

SUPREME COURT OF WYOMING

Eric Schouboe v. Wyoming Department of Transportation

238 P.3d 1246 (Wyo. 2010) · No. S-09-0190 · Decided August 19, 2010

SUMMARY

The Supreme Court of Wyoming affirmed an administrative suspension of Eric Schouboe's driver's license for refusing chemical testing. The court held that substantial evidence supported the hearing examiner's finding that Schouboe was in actual physical control of his vehicle while intoxicated, even though the vehicle was not running and the keys were on the center console rather than in the ignition.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Hill, Justice; Kite, C.J.; Golden, J.; Hill, J.; Voigt, J.; Burke, J.
JURISDICTION	Wyoming
DECIDED	August 19, 2010
DOCKET	S-09-0190
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a district court judgment affirming a Wyoming Office of Administrative Hearings decision upholding an 18-month implied-consent driver's-license suspension.
STANDARD OF REVIEW	The court reviews agency evidentiary findings under the substantial-evidence standard and reviews agency legal conclusions de novo. Substantial evidence exists when relevant evidence in the entire record is such that a reasonable mind might accept it in support of the agency's conclusion; when the party bearing the burden of proof failed before the agency, the court asks whether the agency's rejection of that evidence was contrary to the overwhelming weight of the evidence.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Eric Schouboe v. Wyoming Department of Transportation

TOPICS

judicial review of agency action

administrative law

standard of review

appellate procedure

PRACTICE AREAS

administrative law

driver's license suspension

implied consent

DUI

QUESTIONS PRESENTED

1. Whether substantial evidence supported the hearing examiner's finding that Schouboe was driving or in actual physical control of a motor vehicle on a public road.
2. Whether WYDOT could rely on the certified administrative record to establish a prima facie case in the implied-consent suspension proceeding.
3. Whether the absence of proof that the keys were in the ignition precluded a finding of actual physical control.

HOLDINGS

1. Reliance on the certified administrative record is a valid method for prosecuting an administrative driver's-license suspension and is sufficient to establish a prima facie case, shifting the burden to the petitioner to present evidence refuting it.
2. Substantial evidence supported the hearing examiner's conclusion that Schouboe was in actual physical control of his vehicle when he was intoxicated, seated in the driver's seat, stopped in the middle of the road, and had keys on the center console.
3. Wyoming does not require that vehicle keys be in the ignition to establish actual physical control.

KEY QUOTATIONS

"As long as a person is physically or bodily able to assert dominion in the sense of movement by starting the car and driving away, then he has substantially as much control over the vehicle as he would if he were actually driving it." (¶ 9, 238 P.3d at 1248-49)

"Substantial evidence is relevant evidence which a reasonable mind might accept in support of the agency's conclusions." (¶ 12, 238 P.3d at 1249)

FACTUAL BACKGROUND

At approximately 2:14 a.m., deputies found Schouboe asleep in the driver's seat of his pickup truck, which was stopped in the middle of a county road. The truck was not running, and keys were on the center console near Schouboe. He smelled of alcohol, failed field sobriety tests, was arrested for DUI, and refused chemical testing at the detention center.

PROCEDURAL HISTORY

After Schouboe refused chemical testing following his arrest for driving under the influence, WYDOT notified him that his driver's license would be suspended for 18 months. Schouboe requested a contested-case hearing, and the hearing examiner upheld the suspension after finding that he was in actual physical control of the vehicle. The district court affirmed, and the Wyoming Supreme Court affirmed the district court.

DISPOSITION

affirmed

CASES CITED

- Bryant v. State ex rel. Wyoming Department of Transportation, 2002 WY 140, 55 P.3d 4 (Wyo. 2002)
- Dale v. S & S Builders, LLC, 2008 WY 84, 188 P.3d 554 (Wyo. 2008)
- Wyo. Consumer Group v. Public Service Commission of Wyoming, 882 P.2d 858, 860-61 (Wyo. 1994)
- Spiegel, 549 P.2d at 1178
- Hittner v. State ex rel. Wyoming Department of Transportation (In re Hittner), 2008 WY 91, 189 P.3d 872 (Wyo. 2008)
- Drake v. State, 751 P.2d 1319, 1322 (Wyo. 1988)
- McDonald v. State Department of Revenue & Taxation, 846 P.2d 694, 697 (Wyo. 1993)
- Adams v. State, 697 P.2d 622, 625 (Wyo. 1985)
- Wheaton v. State, 2003 WY 56, 68 P.3d 1167, 1175-76 (Wyo. 2003)
- Rogers v. State, 94 Ark. App. 47, 224 S.W.3d 564 (2006)
- Newman, 49 P.3d 163, 168
- State ex rel. Wyoming Workers' Safety & Compensation Division v. Jensen, 2001 WY 51, 24 P.3d 1133, 1136 (Wyo. 2001)
- State v. Fleck, 777 N.W.2d 233, 237 (Minn. 2010)

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