2019 IL App (1st) 180315-U

No. 1-18-0315

Order filed: May 3, 2019

Fifth Division

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

ROMAIN S. OLOWOLAGBA,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County.
	)	
v.	)	No. 17 M1 450231
	)	
CITY OF CHICAGO,	)	Honorable
	)	Lisa A. Marino,
Defendant-Appellee.	)	Judge, presiding.

JUSTICE HOFFMAN delivered the judgment of the court.
Justices Hall and Lampkin concurred in the judgment.

ORDER

¶ 1 *Held*: The decision finding plaintiff liable for a municipal rule violation is affirmed over his contentions that the administrative law judge did not correctly apply the law and should have considered video evidence that he brought to the hearing.

¶ 2 Plaintiff Romain S. Olowolagba appeals *pro se* from an order of the circuit court of Cook County affirming the decision of the City of Chicago Department of Administrative Hearings (the Department) that he violated a municipal rule prohibiting unsafe driving when he made an unauthorized U-turn. Although the City of Chicago has not filed a brief in this court, we can

consider the merits of plaintiff's appeal on his brief alone. See *First Capital Mortgage v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976) (such review allowable if the record is simple and errors can be considered without additional briefing). For the reasons set out below, we affirm.

¶ 3 Plaintiff, a taxicab driver, received an administrative notice of violation after a police officer saw him make a U-turn within 100 feet of an intersection in violation of Rule 5.08(d) of the City of Chicago's Public Chauffeurs Rules and Regulations (the Chauffeurs Rules) (amended Mar. 16, 2016).[1] The notice of violation also cited a section of the Chicago Municipal Code (Chicago Municipal Code § 9-104-110 (eff. Mar. 16, 2016)).

¶ 4 On June 15, 2017, the Department held a hearing on that notice of violation before an administrative law judge (ALJ) at which plaintiff appeared *pro se*. At the hearing, the ALJ stated she had reviewed the notice of violation and that the City of Chicago (the City) had established a *prima facie* case and had the burden of proving the violation by a preponderance of the evidence.

¶ 5 The City called Officer Raymond Archuleta as a witness. Archuleta testified that in the early morning hours of May 2, 2017, he was in a police car following a taxicab proceeding eastbound on Chicago Avenue. The taxicab made a U-turn on Chicago about 20 feet after the intersection of Chicago and Clark Street. Archuleta also performed a U-turn and followed the taxicab, initiating a traffic stop and issuing the notice of violation. A copy of the notice of

[1] As a taxicab driver, plaintiff is a public chauffeur. Chicago Municipal Code § 9-112-010 (amended June 22, 2016). A public chauffeur violates Rule 5.08(d) of the Chauffeurs Rules when he violates any provision of Articles 2 through 12 of the Rules of the Road of the Illinois Vehicle Code (the Vehicle Code) (625 ILCS 5/11-100 *et seq*. (West 2016)). Section 11-802(a) of the Vehicle Code (625 ILCS 5/11-802(a) (West 2016)) provides that a "driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without interfering with other traffic." Sections 11-804(a) and (b) of the Vehicle Code (625 ILCS 5/11-804(a), (b) (West 2016)) provide that a driver cannot turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway and must signal the intent to turn within the last 100 feet traveled before turning.

violation was entered into evidence and indicates the stop occurred at about 2:05 a.m. Archuleta identified plaintiff as the driver of the taxicab.

¶ 6 Plaintiff testified he was driving westbound and "stopped before Clark" to pick up two passengers and "at that time, I already have the police officer behind me." He continued:

> "Then I was kind of a little bit doubtful but I stop because the light -- light was not on before I -- even -- when I have my passenger on both -- before Clark, going westbound. Then the light comes on after the -- the light -- after Clark intersection. So that's when he came and I make a U turn and okay, then I got -- I had citation, so."

¶ 7 The ALJ asked plaintiff if he had anything else to say, and plaintiff responded, "That's basically what happened that day."

