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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
DEPARTMENT OF MOTOR VEHICLES

CASE NO: 2015-001491

H. H. VONHARTEN,

Appellant,

v.

SOUTH CAROLINA
DEPARTMENT OF MOTOR VEHICLES,

Respondent.

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

H. H. Vonharten,

Appellant,

vs.

South Carolina Department of Motor
Vehicles,

Respondent.

Docket No. 14-ALJ-21-0604-AP

**ORDER DENYING APPELLANT'S
MOTION FOR RECONSIDERATION
OR FOR REHEARING**

This matter comes before the Administrative Law Court (ALC or Court) pursuant to an appeal from a Final Order and Decision of the South Carolina Office of Motor Vehicle Hearings (OMVH) revoking Appellant's driver's license and driving privileges based upon a finding that Appellant is physically disqualified from safely operating a motor vehicle. On December 29, 2014, Appellant filed his appeal with this Court. On June 9, 2015, this Court issued a decision upholding OMVH's revocation of Appellant's driver's license.

On June 17, 2015, Appellant filed a Motion for Reconsideration or for Rehearing. Appellant moves on the ground that OMVH erred in admitting into evidence and considering the December 31, 2013, letter from Dr. Paul Mazzeo. This letter included reports of statements Appellant's family members made to Mazzeo, as well as Mazzeo's medical opinion about Appellant's condition. Appellant argues this letter was never authenticated at the hearing and constitutes inadmissible hearsay.

With respect to the argument that the document was not authenticated, Rule 901, South Carolina Rules of Evidence (SCRE), provides that a document must be identified and authenticated before it can be admitted into evidence. A document can be identified and authenticated in a variety of ways, such as through a witness that can provide testimony the document is what it is claimed to be. Rule 901(b)(1), SCRE. Appellant's argument that the OMVH decision should be overturned on this basis fails for two reasons. First, Appellant failed to make a timely objection that the document required authentication. The only objection raised at the hearing was the hearsay objection. A contemporaneous objection, including the grounds for the objection, is required to preserve a purported error for review. State v. Tucker, 324 S.C. 155, 175, 478 S.E.2d 260, 270

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(1996). Moreover, the Administrative Procedures Act does not require a strict application of the South Carolina Rules of Evidence in administrative hearings. S.C. Code Ann. 1-23-30 (2005); City of Spartanburg v. Parris, 251 S.C. 187, 190-91, 161 S.E.2d 228, 229 (1968) (holding that the right to cross-examine witnesses in regard to serious matters exists as a requirement of due process). Therefore, I find no error in the Hearing Officer declining to exclude Mazzeo's letter on the ground it was not authenticated.

Appellant next argues that it was error to admit Mazzeo's letter because it constitutes hearsay. SCRE 801(c) provides that hearsay is a "statement, other than the one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Mazzeo's letter was admitted into evidence at the hearing to prove his opinion about Appellant's condition. Appellant's argument is correct. Mazzeo's letter was entered into evidence to prove the information it contained and, therefore, is hearsay. There are a number of exceptions to the hearsay rule. Rule 803, SCRE. At the OMVH hearing, the Hearing Officer allowed in statements made by Appellant's family to Mazzeo, which he included in his letter. She concluded that these statements were an exception to the hearsay rule because they were made for the purpose of medical diagnosis or treatment. Rule 803(4), SCRE. The Hearing Officer did not rule on whether or not the entire letter constituted hearsay or if any of the hearsay exceptions applied.

