



IN THE COURT OF APPEALS OF IOWA

ROCKY JOE WICH,)
Petitioner-Appellant,)
vs.)
IOWA DEPARTMENT OF)
TRANSPORTATION, MOTOR)
VEHICLE DIVISION,)
Respondent-Appellee.)

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8-314
87-1674

Appeal from the Iowa District Court for Wapello County
(No. CE2-0787), Daniel F. Morrison, Judge.

Petitioner appeals from the district court order up-
holding the Iowa Department of Transportation's revocation
of petitioner's driver's license pursuant to Iowa Code sec-
tion 321J.12. **AFFIRMED.**

Thomas M. Walter of Johnson, Bauerle, Hester & Walter,
Ottumwa, for petitioner-appellant.

Thomas J. Miller, Attorney General, and David A.
Ferree, Assistant Attorney General, for
respondent-appellee.

Considered by Oxberger, C.J., and Donielson and Habhab,
JJ.

DONIELSON, J.

Petitioner Rocky Joe Wich appeals from the district court order upholding revocation of his driver's license. Wich contends the revocation is invalid because the arresting officer did not have reasonable grounds to stop him for violating Iowa Code section 321J.12, operating while intoxicated. We affirm.

In the early morning hours of February 5, 1987, Rocky Joe Wich was arrested for operating a motor vehicle while intoxicated. A breath test showed an alcohol content over the legal limit. The Iowa Department of Transportation therefore revoked Wich's driver's license pursuant to Iowa Code section 321J.12. Wich challenged the administrative revocation by filing a petition for judicial review. The district court upheld the revocation and it is from this order that Wich appeals.

Our scope of review in this action is limited by Iowa Code sections 17A.19 and 17A.20 (1987). It is this court's job to determine whether the district court has correctly applied the law. To do this, we apply the standards of Iowa Code section 17A.19(8) to the agency decision and if our conclusion is the same as that of the district court, we affirm. McClure v. Iowa Real Estate Comm'n, 356 N.W.2d 594, 596 (Iowa App. 1984); see Downing v. Iowa Dep't of Transp., 415 N.W.2d 625, 627 (Iowa 1987).

The only issue on appeal is whether the arresting officer had reasonable grounds to believe that petitioner, Rocky Joe Wich, was operating the motor vehicle while intoxicated. The hearing officer and subsequently the department found that reasonable grounds existed. Petitioner asserts that this decision was not supported by substantial evidence and was also unreasonable and thus an abuse of discretion. We disagree.

One meaning of "unreasonable" is that the challenged action is not based on substantial evidence. Churchill Truck Lines, Inc. v. Transportation Regulation Bd., 274 N.W.2d 295, 300 (Iowa 1979). Therefore, we need only consider the question of substantial evidence. See Norland v. Iowa Dep't of Job Serv., 412 N.W.2d 904, 913 (Iowa 1987).

Under the substantial evidence rule of Iowa Code section 17A.19(8)(f), we determine whether there is substantial evidence in the record as a whole to support the decision of the agency. McCrea v. Iowa Dep't of Transp., 336 N.W.2d 427, 429 (Iowa 1983). Evidence is substantial if a reasonable person would find it adequate to reach the agency's conclusion, even if a reviewing court might draw a contrary inference. Chauffeurs, Teamsters, and Helpers, Local Union No. 238 v. Iowa Civil Rights Comm'n, 394 N.W.2d 375, 379 (Iowa 1986).

Iowa Code section 321J.12 (1987) requires revocation of a person's driver's license when certain conditions are

met. The condition at issue requires certification of "reasonable grounds" to believe the person was operating a motor vehicle under the influence of alcohol.

"Reasonable grounds" is an objective test. Crosser v. Iowa Dep't of Pub. Safety, 240 N.W.2d 682, 685 (Iowa 1976). "The 'reasonable grounds' test is met where the facts and circumstances known to the officer at the time he was required to act warrant a prudent man in believing the offense has been or is being committed." Id.

Focusing on the crucial time and viewing the situation, the agency's decision is supported by substantial evidence. The police officer followed petitioner for several blocks in the early morning hours. The officer testified that he observed Wich cross the center line on at least two occasions. Wich stopped his car when he reached his destination. The officer also stopped and got out and approached Wich. The officer could smell alcohol on Wich's breath. The officer conducted three sobriety tests and says Wich failed them all. Wich denies driving across the line and challenges the validity of the test results.

The hearing officer was in the unique position of being able to judge the credibility of the witnesses first hand. The hearing officer listened to the conflicting testimony and determined that the testimony of the officer was more credible than that of Wich and his brother. The observed driving across the center line, the odor of alcohol on

petitioner's breath, and failing the alphabet and horizontal gaze nystagmus tests were found to be reasonable grounds to believe petitioner was driving under the influence.

This court should broadly and liberally apply the agency's findings in order to uphold rather than defeat the department's decision. Ward v. Iowa Dep't of Trans., 304 N.W.2d 236, 237 (Iowa 1981). We find the evidence in this case is such that a reasonable person would find it adequate to warrant a prudent person in believing that Wich was driving under the influence. We agree with the decision of the district court, therefore, we affirm.

AFFIRMED.