

SUPERIOR COURT  
OF THE  
STATE OF DELAWARE

T. HENLEY GRAVES  
*RESIDENT JUDGE*

SUSSEX COUNTY COURTHOUSE  
ONE THE CIRCLE, SUITE 2  
GEORGETOWN, DE 19947

July 10, 2009

Andrew M. Beauregard, Esquire  
Brown, Shiels & O'Brien, LLC  
108 East Water Street  
Dover, DE 19901

Frederick H. Schranck, Esquire  
P. O. Box 778  
Dover, DE 19903

**RE: Michael Wayne Reynolds v. Michael D. Shahan, Director of Motor  
Vehicles - Civil Action No. S09A-04-001 THG**

Dear Counsel:

This is an appeal from a decision of the Court of Common Pleas which affirmed the decision of a Department of Motor Vehicles' hearing officer. The hearing officer found by a preponderance of the evidence that Mr. Reynolds' license should be revoked for twelve (12) months because of his violation of 21 Del. C. §4177.

The Court of Common Pleas found there was ample evidence to determine Mr. Reynolds was in physical control of the motor vehicle and that he was intoxicated on the night he was arrested. The Court of Common Pleas also determined that issues raised in the appeal to the Court of Common Pleas that were not raised at the hearing should not be reviewed on appeal. I agree, especially when the issues are collateral matters to a blood alcohol reading that was stipulated to at the hearing.

So for the reasons stated by the Court of Common Pleas, I would affirm the decision, but for the delay issue which is discussed below.

On October 26, 2004, the Department of Motor Vehicles issued the revocation order which was timely appealed to the Court of Common Pleas. Memorandum and/or briefs were timely filed.

Per the April 15, 2005 correspondence from the Court of Common Pleas, it was noted that the case was submitted for a decision on March 2, 2005 to a judicial officer.

Nothing happened until over four (4) years later when another judicial officer issued the decision. The decision stated that it was submitted on March 16, 2009 and decided

on March 16, 2009. The decision offers no explanation as to why it took four years to determine that Mr. Reynolds' license should now be revoked.

In his filings with this Court, Mr. Reynolds notes that he resolved the criminal charges on this matter by pleading to reckless driving-alcohol related at least prior to March 2005, and completed the rehabilitation required by the statute. He argues he has gotten on with his life and to now impose a one-year revocation is unconscionable.

The State notes that nobody kicked the sleeping dog and therefore Mr. Reynolds should not complain about the length of the nap.

The Courts of the State of Delaware are committed to the timely disposition of cases once the case is ripe for a decision. The Courts have in place an administrative directive to maintain a "90 day list" of pending decisions. This is for the purpose of monitoring cases that have not been decided within 90 days. There are many reasons why a case may land on the "90 day list" including but not limited to the complexity of the issues such as other work being addressed, illness, and the like.

There is no reason offered as to why it took over four (4) years for this case to be decided. The only thing that can be determined from the record is that it was not complex.

While the State is right that nobody kicked the sleeping dog, it may be too much to ask Mr. Reynolds to now take the responsibility on this.

Quite frankly, I suspect that after a year or so, this matter was just plain forgotten. There would be no reason for Mr. Beauregard or Mr. Schranck to have tickered this, as the ball was in the Court's court.

I must agree with Mr. Reynolds. Four years awaiting a decision from an administrative appeal is unconscionable and prejudicial per se. To revoke his license now misses the whole point of the statute which is a timely loss of driving privileges as a sanction for bad conduct. Therefore, taking into consideration what was at risk versus the unexplained delay of four years, the revocation is reversed.

**IT IS SO ORDERED.**

Yours very truly,

T. Henley Graves

THG:baj  
cc: Prothonotary  
Department of Justice