

Williams v Fiala

2013 NY Slip Op 32807(U)

August 26, 2013

Sup Ct, Suffolk County

Docket Number: 21735/2013

Judge: Jerry Garguilo

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SHORT FORM ORDER

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SUPREME COURT - STATE OF NEW YORK
I.A.S. TERM, PART 47 - SUFFOLK COUNTY

PRESENT:

HON. JERRY GARGUILO
Supreme Court Justice

Application of CRAIG M. WILLIAMS,

Petitioner,

For a judgment pursuant to CPLR Article 78,

-against-

BARBARA J. FIALA, as Commissioner of Motor
Vehicles of the State of New York, DEBORAH V.
DUGAN, as Chairman of the Administrative
Appeals Board of the State of New York,

Respondents.

PETITIONER'S ATTORNEY:

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On August 14, 2013 the Court heard the application of Craig M. Williams (Petitioner) brought by way of Order To Show Cause to temporarily stay an administrative order issued by the Commissioner of Motor Vehicles of the State of New York "indefinitely temporarily suspending the Petitioner's driver's license and driving privileges pending prosecution." The Court granted temporary restraining order on the basis of an error in the Commissioner's order. More particularly, the decision of the Department of Motor Vehicles Appeals Board indicated that pursuant to § 510(3-a) of the Vehicle and Traffic Law, the action was taken as Defendant was charged with Driving While Intoxicated in violation of a sub division of Vehicle and Traffic Law § 1192. A review of the submissions indicated and established that the Petitioner was not and has not been charged and/or prosecuted for an alcohol related offense. The underlying offense is leaving the scene of incident without reporting, arising in connection with a fatal accident.

The Court has since been provided with an administrative appeals board decision of appeal indicating a decision date of June 25, 2013. That appeal states the following:

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Pursuant to § 510(3-a) of the Vehicle and Traffic Law (VTL), and after being charged with leaving the scene of an incident without reporting, arising in connection with a fatal accident, appellants driver's license was suspended prosecution.

Thereafter, the suspension was affirmed.

During the late hours of August 22, 2013, the Court was provided via facsimile, the State's documents offered in opposition to the Petitioner's Order To Show Cause. This Court has considered all submissions.

The State provides the Affirmation of Deborah V. Dugan, Esq., an attorney currently employed by the New York State Department of Motor Vehicles. Ms. Dugan is chairperson of the New York State Department of Motor Vehicles administrative appeals board. Ms. Dugan's Affirmation with supporting papers confirms that the Department of Motor Vehicles sustained an administrative error and details its clarification. By letter, the Petitioner submits his response to Respondent's submissions.

The Petitioner herein is currently under indictment for the leaving the scene of an incident involving a fatality. That matter is pending before the Honorable Stephen Braslow at County Court. The Court has been provided with a copy of Judge Braslow's decision and order relevant to the issue before this Court. More particularly, on May 10, 2013 Judge Braslow ordered the following:

That pending prosecution of this matter, the defendant may be granted a Conditional License by the New York State Department of Motor Vehicles, to drive a motor vehicle for the limited purpose of driving to and from his place of employment at the Town of Huntington and for the Town of Huntington as its employee.

It is clear that Judge Braslow deferred a determination as to driving privileges to the New York State Department of Motor Vehicles.

This Court finds that the suspension imposed by the Department of Motor Vehicles pursuant to Vehicle and Traffic Law § 510(3-a) pending investigation of the accurate charge of leaving the scene of an incident without reporting the same is in fact, procedurally

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appropriate.

Therefore, it is

ORDERED, ADJUDGED AND DECREED that the temporary stay previously issued by this Court is ***VACATED***. The scope of this Short Form Order is limited to the issue of the temporary stay. The issue as to whether the temporary suspension suffers an unreasonably long span and is therefore arbitrary and capricious will be determined at an evidentiary hearing to be held on September 11, 2013 at 2:00 p.m.

The foregoing constitutes the decision and Order of this Court.

Dated: August 26, 2013



HON. JERRY GARGUILO, JSC