

**BEFORE THE
INDIANA BUREAU OF MOTOR VEHICLES**

IN THE MATTER OF:)
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DL#)
)
Petitioner.)

FINAL ORDER


1. This matter comes before me as a result of a Notice of Appeal filed by Petitioner [REDACTED] [REDACTED] by letter of September 16, 2014 seeking administrative review of a decision by the Indiana Bureau of Motor Vehicles ("BMV") to suspend his driving privileges for ninety (90) days, from July 14, 2014 through October 12, 2014 (Suspension ID: 2 (Failure to Comply)).
2. This matter was referred to Administrative Law Judge Rachael C. Ehlich, Esq. for review and the issuance of a Recommended Order per Ind. Code § 4-21.5-3-27(a) and 140 IAC 1-1-8, which was completed on September 10, 2014.
3. A hearing was scheduled on August 21, 2014, but the Petitioner did not appear.
4. A copy of the Recommended Order issued by ALJ Ehlich is attached hereto and incorporated as if fully stated herein.
5. Petitioner [REDACTED] objected to the Recommended Order per Ind. Code § 4-21.5-3-29(d) and 140 IAC 1-1-11, and urges me to dissolve the Recommended Order and reverse the suspension. The sole basis for his appeal is that he paid the speeding ticket he received in Kentucky, should not have been suspended as a result of failure to pay, and therefore

should not have been convicted of Driving While Suspended by the Muncie City Court on February 23, 2014.

6. The BMV has no authority to question the judgment of the Muncie City Court, and is bound by law to impose a ninety (90) day suspension when an individual is convicted of driving while suspended.
7. Therefore, the Recommended Order is hereby AFFIRMED. Petitioner [REDACTED] Notice of Appeal and Objection to the Recommended Order is DENIED. Petitioner [REDACTED] suspension will remain in place, as required by Indiana law.
8. Petitioner [REDACTED] is hereby notified that this is a FINAL ORDER. Petitioner may seek judicial review of this FINAL ORDER by filing a petition for review with the appropriate court within thirty (30) days after the date that notice of this FINAL ORDER was served, plus three (3) additional days if notice is served through the United States mail. *See:* Ind. Code §§ 4-21.5-3-2, 4-21.5-5.
9. Pursuant to Ind. Code § 4-21.5-3-32, this FINAL ORDER shall be made available for public inspection and copying. It shall be indexed by name and subject. All identifying details shall be deleted from the public copy of this Order to the extent required by Ind. Code § 5-14-3 or other law, with written justification for all deletions explained in writing and attached to the public copy of this FINAL ORDER.

SO ORDERED.

10-1-2014
Date


Donald M. Snemis, Commissioner
Indiana Bureau of Motor Vehicles

Written notice of this order shall be provided to:

Petitioner ██████████

BMV Credential Management

Rachael C. Ehlich, Esq.

BEFORE THE
INDIANA BUREAU OF MOTOR VEHICLES

IN THE MATTER OF:

CASE NO. 14-DW-001

████████████████████
DLN: ██████████████████

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RECOMMENDED ORDER

I. RECOMMENDED ORDER

Based upon a consideration of the following facts, law, and/or administrative regulations, this ALJ affirms the action taken by the BMV.

II. STATEMENT OF CASE

- a. ██████████ (██████████) requested an administrative hearing following the Bureau of Motor Vehicles ("BMV") suspension of his Indiana driving privileges.
- b. An administrative hearing was held on August 21, 2014.
- c. ██████████ failed to appear.
- d. BMV Staff Attorney Michael Carter ("Carter") appeared on behalf of the BMV.
- e. The hearing was recorded.

III. ISSUE(S)

Whether the BMV properly suspended ██████████ driving privileges related to a judgment for Driving While Suspended.

IV. FINDINGS OF FACT

- a. On December 10, 2013, the BMV received a Notice of Failure to Comply with Citation ("Notice") from Kentucky. The Notice identified ██████████ by name,



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Driver's License Number, and date of birth and stated that he had failed to respond to a citation or pay a fine for the case identified as 13-T-25160.

- b. On January 17, 2014, the BMV sent [REDACTED] a notice that his driving privileges would be suspended indefinitely effective February 4, 2014 due to failure to comply with an order from the Fayette District Court in Kentucky.
- c. On April 15, 2014, the BMV sent [REDACTED] a notice that his driving privileges had been reinstated effective April 14, 2014.
- d. On June 25, 2014, [REDACTED] was convicted of Driving While Suspended by the Muncie City Court in Cause No. [REDACTED]. The offense date was February 23, 2014.
- e. On June 26, 2014 the BMV sent [REDACTED] a notice that his driving privileges would be suspended from July 14, 2014 through October 12, 2014 as the result of a conviction for Driving While Suspended in Cause No. [REDACTED], offense date February 23, 2014.
- f. According to [REDACTED] Official Driver Record ("ODR"), printed August 14, 2014, Suspension ID: 2 (Failure to Comply) was in effect from February 4, 2014 through April 14, 2014.
- g. It appears from the evidence presented that [REDACTED] was in fact suspended on February 23, 2014. No evidence was presented that [REDACTED] was not the driver who was convicted of Driving While Suspended in Cause No. [REDACTED].



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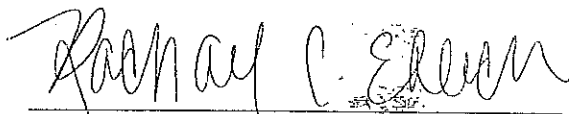
V. CONCLUSIONS OF LAW

- a. Ind. Code § 9-24-19-5 requires the BMV to impose an additional ninety (90) day suspension on the driving privileges of an individual following a judgment for Driving While Suspended.

VI. APPEAL RIGHTS

Either party may request a reconsideration of this recommended order by mailing a written request to the following address: Indiana Bureau of Motor Vehicles, Hearing Department, 100 North Senate Ave., Rm N404, Indianapolis, IN 46204. Requests for reconsideration must be received by the BMV within 18 days of the date this recommended order is signed. If no request for reconsideration is received by the BMV within 18 days, this recommended order becomes the final order of the BMV on the 19th day.

DATED: September 10, 2014



Rachael C. Ehlich
Administrative Law Judge
Indiana Bureau of Motor Vehicles
Hearing Department
100 N. Senate Avenue
Indianapolis, IN 46204
(317) 234-1958

A copy of the foregoing was sent to the following:

████████████████████
Indiana Bureau of Motor Vehicles



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