

STATE OF MICHIGAN
COURT OF APPEALS

MICHAEL MORTON RIEDEL,

Petitioner-Appellant,

v

SECRETARY OF STATE,

Respondent-Appellee.

UNPUBLISHED

November 20, 2008

No. 280048

Oakland Circuit Court

LC No. 2007-083666-AL

Before: O’Connell, P.J., and Smolenski and Gleicher, JJ.

PER CURIAM.

Petitioner appeals as of right from a circuit court order denying his petition for restoration of his driver’s license on the basis that the court lacked subject-matter jurisdiction. We reverse and remand, and decide this appeal without oral argument pursuant to MCR 7.214(E).

“Whether a trial court has subject-matter jurisdiction is a question of law that this Court reviews de novo.” *Etefia v Credit Technologies, Inc*, 245 Mich App 466, 472; 628 NW2d 577 (2001). We also review de novo the legal questions involved in statutory interpretation. *Van Reken v Darden, Neef & Heitsch*, 259 Mich App 454, 456; 674 NW2d 731 (2003). “It is a cardinal rule of statutory construction that a clear and unambiguous statute warrants no further interpretation and requires full compliance with its provisions, as written.” *Northern Concrete Pipe, Inc v Sinacola Cos—Midwest, Inc*, 461 Mich 316, 320; 603 NW2d 257 (1999).

Our Supreme Court has broadly defined jurisdiction of the subject matter as a court’s right to exercise judicial power over a given class of cases. *Joy v Two-Bit, Corp*, 287 Mich 244, 253; 283 NW 45 (1938). It concerns a court’s “abstract power to try a case of the kind or character of the one pending,” “not whether the particular case is one that presents a cause of action, or under the particular facts is triable in the court in which it is pending” *Id.* “A court’s subject-matter jurisdiction is determined only by reference to the allegations” contained in a pleading or petition, “not the subsequent proceedings.” *Luscombe v Shedd’s Food Products Corp*, 212 Mich App 537, 541; 539 NW2d 210 (1995). Regardless of the truth or falsity of the allegations, “where it is apparent from the allegations . . . that the matter alleged is within the class of cases in which a particular court has been empowered to act, subject-matter jurisdiction is present.” *Id.* at 541-542; see also *Fox v Martin*, 287 Mich 147, 151; 283 NW 9 (1938) (“Jurisdiction does not depend upon the facts, but upon the allegations.”), and *Trost v Buckstop Lure Co, Inc*, 249 Mich App 580, 587; 644 NW2d 54 (2002) (observing that subject-matter jurisdiction depends on the allegations pleaded, not the truth or falsity of a claim).

The relevant statute in this case, MCL 257.323, provides in pertinent part as follows:

(1) A person aggrieved by a final determination of the secretary of state denying the person an operator's or chauffeur's license . . . or revoking, suspending, or restricting an operator's or chauffeur's license . . . may petition for a review of the determination in the circuit court

(2) Except as otherwise provided in this section, the circuit court shall enter an order setting the cause for hearing for a day certain not more than 63 days after the order's date. . . .

(3) The court may take testimony and examine all the facts and circumstances relating to the denial, suspension, or restriction of the person's license under sections 303(1)(d), 320, or 904(10) or (11), a licensing action under section 310d, or a suspension for a first violation under section 625f. The court may affirm, modify, or set aside the restriction, suspension, or denial, except the court shall not order the secretary of state to issue a restricted or unrestricted chauffeur's license that would permit the person to drive a commercial motor vehicle that hauls a hazardous material. . . .

(4) Except as otherwise provided in this section, in reviewing a determination resulting in a denial, suspension, restriction, or revocation under this act, the court shall confine its consideration to a review of the record prepared pursuant to section 322 or 625f or the driving record created under section 204a for a statutory legal issue, and shall not grant restricted driving privileges. The court shall set aside the secretary of state's determination 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.

(f) Affected by other substantial and material error of law.

The petition in this case did not specifically invoke § 323. But a review of the petition's request for relief plainly reveals that petitioner sought the relief provided for in § 323. Petitioner

averred that his recent driver's license suspension had concluded, and that respondent nonetheless refused to hold a hearing concerning license reinstatement. Petitioner urged the circuit court to "terminate the suspension of his driver's license . . . and reinstate his full driving privileges, or, in the alternative, to modify his suspension to allow [him] to drive to, from, and during the course of his employment."

Respondent argued that pursuant to MCL 257.904(2) it had imposed an additional term of license revocation through June 2012, and that the circuit court lacked jurisdiction to consider the revocation under MCL 257.323(3), which contemplated only court review of a "denial, suspension, or restriction of the person's license under sections 303(1)(d), 320 or 904(10) or (11)" In a July 10, 2007 order, the circuit court adopted respondent's analysis and also characterized the petition as "deficient as it cites no law." The next day, petitioner filed a reply that cited as bases for relief §§ 323(1) and (4). Petitioner subsequently filed a 10-page motion for reconsideration, which emphasized the statutory provisions he had mentioned in his reply brief. The circuit court denied the motion, however, finding that petitioner had failed to demonstrate any palpable error in its prior denial of the petition, and that he supplied no authority "to support his position that he was entitled to file a Reply."

The circuit court failed to recognize that in MCL 257.323(1), the Legislature clearly and unambiguously has invested it with subject-matter jurisdiction to review a secretary of state's determination to deny, revoke, suspend or restrict a person's license. With respect to enumerated license denials, suspensions or restrictions set forth in § 323(3), the circuit court can conduct a de novo hearing and may "affirm, modify, or set aside" respondent's action. Respondent correctly pointed out in its response to the petition that regardless whether one particular suspension of petitioner's license had concluded, additional facts that petitioner omitted, concerning multiple revocation extensions, established that he had no entitlement to a license reinstatement. But subject-matter jurisdiction rests on the allegations in the complaint or petition, not their truth or accuracy, and because petitioner's averments plainly sought relief cognizable under MCL 257.323, the circuit court incorrectly found that it lacked subject-matter jurisdiction. *Trost*, *supra* at 587.¹

¹ Even had petitioner more accurately set forth his driver's license history, the mere fact that this history contained a *revocation* would not have deprived the circuit court of subject-matter jurisdiction. As we have mentioned, § 323(1) unambiguously permits the court to review the revocation of a license. And the plain language of § 323(4) reflects that when a license revocation is at issue, the circuit court can review the enumerated records for "a statutory legal issue" and set aside the revocation "if the petitioner's substantial rights have been prejudiced" in any of the manners set forth in §§ 323(4)(a)-(f).

Reversed and remanded for the circuit court to consider the merits of petitioner's allegations, and any further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Peter D. O'Connell
/s/ Michael R. Smolenski
/s/ Elizabeth L. Gleicher