Appellant argues that a doctor cannot simply write a letter containing his opinion, but must take the stand, testify, and be subject to cross examination. This Court will not reverse the Hearing Officer's ruling as to the admissibility of Mazzeo's letter. A trier of fact, like the Hearing Officer in this case, is given considerable latitude in ruling on the evidence in a case. In South Carolina, a trier of fact's ruling on the admissibility of evidence will not be overturned on appeal absent abuse of the trier of fact's discretion. State v. Huggins, 325 S.C. 103, 481 S.E.2d 114 (1997). Such an abuse of discretion is not evident in the record before me. As noted above, the South Carolina Rules of Evidence are not strictly applied in quasi-judicial administrative hearings such as the one at issue. The hearing at issue was conducted to review a decision based upon the advice of the medical advisory board pursuant to S.C. Code Ann. § 56-1-221. Subsection (C) provides that the medical advisory board may base its advice upon records and reports; examinations by members of the board or their designees; and examinations, medical records and opinions provided by the licensed driver. Mazzeo's letter was one of the records and reports relied upon by the board, and

therefore, it was appropriate for the hearing officer to review the evidence that supported the board's opinion.

Furthermore, a decision should not be reversed based upon a Hearing Officer's erroneous ruling on the admissibility of evidence unless Appellant shows he was prejudiced by the ruling. State v. Sosebee, 284 S.C. 411, 326 S.E.2d 654 (1985); State v. Sullivan, 227 S.C. 35, 282 S.E.2d 838 (1981). Appellant has not shown how he was prejudiced by the admission of Mazzeo's letter at the hearing. The Hearing Officer did not solely rely on Mazzeo's letter. Her decision is supported by other substantial evidence in the record. As discussed in greater detail in this Court's June 9, 2015, order, there is overwhelming evidence in the record to support the Hearing Officer's decision. In her written order, the Hearing Officer stated that "based upon the evidence before [her], particularly regarding [Appellant's] neurological condition," she decided to revoke Appellant's license. Earlier in the order, she summarized the information about Appellant's neurological condition. The evidence before her was not limited to Mazzeo's letter; the Hearing Officer was also presented with medical forms completed by Dr. Samuel Little, the assessment performed by Richard Craner, and Appellant's own testimony at the hearing about his dementia. The written order and the record in this case make it clear that the decision is supported by substantial evidence other than Mazzeo's letter. Therefore,

IT IS HEREBY ORDERED that Appellant's Motion for Reconsideration or for Rehearing is **DENIED**.

AND IT IS SO ORDERED.



Deborah Brooks Durden, Judge
S.C. Administrative Law Court

July 7, 2015
Columbia, South Carolina

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

H., H. Vonharten,	)	Docket No.: 14-ALJ-21-0604-AP
	)	
Appellant,	)	
	)	
vs.	)	NOTICE OF MOTION AND MOTION TO
	)	RECONSIDER OR FOR REHEARING
South Carolina Department of	)	
Motor Vehicles,	)	
	)	
Respondent.	)	
_____	)	

TO: SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES:

PLEASE TAKE NOTICE that the Appellant, H. H. Vonharten, through his undersigned counsel, hereby moves before the South Carolina Administrative Law Court and the Honorable Deborah Brooks Durden, Administrative Law Judge for a reconsideration or rehearing of her Order filed in the above-referenced matter on June 9, 2015. This motion is respectfully made upon the ground that the Administrative Law Judge erred in affirming the Final Order and Decision of the South Carolina Office of Motor Vehicles Hearings (OMVH) where the OMVH erred in admitting into evidence and considering the fitness statement of Dr. Paul Mazzeo dated December 31, 2013, where this written statement: (1) was never authenticated and (2) is inadmissible hearsay.

I. NOT AUTHENTICATED

Before any document can be admitted into evidence it must be authenticated as a condition precedent to admissibility. Authentication of a document requires "evidence sufficient to support a finding that the matter in question is what its proponent claims." Rule 901, SCRE. The statement by Dr. Mazzeo, whether it is considered a letter, an expert's report, or a medical

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report, is not self-authenticating. See Rule 902, SCRE. Dr. Mazzeo did not testify that he wrote the statement, nor did anyone who witnessed Dr. Mazzeo's authorship testify. In short, Dr. Mazzeo's statement was simply placed into evidence without any testimony as to its authenticity.

