

Highlights

- Cummins & White's expertise in criminal defense helped it successfully represent a young college student who purchased a fake ID in Los Angeles and was then cited for having it in his wallet when he was pulled over for speeding just hours later.
- The seemingly innocent possession of a false identification is actually a misdemeanor violation of the California Business and Professions Code. Cummins & White negotiated a plea with the District Attorney that helped the driver avoid a misdemeanor conviction and the resulting lifetime criminal record.
- The driver was ordered to pay for his speeding ticket and only \$120 in Court costs, as well as complete 40 hours of community service to be performed out of state, allowing him to stay enrolled in college. He also was able to avoid a suspended license and the associated insurance implications.

About the Attorney



Charles Spagnola, lead trial counsel, joined Cummins & White, LLP, as a partner in 2006. Mr. Spagnola's practice focuses on complex civil, business and real estate litigation, as well as sophisticated criminal defense.

YOUNG MAN AVOIDS CRIMINAL RECORD FOR CARRYING FALSE ID

Charles Spagnola of Cummins & White, LLP, successfully represented a young man charged with possessing a false identification after he was pulled over in Orange County, Calif., for speeding by the California Highway Patrol. The officer requested identification, and while the driver was searching through his wallet, the officer noticed a second license behind the driver's original ID. While the initial pre-trial offer included a guilty plea to a misdemeanor and the resulting lifetime criminal record, as well as a suspended license, fines, and community service, Mr. Spagnola negotiated reduced charges and a sentence that included probation, community service, and minor court costs.

Background

A young, out-of-state college student home for spring break purchased a false driver's license during a trip to Los Angeles. While driving home, he was pulled over by the California Highway Patrol in Orange County for a routine traffic stop, and the officer requested his license. As the driver was searching through his wallet, the officer noticed the second identification behind the driver's original license. The driver was charged with:

- Misdemeanor possession of a false identification (California Business and Professions Code Section 25661)
- Unsafe speed (infraction: California Vehicle Code Section 2350)
- Driving without proof of insurance [infraction: California Vehicle Code Section 16028(a)]

The District Attorney made a pre-trial offer that included:

- A guilty plea to carrying a fake ID (misdemeanor charge would appear on the driver's criminal record)
- A maximum fine of \$1,000
- Three years probation
- One year suspended driver's license
- 34 hours of community service

Legal Strategy

A conviction for using a fake ID to procure alcohol and/or gain entry into bars and or clubs will appear—and remain—on an individual's criminal record. This could have had lasting implications for a young student, as a misdemeanor could impact acceptance into graduate school, as well as the

Cummins & White, LLP

Cummins & White, LLP, is recognized as one of California's premier business, insurance, and criminal defense law firms. The Newport Beach-based firm is engaged in general civil litigation and transactional practices, which include insurance coverage, business, estate planning, healthcare, real estate, and liability defense. The firm was founded in 1951 and has 16 partners and associates.

student's ability to become a doctor, lawyer, credentialed teacher, accountant, or licensed real estate professional. In addition, a suspended driver's license would likely increase auto insurance premiums once the young man was eligible to drive again.

With that in mind, Charles Spagnola, representing the student, sought to negotiate an alternate resolution that would enable the student to have the misdemeanor charge dismissed if he fulfilled certain conditions, such as public service and/or alcohol counseling. During discussions with the Orange County District Attorney, Mr. Spagnola also explained that while the driver possessed a false ID, he never actually presented it to the officer and readily admitted that it was a fake.

Result/Implication

In less than one month, Mr. Spagnola successfully negotiated with the District Attorney, securing a dismissal of the more serious count 1 of violation of the California Business and Professions Code Section 25661, and a plea to an amended count 1 of violation of California Vehicle Code Section 14610(a)(1), which does not require the license suspension. This included pleading guilty to simple possession of a false ID and speeding. The driver was ordered to pay for the speeding ticket and \$120 in Court costs, as well as complete 40 hours of community service to be performed on his out-of-state college campus. He also received one year of informal probation, and the charge of driving without proof of insurance was dismissed.

Upon completing the community service and informal probationary period, the client was allowed to withdraw his guilty plea for possession of a false ID and enter a plea of not guilty. The matter was dismissed, and his driver's license was not suspended.

According to Mr. Spagnola, this case highlights the value of retaining an experienced private criminal attorney. "Because there can be similar regulations in both the California Business and Professions Code and the Vehicle Code, the defense counsel must know if there is another charge—with a lesser penalty—that fits the facts of the crime," Mr. Spagnola said. "Negotiating a reduced sentence was critical for our client, who made a seemingly simple error in judgment with potential lifelong effects. As a student, it was important for this young man to avoid a criminal record and retain his driving privileges. It was also important to keep him enrolled in college. We were pleased to arrange for him to complete his community service out of state and avoid a significant fine." ■