

Traffic judge's 'answers' appealed

Inquiring driver jailed for contempt

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Edwin Moore just wanted to ask a question about his sentence for traffic violations. But every time the 19-year-old opened his mouth, Atlanta Traffic Judge Lisa Y.S. West held him in contempt and sentenced him to jail time. Moore tried four times to get an answer. He ended up with 60 days.

Moore's case, now before the Georgia Court of Appeals, represents "an indefensible and shocking abuse of judicial power," his lawyer, Clark Cunningham, declared Friday.

Cunningham, a volunteer for the Georgia Justice Project, recently obtained an order from the Appeals Court that

allowed Moore to bond out of the city jail until his appeal is considered. He had served 31 days.

Moore's problems began April 14, when he was pulled over by Atlanta police for reckless driving and running a stop sign and two red lights. During a Sept. 14 bench trial, Officer Greg Condon identified Moore as the driver, even though his police report said Moore had been driving a Chevrolet Caprice when he actually had been driving a Ford Crown Victoria.

After hearing testimony from Condon, Moore and Moore's girlfriend, West found Moore guilty of all charges.

"You got a problem?" West then asked Moore.

Moore said he did, because

the police report said he was driving the wrong make of car.

"I don't care," the judge replied, according to a transcript of the proceedings. "The evidence is sufficient."

Moore started to ask a question. West told him not to argue with her and scolded him for not moving quickly enough to take a seat. She then threatened Moore with contempt, a directive that caused an outburst in the courtroom. The noise prompted West to tell everyone they needed "to step outside unless you want to be held in contempt of court."

After finding out that Moore had convictions for possessing illegal substances and serious traffic violations, West sentenced him to 21 days

in jail and a year on probation.

After the sentencing, Moore's public defender, Shawanda Brown, asked West whether Moore had to remain on probation for a full year if he paid his fines and completed a defensive-driving course in the meantime.

After the judge said he did, Moore asked how he would remain on probation "if it's in Traffic Court." West immediately found Moore in contempt and sentenced him to an additional 10 days in jail.

"Can — can — can I get an answer?" Moore asked.

"Twenty days, consecutive," West said.

"Can I get an answer?"

"Forty days."

Moore then uttered an inaudible response.

"Sixty days," West said, ending the proceedings.

Cunningham, who also heads Georgia State

University's criminal justice clinic, said the Georgia Justice Project got involved at the urging of Moore's father, Dan Moore Sr., president of the APEX Museum.

University of Georgia law professor Ron Carlson said judges are told to use contempt power sparingly. But they can use it to punish conduct that interferes with the administration of justice or that shows flagrant disregard for authority.

"In this case, the record suggests that some of the punishment was laid out when the defendant was exercising free-speech rights," Carlson said.

Cunningham said Moore has been instructed not to discuss the case.

West, who was appointed to the court in December 2001, declined to comment on Moore's case. Speaking generally, she said, "I do run a very

tight courtroom. I do demand respect. I do demand order in my court and require people who come before me to follow the rules. . . . I consider myself to be a judge who administers justice."

City Court of Atlanta Solicitor Joseph Drolet said he could see grounds for contempt. "The guy was not acting with the decorum one should have when he's before a judge," Drolet said.

Moore's appeal contends that West failed to follow protocol, such as denying him a chance to explain his conduct before being sentenced for contempt.

The appeal also notes that West committed the same error after finding in contempt a defendant who refused to surrender his cellphone to a bailiff. The Court of Appeals overturned that contempt charge earlier this month.