

STATE OF MAINE  
KENNEBEC, ss

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. AP-07-53  
MM - KEN - 4/1/2009

SCOTT CORSON,

Petitioner

v.

DECISION AND ORDER

DEPARTMENT OF THE SECRETARY  
OF STATE BUREAU OF MOTOR  
VEHICLES,

Respondent

The petitioner is a truck driver whose operating privileges in the State of Maine were suspended by the Secretary of State on March 14, 2007 because of the petitioner's involvement in two accidents on March 29, 2005 and July 19, 2006. The 2006 accident resulted in the death of another driver. (R. Tab 4 at 3.) The petitioner requested a hearing to contest the suspension. (R. Tab 4 at 28.) The hearing occurred on May 1, 2007. (Tab 7.) The respondent found that the petitioner had improperly executed a left hand turn in both accidents, but reduced the Secretary of State's suspension from one year to 275 days. (R. Tab 4 at 4-5.)

The petitioner brings this M.R. Civ. P. 80C petition for judicial review and argues that the respondent's decision was not supported by substantial evidence and was arbitrary and capricious. For the following reasons, the respondent's decision is affirmed.

The petitioner argues that the respondent's decision was unsupported by substantial evidence and, therefore, arbitrary and capricious because the report of the July 19, 2006 accident by Trooper Foster, an accident reconstructionist, contains error

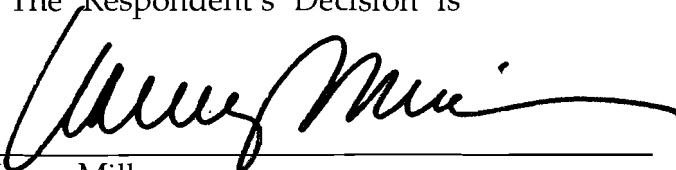
and bias. Pet.'s Br. at 6-7. Further, he argues the decision did not properly assess the role of the other vehicle involved in the accident or the condition of the road. Id. "A party seeking review of an agency's findings must prove they are unsupported by *any* competent evidence." Maine Bankers Ass'n v. Bureau of Banking, 684 A.2d 1304, 1306 (Me. 1996) (emphasis added). "Inconsistent evidence will not render an agency decision unsupported." Id.

The respondent considered reasons the evidence may have been compromised and alternate explanations of the accident and reduced the length of the suspension. (R. Tab 4 at 3-5.) After consideration of that evidence, however, the respondent determined that the petitioner was negligent. (Id. at 4.) That decision is based on competent evidence, particularly the testimony and written report of Trooper Foster. (Tab 7 at 9-12; Ex. 1; see Imagineering, Inc. v. Superintendent of Ins., 593 A.2d 1050, 1053 (Me. 1991) (reviewing court does not second guess agency; review limited to determining whether agency's conclusions are unreasonable, unjust, or unlawful in light of record).

The entry is

The Petition is DENIED. The Respondent's Decision is  
AFFIRMED.

Dated: April 1, 2008

  
\_\_\_\_\_  
Nancy Mills  
Justice, Superior Court