

COURT OF APPEALS OF VIRGINIA

Present: Judges Benton, Bray and Senior Judge Hodges
Argued at Norfolk, Virginia

JENNIFER L. BLAKE, S/K/A
JENNIFER LYNN BLAKE

v. Record No. 2872-96-1

COMMONWEALTH OF VIRGINIA

MEMORANDUM OPINION* BY
JUDGE RICHARD S. BRAY
JANUARY 20, 1998

FROM THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE
Russell I. Townsend, Jr., Judge

Randolph D. Stowe for appellant.

Kathleen B. Martin, Assistant Attorney
General (Richard Cullen, Attorney General;
H. Elizabeth Shaffer, Assistant Attorney
General, on brief), for appellee.

Jennifer Lynn Blake (defendant) was convicted of forging a public record in violation of Code § 18.2-168 as a result of signing another's name to a traffic summons. On appeal, defendant argues that a traffic summons is not a writing contemplated by Code § 18.2-168. We disagree and affirm the judgment of the trial court.

The parties are fully conversant with the record, and this memorandum opinion recites only those facts necessary to a disposition of the appeal.

On May 18, 1995, Trooper Deena Suits stopped defendant for speeding in Chesapeake, Virginia. When asked for identification, defendant produced a driver's license bearing the name "Marla

*Pursuant to Code § 17-116.010 this opinion is not designated for publication.

George." The trooper issued a Uniform Summons against "George," and defendant signed the document accordingly. The misrepresentation was subsequently discovered, and a grand jury indicted defendant for forgery of "a public record or certificate in relation to a matter where said document may be received as legal proof, to wit: a Virginia Uniform Summons, in violation of Section 18.2-168 of the Virginia Code."

Code § 18.2-168 provides that
[i]f any person forge a public record, or
certificate, return, or attestation, of any
public officer or public employee, in
relation to any matter wherein such
certificate, return, or attestation may be
received as legal proof, or utter, or attempt
to employ as true, such forged record,
certificate, return or attestation, knowing
the same to be forged, he shall be guilty of
a Class 4 felony.

As "recorded information that documents a transaction . . . with . . . [a] public officer . . . of the state government," a properly issued Uniform Summons is clearly a public record.¹ See Code § 42.1-77; Cf. Reid v. Commonwealth, 16 Va. App. 468, 470-71, 431 S.E.2d 63, 64-65 (1993) (fingerprint card a public record). Defendant contends, however, that a violation of Code § 18.2-168 requires forgery of a "public record" which also "may be received as legal proof." Because a traffic summons does not rise to "legal proof," defendant reasons that her conduct is not violative of the statute.

¹Although defendant, on appeal, does not contest that a traffic summons is a public record, we necessarily address the issue as a predicate to our ultimate disposition.

When the language of a statute is clear and unambiguous, a court will give the statute its plain meaning. Tross v. Commonwealth, 21 Va. App. 362, 377-78, 464 S.E.2d 523, 530 (1995). We recognize that criminal statutes must be construed strictly against the Commonwealth and in favor of the accused, Johnson v. Commonwealth, 211 Va. 815, 819, 180 S.E.2d 661, 664 (1971); however, "the province of construction is wholly within the domain of ambiguity, and that which is plain needs no interpretation." Barnett v. D.L. Bromwell, Inc., 6 Va. App. 30, 34, 366 S.E.2d 271, 273 (1988) (citation omitted).

It is well established that legislative use of the "word . . . 'may' should be given its ordinary meaning - permission" Masters v. Hart, 189 Va. 969, 970, 55 S.E.2d 205, 210 (1949); see Harper v. Virginia Dep't of Taxation, 250 Va. 184, 194, 462 S.E.2d 892, 898 (1995) (defining "may" as "prima facie permissive"). Defendant does not dispute that the offending summons could constitute permissible "legal proof" under certain circumstances. Thus, the summons before the court was clearly a forged "public record" which "may be received as legal proof," a writing expressly proscribed by Code § 18.2-168.

Accordingly, we affirm the conviction.

Affirmed.