¶ 8 On cross-examination by the City's attorney, plaintiff said he did not have access to global positioning system (GPS) records from the taxicab company that would indicate the direction he was driving but that he could provide evidence he was driving westbound. Plaintiff provided photographs of his vehicle facing westbound on Chicago Avenue; plaintiff stated they were taken later on the day of the traffic stop. The ALJ admitted four photographs into evidence.

¶ 9 After the ALJ admitted the photographs, she asked plaintiff if he had "anything else." Plaintiff responded no and then stated "I have nothing to say now." The ALJ asked plaintiff if she could "close the evidence on your side of the case," and plaintiff responded yes. The ALJ stated the evidence was closed in plaintiff's case.

¶ 10 In rebuttal, the City recalled Archuleta as a witness and asked him about one photograph. Archuleta said the photograph showed a taxicab and his police vehicle, both facing west. He stopped the taxicab when both vehicles were travelling westbound.

¶ 11 After that testimony, plaintiff asked the officer several questions that the ALJ found to be beyond the scope of the officer's rebuttal testimony. The ALJ asked plaintiff, "Is that it?" and he responded, "For now."

¶ 12 After the officer was excused, the following exchange occurred:

> "ALJ [to plaintiff]: I want to make sure that the evidence is closed on your side of the case now, sir. You understand that?
>
> PLAINTIFF: I have some more evidence if you --
>
> ALJ: Your time is up for giving more --
>
> PLAINTIFF: Okay.
>
> ALJ: -- evidence, sir."

¶ 13 Plaintiff then told the ALJ that he had "video evidence" to present. The ALJ responded "no" and told plaintiff that there was "no way for me to receive your video evidence."

¶ 14 After hearing arguments, the ALJ found the City had met its burden of proof and that plaintiff had "not overcome the evidence presented by the City." The ALJ noted plaintiff's contention that he did not make a U-turn and that he was stopped while driving west along with the officer's account that plaintiff was driving eastbound and made a U-turn. The ALJ found plaintiff liable for the violation and assessed $40 in administrative costs. The written decision of the ALJ states the plaintiff was liable for violating section 9-104-110 of the Chicago Municipal Code and Rule 5.08(d) of the Chauffeurs Rules which requires that chauffeurs operate a taxicab or public passenger vehicle in a safe and lawful manner at all times.

¶ 15 Plaintiff filed an administrative review complaint in the circuit court of Cook County, including a "specification of errors" made by the ALJ. On February 5, 2018, the circuit court entered a judgment affirming the ALJ's decision. This timely appeal followed.

¶ 16 Before setting out plaintiff's contentions on appeal, we note that our review is of the final decision of the ALJ, not the judgment of the circuit court. *Wortham v. City of Chicago Department of Administrative Hearings*, 2015 IL App (1st) 131735, ¶ 13. Our standard of review depends on the issues raised on appeal; questions of fact are reviewed under a manifest weight of the evidence standard, and questions of law are reviewed *de novo*, with no deference to the administrative agency. *Marconi v. Chicago Heights Police Pension Board*, 225 Ill. 2d 497, 531 (2006). Under either standard, the plaintiff in an administrative proceeding bears the burden of proof and if he fails to meet that burden, relief will be denied. *Id*. at 532-33; *Goodman v. Morton Grove Police Pension Board*, 2012 IL App (1st) 111480, ¶ 26. The decision of the administrative agency will be upheld if the record contains evidence to support that decision. *Turcol v. Pension Board of Trustees of Matteson Police Pension Fund*, 359 Ill. App. 3d 795, 801 (2005).

¶ 17 That said, we point out that, other than citing to section 9-104-110 of the Chicago Municipal Code and Rule 5.08(d) of the Chauffeurs Rules, plaintiff's *pro se* brief lacks any citation to legal authority to support his position that the ALJ's decision was not in compliance with the law. A *pro se* litigant is held to the same standards as a litigant represented by an attorney. *In re Estate of Pellico*, 394 Ill. App. 3d 1052, 1067 (2009). Moreover, an appellant may not "foist the burden of argument and research" onto this court (*Obert v. Saville*, 253 Ill. App. 3d 677, 682 (1993)), and plaintiff's *pro se* status does not excuse him from providing this court with a cohesive argument supported by legal precedent. Nonetheless, to the extent that plaintiff's

contentions on appeal can be ascertained in the absence of supporting case law, we address those assertions.

