

35496

IN THE CIRCUIT COURT OF MARION COUNTY, WEST VIRGINIA

MEREDITH D. WILLIAMS,

Petitioner,

vs.

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JUN - 5 2009

Attorney General Office  
Tax Division

Civil Action No: 08-~~3~~ AA-5

DMV File Nos. 305647C/D/E

THE WEST VIRGINIA DIVISION OF MOTOR

VEHICLES, and Joseph Cicchirillo, Commissioner,

Respondents.

FINAL ORDER

**ORDER DENYING MOTION TO DISMISS AND REVERSING ORDER OF  
REVOCAATION**

On the 8<sup>th</sup> day of September, 2008, came the Petitioner, Meredith D. Williams, in person, and by her counsel, Jeffrey L. Freeman, and came the Respondent, The West Virginia Division of Motor Vehicles, Joseph Cicchirillo, Commissioner, by Janet E. James, Assistant Attorney General, and the Court thereupon Ordered both counsel to submit memoranda in support of their respective positions.

After receipt, review and due consideration of the memoranda submitted, as well all matters of record, herein, the Court makes the following finding of fact:

1. Petitioner requested, and was granted, an administrative hearing on the revocation of her driving privileges related to her arrest for a driving under the influence offense on June 20, 2007;
2. An administrative hearing was conduct by Respondent on August 31, 2007, upon which Respondent issued a Final Order dated September 20, 2007 rescinding its

22)

*effectively reinstating*

initial Order of Revocation, ~~which Final Order did, in fact, reinstate~~ Petitioner's privilege to operate a motor vehicle;

3. Six full months, thereafter, Petitioner entered a negotiated plea of no-contest to 2<sup>nd</sup> Offense Driving Under the Influence in Marion County Magistrate Court Case Number 08-M-248, based upon the June 20, 2007 arrest;
4. Respondent thereafter issued a second Order of Revocation, dated June 12, 2008, for the same arrest;

Based upon said Findings of Fact, the Court makes the following conclusions of law:

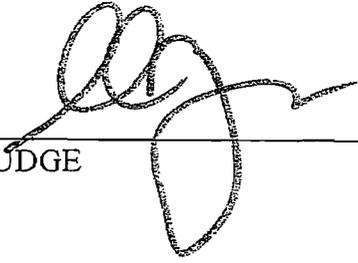
1. Petitioner's initial revocation having been rescinded by Final Order dated September 20, 2007, it was improper and contrary to the clear provisions of West Virginia Code §17C-5A-1a(d) for Respondent to issue a second order of revocation;
2. Respondent's second order of revocation was unlawful and should be reversed.

Based upon the aforementioned findings and conclusions, the Court hereby Orders that Respondent's motion to dismiss be, and hereby is Denied. The Court accordingly Orders that Respondent's second Order of Revocation be, and hereby is, Reversed, and Respondent is hereby Ordered to reinstate Petitioner's privilege to operate a motor vehicle in the State of West Virginia, forthwith.

Respondent is reserved its objections and exceptions.

The Circuit Clerk is further Ordered to forward a certified copy of this Order to the Division of Motor Vehicles, Joseph Cicchirillo, Commissioner, 1800 Kanawha Blvd, East, Bldg 3, Charleston, WV 25317; Jeffrey L. Freeman, Counsel for Petitioner; Janet E. James, State Capitol Complex, Building 1, Room W-435, Charleston, WV 25305; and the Prosecuting Attorney of Marion County, West Virginia.

ENTER: 5/24/09

  
\_\_\_\_\_  
JUDGE

Order prepared by:

  
JEFFREY L. FREEMAN

Order approved by:

\_\_\_\_\_  
JANET E. JAMES  
Assistant Attorney General

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TESTE:

  
CLERK OF THE CIRCUIT CLERK  
MORRISON COUNTY, WEST VIRGINIA