

IN THE COURT OF APPEALS OF IOWA

No. 9-302 / 88-1903

FILED

AUG 23 1989

CLERK SUPREME COURT

ANTHONY WALTER HERMAN,

Petitioner-Appellee,

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vs.

IOWA DEPARTMENT OF TRANSPORTATION, MOTOR VEHICLE DIVISION,

Respondent-Appellant.

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

The DOT appeals from a district court ruling reversing
the DOT's temporary revocation of Herman's motor vehicle
dealer's license. **REVERSED.**

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

Allan C. Orsborn, of Keith, Orsborn, Bauerle & Milani,
Ottumwa, for the appellee.

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

SACKETT, J.

Respondent-appellant Iowa Department of Transportation appeals from a district court ruling reversing the temporary revocation of petitioner-appellee Anthony Herman's motor vehicle dealer's license. The department contends the district court erred in reversing the decision of the agency. We agree and reverse the district court and affirm the decision of the agency.

Our scope of review is for the correction of errors at law. Ray v. Iowa Dep't of Job Serv., 398 N.W.2d 191, 193 (Iowa App. 1986).

Herman was charged and pled guilty to six simple misdemeanor counts of selling vehicles with altered vehicle identification numbers in violation of Iowa Code section 321.92(2). In light of these violations, the department revoked his dealer's license for one year. Herman contested the revocation. A hearing officer from the Department of Inspections and Appeals upheld the revocation but reduced it to ninety days. The hearing officer's decision was affirmed on administrative appeal. Herman sought judicial review, and the district court reversed the agency action and rescinded the revocation.

The department contends there was substantial evidence to support the agency decision. The district court found the agency action was not supported by substantial evidence. See Iowa Code § 17A.19(8)(f) (1989). Evidence is

substantial if the agency could reasonably have found it adequate to reach its conclusion. See Mercy Health Center v. State Health Facilities Council, 360 N.W.2d 808, 811-12 (Iowa 1985). Herman pled guilty to six violations of Iowa Code section 321.92(2). Section 322.9 states the department may revoke a dealer's license if the dealer is found guilty of any of the acts that are grounds for denial of a license under section 322.6. Section 322.6(9), in turn, provides the department may deny an application for a motor vehicle dealer's license if the applicant has violated any of the provisions of Iowa Code section 321.92. Thus, the Code provides that a dealer's license may be revoked if the licensee sells a vehicle with an altered vehicle identification number.

The record of this case contains clear evidence of Herman's guilty pleas. These pleas are admissions against interest. Martin v. Cafer, 258 Iowa 176, 185, 138 N.W.2d 71, 77 (1965); DeBolt v. Daggett, 416 N.W.2d 102, 106 (Iowa App. 1987). They provide evidence showing that Herman did alter the vehicle identification numbers. There is substantial evidence to uphold the agency's revocation of Herman's license.

The department contends the district court erred in finding the agency action was unreasonable under the facts and circumstances of the case. We have stated an action is unreasonable if the evidence is such that reasonable minds

may not differ in their opinions. Mowrey v. Iowa Civil Rights Comm'n, 424 N.W.2d 764, 766 (Iowa App. 1988) (citing Churchill Truck Lines v. Transportation Regulation Bd., 274 N.W.2d 295, 300 (Iowa 1979)). Herman argues the revocation is unreasonable in light of the steps he has taken to mitigate any potential harm caused by his violations. We note, however, that the hearing officer did reduce the revocation from one year to ninety days, stating that extreme leniency was not in order because of Herman's repeated violations. Given the provisions of the Code recited above, we do not feel that the ninety-day revocation was unreasonable in this case.

Finally, the department contends the district court erred in finding the agency action was based on errors of law. To reverse the agency action due to errors of law, the errors must have prejudiced substantial rights of Herman. Iowa Code § 17A.19(8)(e) (1989). We do not agree with the trial court on this issue. The hearing officer correctly interpreted the provisions of Iowa Code sections 321.92, 322.6 and 322.9, which allow the department to revoke Herman's license based on his six guilty pleas. Even if errors of law were made, these errors were not prejudicial to Herman, since his convictions under section 321.92(2) were, by themselves, a sufficient legal basis for the revocation of his dealer's license. There were no errors of

law sufficient to justify reversal of the agency action.
The district court ruling is reversed.

REVERSED.