

IN THE COURT OF APPEALS OF IOWA

No. 9-632 / 08-1508
Filed November 12, 2009

KENNA RYANN ROTH,
Petitioner-Appellant,

vs.

**IOWA DEPARTMENT OF
TRANSPORTATION MOTOR
VEHICLE DIVISION,**
Respondent-Appellee.

Appeal from the Iowa District Court for Washington County, Michael R. Mullins, Judge.

Kenna Roth appeals from a district court ruling on judicial review affirming the Iowa Department of Transportation's order revoking her driver's license for one year. **AFFIRMED.**

Eric D. Tindal of Nidey, Peterson, Erdahl & Tindal, Williamsburg, for appellant.

Thomas J. Miller, Attorney General, and Mark Hunacek, Assistant Attorneys General, for appellee.

Heard by Eisenhauer, P.J., Potterfield, J., and Mahan, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2009).

MAHAN, S.J.

Kenna Roth appeals from a district court ruling on judicial review affirming the Iowa Department of Transportation's order revoking her driver's license for one year. She contends the district court erred because the Iowa Department of Transportation (IDOT) exceeded its authority, and that the one-year suspension was unreasonable, arbitrary, and capricious. We affirm.

I. Background Facts and Proceedings. On July 24, 2007, Roth was involved in a fatal accident at the intersection of 320th Street and Highway 218 in Washington County. Roth was heading east on 320th Street when she reached the intersection with the four-lane highway. She came to a complete stop before attempting to cross Highway 218. Upon proceeding, Roth pulled into the path of a motorcycle traveling south on Highway 218. The motorcycle struck the driver's side of Roth's vehicle, fatally injuring the motorcycle's driver and its passenger.

Roth was cited for failure to yield right-of-way from a stop sign. After making a finding of guilt, the district court imposed a fine. It declined to suspend Roth's license as provided by Iowa Code section 321.482A (2007).

Roth received notice the IDOT was suspending her license for a one-year period for committing a serious violation of the state's motor vehicle laws, pursuant to section 321.210(1)(f). A contested case hearing was held on October 4, 2007. Roth raised three issues: (1) the IDOT exceeded its statutory authority by suspending her license under the facts of the case, (2) the IDOT's decision is barred by res judicata, and (3) the suspension period is excessive. She requested the suspension be rescinded or reduced to 120 days.

On November 1, 2007, the IDOT issued an informal appeal decision, upholding the one-year suspension. Subsequent appeals to the administrative law judge and the IDOT reviewing officer sustained the suspension. In March 2008, Roth filed a petition for judicial review. Following a hearing, the district court issued its August 2008 ruling upholding the suspension. She appeals on two grounds.

II. Scope and Standard of Review. On appeal from an order revoking a driver's license, our scope of review is limited to correction of errors at law. *Zenor v. Iowa Dep't of Transp.*, 558 N.W.2d 427, 430 (Iowa Ct. App. 1996). Our review of a district court's decision rendered in its appellate capacity is governed by chapter 17A, Iowa's Administrative Procedure Act. Iowa Code § 17A.19; *Pointer v. Iowa Dep't of Transp.*, 546 N.W.2d 623, 625 (Iowa 1996).

III. Analysis. Roth first contends the district court erred in sustaining her license revocation because the IDOT exceeded its statutory authority.

Iowa Code section 321.210(1) states in pertinent part,

The department is authorized to establish rules providing for the suspension of the license of an operator upon thirty days' notice and without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee . . . [h]as committed a serious violation of the motor vehicle laws of this state.

The IDOT has defined "serious violation" to mean "[t]he person was convicted of a moving violation which contributed to a fatal motor vehicle accident." Iowa Admin. Code r. 761-615.17. "Contributed" means there is "evidence in departmental records that the driver performed an act which resulted in or contributed to an accident, or failed to perform an act which would have avoided

or contributed to the avoidance of an accident.” Iowa Admin. Code 761-615.12(1)(b).

The undisputed facts show Roth committed a “serious violation” under the rules promulgated by the IDOT. She was convicted of failing to yield the right of way when crossing the highway. Had she done so, the accident would have been avoided. Her actions contributed to the deaths of two motorists.

