FIFTH DIVISION
August 12, 2016

No. 1-13-3692

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 12 C3 30285
	)	
JUAN MONZALVO,	)	Honorable
	)	Kay M. Hanlon,
Defendant-Appellant.	)	Judge Presiding.

PRESIDING JUSTICE REYES delivered the judgment of the court.
Justice Lampkin concurred in the judgment.
Justice Gordon specially concurred in the judgment.

O R D E R

¶ 1 *Held:* Defendant's conviction for aggravated DUI, a Class 4 felony, reduced to Class A misdemeanor DUI where the State failed to submit to the jury and prove as an element at trial that defendant lacked a driver's license beyond a reasonable doubt in violation of *Apprendi*. Mittimus corrected to reflect defendant convicted of only Count I where Count II was *nolle prossed* by the State prior to trial. Matter remanded for resentencing on single Class A misdemeanor DUI conviction.

¶ 2 Following a jury trial, defendant Juan Monzalvo was convicted of aggravated driving under the influence of alcohol (aggravated DUI) then sentenced to 30 months' probation and 60

days in the Cook County Department of Corrections. On appeal, he contends that his aggravated DUI conviction should be reduced to a misdemeanor DUI because the State failed to prove beyond a reasonable doubt an element of the offense, namely, that he did not possess a driver's license. Defendant also requests that the mittimus, which reflects two aggravated DUI convictions, be corrected to reflect one DUI conviction because the State *nolle prossed* Count 2, and that the matter be remanded for resentencing on the single misdemeanor DUI.

¶ 3 The record reflects that defendant was charged with two counts of aggravated DUI for being in actual physical control of a motor vehicle while his alcohol concentration was .08 or greater while not in possession of a valid driver's license (Counts 1 and 2). Prior to jury selection, the State elected to proceed solely on Count 1, and *nolle prossed* Count 2.

¶ 4 The following colloquy then took place:

"THE COURT: We're going to be proceeding on count one.

All right. [Defense counsel], the charge is aggravated driving under the influence of alcohol.

Do you want me to read this charge as given?

[DEFENSE COUNSEL]: Do I want you to read it?

THE COURT: As given, the aggravated driving under the influence of alcohol.

[DEFENSE COUNSEL]: Yes, Judge, as in the information?

THE COURT: Yes.

[DEFENSE COUNSEL]: Yes. That's fine.

THE COURT: Okay.

[DEFENSE COUNSEL]: You know, actually there is a -- I'm not sure exactly what evidence there is regarding the -- my client's driving permit or driver's license. I'm not sure.

THE COURT: He's charged with class four felony in that you did not possess a driver's license or permit, restricted driving permit or judicial driving permit or monitoring device driving permit. Certainly that's an element of the charge and I will be reading that to the jury.

[DEFENSE COUNSEL]: All right. That's fine.

[THE STATE]: Your honor, I believe that's for sentencing purposes only. It's not an element in the jury instructions, the IPI [Illinois Pattern Instructions]. I think that just elevates it to the class four.

THE COURT: All right. [Defense counsel], this is what I'm trying to get. Are you asking that I read driving under the influence of alcohol? Do you want the aggravated part taken out?

[DEFENSE COUNSEL]: Yes.

THE COURT: All right. So we're going to read the jury instruction then on or about April 20th of 2012, at and within the County of Cook, the defendant, Juan Monzalvo, committed the offense of driving under the influence of alcohol in that he drove or was in actual physical control of a motor vehicle within the State of Illinois while the alcohol concentration in his blood or breath was 0.08 or more in violation of Chapter 625 Act 5 Section 11-501(a)1 of the Illinois compiled statutes 1992, as amended, yes?

[DEFENSE COUNSEL]: That's fine.

THE COURT: Both sides are in agreement and then we stop there?

[THE STATE]: Yes.

THE COURT: Okay. That's my question.

[DEFENSE COUNSEL]: Thank you."

