

JUL 27 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA
OFFICE OF MOTOR VEHICLE HEARINGSSouth Carolina Department of Public Safety
and
South Carolina Department of Motor Vehicles,Docket No. 25-OMVH-01-5211-CC
101117327

Petitioners,

vs.

**ORDER GRANTING PETITIONER
SCDMV'S MOTION TO DISMISS**

Darryl R. Kinloch,

Respondent.

Type of Hearing: Implied consent (S.C. Code Ann. § 56-5-2950)
[Refusal to submit to chemical test(s)]

This matter is before the South Carolina Office of Motor Vehicle Hearings (OMVH) pursuant to Respondent's request for a contested case hearing regarding the suspension of his driver's license or driving privilege. On June 17, 2025, Petitioner South Carolina Department of Motor Vehicles (SCDMV) filed a motion to dismiss, asserting the OMVH lacks jurisdiction to consider this matter because Respondent failed to timely file his request for a contested case hearing. Respondent filed a response to the motion on October 18, 2025, and after careful review and consideration, I conclude the SCDMV's motion to dismiss must be granted.

S.C. Code Ann. § 56-5-2951(B)(1) (Supp. 2024) provides that a person may request a contested case hearing within thirty days after the issuance of the notice of suspension. In this case, Respondent was issued a notice of suspension on August 4, 2024, so Respondent was required to file his request for a hearing no later than September 3, 2024. However, Respondent's request for a hearing was not filed with the OMVH until October 14, 2025, which is over a year beyond the thirty-day period.¹

In his response, Respondent asserts that he was unaware of the procedure to file a request for a contested case hearing and that he had mistakenly been in contact with the South Carolina Department of Public Safety with regard to the implied consent suspension. However, the notice of suspension form, a copy of which Respondent filed with his request for a contested case hearing, clearly sets forth the

¹ While it is difficult to read the date on the notice of suspension MV-65 form, in reviewing the ticket and other documents submitted by Respondent with his request for a hearing, it appears the notice of suspension was issued to him on August 3, 2024. However, according to the official notice issued by the SCDMV on August 16, 2024, the notice of suspension MV-65 form was issued to Respondent on August 4, 2024. Therefore, at the latest, Respondent was required to file his request for a contested case hearing within thirty days of August 4, 2024. Furthermore, even if Respondent was not deemed to have notice of the suspension until he received the official notice from the SCDMV dated August 16, 2024, the hearing request was still filed more than a year late.

procedure and time frame for requesting a contested case hearing with the OMVH to challenge the implied consent suspension. Additionally, the time frame set forth in § 56-5-2951(B)(1) is mandatory. Because Respondent's hearing request was not timely filed, he has not properly invoked the jurisdiction of the OMVH, and this matter must be dismissed. *See Wingate v. S.C. State Highway Dep't*, 276 S.C. 39, 40, 274 S.E.2d 917 (1981) (holding that a trial court lacked jurisdiction to review driver's license suspension where the driver did not seek review within thirty-day period as prescribed by statute). Accordingly,

IT IS HEREBY ORDERED that the SCDMV's motion to dismiss is **GRANTED**.

AND IT IS SO ORDERED.

October 21, 2025
Hanahan, South Carolina


Brigitte B. Autry
Senior Hearing Officer, OMVH



CERTIFICATE OF SERVICE

I, Yolanda P. Williams, hereby certify that I have this date served this Order upon all parties to this caused 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).

A handwritten signature in cursive script that reads "Yolanda P. Williams".

Yolanda P. Williams

October 21, 2025
Columbia, South Carolina