II. HEARSAY

Additionally, Dr. Mazzeo's letter, even if it were authenticated, is hearsay. "Hearsay" is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted. Rule 801(c), SCRE. Dr. Mazzeo's letter is clearly hearsay. It is a statement by Dr. Mazzeo, who did not testify, which was offered and received into evidence to prove the truth of the matter asserted, that is, to prove Dr. Mazzeo's opinion regarding Mr. Vonharten's condition. In admitting Dr. Mazzeo's letter into evidence, the OMVH concluded that an exception to the hearsay rule was applicable. In so doing, the OMVH confused the hearsay nature of the letter itself, with the fact that Dr. Mazzeo's opinion is based in part upon hearsay statements from other individuals. An expert witness, of course, may testify as to matters of hearsay for the purpose of showing what information he relied on in giving an opinion. *In Re Manigo*, 389 S.C. 96, 697 S.E.2d 629 (Ct. App. 2010). More specifically, statements made to a doctor for the purposes of medical diagnosis or treatment, if they are reasonably pertinent to the diagnosis or treatment, are an exception to the hearsay rule and are admissible. Rule 803(4), SCRE. Accordingly, while statements made to a doctor which are reasonably necessary in order for the doctor to diagnose or treat a patient constitute an exception to the hearsay rule, the fact remains that the doctor cannot simply write a letter or report and the report itself, containing the doctor's opinion, is not hearsay. The doctor still must take the stand and testify and be subject to cross examination.

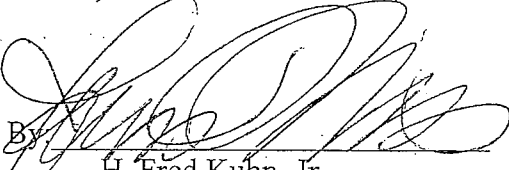
In short, Dr. Mazzeo's report contained statements by Dr. Mazzeo as to his opinion and diagnosis, and these hearsay statements by Dr. Mazzeo, as opposed to the hearsay statements made to Dr. Mazzeo, are inadmissible hearsay and his letter should not have been admitted into evidence.

CONCLUSION

Dr. Mazzeo's letter or report was not authenticated and constitutes inadmissible hearsay. It is accordingly respectfully requested that the Administrated Law Court and the Honorable Deborah Brooks Durden, Administration Law Judge, reconsider and rehear her Order filed in the above referenced matter on June 9, 2015 and reverse, or reverse and remand, the Final Order and Decision of the OMVH.

Respectfully submitted,

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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

H. H. Vonharten,

Appellant,

vs.

South Carolina Department of Motor
Vehicles,

Respondent.

Docket No. 14-ALJ-21-0604-AP

ORDER

This is an appeal by H. H. Vonharten (Appellant) from a Final Order and Decision of the South Carolina Office of Motor Vehicle Hearings (OMVH). The OMVH issued a Final Order and Decision following an administrative hearing held pursuant to S.C. Code Ann. § 56-1-270 (2008) upholding the decision of the South Carolina Department of Motor Vehicles (DMV) revoking Appellant's driver's license and driving privileges based upon a finding that Appellant is physically disqualified from safely operating a motor vehicle. The Administrative Law Court (ALC or Court) has jurisdiction to review this matter pursuant to S.C. Code Ann. § 1-23-660 (Supp. 2014). Upon review of this matter, the OMVH's Final Order and Decision is affirmed.

