

STATE OF VERMONT
WASHINGTON COUNTY

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Christopher P. Rondeau,

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Washington Superior Court
Docket No. 110-2-07 Wncv
SUPERIOR COURT
WASHINGTON COUNTY

v.

State of Vermont Agency of
Transportation,

DECISION

This is an appeal from a decision of an Agency of Transportation hearing officer affirming the Department of Motor Vehicles' one-year suspension of Plaintiff Rondeau's commercial driver license under 23 V.S.A. § 4116 as an automatic consequence of a civil suspension under 23 V.S.A. § 1205.

In July 2006, Mr. Rondeau was charged with a violation of 23 V.S.A. § 1201(a)(2) (operating under the influence of intoxicating liquor). He eventually pleaded nolo contendere to an amended charge of negligent operation, 23 V.S.A. § 1091(a). At the same time, he consented to the civil suspension of his driver license. See 23 V.S.A. § 1205 (civil suspension). Based on the civil suspension alone, the Department summarily suspended Mr. Rondeau's commercial driver license pursuant to 23 V.S.A. § 4116(a)(5).

Mr. Rondeau essentially argues that the suspension of a commercial driver license pursuant to 23 V.S.A. § 4116(a)(5) must be predicated on a criminal conviction under 23 V.S.A. § 1201, of which there is none in this case. The Agency argues that a 23 V.S.A. § 1205 civil suspension alone is sufficient to trigger a suspension under 23 V.S.A. § 4116(a)(5).

Section 4116 states, in part:

(a) A person shall be disqualified from driving a commercial motor vehicle for a period of one year if convicted of a first violation of:

(5) operating, attempting to operate, or being in actual physical control of a motor vehicle on a highway with an alcohol concentration of 0.08 or more or under the influence of intoxicating liquor or other substance, as defined in section 1201 of this title.

"Conviction," for purposes of the Commercial Driver License Act, is defined to include, among other things, "a determination by a judge or hearing officer that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal." 23 V.S.A. § 4103(15).

In the circumstances of this case, the issue is whether a civil suspension represents a determination by a judge that Mr. Rondeau operated a motor vehicle on a highway with a blood-alcohol concentration of .08 or higher or while under the influence of an intoxicating liquor "as defined in section 1201 of this title."

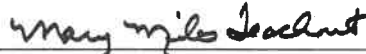
The civil suspension system serves the "legitimate purpose of protecting public safety by quickly removing 'potentially dangerous drivers from the road.'" *State v. Pollander*, 167 Vt. 301, 307-308 (1997). It is not predicated on the actual violation of 23 V.S.A. § 1201. Rather, it is predicated on what amounts to the reasonable appearance of a violation of section 1201. Upon a final hearing, when a refusal is not at issue, the ultimate issues are whether the "law enforcement officer had reasonable grounds to believe that the person was operating . . . in violation of section 1201" and whether the blood-alcohol test results indicated that the person's level was .08 or higher at the time. 23 V.S.A. § 1205(i). Such findings would not represent a judge's determination that the person actually is guilty of violating 23 V.S.A. § 1201. These findings do amount to a summary determination of a violation of 23 V.S.A. § 1201 for the limited purpose of section 1205, however.

According to 23 V.S.A. § 4102, the Commercial Driver License Act is "a remedial law and shall be liberally construed to promote the public health, safety and welfare." This requires the court to interpret the language of 32 V.S.A. § 4116(5) in a broadly inclusive fashion. While, a civil suspension may not amount to a criminal conviction under section 1201, it does amount to a summary civil determination of a violation of section 1201, regardless of whether the person eventually is convicted of violating section 1201. In the remedial context of the Commercial Driver License Act, the court concludes that such a determination is sufficient to trigger 23 V.S.A. § 4116(5).

ORDER

For the foregoing reasons, the decision of the hearing officer is affirmed.

Dated at Montpelier, Vermont this 27th day of June 2007.



Mary Miles Teachout
Superior Court Judge