

[Cite as *State v. Toothman*, 2007-Ohio-4505.]

COURT OF APPEALS  
LICKING COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

STATE OF OHIO	:	JUDGES:
	:	Hon. W. Scott Gwin, P.J.
	:	Hon. John W. Wise, J.
Plaintiff-Appellee	:	Hon. Patricia A. Delaney, J.
	:	
-vs-	:	
	:	Case No. 2007-CA-18
JOHN S. TOOTHMAN	:	
	:	
Defendant-Appellant	:	<u>OPINION</u>

CHARACTER OF PROCEEDING: Criminal appeal from the Licking County  
Municipal Court, Case No. 06TRC12717

JUDGMENT: Reversed and final judgment entered

DATE OF JUDGMENT ENTRY: August 30, 2007

APPEARANCES:

For Plaintiff-Appellee

For Defendant-Appellant

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*Gwin, P.J.*

{¶1} Defendant John S. Toothman appeals a judgment of the Licking County Municipal Court which found him guilty of violating R.C. 4511.19, operating a motor vehicle while under the influence, and R.C. 4511.202, failure to control his vehicle. Appellant assigns three errors to the trial court:

{¶2} “I. THE TRIAL COURT ERRED AND/OR ABUSED ITS DISCRETION BY FAILING TO COMPLY WITH R.C.2937.07.

{¶3} “II. THE TRIAL COURT ERRED AND/OR ABUSED ITS DISCRETION BY DENYING APPELLANT’S MOTION TO SUPPLEMENT THE MOTION TO SUPPRESS AND/OR RECONSIDER THE MOTION TO SUPPRESS.

{¶4} “III. THE TRIAL COURT ERRED AND/OR ABUSED ITS DISCRETION BY DENYING APPELLANT’S MOTION TO SUPPRESS.”

{¶5} The record indicates appellant originally pled not guilty, but changed his plea to no contest after the court overruled his motion to suppress, and his motion to supplement his motion to suppress.

I.

{¶6} Appellee the State of Ohio concedes appellant’s first assignment of error, and agrees the trial court did not comply with R.C. 2937.07, which mandates an explanation of facts prior to a guilty finding on a no-contest plea. Appellee also concedes jeopardy attached, and thus, there may be no subsequent prosecution.

{¶7} The first assignment of error is sustained.

II. & III.

{¶8} In his second and third assignments of error are overruled as moot.

{¶9} For the foregoing reasons, the judgment of the Licking County Municipal Court is reversed, and pursuant to App. R. 12(B) we enter a final judgment of acquittal.

By Gwin, P.J.,

Wise, J., and

Delaney, J., concur

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HON. W. SCOTT GWIN

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HON. JOHN W. WISE

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HON. PATRICIA A. DELANEY

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