BACKGROUND

On December 31, 2013, Dr. Paul Mazzeo, who is treating Appellant for Alzheimer's, submitted a written statement to the Department expressing his concern regarding Appellant's ability to safely operate a motor vehicle. The Department's Driver Improvement Office received Dr. Mazzeo's letter on January 15, 2014. On January 17, 2014, the Department sent a letter to Appellant indicating it had received information that his medical condition may not warrant a continuation of his driving privileges. Appellant was instructed to submit medical statements and records about his condition to the Department. On February 20, 2014, the Department informed Appellant that if it did not receive the necessary medical records and statements that his license would be revoked on March 22, 2014. On February 27, 2014, Appellant underwent an Occupational Therapy Driving Related Skills Assessment by Richard Craner at Beaufort Memorial Hospital. On April 7, 2014, Appellant completed a Defense Drivers Course at a school that was not certified by the Department to determine whether or not he was medically fit to continue

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operating a motor vehicle. On April 25, 2014, the Department received medical records and statements from Appellant. On May 16, 2014, the Department informed Appellant it had received incomplete medical statements and provided him with an additional fifteen days to provide the remaining information. On May 27, 2014, the Department directed Appellant to complete a driving skills reexamination within fifteen days. On June 3, 2014, Appellant completed and passed knowledge and skills tests. Appellant also met the vision standards to operate a motor vehicle with corrective lenses. His driving privileges were temporarily restored based upon his test scores and submission of completed medical statements.

On June 5, 2014, Dr. Mazzeo wrote the Department, reiterating his opinion that Appellant's dementia prevents him from safely operating a motor vehicle. On June 6, 2014, the Department informed Appellant that his medical records and statements had been forwarded to the Department's Medical Advisory Board (Board) for review. Appellant's driving privileges were suspended awaiting the Board's review. Ultimately, the Board recommended to the Department that Appellant's driving privileges be revoked. Based on that recommendation, on July 10, 2014, the Department informed Appellant that on August 9, 2014, his driving privileges would be revoked pursuant to S.C. Code Ann. § 56-1-270 and evidence that he was physically disqualified from safely operating a motor vehicle.

On September 24, 2014, a hearing was held in the Jasper County Courthouse related to Appellant's appeal of the Department's revocation of his driver's license. At the hearing, Appellant testified that he had difficulty turning his neck around, but did not believe it affected his ability to drive. Appellant reported having problems with dementia in the previous six months, including difficulty with his short term memory. Appellant's daughter, Lauren Vonharten, also testified at the hearing. She confirmed her father's lack of range of motion in his neck and agreed with him that it did not affect his driving. Appellant's daughter went on to testify that he lives alone and handles all of his own affairs. On December 1, 2014, the Hearing Officer issued an opinion upholding the Department's revocation of Appellant's license based on a finding he was physically disqualified from safely operating a motor vehicle.

STANDARD OF REVIEW

The OMVH is authorized by law to determine contested cases arising from the Department. See S.C. Code Ann. § 1-23-660 (Supp. 2014). Therefore, the OMVH is an "agency" under the Administrative Procedures Act (APA). See S.C. Code Ann. § 1-23-310(2) (Supp. 2014). As such,

the APA's standard of review governs appeals from decisions of the OMVH. See S.C. Code Ann. § 1-23-380 (Supp. 2014); see also Byerly Hosp. v. S.C. State Health & Human Servs. Fin. Comm'n, 319 S.C. 225, 229, 460 S.E.2d 383, 385 (1995). The standard used by appellate bodies, including the ALC, to review agency decisions is provided by S.C. Code Ann. § 1-23-380(5) (Supp. 2014). This section provides:

The court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision [of the agency] if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (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.

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 v. Bi-Lo, Inc., 276 S.C. 130, 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 Res. 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.

ISSUES ON APPEAL

1. Did the Hearing Officer erroneously rely on inadmissible hearsay statements?
2. Did the Hearing Officer err in failing to consider a second medical opinion from Dr. Shissias?
3. Did the Hearing Officer err in failing to consider reasonable, less restrictive alternatives to revocation as proposed by Appellant's attorney?
4. Did the Hearing Officer erroneously conclude that traffic citations received more than a decade ago support the conclusion that Appellant is currently unable to safely operate a motor vehicle?
5. Did the Hearing Officer erroneously in giving greater weight to the opinion of Dr. Mazzeo than to the evidence that Appellant passed the vision, knowledge, and skills tests on June 3, 2014?

