

IN THE COURT OF APPEALS OF IOWA

FILED

AUG 23 1989

CLERK SUPREME COURT

HOWARD EUGENE ALFF,)

Plaintiff-Appellee,)

vs.)

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IOWA DEPARTMENT OF TRANSPORTATION,)
MOTOR VEHICLE DIVISION,)

Defendant-Appellant.)

9-38
88-1151

Appeal from the Iowa District Court for Pottawattamie
County (58636), J.C. Irvin, Judge.

The State contends the district court erred by
concluding there was not substantial evidence in the record
to support the agency finding an arresting officer had
reasonable cause to believe Alff had been operating while
intoxicated. **AFFIRMED.**

Thomas J. Miller, Attorney General, and Robert P.
Ewald, Assistant Attorney General, for the
defendant-appellant.

E. Daniel O'Brien of Porter, Tauke, O'Brien & Crowl,
Council Bluffs, for the plaintiff-appellee.

Considered by Donielson, P.J., and Sackett and Habhab,
JJ.

HABHAB, J.

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Iowa Department of Transportation appeals the decision of the Iowa District Court upon judicial review of an order revoking the plaintiff's license pursuant to Iowa Code section 321J.12 (1987). The district court reversed the agency's decision finding it (1) unsupported by substantial evidence and (2) unreasonable, arbitrary or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion. The appellant contends the district court erred in so holding.

We review the record before us in the manner specified in Iowa Code section 17A.19(5) (1987). We uphold those findings of fact made by the agency if they are supported by substantial evidence presented to the agency during the hearing when the record is viewed as a whole. Farmers Elevator Co., Kingsley v. Manning, 286 N.W.2d 174, 176 (Iowa 1979).

We agree with the trial court that there is not substantial evidence to support the findings of the agency. Accordingly, we affirm the trial court.

AFFIRMED.