

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

DEBORAH A. BARNES,)	
)	
Appellant,)	Civil Action No. 7:15-CR-00062
)	
v.)	
)	
)	<u>MEMORANDUM OPINION</u>
)	
UNITED STATES OF AMERICA,)	By: Hon. Glen E. Conrad
)	Chief United States District Judge
Appellee.)	

On June 23, 2015, appellant Deborah A. Barnes, proceeding pro se, was convicted by a magistrate judge of driving in the wrong direction on a posted one-way street, in violation of 38 C.F.R. § 1.218(b)(32). Barnes now appeals her conviction, arguing that the photographs admitted at her bench trial did not present a complete view of the parking lot, and that the one-way arrow in the parking lot was not visible. For the reasons below, the court rejects these arguments and will affirm her conviction.

Background

Barnes is an employee of the Department of Veteran Affairs (the “VA”) in Salem, Virginia and has been working there for two years. At the time of the instant offense, her hours were from 7:45 a.m. to 4:30 p.m. However, Barnes would arrive before 7:45 a.m. because she was in the “Mid-Atlantic Advancement Program” and worked on her studies before the start of her work day. Dkt No. 4, Trial Tr. at 11:3-11:4, June 18, 2015. On April 15, 2015, at approximately 7:00 a.m., Officer Christopher Helton observed Barnes driving in parking lot P at the VA. At the time, Officer Helton was standing in parking lot Q, which is directly across from parking lot P. At a bench trial before the magistrate judge, Officer Helton testified that there

were “multiple arrows” indicating the correct driving direction, and that all parking spaces “face[d] in one direction.” Id. at 4:3, 4:5. Officer Helton ultimately determined that Barnes drove “against the flow of traffic.” Id. at 4:5-4:6. Barnes backed up into a parking spot and entered the building before Officer Helton could speak to her. Officer Helton subsequently issued her a citation for driving in the wrong direction down a posted one-way street.

On June 18, 2015, Barnes appeared before a magistrate judge for a bench trial. The government called Officer Helton as its only witness. He recounted the events surrounding the issuance of Barnes’ citation on the morning of April 15, 2015. During the direct examination of Officer Helton, the government also introduced three exhibits, which included photographs of parking lot P and the directional arrows on the ground of the lot. Barnes cross-examined Officer Helton and also testified on her own behalf. During her testimony, Barnes stated that it was still fairly dark outside when she arrived at the VA that morning, and she was normally the second person to arrive in parking lot P. In support, she introduced two exhibits showing the parking lot P at 7:00 a.m. She further testified that there were no “do not enter” signs in parking lot P at the time of her offense. In addition, Barnes argued that the directional arrows on the ground were faded and, therefore, not sufficiently posted. Finally, Barnes testified that Officer Helton acknowledged that the one-way direction of the parking lot was not posted and, in order to convince the VA to put up signs, suggested that Barnes fight the ticket. During the government’s cross-examination of Barnes, she admitted that, prior to the instant offense, she had been parking in parking lot P for a couple of months. At the end of the hearing, the government argued that the directional arrows in parking lot P were sufficiently visible during the day when Barnes left work, even if she did not see them in the early morning hours.

The magistrate judge found Barnes guilty of the charge. He concluded that the evidence

was sufficient to establish that Barnes drove in the wrong direction on a posted one-way street. Specifically, the magistrate judge found that a parking lot is a “street” for the purposes of traffic regulations. He also concluded that both the arrows on the ground in the parking lot and the direction of the parking spaces were visible and provided sufficient posting to show that parking lot P was a one-way street. However, the magistrate judge reduced Barnes’ fine from \$25.00 to \$10.00 because of her uncertainty about the one-way nature of the street. He noted that the arrows were somewhat faded, and that the VA could have done a better job marking the one-way direction in the parking lot with additional signage. On July 1, 2015, Barnes filed an appeal of the magistrate judge’s decision. The matter is now ripe for review.

Standard of Review

“An appellate review conducted by a district court after a bench trial before a magistrate judge is not a trial de novo; rather, the district court utilizes the same standards of review applied by a court of appeals in assessing a district court conviction.” United States v. Bursey, 416 F.3d 301, 305 (4th Cir. 2005); see also Fed. R. Crim. P. 58(g)(2)(D). Accordingly, a district court reviews a magistrate judge's factual findings for clear error and his legal conclusions de novo. Bursey, 416 at 306; United States v. Dailey, No. 7:15-CR-00060, 2015 WL 4506826, at *5 (W.D. Va. Jul. 24, 2015).

