IN THE COURT OF APPEALS OF IOWA

No. 1999-376 (9-629) / 98-2053
Filed May 31, 2000

PARIS G. ROGERS,
Petitioner-Appellant,

vs.

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

FILED
MAY 31 2000
CLERK SUPREME COURT

Appeal from the Iowa District Court for Polk County, Richard G. Blane, II, Judge.

The petitioner appeals from the district court's ruling on judicial review affirming the respondent's revocation of the petitioner's license pursuant to Iowa Code section 321J.9 (1997) for a chemical test refusal. **AFFIRMED.**

James R. Cook of Parrish, Kruidenier, Moss, Dunn & Montgomery, L.L.P., Des Moines, for appellant.

Thomas J. Miller, Attorney General, David A. Ferree, Special Assistant Attorney General, and Kerry Anderson, Assistant Attorney General, for appellee.

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

PER CURIAM.

The petitioner-appellant, Paris Rogers, appeals the district court's ruling on judicial review affirming the agency's revocation of his driver's license for refusing to take a chemical test. He claims the district court erred in not considering a ruling suppressing evidence in a related OWI case. He also claims the court's determination there was reasonable cause to stop him is without support in the evidence. We affirm the district court.

In January 1998, a Polk County deputy sheriff stopped the truck Rogers was driving. The truck matched the description of one given in a radio dispatch driven by a man claimed to be intoxicated who failed to pay a bar bill. The deputy did not observe any erratic driving by Rogers. However, after stopping him the officer determined Rogers smelled strongly of alcohol, had bloodshot, watery eyes, and his speech was slurred. The deputy had Rogers attempt field sobriety tests, which Rogers failed. A preliminary breath test indicated Rogers had a blood alcohol level of 0.190. After arresting Rogers for operating a motor vehicle while intoxicated, the deputy invoked implied consent procedures. Rogers refused to submit to a second breath test.

Rogers was charged with operating while intoxicated. He filed a motion to suppress alleging that the stop, search, and seizure were unreasonable. Rogers claimed the radio dispatch did not provide an adequate basis to stop him because there was no information regarding the source for the information

relayed in the dispatch. In October 1998, the district court sustained his motion to suppress.[1]

The Iowa Department of Transportation revoked Rogers' license for the test refusal. Rogers began contested case proceedings alleging the stop was unreasonable. The agency affirmed the revocation.

Rogers sought judicial review of the agency's revocation. He requested permission to introduce new evidence on the basis that he had not participated in the original administrative hearing. On September 4, 1998, the district court gave Rogers fourteen days to submit an affidavit setting forth reasons for not presenting the additional evidence at the administrative hearing. Rogers did not file an affidavit.

The ruling suppressing evidence in the OWI case was not entered until after the fourteen-day period granted Rogers to file the affidavit had expired. The district court affirmed the revocation. The court determined there were reasonable grounds for the deputy to conclude Rogers was operating a motor vehicle while intoxicated in order to invoke implied consent. Rogers appeals.

In reviewing a district court's decision on judicial review of agency action we apply the standards of Iowa Code section 17A.19(8) to determine whether our conclusions are the same as those reached by the district court. *Board of Supervisors v. Iowa Civil Rights Comm'n*, 584 N.W.2d 252, 254 (Iowa 1998). We are obliged to view an agency's factual findings broadly and liberally so as to

[1] On appeal, this court reversed the district court's suppression of the evidence in the OWI case *State v. Rogers*, No .98-1973 / 9-508 (Iowa App. Oct. 27, 1999).

uphold, rather than defeat, the agency's decision. *Wieslander v. Iowa Dept. of Transp.*, 596 N.W.2d 516, 520 (Iowa 1999).

Rogers claims the district court should have considered the ruling in the OWI case which suppressed evidence from the stop. Our decision on appeal from the OWI case renders Rogers' claim concerning the suppression of evidence moot.

Rogers also argues at length that the criminal standard of "reasonable cause" for a stop, search, and seizure is basically the same as the "reasonable grounds" necessary for an officer to believe a person is operating a motor vehicle while intoxicated. We disagree. The "reasonable grounds" standard does not apply to the stop, but rather to the facts and circumstances known to the officer at the time implied consent is invoked. *See Saunders v. Commissioner of Public Safety*, 226 N.W.2d 19, 22 (Iowa 1975) ("known to the officer at the time he or she is required to act"). We conclude, as did the district court, the officer had, at the time of the stop, reasonable grounds to believe Rogers had driven a motor vehicle while intoxicated when the officer invoked implied consent.

AFFIRMED.