DISCUSSION

As described in great detail in the Hearing Officer's Final Decision, there is substantial evidence in this case to support her decision that Appellant is physically disqualified from safely operating a motor vehicle. Dr. Mazzeo, who was treating Appellant for Alzheimer's dementia, wrote a letter to the Department regarding his opinion that the severity of Appellant's condition prevented him from safely operating a motor vehicle. After several requests from the Department, Appellant provided medical statements completed by himself and Dr. Little, his primary care physician. Dr. Little noted that Appellant suffered from dementia and had a history of fainting episodes, for which the cause was unknown. Dr. Little suggested that Appellant should be able to demonstrate his driving skills. He did not indicate whether or not he was willing to ride in a motor vehicle operated by Appellant. At the hearing, Appellant testified that he had sought a second opinion from another neurologist. However, Appellant never provided the Department or the Hearing Officer with the opinion or medical statement of any other physicians beside Dr. Mazzeo and Dr. Little. Appellant underwent an Occupational Therapy Driving Related Skills Assessment at Beaufort Memorial Hospital, which was conducted by Richard Craner. As a result of his exam, Mr. Craner determined that Appellant had a number of mental and physical deficits, such as decreased trunk rotation, that might affect his ability to drive safely. Craner suggested that Appellant should refrain from driving. At the hearing, Appellant explained that he had experienced some dementia in the six months prior, such as trouble with his short term memory

and remembering names. He also admitted that he had difficulty turning around to check his blind spot, which was confirmed by the hearing testimony of his daughter, Laura Vonharten. Although Appellant was able to successfully pass both the Department's knowledge and skills tests, the Hearing Officer properly concluded, based upon the weight of all the evidence before her, that Appellant was unable to safely operate a motor vehicle.

The Hearing Officer's decision did not rely on inadmissible hearsay statements Appellant's family members made to medical providers.

On appeal, Appellant contends that the Hearing Officer relied on inadmissible hearsay. Dr. Mazzeo's December 31, 2013 letter stated that Appellant's "family has alerted [Dr. Mazzeo] to several concerns regarding his driving." At the hearing and in his appeal, Appellant argues that this statement constitutes inadmissible hearsay. During the hearing, the Hearing Officer first stated that she would allow such a statement as admissible hearsay as a statement made for the purpose of medical diagnosis or treatment. See SCRE 803(4). When Appellant renewed this same objection later in the hearing, the Hearing Officer stated that "Anything that would be hearsay within the letter, I'll exclude, but as far as it being offered, he does say in there that he is reiterating his opinion that...[Appellant's] dementia precludes him from driving, I'm going to allow that." Appellant also objected to statements made by Appellant's daughter Tracy to Craner, who included the information in his report under the heading "Referral Concerns." The Hearing Officer agreed to exclude these statements. Therefore, it is clear from the hearing transcript that the Hearing Officer did not take into consideration or base her decision on hearsay statements.

Furthermore, these statements constitute an exception to the hearsay rule and the Hearing Officer could rightfully have taken such statements under consideration in reaching her decision. Under SCRE 803(4):

Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.

Appellant's family members were communicating to his physicians their concerns about his health, particularly the danger posed by his continued operation of a motor vehicle. These are the very types of statements addressed by this exception to the hearsay rule. Both Dr. Mazzeo and Craner stated their diagnosis of Appellant's condition to the Department and believed that statements by Appellant's family were relevant to include in their description. In addition, it is well established

in South Carolina that “[a]dmission of evidence falls within the trial court’s discretion and will not be disturbed on appeal absent abuse of that discretion.” State v. Colf, 337 S.C. 622, 625, 525 S.E.2d 246, 247 (2000) (citing State v. Huggins, 325 S.C. 103, 481 S.E.2d 595 (1991)). Therefore, absent an abuse of discretion, the Hearing Officer could determine that these statements were an exception to the hearsay rule.

