

MEMORANDUM DECISION

Pursuant to [Ind. Appellate Rule 65\(D\)](#), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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IN THE COURT OF APPEALS OF INDIANA

Indiana Bureau of Motor
Vehicles,
Appellant-Defendant,

v.

Anna Crouch,
Appellee-Plaintiff.

September 27, 2022

Court of Appeals Case No.
22A-MI-602

Appeal from the Hendricks
Superior Court

The Honorable Stephenie D.
Lemay-Luken, Judge

Trial Court Cause No.
32D05-2112-MI-357

Mathias, Judge.

[1] Anna Crouch sought judicial review of the Indiana Bureau of Motor Vehicles’ (“BMV”) suspension of her driving privileges. Following a hearing, at which

the BMV did not appear, the Hendricks Superior Court reinstated Crouch's driving privileges. The BMV filed a timely motion to correct error, which the trial court denied. The BMV appeals and presents a single issue for our review, namely, whether the trial court erred when it denied its motion to correct error.

[2] We reverse.

Facts and Procedural History

[3] On April 5, 2021, the BMV sent a letter to Crouch stating that it had “received written information advising the BMV that [her] driving skills may have diminished” or that she had an impairment “or disability that may adversely affect [her] ability to operate a motor vehicle safely.” Appellant’s App. Vol. 2, p. 16. The BMV instructed Crouch to submit a letter from a physician to address a list of concerns. And the letter stated that Crouch’s failure to respond to the BMV by June 4, 2021, would “result in the automatic invalidation of [her] driving privileges without further notice.” *Id.* Crouch did not respond to the letter. Accordingly, the BMV suspended her driving privileges on June 4, 2021.

[4] On December 6, Crouch sought judicial review of the BMV’s suspension of her driving privileges and requested a hearing pursuant to [Indiana Code Section 9-24-10-7 \(2021\)](#). Crouch’s certificate of service attached to her petition stated that she had served the “Hendricks County Prosecutor” and the BMV. *Id.* at 21. Crouch did not attempt service on the Attorney General. Following a hearing,

at which the BMV did not appear, on January 13, 2022, the trial court issued an order reinstating Crouch's driving privileges.

- [5] On February 10, the BMV filed a motion to correct error alleging, in relevant part, that the trial court's January 13 order was void for lack of personal jurisdiction over the BMV. In particular, the BMV pointed out that Crouch had failed to serve the Attorney General as required by both statute and trial rule. The trial court denied the BMV's motion. This appeal ensued.

Discussion and Decision

- [6] The BMV contends that the trial court erred when it denied its motion to correct error. We generally review a trial court's ruling on a motion to correct error for an abuse of discretion. *Ind. Bureau of Motor Vehicles v. Watson*, 70 N.E.3d 380, 384 (Ind. Ct. App. 2017). However, where the issues raised in the motion are questions of law, our standard of review is de novo. *Id.* Here, the dispositive issue on appeal is whether the trial court had personal jurisdiction over the BMV, a question of law that we review de novo. *See id.*
- [7] Initially, we note that Crouch has not filed an appellee's brief. In such appeals, we will not "develop an argument" for the appellee but instead will "reverse the trial court's judgment if the appellant's brief presents a case of prima facie error." *Salyer v. Washington Regular Baptist Church Cemetery*, 141 N.E.3d 384, 386 (Ind. 2020) (quoting *Front Row Motors, LLC v. Jones*, 5 N.E.3d 753, 758 (Ind. 2014)). Prima facie error in this context means "at first sight, on first

appearance, or on the face of it.” *Id.* (quoting *Front Row Motors*, 5 N.E.3d at 758).

[8] [Indiana Code section 4-21.5-5-8](#) provides in relevant part that a petitioner for judicial review shall serve a copy of the petition upon: (1) the ultimate authority issuing the order; (2) the ultimate authority for each other agency exercising administrative review of the order; (3) the attorney general; and (4) each party to the proceeding before an agency. In addition, [Indiana Trial Rule 4.6\(A\)\(3\)](#) provides that service upon a state governmental organization requires service on the Attorney General. In its motion to correct error, the BMV argued that, because Crouch did not serve the Attorney General with a copy of her petition for judicial review, the trial court did not have personal jurisdiction over the BMV, and the order reinstating Crouch’s driving privileges was void. We agree.

[9] In *Guy v. Commissioner, Indiana Bureau of Motor Vehicles*, the petitioner, Guy, sought judicial review of the BMV’s denial of his application to renew his driver’s license. [937 N.E.2d 822 \(Ind. Ct. App. 2010\)](#). The trial court denied his petition. On appeal, we stated that “[i]t is undisputed that Guy served only the Commissioner[of the BMV]. He did not serve the Attorney General, which [Indiana Code section 4-21.5-5-8](#) expressly requires.” *Id.* at 824. Thus, we held that the trial court did not have personal jurisdiction over the BMV because the petitioner’s “service of process was ineffective[.]” *Id.* at 826. And we vacated the trial court’s order denying Guy’s petition for judicial review.

[10] Likewise, here, it is undisputed that Crouch did not serve the Attorney General. And the BMV did not appear at the hearing on Crouch's motion.¹ We hold that the trial court did not have personal jurisdiction over the BMV. *See id.* Thus, the trial court's order is void, and we vacate the court's order reinstating Crouch's driving privileges. Crouch's driving privileges are hereby suspended pending a new hearing on her petition for judicial review with adequate service on both the BMV and the Attorney General.

[11] Reversed.

Robb, J., and Pyle, J., concur.

¹ The BMV contends that Crouch's service on it was ineffective, but we need not address that issue.