¶ 5 During the jury trial, the evidence presented demonstrated that in the early morning of April 20, 2012, Schiller Park police officer Jeremy Chernikovich (Officer Chernikovich) responded to a 911 call from a Shell gas station at 4758 River Road in that suburb. When he arrived, he observed a Honda Civic parked with the engine running. The driver's side door was open, and defendant was sitting in the driver's seat vomiting out of the automobile. Officer Chernikovich approached the vehicle and asked defendant to exit. Defendant stumbled out of the vehicle, grabbed the driver's side door to avoid falling down, and pulled himself up using the door. Defendant had bloodshot, glassy eyes, his clothes were disheveled with vomit on them, a strong order of alcohol emanated from his breath, and his speech was slurred and mumbled. Officer Chernikovich inquired of defendant if he had consumed any alcohol, and defendant responded that he had consumed four beers. Officer Chernikovich asked defendant to perform field sobriety tests, but he refused, stating that he knew he was getting a DUI ticket.

¶ 6 Officer Chernikovich then transported defendant to the Schiller Park Police Department where he was placed in the interview room for a 20-minute observation period in order to have all the alcohol in his mouth dissipate for the accuracy of a breathalyzer test. However, upon entering the room, defendant vomited, and Officer Chernikovich had defendant wash out his mouth, then started the 20-minute observation period.

¶ 7 After defendant was advised of his rights, defendant informed Officers Chernikovich and John Kubycheck that he operated a vehicle, and was heading home to Chicago from Candela nightclub at 8526 West Golf Road in Niles, Illinois. Defendant further informed the officers that he had been drinking and had consumed four beers in 15 minutes. Shortly after the questioning was completed, defendant vomited again. The officers had defendant wash his mouth out with water and restarted the 20-minute observation period. At the end of the observation period, defendant agreed to perform a breathalyzer test which was administered by Officer Kubycheck at 4:40 a.m. Defendant's blood alcohol content was .164.

¶ 8 At the close of evidence, the court provided the jury with several jury instructions. One defined DUI and stated that a person commits the offense of driving with an alcohol concentration of .08 or more when he drives or is in actual physical control of a vehicle while the alcohol concentration in such a person's blood or breath is .08 or more. IPI, Criminal No. 23.19 (4th ed. 2000). The other instruction provided that to sustain the charge of driving with an alcohol concentration of .08 or more, the State must prove the following propositions:

> That defendant drove or was in actual physical control of a vehicle; and
>
> That at the time defendant drove or was in actual physical control of the vehicle, the alcohol concentration in defendant's blood or breath was .08 or more. IPI, Criminal No. 23.20 (4th ed. 2000).

The instruction further provided that if you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find defendant guilty, or if you find from your consideration of all the evidence that any one of these

propositions has not been proved beyond a reasonable doubt, you should find defendant not guilty. IPI, Criminal No. 23.20 (4th ed. 2000).

¶ 9 The jury ultimately found defendant guilty of DUI. The verdict form reads, "[w]e, the jury, find the defendant, Juan Monzalvo, Guilty of driving under the influence of alcohol."

¶ 10 Defendant filed a motion for a new trial, alleging, in relevant part, that the State failed to prove that he did not possess a driver's license or permit or a restricted driving permit or a judicial driving permit or a monitoring device driving permit. During the proceeding on the motion, counsel argued that the State failed to prove that he did not possess a driver's license, which was an element of the offense. Counsel, therefore, maintained that the State failed to prove beyond a reasonable doubt all the necessary elements of the offense. The State responded that it did not establish that defendant did not possess a driver's license because it is not an element that needs to be established and presented to the jury in order for defendant to be found guilty. The State further maintained that the jury instructions were clear as to what elements had to be proved for the offense of DUI, and that defendant agreed to how the charge was to be read to the jury, *i.e.* leaving out the language about defendant not possessing a driver's license, and that this factor was only relevant to sentencing.

¶ 11 The court denied the motion for a new trial. In doing so, the court explained that the Illinois Pattern Jury Instructions and the committee comments clearly indicate that the enhancement factors found in section 11-501 of the Illinois Vehicle Code (Code) 625 ILCS 5/11-501 (West 2012)) are matters solely for the trial court to consider when imposing sentence, and consequently, are not included in the instructions to the jury.

¶ 12 At the sentencing hearing, the State presented a certified abstract indicating that defendant did not have a valid driver's license on April 20, 2012. The court then noted that the jury found defendant "[g]uilty of the Class 4 felony, aggravated driving under the influence of alcohol." The court proceeded to sentence defendant on each of the two aggravated DUIs to 30 months' probation and 60 days in the Cook County Department of Corrections.

