

SUPREME COURT OF NEVADA

State, Department of Motor Vehicles v. Taylor-Caldwell, 126 Nev. 132

229 P.3d 471 (2010) · No. No. 53041 · Decided May 6, 2010

SUMMARY

The Nevada Supreme Court held that a single valid breath-test sample showing an alcohol concentration of 0.08 or more is sufficient to require driver's-license revocation under NRS 484.384. The requirement in NRS 484.386(1) that two consecutive samples be taken and differ by no more than 0.02 is an evidentiary requirement validating the test, not a requirement that both samples exceed the legal limit. The court reversed the district court and upheld the Department of Motor Vehicles' revocation of Aundrea Taylor-Caldwell's license.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Douglas, J.; Hardesty, J.; Pickering, J.
JURISDICTION	Nevada
DECIDED	May 6, 2010
DOCKET	No. 53041
DISPOSITION	reversed
PROCEDURAL POSTURE	The Department of Motor Vehicles revoked Taylor-Caldwell's driver's license after one of two valid consecutive breath samples exceeded the statutory alcohol-concentration limit. An administrative law judge affirmed the revocation, but the district court reversed on judicial review. The DMV appealed to the Supreme Court of Nevada.
STANDARD OF REVIEW	The Supreme Court reviews an administrative decision in the same manner as the district court and reviews questions of law de novo.
PRECEDENTIAL VALUE	Published Nevada Supreme Court opinion; precedential
PARTIES	State of Nevada, Department of Motor Vehicles v. Aundrea Taylor-Caldwell

TOPICS

statutory interpretation

plain meaning rule

administrative law

judicial review of agency action

appellate procedure

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether NRS 484.384 requires both consecutive breath samples to show an alcohol concentration of 0.08 or more before the DMV may revoke a driver's license.
2. Whether the two-sample and within-0.02 requirements in NRS 484.386 are evidentiary requirements for validating a breath test rather than separate requirements that both samples exceed the legal limit.

HOLDINGS

1. NRS 484.384 does not require both consecutive breath samples to show an alcohol concentration of 0.08 or more. One valid breath sample over the legal limit is sufficient to require revocation of a driver's license.

KEY QUOTATIONS

"We conclude that while NRS 484.386(1) requires that two consecutive samples of breath be taken to provide an evidentiary basis for the concentration of alcohol in a person's breath, NRS 484.384 does not require that the two consecutive samples be over the legal limit to mandate revocation; only one valid sample must be over the legal limit in order for the Department of Motor Vehicles (DMV) to revoke a driver's license." (471)

"Because NRS 484.384 does not require that both consecutive samples be over the legal limit, if one valid sample is over the legal limit, the "permit or privilege to drive must be revoked."" (473)

FACTUAL BACKGROUND

Nevada Highway Patrol stopped Aundrea Taylor-Caldwell on suspicion of DUI after she failed a field sobriety test. Two consecutive breath samples were taken as required by NRS 484.386(1); the first measured 0.073 and the second measured 0.083, with the results within 0.02 of each other. The DMV revoked her driver's license, and the administrative law judge determined that both samples were valid and that the 0.083 result was substantial evidence of a breath-alcohol concentration at or above the statutory limit.

PROCEDURAL HISTORY

After Taylor-Caldwell was arrested for suspected DUI, the DMV revoked her driver's license under NRS 484.385. The administrative law judge affirmed the revocation, finding that the 0.083 breath sample constituted substantial evidence of a concentration of at least 0.08. The district court granted Taylor-Caldwell's petition for judicial review and reversed, concluding that both breath samples had to establish a concentration of 0.08 or more. The Nevada Supreme Court reversed the district court and upheld the revocation.

DISPOSITION

reversed

CASES CITED

- Garcia v. Scolari's Food & Drug, 125 Nev. ___, 200 P.3d 514, 519-20 (2009)

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