

Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2002-036

JUNE TERM, 2002

	}	APPEALED FROM:
	}	
State of Vermont	}	District Court of Vermont, Unit No. 2,
	}	Bennington Circuit
v.	}	
	}	
Bettina V. Buehler	}	DOCKET NO. 762-6-00 Bncr
	}	
	}	Trial Judge: David A. Howard
	}	

In the above-entitled cause, the Clerk will enter:

In June 2000, defendant was convicted of driving with a suspended license in violation of 23 V.S.A. 674. She appeals the conviction claiming constitutional infirmities in the court's jury instructions, as well as error in the court's denial of her motion for judgment of acquittal. None of defendant's claims are susceptible to appellate review because defendant failed to provide this Court with a transcript of the proceedings below. We therefore affirm.

In April 2000, defendant plead guilty to driving while intoxicated ("DWI") in the State of New Hampshire. New Hampshire suspended her license, and pursuant to a reciprocity arrangement with Vermont, the Vermont Department of Motor Vehicles suspended defendant's license in this State, effective May 21, 2000. The Department sent defendant two additional suspension notices, the first effective May 30, 2001 for financial responsibility, and the second effective May 20, 2001 for her New Hampshire DWI conviction. While driving in Winhall, Vermont on May 20, 2001, defendant was stopped for speeding. The officer arrested defendant for driving while her license was suspended. A jury trial was held on November 27, 2001, and defendant was convicted. She then took this appeal.

On March 11, 2002, the State moved to dismiss the appeal because defendant did not order a transcript of the trial. This Court denied the motion, but cautioned defendant that to the extent her appellate claims required review of the transcript, she proceeded at her peril. Defendant did not thereafter order or file a transcript.

A party seeking appellate review of claimed trial errors has the burden to demonstrate the existence of those errors. In re S.B.L., 150 Vt. 294, 297 (1988); Appliance Acceptance Co. v. Stevens, 121 Vt. 484, 487-88 (1960). Our rules require an appellant to produce a transcript of all parts of the proceeding below that are relevant to the issues the appellant raises on appeal. V.R.A.P. 10(b)(1). Further, we will not review arguments that were not raised at the trial level first, State v. Jones, 160 Vt. 440, 448 (1993), and therefore our rules require the party seeking review to demonstrate how the party preserved the arguments for appeal. See V.R.A.P. 28(a)(4) (appellant's brief must explain how issues were presented below and preserved for appellate review).

In this case, appellant claims she was convicted as a result of unconstitutional jury instructions. She further contends that the court should have entered judgment of acquittal because the state failed to produce evidence of criminal intent. Without a transcript of the trial, we cannot determine whether she preserved her arguments, nor can we review the jury instructions for error. Similarly, we cannot examine the court's decision on her alleged motion for judgment of acquittal. Notably, the docket entries do not reflect that defendant filed a written motion for judgment of acquittal; the motion therefore must have been made and decided on the record, which again we do not have before us for review. In the

absence of any record to review, defendant's conviction must stand.

Affirmed.

BY THE COURT:

John A. Dooley, Associate Justice

James L. Morse, Associate Justice

Marilyn S. Skoglund, Associate Justice