Discussion

Barnes raises two factual issues on appeal: (1) the government’s photographs did not present a complete view of the parking lot at the time of her offense, and (2) the one-way arrow in the parking lot was not sufficiently visible during the daytime. Dkt. No. 7, at 1.

Barnes’ first argument on appeal is that the government’s exhibits did not present a complete view of the parking lot at the time of her offense. In support, she offers additional

photographs of parking lot P taken from her parking spot in the lot. Barnes argues that these photographs show that she could not see the directional arrows when she left work, and that the SUV parked to the right of her parking spot blocked her view of the directional arrow by the entrance of parking lot P. She also challenges the government's assumption that she leaves work the same way she arrives and, thus, would have seen the directional arrows in the afternoon on her way out of parking lot P. Barnes' second argument on appeal is that the one-way arrows in the parking lot were not sufficiently visible during the day time. She argues that the arrows are faded and barely visible during the day. Based on these alleged deficiencies, Barnes asserts that the evidence was insufficient to prove that the one-way direction of parking lot P was sufficiently posted and, therefore, her conviction should be reversed.

Both of Barnes' arguments attack the sufficiency of the evidence adduced at trial. "Where a defendant challenges the sufficiency of the evidence supporting a conviction, [the reviewing court] view[s] the evidence in the light most favorable to the government and uphold[s] the verdict if substantial evidence supports it." United States v. Adepoju, 756 F.3d 250, 254 (4th Cir. 2014). "Substantial evidence is that which 'a reasonable finder of fact could accept as adequate and sufficient to support a conclusion of a defendant's guilt beyond a reasonable doubt.'" United States v. Reed, 780 F.3d 260, 269–70 (4th Cir. 2015) (quoting United States v. Hassan, 742 F.3d 139 (4th Cir. 2014)). A defendant mounting a sufficiency-of-evidence challenge "faces a heavy burden," and the reviewing court reverses only where the government's "failure is clear." Adepoju, 756 F.3d at 254 (internal quotation marks and citations omitted).

Barnes fails to meet her heavy burden in this case. The court has reviewed both the testimony at trial and the documentary evidence. Construing all of the evidence in the light most favorable to the government, the court concludes that a reasonable finder of fact could have

found beyond a reasonable doubt that Barnes was driving in the wrong direction on a posted one-way street. First, the government's exhibits showed that there were several directional arrows in parking lot P that indicated the one-way direction of the lot. During her hearing, Barnes did not object to the admission of the government's photographs or argue that they did not accurately depict the parking situation at the time of her offense. Instead, Barnes acknowledged that the government's exhibits showed parking lot P and were taken from the opposite direction from which she entered the lot, indicating that she did in fact drive in the wrong direction. The court did not admit government's exhibit 4, however, because Barnes stated that she did not recognize the image depicted in the photograph. In addition, the court finds no merit in Barnes' argument that she was unaware of the one-way direction of the street because she leaves work in the opposite direction of her arrival. The court notes that even Barnes' second exhibit shows what appears to be a directional arrow at the exit of parking lot P that is visible in the early morning hours when she arrives at work. Despite this substantial evidence, the magistrate judge reduced Barnes' fine because she was mistaken about the one-way direction of the parking lot. In conclusion, the court finds no clear error in the magistrate judge's judgment. Accordingly, the court affirms Barnes' conviction.

Conclusion

For the foregoing reasons, the court will affirm Barnes' conviction for driving in the wrong direction on a posted one-way street, finding no reversible error. The Clerk is directed to send certified copies of this memorandum opinion and the accompanying order to the appellant and all counsel of record.

DATED: This 15th day of December, 2015.

/s/ Glen E. Conrad
Chief United States District Judge

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DEBORAH A. BARNES,)	
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)	<u>ORDER</u>
v.)	
)	Hon. Glen E. Conrad
UNITED STATES OF AMERICA)	Chief United States District Judge
)	
Appellee.)	

For the reasons set forth in the accompanying memorandum opinion, it is now

ORDERED

that decision of the magistrate judge is **AFFIRMED**.

The Clerk is directed to strike this matter from the active docket of the court and to provide certified copies of this order and the accompanying memorandum opinion to the appellant and all counsel of record.

ENTER: This 15th day of December, 2015.

/s/ Glen E. Conrad
Chief United States District Judge