

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Patricia S. Reed, Commissioner of the West Virginia Division of Motor Vehicles v. Dustin Hall

Reed v. Hall · No. 14-0342 · Decided May 22, 2015

SUMMARY

Justice Loughry concurred in the decision upholding the revocation of Dustin Hall's driver's license and disqualification from operating commercial vehicles based on his refusal to submit to a designated secondary chemical breath test. The concurrence stated that the implied-consent violation independently resolved the case, making it unnecessary to address the separate DUI-based revocation ground or the blood-test issue.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Loughry, Justice
JURISDICTION	West Virginia
DECIDED	May 22, 2015
DOCKET	14-0342
DISPOSITION	other
PROCEDURAL POSTURE	Appeal involving administrative revocation of a driver's license and disqualification from operating commercial vehicles based on refusal to submit to a designated secondary chemical breath test and alleged driving under the influence.
PRECEDENTIAL VALUE	Separate concurring opinion in a per curiam decision; precedential status not otherwise specified in the document text.
PARTIES	Patricia S. Reed, Commissioner of the West Virginia Division of Motor Vehicles v. Dustin Hall

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QUESTIONS PRESENTED

1. Whether refusal to submit to the designated secondary chemical breath test independently supports revocation of Hall's driver's license and disqualification from operating commercial vehicles.
2. Whether the court needed to address the separate DUI and blood-test grounds for revocation when the implied-consent violation was independently dispositive.

HOLDINGS

1. A driver's refusal to submit to the designated secondary chemical breath test in violation of West Virginia Code § 17C-5-7 independently supports revocation of the driver's license and disqualification from operating commercial vehicles.
2. When the implied-consent violation independently determines the revocation and disqualification, it is unnecessary to decide the separate DUI and blood-test grounds.

KEY QUOTATIONS

“When there is no duty to speak on such issues there is a duty not to speak.” (at 3)

FACTUAL BACKGROUND

Hall was arrested for a single episode of driving under the influence on February 3, 2011. He refused to submit to the designated secondary chemical breath test requested by police. The DMV Commissioner issued administrative orders based on both the DUI allegation and the implied-consent refusal. The concurrence states that the refusal period was longer than the DUI revocation period and would count as a prior revocation for purposes of future administrative penalties.

PROCEDURAL HISTORY

The DMV Commissioner issued administrative orders identifying driving under the influence and refusal to submit to the secondary chemical breath test as separate grounds for revocation and disqualification. The Supreme Court of Appeals addressed the implied-consent issue, and Justice Loughry concurred, agreeing that the refusal independently required revocation and commercial-vehicle disqualification while stating that discussion of the separate DUI and blood-test issues was unnecessary.

DISPOSITION

other

CASES CITED

- Poulos v. State of New Hampshire, 345 U.S. 395, 414 (1953) (Frankfurter, J., concurring)