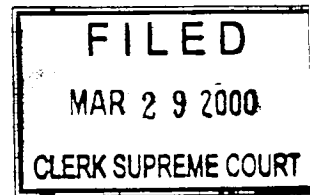


IN THE COURT OF APPEALS OF IOWA

No. 1999-508 (9-765) / 99-0592
Filed March 29, 2000



JIMMY JOE GIBLER,
Petitioner-Appellee,

vs.

IOWA DEPARTMENT OF TRANSPORTATION, MOTOR VEHICLE DIVISION,
Respondent-Appellant.

Appeal from the Iowa District Court for Wapello County, Richard J. Vogel,
Judge.

Respondent appeals the district court's ruling on judicial review reversing
the respondent's decision upholding the revocation of petitioner's driver's license
for a chemical test failure pursuant to Iowa Code section 321J.12 (1997).
REVERSED.

Thomas J. Miller, Attorney General, David A. Ferree, Special Assistant
Attorney General, and Carolyn J. Olson, Assistant Attorney General, for
appellant.

Thomas M. Walter of Johnson, Hester, Walter & Breckenridge, L.L.P.,
Ottumwa, for appellee.

Considered by Sackett, C.J., and Vogel and Hecht, JJ.

PER CURIAM

In July 1998, an Ottumwa police officer observed Jimmy Gibler drive his car into a parking lot, park, and remain in his car. Soon another individual drove by the police officer, made an offensive hand gesture, parked his car, and spoke with Gibler. The officer confronted that individual and then turned him over to another officer for a sobriety test. The first officer had a conversation with Gibler about Gibler's discussion with the other individual. The officer smelled a moderate odor of alcohol on Gibler's breath and observed that Gibler's eyes were bloodshot and watery. Gibler admitted drinking a few beers. The officer ordered Gibler out of the car. Gibler stood in the open door with arms crossed and refused field sobriety tests. The officer arrested him for OWI. After invoking implied consent procedures, the officer tested Gibler's breath. The test at the station revealed a BAC of 0.142. The DOT revoked his license. The agency upheld the revocation throughout the administrative proceedings, finding the circumstances provided the arresting officer reasonable grounds for invoking the implied consent law. On judicial review, the district court determined substantial evidence did not support the agency findings and reversed the revocation. The DOT appeals.

When we review a decision of a district court rendered pursuant to Iowa Code section 17A.19, we apply the standards of section 17A.19(8) to the agency action to determine whether our conclusions are the same as those of the district court. *Jackson County Pub. Hosp. v. Public Employment Relations Bd.*, 280 N.W.2d 426, 429-30 (Iowa 1979). We, like the district court, are obliged to construe an agency's factual findings broadly and liberally so as to uphold, rather

than defeat the agency's decision. *Bridgestone/Firestone v. Accordino*, 561 N.W.2d 60, 62 (Iowa 1997).

The agency claims the district court erred in its determination that substantial evidence did not support the finding the officer had reasonable grounds to believe Gibler had operated his car while intoxicated. Before invoking implied consent procedures an officer must have "reasonable grounds" to believe the person was operating a motor vehicle while intoxicated. The "reasonable grounds" test is met when the facts and circumstances known to the officer at the time of invoking implied consent would have warranted a prudent person's belief that an offense has been committed. *State v. Braun*, 495 N.W.2d 735, 738-39 (Iowa 1993). The officer saw Gibler driving his car. Gibler smelled of alcohol and had bloodshot, watery eyes. He admitted drinking three beers. Militating against intoxication was Gibler's ability to produce his driver's license without difficulty, and having no noticeably slurred speech. The question is not whether the evidence supports a finding different from the agency's but whether the evidence supports the findings the agency actually made. *Ward v. Iowa Dep't of Transp.*, 304 N.W.2d 236, 238 (Iowa 1981). We find substantial evidence in the record supports the agency's finding the officer had reasonable grounds to believe Gibler had operated his vehicle while intoxicated. We therefore reverse the decision of the district court and affirm the agency's revocation of Gibler's driver's license.

REVERSED.

Vogel and Hecht, JJ., concur; Sackett, C.J., specially concurs without opinion.

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