

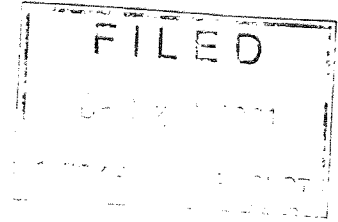
IN THE COURT OF APPEALS OF IOWA

No. 1-776 / 00-1681
Filed December 28, 2001

ROYCE LON ALGER,
Petitioner-Appellee,

vs.

IOWA DEPARTMENT OF
TRANSPORTATION,
Respondent-Appellant.



Appeal from the Iowa District Court for Johnson County, Douglas S.
Russell, Judge.

The respondent appeals from the district court's ruling on judicial review reversing the respondent's order extending the petitioner's license revocation pursuant to Iowa Code section 321J.21(2) (1999). **REVERSED AND REMANDED.**

Thomas J. Miller, Attorney General, David A. Ferree, Special Assistant Attorney General, and Mark Hunacek, Assistant Attorney General, for appellant.

Carter Stevens of Roberts, Stevens & Lekar, P.L.C., Waterloo, for appellee.

Considered by Vogel, P.J., and Miller and Eisenhauer, JJ.

000003

MILLER, J.

The Iowa Department of Transportation (DOT) appeals from the district court's ruling on judicial review reversing its order extending Royce Lon Alger's license revocation period pursuant to Iowa Code section 321J.21(2) (1999). The DOT claims the district court erred in determining that Alger's deferred judgment for driving while revoked did not constitute a conviction requiring extension of the period of his license revocation under this Code provision. We reverse and remand.

The underlying facts in this case are simple and undisputed. In March 1999 Alger's license was revoked pursuant to Iowa Code chapter 321J for a chemical test result. In June 1999 Alger was charged with driving while under revocation in violation of Iowa Code section 321J.21. Alger entered a guilty plea and the district court granted him a deferred judgment. On the basis of the deferred judgment the Iowa DOT sent Alger notice that the revocation of his drivers license would be extended.

Alger filed a petition for judicial review alleging the DOT had no authority to extend the revocation period because a deferred judgment did not constitute a conviction under section 321J.21(2). The district court reversed the DOT's extension of the revocation period finding section 321J.21(2) was not ambiguous and that a deferred judgment did not constitute a "conviction" under section 321J.21(2). The DOT appeals the district court's ruling.

The sole issue presented in this case is whether a deferred judgment should be considered a conviction for purposes of section 321J.21(2). Section 321J.21(2) provides as follows:

In addition to the fine, the department, upon receiving the record of the conviction of a person under this section upon a charge of driving a motor vehicle while the license of the person was suspended, denied, revoked, or barred shall extend the period of suspension, denial, revocation, or bar for an additional like period, and the department shall not issue a new license during the additional period.

We apply rules of statutory construction only when the explicit terms of a statute are ambiguous. *Marcus v. Young*, 538 N.W.2d 285, 289 (Iowa 1995). In interpreting statutes the ultimate goal is to ascertain and give effect to the intention of the legislature. *Iowa Dep't of Transp. v. Iowa Dist. Court*, 559 N.W.2d 615, 617 (Iowa 1997). Our supreme court has previously noted the ambiguity of the word "conviction," stating that it has had difficulty with the legislature's use of the word in various statutes. See *State v. Kluesner*, 389 N.W.2d 370, 372 (Iowa 1986). It went on to say the word may have different meanings within different contexts, depending on the purpose of the statute. *Id.*; see also *State v. Houts*, 622 N.W.2d 309, 311 (Iowa 2001) (same); *State v. Brodene*, 493 N.W.2d 793, 796 (Iowa 1992) (same). Thus, the meaning of "conviction" in each case is an issue of legislative intent. *Houts*, 622 N.W.2d at 311.

The word "conviction" has been given a relatively narrow and technical meaning where it appears in statutes used to enhance punishment, but has been given a broader definition that includes an order for deferred judgment when protection of the public is at stake. *Kluesner*, 389 N.W.2d at 372. The supreme court has previously found the general purpose of a license revocation statute "is to protect the public from those drivers who have shown a pattern of reckless driving" and that "license revocation is not directed at the degree of guilt of the

offender . . . [r]ather it 'is directed at keeping habitual offenders off the road—a matter of the protection of the driving public more than punishment.' ” *State v. Maher*, 618 N.W.2d 303, 306 (Iowa 2000) (quoting *State v. Pettit*, 360 N.W.2d 833, 836 (Iowa 1985)).

Furthermore, in interpreting a somewhat similar statute providing for administrative revocation of a person’s driver’s license after multiple OWI violations, the supreme court concluded,

Such revocation “is not intended as a punishment to the driver, but is designed solely for the protection of the public in the use of the highways.” We conclude that the purpose of the legislature in enacting section 321.281(9)(a) was to protect the public by providing that drivers who have demonstrated a pattern of driving while intoxicated be removed from the highways. The peril created by a repeated violator is not lessened by the fact that one of the violations resulted in a deferred judgment.

State v. Blood, 360 N.W.2d 820, 822 (Iowa 1985) (citations omitted).

We conclude that the same general legislative purpose which has previously been found to apply to license revocation statutes, to keep habitual offenders off the road for the protection of the public, also applies to the extension of a license revocation for a like period under section 321J.21(2). Because the purpose of section 321J.21(2) is protection of the public we further conclude the term “conviction” as used in that statute should be given the broader meaning that includes an order for deferred judgment. Alger’s deferred judgment for driving while revoked is a “conviction” for the purpose of applying section 321J.21(2).

We reverse the district court’s ruling that section 321J.21(2) is not ambiguous and does not allow the DOT to extend the period of Alger’s

revocation. We remand to the district court for entry of an order affirming the DOT's decision.

REVERSED AND REMANDED.