¶ 13 On appeal, defendant contends that his aggravated DUI conviction should be reduced to a Class A misdemeanor DUI because the State failed to prove beyond a reasonable doubt that he did not possess a driver's license. He contends that whether he lacked a driver's license was an element of the offense that had to be established at trial and was not a sentencing enhancement factor. The State concedes that it was an element, citing *Apprendi v. New Jersey*, 530 U.S. 466, 490 (2000), but contends that defendant acquiesced below and, therefore, should be held to the results of his decision.

¶ 14 Defendant responds, relying on *Apprendi*, 530 U.S. at 477, that because the fifth amendment right to due process and the sixth amendment right to a jury trial (U.S. Const., amends. V and VI) require the jury to determine every essential element of a crime beyond a reasonable doubt, there is no legal basis on which this court can uphold his conviction for aggravated DUI where the jury never found the aggravating element, lack of a driver's license. Defendant further contends that the State has cited no support for its position that counsel can '"agree"' to treat what the legislature has deemed to be an element of a criminal offense as a sentencing factor, and that counsel can relieve the State of its fundamental burden of proving an element of the offense to the trier of fact beyond a reasonable doubt. Defendant further notes that

a challenge to the sufficiency of the evidence is not subject to the waiver rule and may be raised for the first time on appeal.

¶ 15 Defendant was found guilty by the jury of misdemeanor DUI based on section 11-501(a)(1) of the Illinois Vehicle Code (Code) (625 ILCS 5/11-501(a)(1) (West 2012)), which provides, in relevant part, that a person shall not drive or be in actual physical control of any vehicle while the alcohol concentration in the person's blood or breath is .08 or more. The jury instructions provided to the jury defined DUI as indicated in this section of the Code, and did not include the aggravated factor, lacked a driver's license. The verdict form also provided solely for misdemeanor DUI, *i.e.* 625 ILCS 5/11-501(a)(1) (West 2012).

¶ 16 *Apprendi* requires the State to prove to the jury beyond a reasonable doubt every element of the crime with which defendant is charged. *Apprendi*, 530 U.S. at 477. *Apprendi* further provides that those facts that increase the penalty for a crime beyond the prescribed statutory maximum must be submitted to the jury at trial and proved beyond a reasonable doubt. *Id.* at 490. There is an exception to this for prior convictions, which is the recidivist exception to *Apprendi*. *Id.* at 495-96.

¶ 17 Here, defendant was charged with aggravated DUI, based on driving under the influence of alcohol without a driver's license, *i.e.*, the aggravating factor. The aggravating factors in section 11-501(d)(1) of the Code (625 ILCS 5/11-501(d)(1)(H) (West 2012)) enhance the misdemeanor DUI to a Class 4 felony (625 ILCS 5/11-501(d)(2)(A) (West 2012)). A Class 4 felony has a sentencing range of one to three years' imprisonment. 730 ILCS 5/5-4.5-45 (West 2012). A person who violates section 11-501(a), *i.e.*, A Class A misdemeanor DUI, is subject to six months' imprisonment and a mandatory fine of $1,000. 625 ILCS 5/11-501(c)(3) (West

2012). The aggravating factors of subsection (d)(1) thus enhance the sentence of a DUI. Here, in particular, defendant was charged with aggravated DUI for lack of a driver's license, as this aggravating factor is not a prior conviction, it must be proved as an element of the offense at trial beyond a reasonable doubt at trial. *Apprendi*, 530 U.S. at 477, 490, 495-96 (the Due Process Clause protects defendant against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime to which he is charged); see also *People v. Johnson*, 392 Ill. App. 3d 127, 131-32 (2009) (the aggravating DUI factor of proximate cause (625 ILCS 5/11-501(d)(1)(C), (F) (West 2012)) is an element of DUI). The State here, however, only proved DUI at trial, and the jury verdict was for Class A misdemeanor DUI, not aggravated DUI. The aggravated portion, lack of a driver's license, which was a factor inherent in the offense, was only presented at sentencing. *People v. Daly*, 2014 IL App (4th) 140624, ¶37 (the trial court abuses its discretion in sentencing when it relies on an element of an offense as a factor in aggravation). Accordingly, there was an *Apprendi* violation where the aggravating DUI factor, lack of a driver's license, was an element of the offense which was not proved at trial beyond a reasonable doubt. *Apprendi*, 530 U.S. at 477, 490.

