

SUPREME COURT OF NORTH DAKOTA

Hamre v. North Dakota Department of Transportation

2014 ND 23 (2014) · No. 20130257 · Decided February 13, 2014

SUMMARY

The North Dakota Supreme Court affirmed an order disqualifying Michael A. Hamre's commercial driver's license for one year based on an administrative suspension of his noncommercial license following a DUI arrest. The Court held that the administrative suspension constituted a conviction under N.D.C.C. § 39-06.2-10(7), rejected the vagueness challenge, declined to consider the unpreserved challenge to the suspension's commencement date, and denied attorney fees and costs.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Crothers, Justice; Daniel J. Crothers; Lisa Fair McEvers; Carol Ronning Kapsner; Gerald W. VandeWalle, C.J.; Dale V. Sandstrom
JURISDICTION	North Dakota
DECIDED	February 13, 2014
DOCKET	20130257
DISPOSITION	affirmed
PROCEDURAL POSTURE	Hamre appealed the district court's judgment affirming the North Dakota Department of Transportation's order disqualifying his commercial driver's license for one year.
STANDARD OF REVIEW	The Supreme Court reviews the agency decision under N.D.C.C. § 28-32-49 in the same manner as the district court under N.D.C.C. § 28-32-46, giving the agency's decision great deference and affirming unless one of the statutory grounds for reversal is established. Statutory interpretation is reviewed de novo as a question of law.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Michael A. Hamre v. North Dakota Department of Transportation

TOPICS

judicial review of agency action

administrative law

statutory interpretation

void for vagueness

preservation of error

PRACTICE AREAS

administrative law

appellate procedure

constitutional law

motor vehicle licensing

QUESTIONS PRESENTED

1. Whether an administrative suspension of a noncommercial driver's license constitutes a conviction under N.D.C.C. § 39-06.2-10(7) (2011), requiring a one-year commercial driver's license disqualification.
2. Whether N.D.C.C. § 39-06.2-10(7) (2011) is unconstitutionally vague.
3. Whether Hamre preserved his challenge to the commencement date of the commercial driver's license disqualification.
4. Whether Hamre was entitled to attorney fees and costs under N.D.C.C. § 28-32-50(1).

HOLDINGS

1. An administrative suspension of a person's noncommercial driving privileges is a conviction under the commercial driver's license provisions of N.D.C.C. § 39-06.2-10(7) (2011), and therefore may support a one-year commercial driver's license disqualification.
2. N.D.C.C. § 39-06.2-10(7) is not unconstitutionally vague.
3. Hamre's challenge to the commencement date was not preserved because it was not included in his specifications of error in the petition for judicial review; the court therefore declined to address it.
4. Hamre was not entitled to attorney fees and costs because the court did not rule in his favor.

KEY QUOTATIONS

“Courts exercise limited review in appeals from administrative agency decisions, and the agency’s decision is accorded great deference.” (¶ 5)

“Hamre’s May 28, 2012 administrative suspension of his noncommercial driving privileges is a “conviction” under N.D.C.C. § 39-06.2-10(7) (2011), as established in Bienek” (¶ 14)

FACTUAL BACKGROUND

Hamre was arrested for driving under the influence on May 3, 2012, and his Class D noncommercial driver's license was administratively suspended for ninety-one days beginning May 28, 2012. The Department issued an order disqualifying his commercial driver's license for one year, ultimately commencing January 13, 2013, after Hamre requested an administrative hearing. Although the criminal DUI charge was later dismissed, the Department treated the administrative suspension as a conviction for purposes of the commercial driver's license disqualification statute.

PROCEDURAL HISTORY

After Hamre's noncommercial driver's license was administratively suspended following a DUI arrest, the Department issued a one-year disqualification of his commercial driver's license. Following an administrative hearing and recommended decision, the Department entered its disqualification order. Hamre appealed to the district court, which affirmed, and the North Dakota Supreme Court affirmed the district court.

DISPOSITION

affirmed

CASES CITED

- *Painte v. Department of Transportation*, 2013 ND 95, 832 N.W.2d 319
- *Berger v. North Dakota Department of Transportation*, 2011 ND 55, 795 N.W.2d 707
- *Morrow v. Ziegler*, 2013 ND 28, 826 N.W.2d 912
- *Harter v. North Dakota Department of Transportation*, 2005 ND 70, 694 N.W.2d 677
- *Daniels v. Ziegler*, 2013 ND 157, 835 N.W.2d 852
- *Vetter v. North Dakota Workers Compensation Bureau*, 554 N.W.2d 451 (N.D. 1996)
- *Sonsthagen v. Sprynczynatyk*, 2003 ND 90, 663 N.W.2d 161
- *Dettler v. Sprynczynatyk*, 2004 ND 54, 676 N.W.2d 799
- *Isaak v. Sprynczynatyk*, 2002 ND 64, 642 N.W.2d 860
- *Bienek v. Department of Transportation*, 2007 ND 117, 736 N.W.2d 492
- *State v. Storbakken*, 552 N.W.2d 78 (N.D. 1996)
- *City of Belfield v. Kilkenny*, 2007 ND 44, 729 N.W.2d 120
- *State v. Schwalk*, 430 N.W.2d 317 (N.D. 1988)