IN THE COURT OF APPEALS OF IOWA

FILED
JUL 27 1988
CLERK SUPREME COURT

JERALD EARL ANDERSEN,)

Petitioner-Appellant,)

vs)

IOWA DEPARTMENT OF TRANSPORTATION) 8-232
MOTOR VEHICLE DIVISION, 87-1286

Respondent-Appellee.)

Appeal from the Iowa District Court for Cass County (No. 21937) - J C Irvin, Judge.

Plaintiff appeals a district court judgment affirming the department's decision suspending his license. **AFFIRMED.**

Warren L Bush, Wall Lake, for the petitioner-appellant.

Thomas J Miller, Attorney General; Charles J. Krogmeier, Special Assistant Attorney General; and Ted Metier, Assistant Attorney General, for the respondent-appellee.

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

SACKETT, J

The issue in this appeal is whether the trial court was correct in affirming the Iowa Department of Transportation's decision to suspend Plaintiff Jerald Earl Andersen's driving privileges for ninety days. We affirm.

Our review is limited to correcting errors of law. Iowa Code § 17A.20 (1987). Any factual findings made by the agency are binding upon this court if supported by substantial evidence in the record. New Homestead v. Iowa Dep't of Job Serv., 322 N.W.2d 269, 270 (Iowa 1982). The facts are as follows:

The Department of Transportation found Andersen to be a habitual violator and placed him on probation for a one-year period commencing September 12, 1985 and ending September 12, 1986. On February 27, 1986 Andersen was cited for speeding and later pled guilty to what he contends was an amended citation. The department notified Andersen of its intent to suspend his license for ninety days. Andersen requested a hearing. After a hearing the hearing officer ordered the suspension. The hearing officer was affirmed by the reviewing officer. The district court affirmed the decision finding there was substantial evidence to support the agency's decision to terminate Andersen's license. We affirm the district court.

Rule 761-600.13(8)b, (3)c, provides in relevant part:

> . . . One conviction for a moving violation committed during probation may result in suspension of the person's operating privileges for a period of ninety days . . . .

By virtue of the section the department may suspend the license of one convicted of a moving violation during the probationary period Andersen contends there is no evidence he committed a moving violation during the probationary period We disagree The record before the agency showed a plea of guilty to a moving violation occurring on February 27, 1986

We find no abuse of agency discretion in suspending Andersen's license

Costs on this appeal are taxed to Plaintiff Andersen.

AFFIRMED