We then turn to Roth’s argument that the IDOT has exceeded its authority in crafting its definition of a “serious violation.” An agency rule is generally presumed valid unless the party challenging the rule proves a “rational agency” could not conclude the rule was within its delegated authority. *Meredith Outdoor Advertising, Inc. v. Iowa Dep’t of Transp.*, 648 N.W.2d 109, 117 (Iowa 2002). Additionally, the rule must not exceed or limit the scope of the authority granted by the enabling legislation. *Id.* Although the ultimate decision concerning the validity of a rule rests with the reviewing court we must accord some respect to the agency’s decision. *Id.*

The plain language of Iowa Code section 321.210(1) clearly vests the IDOT with the authority to establish rules providing for the suspension of a license for serious violations of the state’s motor vehicle laws. However, Roth argues the IDOT rule exceeds the scope of authority granted because it focuses on the end result of the traffic violation, and not the violation itself. She notes section 321.482A grants the court in a criminal prosecution the authority to suspend a license for violation of section 321.321 in cases that result in serious injury or death. Roth argues “the only logical interpretation is that the Legislature

did not believe the IDOT had administrative authority to suspend a person's license under Iowa Code § 321.321." We disagree. Making license suspension a separate criminal punishment for violation of section 321.321 does nothing to limit the IDOT's authority to define serious violations for the purpose of civil license suspensions.

Nor is it unreasonable for the IDOT to focus on the outcome of a traffic violation in determining which violations are serious violations. As the district court stated in rejecting Roth's argument:

The court understands the argument raised by the appellant, but likens this situation to an accidental discharge of a firearm. If no one gets shot by the accidental discharge, then no serious charges would likely follow. On the other hand, if the accidental discharge struck and killed a person, it is the result of the death that could support criminal charges (for example, involuntary manslaughter). The act of shooting the firearm was the same; it was the result that elevated the seriousness of the act.

We conclude the IDOT did not exceed the scope of authority granted by section 321.210(1) in defining moving violations that result in fatal accidents as "serious violations" of the motor vehicle laws.

Roth next contends the district court erred in failing to find the one-year suspension of her license was unreasonable, arbitrary, and capricious. She argues the IDOT's failure to enunciate its reasoning for suspending her license for one year—as opposed to 120 days—amounts to an abuse of discretion.

The court may reverse an agency action if it determines that the substantial rights of the person seeking judicial relief have been prejudiced because the agency's action is "unreasonable, arbitrary, capricious, or an abuse of discretion." Iowa Code § 17A.19(10)(n). An agency's action is arbitrary or

capricious when “it is taken without regard to the law or facts of the case” and unreasonable when “it is clearly against reason and evidence.” *Soo Line R.R. v. Iowa Dep’t of Transp.*, 521 N.W.2d 685, 688-89 (Iowa 1994). Unreasonableness is defined as action in the face of evidence that leaves “no room for difference of opinion among reasonable minds, or not based on substantial evidence.” *Stephenson v. Furnas Elec. Co.*, 522 N.W.2d 828, 831 (Iowa 1994). “Abuse of discretion is synonymous with unreasonableness, and involves lack of rationality, focusing on whether the agency has made a decision clearly against reason and evidence.” *Id.*

In the IDOT’s informal appeal decision, the reviewing officer upheld the one-year suspension, stating as follows:

She was involved in an accident on 07-24-2007 which resulted in two fatalities. The Investigating Officer’s report shows contributing circumstances to this driver as #13 – Failed to Yield Right of Way from Stop Sign. The driver of the motorcycle had the right of way and there are no contributing circumstances indicated to this driver on the report. He and a passenger both died as a result of the accident.

Considering her failure to yield the right of way from a stop sign and this resulting in a severe accident with two fatalities; a suspension is appropriate.

The reasons given—the traffic violation, the death of two people, and the other driver’s lack of contributing circumstances in causing the accident—are a reasonable basis for determining Roth’s license should be suspended for one year. Because the IDOT’s decision is not unreasonable, arbitrary, capricious, or an abuse of discretion, we affirm the one-year suspension of Roth’s license.

AFFIRMED.