's impartiality can reasonably be questioned. *Id.*

The subjective prong of the test was met when Judge Schmidt indicated that he was able to proceed impartially in the matter. See *id.* at 379, 477 N.W.2d at 661. This court also concludes that Judge Schmidt's impartiality could not reasonably be questioned. First, a judge is presumed to be free of bias and prejudice. *State v. McBride*, 187 Wis.2d 409, 414, 523 N.W.2d 106, 109 (Ct. App. 1994). Further, the record indicates that Judge Schmidt acted in a fair, neutral and detached manner in this case. Contrary to Minniecheske's assertion, the record does not reveal that Judge Schmidt in any way coached Grunewald during his testimony. The assistant district attorney, not Judge Schmidt, asked the question, "Now was it 51 miles per hour?"

The asserted conflict apparently revolves around the number of contacts Minniecheske's family has had with the court. In a small county a single litigant or a family of litigants may have several matters pending before a specific judge. The number of matters is not in itself a sufficient basis to require a judge to recuse himself from the hearing. Minniecheske also alleges that the court made prior inaccurate rulings that resulted in prejudice to members of her family. This assertion is a matter for appeal in the specific case involved and is not a basis upon which an appellate court can require a trial judge to recuse himself. Based upon Judge Schmidt's assertion that he could proceed impartially in the matter and Minniecheske's failure to demonstrate the existence or appearance of prejudice, the court was under no obligation to grant the motion for recusal. If Minniecheske believes she could not obtain a fair trial from Judge Schmidt, she could have used the request for substitution to obtain another judge. The request for substitution is available for parties who believe but cannot demonstrate that a specific judge would not be impartial in hearing the matter.

Minniecheske also suggests but does not develop the claim of two additional errors. She suggests that Grunewald's testimony was in conflict with her son's testimony; her son testified that there was a car between the squad car and Minniecheske's car. Because the credibility of witnesses is a matter uniquely submitted to the trial court and because the argument is not developed, this court will not address this claim further. See *Goossen v. Estate of Standaert*, 189 Wis.2d 237, 252, 525 N.W.2d 314, 320 (Ct. App. 1994). In addition, Minniecheske's suggestion that there is insufficient evidence to support the trial court's finding of guilt has not been developed and will not be further addressed. See *id.* Because this court concludes that there is no merit to Minniecheske's claims, the judgment is affirmed.

By the Court. – Judgment affirmed.

This opinion will not be published. RULE 809.23(1)(b)4, STATS.