The Hearing Officer did not err by not taking into consideration the opinion of a physician whose report or statement was not presented at the hearing.

In his appeal, Appellant also argues that the Hearing Officer failed to properly consider the medical opinion of another physician. At the hearing, Appellant testified that he sought medical treatment from another neurologist, Dr. Charles Shissias. Artis testified that the Department had sent Appellant a neurological report to be completed by Dr. Shissias. Appellant had never returned the completed form to the Department. Both Appellant and his Attorney explained that Dr. Shissias had not completed the Department’s form because he was awaiting an MRI film before he issued an opinion about Appellant’s condition. At the hearing, Appellant also stated that Dr. Shissias believed Appellant did indeed have Alzheimer’s but was unwilling to complete the Department’s form because he did not want to contradict Dr. Mazzeo’s opinion. Both Appellant and his attorney admitted at the hearing that Appellant never submitted a complete neurological report to the Department. Neither provided any testimony or evidence that Dr. Shissias was willing to submit supplemental records and statements to the Department. The Hearing Officer was presented with the medical opinions of two physicians, Dr. Mazzeo and Dr. Little, as well as a physical therapist, Craner. Dr. Shissias’ medical opinion of Appellant’s physical condition and his ability to operate a motor vehicle was never properly before the Hearing Officer. There is no evidence in the Record that Appellant made a motion to consider late filed evidence. Thus, there is nothing in the record that supports Appellant’s argument that the Hearing Officer abused her discretion by failing to consider a report or record that was never offered into evidence.

The Hearing Officer was not required to adopt the license restrictions proposed by Appellant’s attorney.

Appellant also argues in his appeal that the Hearing Officer was in error by failing to consider less restrictive alternatives to license revocation. In his closing argument at the hearing, Appellant’s attorney argued that the Hearing Officer should grant Appellant a restricted license, which would limit his driving to certain daytime hours.

The decision to revoke Appellant's license is controlled by S.C. Code Ann. § 56-1-370 (Supp. 2014). The statute directs the Hearing Officer to "rescind its order of suspension, cancellation, or revocation, or, good cause appearing therefor, may continue, modify, or extend the suspension, cancellation, or revocation of the license." Based on this language, the hearing officer could have modified the nature of Appellant's revoked license and, perhaps, as Appellant's attorney argues, could have granted Appellant a restricted license. However, the language of the statute does not demand that the Hearing Officer modify Appellant's license. There is no evidence in the record that supports Appellant's argument that he could safely operate a motor vehicle during certain daylight hours despite his physical limitations and dementia.

The Hearing Officer did not err by basing the license revocation on Appellant's driving record.

Appellant argues that the Hearing Officer erroneously concluded that Appellant's misstatement of his driving record demonstrated that he was unable to safely operate a vehicle. Appellant reported in his Medical and Accident History Form that his last accident occurred in 1995. However, evidence presented at the hearing showed that Appellant was involved in a car accident on February 2, 2005. Appellant was listed as a contributor to that accident. The Hearing Officer also noted that Appellant was in a non-reportable accident on May 14, 2003, in which he was ticketed for failing to yield the right of way. Appellant argues that he has not had an accident in over a decade. In his opinion, this is proof that, in recent history, Appellant has become a more cautious and safe driver. Appellant argued that his lack of accidents or citations in the past decade should be a mitigating factor and not the basis for the Hearing Officer to conclude he could not safely operate a motor vehicle. A careful reading of the Hearing Officer's decision reveals that she based her decision to revoke the license upon Appellant's medical condition and not upon his driving record or misrepresentations on the accident history form. Therefore, this argument is without merit.

The Hearing Officer did not err by giving greater weight to the medical evidence in this case, including Dr. Mazzeo's opinion, than the evidence that Appellant successfully completed the Department's vision and skills tests.

