

SUPREME COURT OF NORTH DAKOTA

Wade Anthony Baesler v. North Dakota Department of Transportation

Baesler v. N.D. Dep't of Transp., 2012 ND 39 · No. 20110202 · Decided February 17, 2012

SUMMARY

The North Dakota Supreme Court reversed a district court judgment affirming the suspension of Wade Baesler’s driving privileges. The court held that although the hearing officer acted within his discretion in scheduling the administrative hearing, the Department of Transportation failed to certify the administrative record, leaving no evidence establishing its authority to suspend Baesler’s license. Because the record did not establish the Department’s jurisdiction, remand was not an appropriate remedy.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Carol Ronning Kapsner; Dale V. Sandstrom; Mary Muehlen Maring; Gerald W. VandeWalle, C.J.; Daniel J. Crothers
JURISDICTION	North Dakota
DECIDED	February 17, 2012
DOCKET	20110202
DISPOSITION	reversed
PROCEDURAL POSTURE	Baesler appealed the district court's judgment affirming a Department of Transportation hearing officer's order suspending his driving privileges for 180 days.
STANDARD OF REVIEW	The Supreme Court reviews the agency's decision in the same manner as the district court under N.D.C.C. § 28-32-46, applying limited review and giving the agency's decision great deference. The agency decision must be affirmed unless one of the statutory grounds for reversal is established, including that the order is not in accordance with law or that the findings are unsupported by a preponderance of the evidence.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion; precedential
PARTIES	Wade Anthony Baesler v. North Dakota Department of Transportation

TOPICS

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administrative procedure act

agency adjudication

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PRACTICE AREAS

administrative law

driver's license suspension

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QUESTIONS PRESENTED

1. Whether the hearing officer abused his discretion or violated Baesler's due process rights by setting the administrative hearing date without accommodating the scheduling conflict.
2. Whether the Department established an evidentiary basis and its statutory authority to suspend Baesler's driving privileges when it failed to certify and transmit the administrative record to the district court.
3. Whether remand to the Department was an appropriate remedy for the missing administrative record.

HOLDINGS

1. The hearing officer acted within his broad discretion in setting the time and place of the hearing and did not abuse his discretion by proceeding when Baesler and his counsel chose not to attend.
2. The Department may not sustain a suspension when the record transmitted for judicial review contains no evidence establishing the Department's authority or supporting the suspension. The Department has a duty to certify and file the administrative record, and the certified record must establish the statutory basis for the exercise of jurisdiction.
3. Remand was not appropriate because the record contained no evidence establishing the Department's jurisdiction or authority to suspend Baesler's driving privileges.

KEY QUOTATIONS

“When a person whose license has been suspended appeals a hearing officer’s decision to the district court, the Department has a duty to certify the record to the court.” (¶ 12)

“Because no record was transmitted in this case, there is a lack of evidence to support the Department’s exercise of jurisdiction.” (¶ 17)

FACTUAL BACKGROUND

The Hettinger County Sheriff's Office issued Baesler a temporary operator's permit after an alcohol-related traffic offense. Baesler requested an administrative hearing, but neither he nor his counsel attended the hearing scheduled by the hearing officer, and the hearing officer suspended his driving privileges for 180 days. On judicial appeal, the Department transmitted only the hearing officer's decision and stated that no oral record had been prepared; the record contained no police report, test results, or other evidence supporting the suspension.

PROCEDURAL HISTORY

After Baesler failed to appear at a scheduled administrative hearing, the hearing officer suspended his driving privileges for 180 days. Baesler appealed to the district court, which allowed him to supplement the record with scheduling correspondence and affirmed the Department's decision. The Department did not transmit the administrative record to the district court, and the Supreme Court of North Dakota reversed.

DISPOSITION

reversed

CASES CITED

- Berger v. North Dakota Dep't of Transp., 2011 ND 55, 795 N.W.2d 707
- Masset v. Director, North Dakota Dep't of Transp., 2010 ND 211, 790 N.W.2d 481
- Medical Arts Clinic, P.C. v. Franciscan Initiatives, Inc., 531 N.W.2d 289 (N.D. 1995)
- Knudson v. Director, North Dakota Dep't of Transp., 530 N.W.2d 313 (N.D. 1995)
- Loran v. Iszler, 373 N.W.2d 870 (N.D. 1985)
- State ex rel. Workforce Safety & Ins. v. Altru Health Sys., 2007 ND 38, 729 N.W.2d 113
- May v. Sprynczynatyk, 2005 ND 76, 695 N.W.2d 196
- Hartleib v. Simes, 2009 ND 205, 776 N.W.2d 217
- State v. Ripley, 2009 ND 105, 766 N.W.2d 465
- State v. Schmidkunz, 2006 ND 192, 721 N.W.2d 387
- Peterson v. Zerr, 443 N.W.2d 293 (N.D. 1989)
- Schaaf v. North Dakota Dep't of Transp., 2009 ND 145, 771 N.W.2d 237
- Jorgensen v. North Dakota Dep't of Transp., 2005 ND 80, 695 N.W.2d 212
- Aker v. North Dakota Dep't of Transp., 2005 ND 81, 704 N.W.2d 286
- Larson v. Moore, 1997 ND 227, 571 N.W.2d 151
- Bosch v. Moore, 517 N.W.2d 412 (N.D. 1994)
- Schwind v. Director, North Dakota Dep't of Transp., 462 N.W.2d 147 (N.D. 1990)
- Sayler v. North Dakota Dep't of Transp., 2007 ND 165, 740 N.W.2d 94
- Rudolph v. North Dakota Dep't of Transp. Dir., 539 N.W.2d 63 (N.D. 1995)