¶ 18 In this court, plaintiff first asserts that section 9-104-110 of the Chicago Municipal Code, which was printed by Archuleta on the notice of violation, does not refer to a traffic rule regarding U-turns near an intersection but instead refers to "false information." We disagree.

¶ 19 Chicago Municipal Code § 9-104-110 states, in pertinent part:

> "The [City's Commissioner of Business Affairs and Consumer Protection] is authorized to promulgate rules for the proper administration and enforcement of this chapter and any other applicable section of this Code to facilitate a safe environment for licensees, passengers and the public, and in order to promote orderly, efficient, and professional conduct by licensees." Chicago Municipal Code § 9-104-110 (eff. Mar. 16, 2016).

¶ 20 Thus, section 9-104-110 allows rulemaking as to drivers who transport members of the public. One such rule is Rule 5.08(d) of the Chauffeurs Rules, which requires drivers to comply with the Rules of the Road, as incorporated into the Vehicle Code (625 ILCS 5/11-100 *et seq*. (West 2016)). Accordingly, even though section 9-104-110 does not contain any substantive rule as to operating a taxicab, section 9-104-110 is the provision by which the Rules of the Road, as incorporated into the Vehicle Code, apply to plaintiff as a taxicab driver.

¶ 21 Plaintiff next contends the Department's decision should be reversed because the ALJ did not correctly apply the law. However, plaintiff has provided this court with no basis to disturb the ALJ's decision. The record on appeal includes a report of proceedings of the administrative hearing, which has been summarized above. Plaintiff's version of events, that Archuleta stopped his taxicab for no apparent reason while both vehicles were travelling westbound, was

contradicted by the officer's testimony that he initiated the traffic stop after seeing plaintiff commit a U-turn that violated the Vehicle Code. As such, because the record contains evidence to support the decision of the ALJ, we must uphold it. *Turcol*, 359 Ill. App. 3d at 801.

¶ 22 Plaintiff further contends the ALJ should have watched the video evidence that he offered at the hearing. The record establishes that after the ALJ admitted plaintiff's photographs, she asked plaintiff if it was possible to "close the evidence on your side of the case," and plaintiff responded affirmatively. The ALJ then stated the evidence was closed in plaintiff's case. After the City presented rebuttal testimony from the officer, and plaintiff unsuccessfully attempted to cross-examine him, the ALJ advised plaintiff that the "evidence was closed on your side of the case now." When plaintiff mentioned to the ALJ that he wanted to present "video evidence," the ALJ told plaintiff there was "no way for me to receive" that evidence. We note that plaintiff has not explained on appeal what the "video evidence" contained.

¶ 23 An administrative agency's decision regarding the conduct of its hearing and the admission of evidence is governed by an abuse of discretion standard and is subject to reversal only if there is demonstrable prejudice to the complaining party. *Shachter v. City of Chicago*, 2011 IL App (1st) 103582, ¶ 52. Generally, each party is entitled to present evidence which is relevant to its theory of the case. *Tzystuck v. Chicago Transit Authority*, 124 Ill. 2d 226, 241 (1988); *Tsoukas v. Lapid*, 315 Ill. App. 3d 372, 383 (2000). However, the trier of fact is not required to permit a party to offer additional evidence after that party has closed the evidence in its case. *Lee v. Chastang*, 79 Ill. App. 3d 622, 624 (1979). The ALJ advised plaintiff that the evidence in his case had been closed, and we find no abuse of discretion in the ALJ's refusal to consider additional evidence from plaintiff after that point. Moreover, without an explanation of

the video's content, we cannot find any demonstrable prejudice to plaintiff by the ALJ's decision not to allow it into evidence.

¶ 24 Accordingly, the decision of the Department finding that plaintiff violated section 9-104-110 of the Chicago Municipal Code and Rule 508(d) of the Chauffeurs Rules by committing an improper U-turn is affirmed.

¶ 25 Affirmed.