

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

STATE OF FLORIDA,

CASE NO.: 2018-AP-000032-A-O

Appellant,

v.

VICTOR OLIVER WALTERS BROWN,

Appellee.

\_\_\_\_\_/

Appeal from the County Court of  
Orange County, Florida  
Wilfredo Martinez, County Court Judge

Aramis D. Ayala, State Attorney and  
Kenneth Sloan Nunnelley, Assistant State Attorney,  
for Appellant.

Robert Wesley, Public Defender and  
Sarah Jordan, Assistant Public Defender  
for Appellee.

Before BLACKWELL, SHEA, and LATIMORE, J.J.

PER CURIAM.

**FINAL ORDER REVERSING TRIAL COURT**

Appellant, the State of Florida, timely appeals an order granting Appellee Victor Brown's pretrial motion in limine, which excluded from evidence a certified copy of the victim's driver's license record.<sup>1</sup> We reverse.

\_\_\_\_\_  
<sup>1</sup> This Court has jurisdiction pursuant to section 26.012(1), Florida Statutes and Florida Rules of Appellate Procedure 9.030 (c)(1)(B) and 9.140(c)(2).

Appellee was charged with battery (domestic violence). Appellant sought to introduce a certified copy of the victim's Driver and Vehicle Information Database (DAVID) record, consisting of a one-page document, which included the victim's driver's license (DL) and a color photograph. Before trial commenced, Appellee moved in limine to exclude the victim's DAVID photograph on the basis that it was not self-authenticating, there was no custodian present to authenticate it, and the victim was not present to testify. On the back of the document is an imprint stating, "I, Stephanie D. Duhart, Chief, Bureau of Records, Division of Motor Services, Department of Highway Safety and Motor Vehicles, do hereby certify that this is a true and correct copy of the motor vehicle and driver's license record from the official records on file in the Department." It also has a stamped signature of Stephanie D. Duhart. Appellant argued that under Florida Statute § 90.902(2), the stamped signature is sufficient to meet the requirements of Fla. Stat. § 90.902,<sup>2</sup> and under Florida Statute § 322.201,<sup>3</sup> the certification is sufficient to be received into evidence without further authentication. The trial court granted Appellee's motion in limine, reasoning that the purported certified copy does not meet the requirements of Section 90.902, and finding that Section 322.201 was inapplicable. The trial court also granted Appellant's motion to stay proceedings and toll speedy trial.

---

<sup>2</sup> Fla. Stat. § 90.902 states in pertinent part,

Extrinsic evidence of authenticity as a condition precedent to admissibility is not required for:

(1) A document bearing:

(a) A seal purporting to be that of the United States or any state, district, commonwealth, territory, or insular possession thereof; the Panama Canal Zone; the Trust Territory of the Pacific Islands; or a court, political subdivision, department, officer, or agency of any of them; and

(b) A signature by the custodian of the document attesting to the authenticity of the seal.

(2) A document not bearing a seal but purporting to bear a signature of an officer or employee of any entity listed in subsection (1), affixed in the officer's or employee's official capacity.

<sup>3</sup> Fla. Stat. § 322.201 states in pertinent part,

A copy, computer copy, or transcript of all abstracts of court records of convictions received by the department and the complete driving record of any individual certified by the department or by the clerk of a court shall be received as evidence in all courts of this state without further authentication.

Appellant argues that under Section 322.201 and *Card v. State*, 927 So. 2d 200 (Fla. 5th DCA 2006), the certified copy of the victim's DAVID record, including the color photograph, is self-authenticating, because it is a complete driving record and the stamp sufficiently certifies the document. Appellant contends the trial court abused its discretion when it granted Appellee's motion in limine. Appellee argues that under Section 322.201 and *Card*, the document is not self-authenticating and is testimonial hearsay because Appellant is using the document to identify the victim and satisfy an element of the charged crime. Appellee maintains the trial court did not abuse its discretion and this Court should affirm the trial court's order granting the motion in limine.

We review the county court's order for an abuse of discretion. *See Dessauere v. State*, 891 So. 2d 455 (Fla. 2004) (citing *State v. Polak*, 598 So. 2d 150 (Fla. 1st DCA 1992) (standard of review on a lower tribunal's ruling on a motion in limine is abuse of discretion)).

"Section 322.201, Florida Statutes . . . makes driving records issued by DHSMV self-authenticating and admissible in evidence." *Card*, 927 So. 2d at 201. In addition, Section 90.902(4) states that extrinsic evidence of authenticity is not required for:

A copy of an official public record, report, or entry, or of a document authorized by law to be recorded or filed and actually recorded or filed in a public office, including data compilations in any form, certified as correct by the custodian or other person authorized to make the certification by certificate complying with subsection (1), subsection (2), subsection (3), or complying with any act of the Legislature or rule adopted by the Supreme Court.

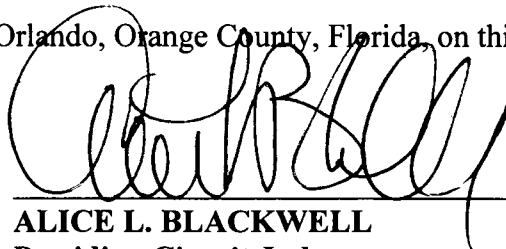
The Court finds the stamped signature on the certified copy of the victim's DAVID record sufficient to meet the requirements under Section 90.902(2), and the certification and signature sufficient under Section 90.902(4), thus making the document self-authenticating under Section 90.902.

“A driving record properly authenticated by the DHSMV does not seem to us to be testimonial because it is not accusatory and does not describe specific criminal wrongdoing of the defendant. Rather, it merely represents the objective result of a public records search.” *Card*, 927 So. 2d at 203. Unlike a law enforcement lab report, prepared pursuant to a police investigation, or a breath-test affidavit written by a technician and prepared for use at trial, “[d]riving records are kept in Florida for the public benefit and are not solely prepared for trial purposes . . . and [are] not made or kept for law enforcement or trial purposes.” *Id.* at 203.

In this case, the victim’s driving record was not prepared for use at trial, but is a record maintained by Department of Highway Safety and Motor Vehicles (DHSMV), and is therefore non-testimonial. *See id.* at 201. The certified copy of the victim’s DAVID record is self-authenticating and non-testimonial. It was therefore an abuse of discretion for the trial court to exclude the certified copy of the victim’s DAVID record, thus warranting reversal.

Based on the foregoing, it is hereby **ORDERED AND ADJUDGED** that the Order on Defendant’s Motion in Limine, pronounced orally on the record on November 28, 2018, is **REVERSED and REMANDED**.

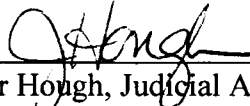
**DONE AND ORDERED** in Chambers, at Orlando, Orange County, Florida, on this 11<sup>th</sup> day of Sept, 2019.

  
ALICE L. BLACKWELL  
Presiding Circuit Judge

SHEA and LATIMORE, J.J., concur.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on this 11 day of Sept., 2019, a true and correct copy of the foregoing Order has been furnished to **Maureen Bell**, *County Court Judge*, at 425 N. Orange Ave., Orlando, FL 32801; **Kenneth Sloan Nunnelley**, Assistant State Attorney, *Counsel for Appellant*, at Post Office Box 1673, Orlando, Florida 32802; and **Sarah Jordan**, Assistant Public Defender, *Counsel for Appellee*, at 2 Courthouse Square, Suite 1600, Kissimmee, Florida 34741.

  
\_\_\_\_\_  
Jennifer Hough, Judicial Assistant