Appellant argues that the fact that he passed the Department's knowledge and skills tests entitles him to a restricted license. However, under S.C. Code Ann. § 56-1-270:

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The Department of Motor Vehicles having good cause to believe that a person holding a South Carolina driver's license is incompetent or otherwise not qualified to be licensed because of physical or mental disability may, upon written notice of at least ten days to the licensee, require him to submit to an examination. Upon the conclusion of such examination the department shall take action as may be appropriate and may suspend or revoke the license of such person or permit him to retain such license or may issue a license subject to restrictions permitted under Section 56-1-170. The license of any person may be suspended or revoked if they refuse or neglect to submit to such an examination.

Thus, the Hearing Officer can take into consideration medical reports and statements about Appellant's condition in addition to the results of the Department's own testing. Thus, a passing score on the knowledge and skills tests is not the only information considered when determining whether or not Appellant could safely operate a motor vehicle.

ORDER

IT IS HEREBY ORDERED, for the foregoing reasons, that the Hearing Officer's Final Order and Decision is **AFFIRMED** and the Department's suspension of Appellant's driver's license is upheld.

AND IT IS SO ORDERED.



Deborah Brooks Durden
Administrative Law Judge

June 9, 2015
Columbia, South Carolina

000014

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

H.H. Vonharten,	)	Docket No.: 14-ALJ-21-0604-AP
	)	
Appellant	)	APPELLANT'S BRIEF ON APPEAL
	)	OF FINAL ORDER AND DECISION
	)	
South Carolina Department	)	
Of Motor Vehicles,	)	
	)	
Respondent	)	
	)	

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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

H.H. Vonharten,	)	Docket No.: 14-ALJ-21-0604-AP
	)	
Appellant	)	APPELLANT'S BRIEF ON APPEAL
	)	OF FINAL ORDER AND DECISION
	)	
	)	
South Carolina Department	)	
Of Motor Vehicles,	)	
	)	
Respondent	)	

This appeal to the Administrative Law Court involves the revocation of the Driver's License of Herman H. Vonharten, Jr. due to physical disqualification under regulations of the Department of Motor Vehicles.

STATEMENT OF THE CASE

Herman H. Vonharten is an 84 year old man who was recently separated from his wife. He has been a licensed driver since he was 16 years old, and has no accidents or citations in the past ten years. He lives alone, manages his own financial and legal affairs, and volunteers for a variety of organizations. His 68 year old daughter sees him daily. She reports that she has not observed limitations or deficits in his ability to operate a motor vehicle. He plays golf two times a week and is physically active.

Other unidentified members of Mr. Vonharten's family, however, expressed concerns to his former neurologist, Dr. Paul Mazzeo that his driving might be impaired by his cognitive deficits. Dr. Mazzeo, prompted by these unidentified family members, and **without Mr. Vonharten's knowledge or consent**, wrote a letter to the Department of Motor Vehicles ("DMV") Driver Improvement Office his opinion that Mr. Vonharten should have his driving privileges revoked. By letter dated December 31, 2013, Dr.

Mazzeo reported "His family has alerted me to several concerns regarding his driving" and concluded "I believe he should have his driver's license revoked." He closes that letter by asking the Department to "keep this source of information confidential."

(Mazzeo letter dated December 31, 2013.)

In response to Dr. Mazzeo's letter, on January 17, 2014, the Driver Improvement Office ("DIO") requested that Mr. Vonharten complete a medical questionnaire within thirty days. Mr. Vonharten responded by voluntarily submitting to an "Occupational Therapy Driving Related Skills Assessment" on February 27, 2014 at Beaufort Memorial Hospital. He thereafter went to the Department of Motor Vehicles and passed the vision, knowledge and skills tests required for all licensed South Carolina drivers.

Mr. Vonharten also substantially complied with providing medical statements as requested by the Driver Improvement Office, and his driving privileges were restored on June 3, 2014.

