

Civil Traffic

7/19/22

MVD Codes

- 10 Plea guilty/resp; sentence suspended
- 11 Plea guilty/resp; sentence imposed
- 12 Bail forfeited
- 13 Guilty/resp CDL; may do DDS
- 20 Judgment guilty/resp; sentence suspended
- 21 Judgment guilty/resp; sentence imposed
- 22 Judgment guilty/resp; bail applied
- 30 Acquitted
- 43 Dismissed on Mo of Def or Ct
- 44 Dismissed on Mo of Pros
- 45 Dismissed on request of officer
- 50 Restricted License for FTP criminal
- 51 FTP Criminal Violation; license suspended
- 55 Civil default; license suspended
- 56 FTA criminal; warrant issued; license suspended
- 57 FTA criminal; no warrant; license suspended
- 58 FTA; default entered; 28-1596
- 59 Judgment set aside
- 76 Set aside 13-905

Mandatory Fines

- 28-694 Wrong way (\$500) (also TSS)
- 28-737 HOV (\$200)
- 28-797(E) & (G) School Cross
- 28-2533(A) Registration (\$300)
- 28-4139(A) Suspended Plates (\$250)

May Dismiss at Arraignment (28-1560--Class 3 Misd to illegally cancel a traffic citation)

- 28-2532(A)A Registration now current; may suspend if not owner of vehicle
- 28-3169(A) (No license while driving) Proof of license on date vio
- 28-3482 (Violation of Restriction) Proof of reinstatement
- 28-4135(B) & (C) Proof of insurance **on** date vio (can be on phone: 28-4135B) **(not A)**

May Reduce at Arraignment

- 28-4135 Proof of 6 mos insurance **after** date vio
and Motor Vehicle Record- no vios in 2 years or 1 in last 3 years (See 28-4137)

R17-4-404. Driver Point Assessment; Traffic Survival Schools

- B.** Actions after point assessment. Under A.R.S. § 28-3306(A)(3), if a driver accumulates 8 or more points in a 12-month period, the Department shall:
 - 1. Order the driver to successfully complete the curriculum of a licensed TSS; or
 - 2. Suspend the driver's Arizona driver license or driving privilege.
- C.** Traffic survival school order of assignment. The Department or the private entity under contract with the Department shall send a dated order of assignment to traffic survival school, as prescribed under A.R.S. § 28-3318, to a driver who accumulates 8 to 12 points in a 12-month period, and who did not complete a traffic survival school course in the previous 24-month period.
- D.** Suspension for failure to complete traffic survival school. The Department or the private entity under contract with the Department shall mail a driver a 6-month order of suspension, as prescribed under A.R.S. § 28-3318, if the driver failed to establish completion of traffic survival school in accordance with subsection (C).
- E.** Suspension for accumulation of excessive points. The Department shall mail an order of suspension as prescribed under A.R.S. § 28-3318 to a driver who accumulates an excessive amount of points. The order of suspension shall:
 - 1. Specify the length of the suspension as follows:
 - a. A 3-month suspension for accumulation of 8 to 12 points in a 12-month period if a traffic survival school course was successfully completed in the previous 24-month period;
 - b. A 3-month suspension for accumulation of 13 to 17 points in a 12-month period;
 - c. A 6 month suspension for accumulation of 18 to 23 points in a 12-month period; and
 - d. A 12-month suspension for accumulation of 24 or more points in a 36-month period;

Violation	Points
A.R.S. § 28-1381 DUI; 28-1382 Extreme DUI; 28-1383 Aggravated DUI	8
28-693 Reckless Driving	8
28-708 Racing	8
28-695 Aggressive Driving	8
A.R.S. §§ 28-662, 28-663, 28-664, or 28-665, relating to a driver's duties after an accident	6
A.R.S. § 28-672(A), accident causing death to another person	6
A.R.S. § 28-672(A), accident causing serious physical injury to another person	4
A.R.S. § 28-701, reasonable and prudent speed	3
A.R.S. § 28-644(A)(2), driving over, across, or parking in any part of a gore area	3
Any other traffic regulation that governs a vehicle moving under its own power	2

SCENARIO 1.

Defendant: Mindi Defendant

Charge: A.R.S. 28-644(A)(1). Failure to Obey a Traffic Control Device. The charge claims that Driver made a right turn at an intersection where there was a no right turn sign posted.

At the IA/arraignment, Defendant appeared and advised the Judge that she does not speak English. Defendant had a friend in the back of the courtroom who advised the Judge that Driver is from Chuuk and speaks Chuukese. The friend offered to interpret and the Judge agreed. When asked to interpret what Defendant stated, the friend explained that Defendant “should not be responsible for the violation because she had just arrived in the United States and was not familiar with signs and traffic laws.” The Judge entered a plea of not responsible and scheduled a civil traffic hearing. The court scheduled a Chuukese interpreter for the civil traffic hearing.

At the civil traffic hearing, the officer testifies that he saw Driver driving northbound on Appian Way approaching Upstart Lane. There was an official no right turn sign on the southwest corner of the intersection. The officer saw Defendant make a right turn at the intersection.

Defendant testifies that she was lost when she was driving on Appian Way. She didn't see the no right turn sign because she was looking at her cell phone for directions. When she realized she was approaching Upstart Lane she looked up, but the no right turn sign was out of her line of sight. She made a right turn and was stopped by the officer. Defendant testifies that she feels the officer should have given her a warning instead of a citation.

1. In this scenario, should the Judge have permitted Defendant's friend to act as an interpreter? Do you see any problems that can arise if a friend acts as an interpreter? How do you proceed when a non-English speaker appears?
2. What elements does the State need to establish for a charge of failure to obey a traffic control device?
3. Is Defendant's testimony regarding why she didn't see the sign a defense if the sign was properly posted? If there had been testimony that branches from a tree were hanging down in front of the sign, might that constitute a defense (see A.R.S. 28-644(B))?
4. If Defendant testified that no right turn signs on Chuuk look different, would that constitute a defense?
5. What would be the maximum possible sanction for failure to obey a traffic control device?

6. Should she have been cited for using her cell phone? What are your options as the hearing officer?
7. As the hearing officer, would you have any other questions or concerns about this case? If so, what?

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SCENARIO 2.

Defendant: Don Defendant

Charge: A.R.S. 28-701(A). Failure to Control Speed to Avoid a Collision. The charge claims that Defendant collided with the rear of a stopped vehicle while driving on Adams Street.

At the IA/arraignment, Defendant appeared and pleaded not responsible because he didn't cause the accident. The court scheduled a civil traffic hearing.

1. What should the hearing officer do if Defendant is the only person who appears for the civil traffic hearing?
2. What should the hearing officer do if Defendant and the driver of the other vehicle appear, but the officer does not appear? Can the hearing proceed if the officer does not appear but other State's witnesses do appear?

The officer does appear for the civil traffic hearing and testifies that when he arrived at the scene of the collision Defendant's vehicle was directly behind the other vehicle. The front end of Defendant's vehicle was damaged, and the rear of the other vehicle was damaged. The driver of the other vehicle testifies that while she was driving on Adams Street, a candidate posting political signs stepped in front of her. She was able to stop her vehicle without hitting the candidate, but within seconds of stopping her vehicle she felt Defendant's vehicle hit the rear of her vehicle. Defendant testifies that he doesn't feel he was at fault because no one could have anticipated that a candidate would step into the street, so he should be found not responsible.

1. How should the hearing officer rule on this case?
2. How does the issue of who was at fault in the accident impact the hearing officer's ruling?
3. If the hearing officer finds Defendant responsible, can he be required to pay restitution to repair the other vehicle?