¶ 18 The State, however, contends that defendant acquiesced below in that he "requested the aggravated portion of the offense to be addressed at sentencing," and, therefore, should be held to the results of his decision. The State further notes that the aggravated portion of the DUI, *i.e.*, lack of a driver's license, was proved at sentencing. We observe that, prior to trial, counsel had questioned whether there was evidence regarding defendant's driver's license and the court stated that failure to possess a driver's license was an element of the offense which would be read to the jury. The State then informed the court that the lack of a driver's license was not an element in

the jury instructions, was for sentencing purposes only, and elevated the offense to a Class 4 felony. The court asked defense counsel if it should take out the aggravated part, and counsel said, "[y]es." The court then announced that the jury instruction would not include the aggravated factor, defense counsel stated, "[t]hat's fine," and when the court asked if both sides were in agreement, the State responded, "[y]es."

¶ 19 We observe that counsel can "affirmatively waive[]" proof of an element at trial through a stipulation. *People v. Muhammad*, 398 Ill. App. 3d 1013, 1017 (2010) (citing *People v. Woods*, 214 Ill. 2d 455, 475 (2005)). Here, however, there was no stipulation or request by counsel to forgo proof of the element at trial as the State maintains. Rather, the State requested the court to exclude the aggravated portion of lack of a driver's license from the DUI jury instruction, and counsel did not object, but later raised the issue in his post-trial motion that the State was required, but failed, to prove the element of lack of a driver's license at trial. The State has cited to no supporting law providing that defendant can acquiesce to an *Apprendi* violation and we have found none.

¶ 20 We further observe that where defendant challenges the sufficiency of the evidence to prove an element at trial, his claim is not subject to the waiver rule, and may be raised for the first time on appeal. *Woods*, 214 Ill. 2d at 470. Furthermore, when a defendant challenges the sufficiency of the evidence, the relevant inquiry, is whether, after reviewing the evidence in the light most favorable to the prosecution, *any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.* (Emphasis added.) *Woods*, 214 Ill. 2d at 470 (citing *Jackson v. Virginia*, 443 U.S. 307, 318-19 (1979)). Here, the trier of fact was not presented with any evidence regarding the aggravating element, lack of a driver's license.

Because counsel cannot waive a challenge to the sufficiency of the evidence to establish an element at trial, except through a stipulation, which was not done here (*Woods*, 214 Ill. 2d at 470, 474-75), he cannot waive the State's burden to prove an element beyond a reasonable doubt at trial (see *People v. Wilson*, 215 Ill. App. 3d 966, 969-70 (1991) (the failure to prove an element of the offense due to mistake by the parties was not waived) (citing *People v. Edwards*, 63 Ill. 2d 134, 140-41 (1976) (where the jury did not find defendant guilty of all the elements of the charged offense, it was error for that judgment of the conviction for that offense to be entered)), especially where the jury did not hear any evidence regarding the element at trial (*Woods*, 214 Ill. 2d at 470). Thus, where, as here, defendant has not entered a stipulation, he cannot waive the State's burden to prove an element at trial beyond a reasonable doubt (See *Wilson*, 215 Ill. App. 3d at 969-70), that will enhance the sentence beyond the statutory prescribed maximum, *i.e.*, he cannot acquiesce in an *Apprendi* violation.

¶ 21 In reaching this conclusion, we have reviewed the State's case, *People v. Segoviano*, 189 Ill. 2d 228 (2000), and find it distinguishable. In *Segoviano*, 189 Ill. 2d at 235-36, Stacey Cueto falsely testified that he was Jerome Lewis at a jury trial, and the State moved for a mistrial. Defendant adamantly opposed the motion, arguing that the proper course was not to grant a mistrial, but rather to explain to the jury what had occurred and to disregard the evidence. *Id.* at 236. The trial court did not declare a mistrial, and directed the jury to disregard the evidence. *Id.* On appeal, defendant argued that the trial court erred in failing to declare a mistrial, and the State maintained that defendant's stance at trial should bar him from arguing such on appeal. *Id.* at 238. The supreme court held that defendant may not ask the trial court to proceed in a certain manner, then contend in a court of review that the order which he obtained was in error. *Id.* at

241. The supreme court also found there was no error in failing to declare a mistrial where the perjury was discovered during trial, strong steps were taken to correct it, and Cueto's testimony was entirely cumulative to other evidence presented at trial. *Id.* at 241-42.

¶ 22 In *Segoviano*, defendant specifically and affirmatively asked the trial court to not declare a mistrial, but rather to explain what had occurred to the jury and to tell the jury to disregard the perjured evidence. *Id.* at 236. Here, by contrast, defendant did not affirmatively ask the trial court for a jury instruction on DUI without the aggravated element of lack of a driver's license. The State was the one that requested this omission, and defendant went along with the State, which the trial court then agreed to do. This was not defendant's suggestion as in *Segoviano* where defendant specifically and affirmatively asked that no mistrial be declared as a matter of trial strategy. *Id.* at 240. In this case, the request to exclude the aggravated portion from the jury instruction came from the State, not defendant. We, therefore, conclude that there was an *Apprendi* violation in this case, and that defendant could not acquiesce to it where, contrary to *Segoviano*, the State was the one that affirmatively requested that the aggravating element only be proved at sentencing.

¶ 23 Defendant requests that we reduce his aggravated DUI conviction to a Class A misdemeanor DUI. The evidence at trial established that defendant was guilty beyond a reasonable doubt of DUI, and the jury verdict was a guilty DUI finding, not an aggravated DUI finding. Exercising our power in accordance with Supreme Court Rule 615(b)(3) (eff. Jan. 1, 2016), we reduce the aggravated DUI conviction to Class A misdemeanor DUI. *In re Matthew K.*, 355 Ill. App. 3d 652, 657 (2005).

¶ 24 Defendant next contends, and the State concedes, that the State *nolle prossed* Count II prior to trial, opting to proceed on Count I only. Pursuant to our authority under Rule 615(b)(1), we correct the mittimus to reflect only one Class A misdemeanor DUI conviction under Count I (*People v. McCray*, 273 Ill. App. 3d 396, 403 (1995)), and remand for resentencing on the single Class A misdemeanor DUI conviction (Count I) (*In re Matthew K.*, 355 Ill. App. 3d at 657).

¶ 25 In light of the foregoing, we reduce Count I to a Class A misdemeanor DUI, remand for resentencing on Count I, and correct the mittimus as indicated.

¶ 26 Modified in part; remanded with instructions; mittimus corrected.

¶ 27 Justice Gordon, specially concurring:

¶ 28 The majority concludes that defendant's conviction for aggravated DUI, a Class 4 felony, must be reduced to a Class A misdemeanor DUI because the State failed to submit to the jury and prove beyond a reasonable doubt as an element at trial that defendant lacked a driver's license. I concur both in the judgment and with the reasons expressed by the majority in the order. I write separately only to provide additional support.

¶ 29 First, the majority concludes that defense counsel did not waive proof of this element (1) because the defense neither entered a stipulation nor made an affirmative request to waive proof; (2) because the State failed to provide any supporting law that a defendant can acquiesce to an *Apprendi* violation; and (3) because a challenge to the sufficiency of the evidence is not subject to the waiver rule. *Supra* ¶¶ 19-20. I agree. However, in addition, I must observe that defense counsel's actual words are far too ambiguous to find an intent to waive proof. The trial court asked counsel "Do you want the aggravated part taken out?" and counsel replied "Yes." What counsel would not want the aggravated part of a charge removed? The removal of "the

aggravated part" is all we know, for sure, that counsel agreed to. Thus, counsel's ambiguous words cannot serve as the basis for waiving proof of an element, even if waiver was allowed.

¶ 30 Second, the State conceded that the lack of a license was an element, and the majority agrees. *Supra* ¶ 17. I concur with this conclusion, but I provide here additional support for this conclusion, since a court is not bound by a party's concession. *People v. Carter*, 2015 IL 117709, ¶ 22 ("it is well established that we, as a court of review, are not bound by a party's concession").

¶ 31 The following three cases support the conclusion that, while the fact of a prior conviction, such as a revoked license, does not have to be proved beyond a reasonable doubt, the mere lack of a license does have to be proven beyond a reasonable doubt and submitted to the jury, pursuant to *Apprendi*. *People v. Martin*, 2011 IL 109102; *People v. Nunez*, 236 Ill. 2d 488 (2010); and *People v. Van Schoyck*, 232 Ill. 2d 330 (2009). This issue was not addressed by the majority.

¶ 32 First, in *Martin*, our supreme court held that the State had the burden of proving one of the aggravating factors for aggravated DUI *beyond a reasonable doubt. Martin*, 2011 IL 109102, ¶ 28. Our supreme court held:

> "Here, as we have held, the State proved the defendant guilty of misdemeanor DUI beyond a reasonable doubt. It also proved *beyond a reasonable doubt* that the defendant's driving was a proximate cause of the victim's death. Therefore, the State proved the defendant guilty of aggravated DUI." (Emphasis added.) *Martin*, 2011 IL 109102, ¶ 28.

Thus, *Martin* supports the conclusion that the State must prove a DUI aggravating factor beyond a reasonable doubt.

¶ 33 Second, in Nunez, our supreme court considered whether convictions for both (1) driving with a revoked license and (2) aggravated driving, while under the influence of a drug and with a revoked license, violated the one act, one crime doctrine set forth in *People v. King*, 66 Ill. 2d 551 (1977). *Nunez*, 236 Ill. 2d at 490, 493. In *Nunez*, our supreme court drew a distinction between the summary suspension of a driver's license, which is a civil proceeding, and the revocation of a driver's license, which is a criminal proceeding. *Nunez*, 236 Ill. 2d at 498-99. Although our supreme court did not discuss *Apprendi* because the appeal did not involve an *Apprendi* claim, the *Nunez* court nonetheless held that the fact of a defendant's prior criminal conviction, namely, his license revocation, was merely a sentencing factor and not an element. *Nunez*, 236 Ill. 2d at 499.

¶ 34 Although the *Nunez* court did not discuss *Apprendi*, the *Nunez* holding comports with *Apprendi*, in which the United States Supreme Court held: "Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt." *Apprendi v. New Jersey*, 530 U.S. 466, 490 (2000). Similarly, the *Nunez* court held that a revocation, which was a criminal conviction, did not have to be proved beyond a reasonable doubt. *Nunez*, 236 Ill. 2d at 498-99.

¶ 35 In contrast to the revoked license at issue in *Nunez*, here the issue was whether defendant lacked a valid license. At defendant's sentencing, the State presented to the trial court a driving abstract from the Illinois Secretary of State which indicated that defendant did not possess a

valid license on the date in question.[1] Thus, *Nunez* supports defendant's contention that the State was required to prove his lack of a license beyond a reasonable doubt, since it was a fact *other than a prior conviction. Nunez*, 236 Ill. 2d at 498-99 (summary suspension is a civil proceeding, while revocation is a criminal proceeding); see also *Apprendi v. New Jersey*, 530 U.S. at 490.

¶ 36 Third, *Van Schoyck*, like *Nunez*, held that "*a prior conviction*, such as the revoked license" in *Van Schoyck*, "is not an element of the underlying offense." (Emphasis added.) *Van Schoyck*, 232 Ill. 2d at 339. As a result, it supports defendant's contention for the same reason.

¶ 37 In sum, these three cases support the conclusion that, while the fact of a prior conviction, such as a revoked license, does not have to be proved beyond a reasonable doubt, the mere lack of a license does have to be proven beyond a reasonable doubt and submitted to the jury, pursuant to *Apprendi*.

¶ 38 For the reasons expressed in the majority's order and for the additional reasons expressed here, I respectfully concur in the judgment.

[1] At defendant's sentencing, the prosecutor stated: "the State would seek to admit State's Exhibit No. 1, which is a certified abstract of the defendant, Juan Monzalvo, that shows he had no valid license on April 20, 2012." The trial court ruled: "So this will be admitted for purposes of sentencing." However, the record on appeal contains only what appears to be a photocopy of a form. The form states that "[t]his official record is received from the Secretary of State's Office via computer link-up system." The form identifies defendant by name and address, and then states, in relevant part: "No valid license on 04-20-2012." The photocopy does not contain a raised seal or an original stamp or signature.