IN THE COURT OF APPEALS OF IOWA

No. 0-532 / 99-1695
Filed October 13, 2000

STATE OF IOWA,
Appellee,

vs.

LEWIS HENRY KENT, IV,
Appellant.

FILED
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CLERK SUPREME COURT

Appeal from the Iowa District Court for Story County, Steven Van Marel, District Associate Judge.

Defendant appeals from judgment and sentence entered upon the district court ruling finding him guilty of driving while license barred in violation of Iowa Code sections 321.560 and 321.561 (1999). **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Robert P. Ranschau, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Darrel L. Mullins, Assistant Attorney General, Stephen Holmes, County Attorney, and Angelina Newman, Assistant County Attorney, for appellee.

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

VOGEL, P.J.

Lewis Henry Kent, IV was convicted of driving while barred in violation of Iowa Code sections 321.560 and 321.561 (1999). Because we find the district court was correct in overruling Kent's motion to dismiss, we affirm.

Background facts. Kent was notified on April 21, 1999 by the Iowa Department of Transportation (DOT) of an impending three-year driver's license revocation based on his status as a habitual offender. The notice provided, "You are ordered to surrender your driver license to the address below unless you request a contested case hearing to show cause why you should not be barred as a habitual offender." Kent failed to request a hearing. Subsequently, his driver's license was revoked on May 22, 1999 for a period of three years.

On August 12, 1999, Kent was alleged to be driving while barred and charges were filed. Kent filed a motion to dismiss, asserting the DOT failed to provide him with a hearing prior to his license revocation, thereby denying him his right of due process under the Fourteenth Amendment of the United States Constitution. The district court overruled the motion to dismiss, ruling on the merits that the notice provided was in substantial compliance with the dictates of Iowa Code section 321.556 (1999). Kent now appeals.

Scope of review. Questions of jurisdiction, authority, and venue of the district court are legal issues to be reviewed for correction of errors at law. *Holding v. Franklin County Zoning Bd.*, 565 N.W.2d 318, 320 (Iowa 1997).

Motion to dismiss. Kent claims the trial court erred in overruling his motion to dismiss. Kent's case is controlled by the supreme court's decision in

State v. Clark, 608 N.W.2d 5 (Iowa 2000). Under similar facts, the Clark court stated, "The validity of the DOT adjudication was never impugned prior to the criminal prosecution." *Clark,* 608 N.W.2d at 8. "The review of a DOT adjudication of an habitual offender must be appealed by first exhausting all agency remedies, and then by filing a petition for relief with a district court in accordance with section 17A.19." *Id.* "Defendant's challenge at this juncture was a collateral attack on the decision of the administrative agency." *Id.* at 9.

The district court was correct in overruling Kent's motion to dismiss. Kent failed to exhaust his administrative remedies and the district court had no authority to subsequently review the action taken by the DOT. Accordingly, we affirm.

AFFIRMED.