

STATE OF MICHIGAN
COURT OF APPEALS

KEITH DAVID RILING,

Petitioner-Appellee,

v

SECRETARY OF STATE,

Respondent-Appellant.

UNPUBLISHED

October 28, 2004

No. 248694

Washtenaw Circuit Court

LC No. 03-000219-AL

Before: Whitbeck, C.J., and Jansen and Bandstra, JJ.

MEMORANDUM.

Petitioner's driver's license was administratively revoked because of two alcohol-related driving arrests in 1999 and 2001. See MCL 257.303. When petitioner sought full restoration of his driving privileges, respondent's Driver's License Appeal Division (DLAD) granted a restricted license, and required installation of a breath alcohol analyzed ignition interlock device on petitioner's car. Petitioner appealed to the circuit court, which reversed the DLAD and ordered full restoration of driving privileges. Respondent appeals by leave granted. We reverse. This case is being decided without oral argument pursuant to MCR 7.214(E).

Pursuant to MCL 257.323(4), a circuit court shall set aside a decision of the DLAD only if the petitioner's substantial rights have been prejudiced because the determination is any of the following: (a) in violation of the Constitution of the United States, the state constitution of 1963, or a statute; (b) in excess of the secretary of state's statutory authority or jurisdiction; (c) made upon unlawful procedure resulting in material prejudice to the petitioner; (d) not supported by competent, material and substantial evidence on the whole record; (e) arbitrary, capricious, or clearly an abuse or unwarranted exercise of discretion; or (f) affected by other substantial and material error of law.

In this case, the hearing officer noted that petitioner's participation in Alcoholics Anonymous had fallen below recommended levels in recent weeks, and that petitioner's last arrest for an alcohol-related driving offense was within the past two years, and thus concluded that full restoration of driving privileges was not warranted. The circuit court did not dispute the evidentiary support for those conclusions, but instead simply implied that the DLAD was prone to relying on habit rather than individualized judgments, expressed disagreement with its limited role reviewing such decisions, and agreed to sign an order declaring the hearing officer's decision arbitrary and capricious.

We reverse. There was competent, material, and substantial evidence to support the hearing officer's conclusion that full restoration of driving privileges was not yet appropriate, and the decision to grant a restricted license, conditioned on installation of an interlock device in petitioner's car, was authorized by law, and was not arbitrary or capricious.

We remind the circuit court that it, like this Court, must apply specific standards when reviewing the determination of a lower tribunal. The scope of a circuit court's review of DLAD decisions is sharply limited. MCL 257.323(4). The circuit court plainly erred by substituting its judgment for that of the hearing officer.

We reverse.

/s/ William C. Whitbeck
/s/ Kathleen Jansen
/s/ Richard A. Bandstra