

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Juanica Woodruff,

Docket No. 13-ALJ-21-0030-AP

Appellant,

vs.

ORDER

South Carolina Department of Motor
Vehicles,

RECEIVED

NOV 01 2013

Respondent.

SC Court of Appeals

STATEMENT OF THE CASE

This matter is an appeal by the Appellant Juanica Woodruff (Appellant) from a Final Order and Decision of the Office of Motor Vehicle Hearings (OMVH). The OMVH's Final Order and Decision was issued following an administrative hearing held pursuant to S.C. Code Ann. § 56-1-1030 (Supp. 2012). Appellant challenges the determination that she is a habitual offender and the subsequent five-year suspension of her driving privileges. The Administrative Law Court (ALC or Court) has jurisdiction to hear this matter pursuant to S.C. Code Ann. § 1-23-660 (Supp. 2012). Upon consideration of the record, the OMVH's Final Order and Decision is affirmed as set forth below.

BACKGROUND

On August 27, 2012, Appellant received an 'Official Notice' from the South Carolina Department of Motor Vehicles (Department or SCDMV), declaring Appellant a habitual offender and suspending her driver's license pursuant to Section 56-1-1030. Appellant accumulated a reckless driving conviction and two driving under suspension convictions within a 3 year period and thus qualified as a habitual offender pursuant to Section 56-1-1020. By letter, Appellant requested a contested case hearing before the OMVH.

An OMVH hearing was held on December 10, 2012 with Appellant present. The Department was not present at the hearing but appeared by submitting documentary evidence prior to the hearing to be entered into the record. See S.C. Code Ann. § 1-23-660(B) (Supp.

FILED

August 14, 2013

SC ADMIN. LAW COURT

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-380(5) (Supp. 2012).

A decision is supported by "substantial evidence" when the record as a whole allows reasonable minds to reach the same conclusion reached by the agency. Bilton v. Best Western Royal Motor Lodge, 282 S.C. 634, 641, 321 S.E.2d 63, 68 (Ct. App. 1984). A decision will not be set aside simply because reasonable minds may differ on the judgment. Lark, 276 S.C. at 136, 276 S.E.2d 304, 307. The fact that the record, when considered as a whole, presents the possibility of drawing two inconsistent conclusions from the evidence does not prevent the agency's findings from being supported by substantial evidence. Waters v. S.C. Land Resources Conservation Comm'n, 321 S.C. 219, 226, 467 S.E.2d 913, 917 (1996); Grant v. S.C. Coastal Council, 319 S.C. 348, 353, 461 S.E.2d 388, 391 (1995).

In applying the substantial evidence rule, the factual findings of the administrative agency are presumed to be correct. Rodney v. Michelin Tire Co., 320 S.C. 515, 519, 466 S.E.2d 357, 359 (1996) (citing Kearse v. State Health and Human Servs. Fin. Comm'n, 318 S.C. 198, 200, 456 S.E.2d 892, 893 (1995)). The party challenging an agency action has the burden of proving convincingly that the agency's decision is unsupported by substantial evidence. Waters, 321 S.C. at 226, 467 S.E.2d at 917.

DISCUSSION

State law defines a habitual offender as any person whose record as maintained by the Department of Motor Vehicles shows that he has accumulated the convictions for three or more separate and distinct major offenses or ten or more separate and distinct minor offenses committed within a three (3) year period. S.C. Code Ann. § 56-1-1020 (Supp. 2012). Driving or operating a motor vehicle in a reckless manner and driving or operating a motor vehicle when a

CERTIFICATE OF SERVICE

I, Robin E. Coleman, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).



Robin E. Coleman
Judicial Aide to Deborah Brooks Durden

August 14, 2013
Columbia, South Carolina

FILED

August 14, 2013

SC ADMIN. LAW COURT

**FORM 7
PROOF OF SERVICE OF A NOTICE OF APPEAL**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Court of Common Pleas

The Honorable Deborah Brooks Durden, Administrative Law Judge

Case No. 2013-002086

Juanica L Woodruff,

Appellant,

v.

South Carolina Department of
Motor Vehicles,

Respondent.

RECEIVED

NOV 01 2013

SC Court of Appeals

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Juanica L Woodruff by depositing a copy of it in the United States Mail, postage prepaid, on October 31, 2013, addressed to Potential attorney of record, J. Patrick Anderson, Anderson, Lapham and Moore Attorney at law 240 Magnolia Street, Spartanburg, South Carolina 2306 [by personally delivering a copy to attorney of record, J Patrick Anderson, office at 240 Magnolia Street, Spartanburg, South Carolina 29306, on October 31, 2013].

October 31, 2013

s/ Juanica L Woodruff
J. Patrick Anderson
240 Magnolia Street
Spartanburg, South Carolina 29306
(864) 641-6431
Attorney for Appellant