On June 5, 2014 Dr. Mazzeo, once again at the urging of unidentified family members, wrote a second letter expressing his opinion that Mr. Vonharten should not be allowed to drive. The DMV referred the matter to its Medical Advisory Board and suspended Mr. Vonharten's privileges in the interim. On July 10, 2014, the Medical Advisory Board, without interviewing Mr. Vonharten, and relying on Dr. Mazzeo's statements, recommended that his privileges be revoked. The DMV then notified Mr. Vonharten that his privileges were being revoked on August 6, 2014.

Mr. Vonharten appealed the determination to the Office of Motor Vehicle Hearings. The matter came before Hearing Officer Brigitte B. Autry on September 24, 2014. Hearing Officer Autry, relying primarily on the same hearsay statements of Dr.

Mazzeo and Mr. Vonharten's still-unidentified family members, upheld the findings of the Medical Advisory Board and the revocation by the DMV. It is from that decision that appeal is taken.

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ISSUES ON APPEAL

1. The Hearing Officer erroneously relied on inadmissible hearsay statements, motivated by biased statements of Mr. Vonharten's estranged family members, in reaching her conclusions.
2. The Hearing Officer failed to credit that a second medical opinion from Dr. Shissias should have been reviewed and considered prior to upholding the revocation.
3. The Hearing Officer failed to consider reasonable, less restrictive alternatives to revocation as proposed by Mr. Vonharten's counsel.
4. The Hearing Officer erroneously concluded that traffic citations received more than a decade ago support the conclusion that Mr. Vonharten is currently unable to safely operate a motor vehicle.
5. The Hearing Officer erroneously gave greater weight to the speculative hearsay medical opinion of Dr. Mazzeo than to the objective evidence that Mr. Vonharten can, and did, drive safely, and in fact passed the vision, knowledge and skills tests on June 3, 2014.

ARGUMENT

The issues on appeal involve errors of law and erroneous conclusions of fact by the Hearing Officer, as follows:

1. The Hearing Officer erroneously relied on inadmissible hearsay statements of Dr. Mazzeo, motivated by biased statements of Mr. Vonharten's estranged family members, in reaching her conclusions.

The rules of evidence governing hearsay statements did not permit the Hearing Officer to admit into evidence or rely upon Dr. Mazzeo's letters in making her determination. The letters from Dr. Mazzeo constitute the premise upon which the Hearing Officer's Findings and Conclusions of Law are based. Since those letters were inadmissible in the first instance, and they were central to every administrative decision that led to Mr. Vonharten's revocation, the Hearing Officer's decision must be reversed.

Administrative Court rules provide, in Rule 25, that "S.C. Code Ann. § 1-23-330 (2005) (as amended) shall govern questions of evidence." S.C. § 1-23-330 provides "except in proceedings before the Industrial Commission the rules of evidence as applied in civil cases in the court of common pleas shall be followed." SCRE Rule 802 is clear:

Hearsay is not admissible except as provided by these rules or by other rules prescribed by the Supreme Court of this state or by statute.

The Hearing Officer incorrectly relied upon Rule 803 (4), Statements for Purposes of Medical Diagnosis or Treatment to justify her reliance upon Dr. Mazzeo's letters. Her application of that exception is incorrect on the facts before the Court. The 803(4) exception allows hearsay statements made by a patient to a doctor into evidence. It is not intended to give a doctor carte blanche to offer an unsolicited opinion to the court, just because he is a doctor. See, e.g., *Todd v. Joyner* (S.C. 2009) 385 S.C. 421, 685 S.E. 2d

595. The Hearing Officer's admission of Dr. Mazzeo's letters, and her substantial reliance thereon, was error, and should be reversed.

Mr. Vonharten did nothing to create the issue that is now before the Court.

He was not in any accident, he was not cited for any motor vehicle violation, he did not fail examinations that are required in order to maintain driving privileges. Instead, the Department of Motor Vehicles responded initially to an unsolicited letter from Dr. