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Judge Vacates Driver's Banishment for Speeding

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A Jamaican-born Lawrenceville resident who was banished from a neighboring county for speeding has won a partial reversal of his sentence.

Ricardo Riley was stopped for speeding last year in the Walton County town of Loganville, 19 miles from his home. The police laser detected his speed at 40 miles per hour in a 25 mph zone. He argued that he thought the speed limit was 35 when he represented himself at a bench trial in January before Loganville Municipal Court Judge Ira Brownlow Jr.

The court convicted him of speeding and sentenced him to 12 months of probation, a col-

lision avoidance course chosen by the judge and a \$1,000 fine, according to court records from both sides. When Riley, a warehouse worker, argued that he could not afford to pay the fine, the judge asked him if he had any need to be in Loganville or Walton County. Riley said no. The judge then added banishment to the sentence.

Criminal defense attorney Lawrence Zimmerman said he heard about the banishment from a TV news report and thought it was abusive and an extreme overreaction to speeding. "It's outrageous," Zimmerman said. "I took it on because if someone doesn't stand up to these people, no one will."

He took Riley's case pro bono to challenge the sentence.



Lawrence Zimmerman says he decided to challenge the "outrageous" sentence.

John Disney/Daily Report

Zimmerman said Riley actually does have a need to be in Walton County, where he had been driving to pick up a baby sitter to take care of his child while he worked. But that was beside the point, Zimmerman said.

With Zimmerman's representation, Riley appealed to the Walton County Superior Court, which is part of the Alcovy Judicial Circuit, arguing that the court erred by allowing Riley to represent himself "without a proper inquiry" and alleging the banishment was unreasonable and "without authority."

Zimmerman and Riley won a partial victory with a Sept. 19 order from Superior Court Judge W. Kendall Wynne Jr. Wynne affirmed the conviction, saying that Riley had signed a proper waiver of his right to an attorney, but he vacated the banishment, remanding the matter to the trial court.

Loganville City Attorney Larry Steele, a Decatur solo, wrote a brief in response to the appeal arguing that the municipal court judge has the authority to banish someone from his town.

Wynne agreed with Steele that a judge has the authority to banish, but the judge noted

that such a sentence must be based on specific reasoning. "This court concludes that the trial court does indeed have the authority to banish a defendant but also concludes that, on the record before it, there is insufficient evidence in the record to justify banishment," Wynne wrote.

For example, Wynne said, a trial court would need to show that banishment is justified by public safety or rehabilitation concerns. A case cited pertained to violent crimes against a victim in the district. "Banishment may be improper if it ... fails to bear a logical relationship to the rehabilitative scheme of the sentence," Wynne wrote.

However, the municipal court judge could try again. "If the court wishes to perfect the record with reasons supporting imposition of such a condition, it may do so," Wynne wrote. He ordered the conviction for speeding affirmed, but the banishment portion of the sentence

"vacated and remanded to the trial court for resentencing."

As for resentencing, Steele said he does not know what the trial judge will do.

Wynne's order stopped short of dealing with the question of whether a city court judge has the authority to banish someone from an entire county. Wynne wrote that since he was vacating the banishment, the court "does not need to reach" the geographic boundary argument.

The case is *Riley v. City of Loganville*, No. 2014CR188-5.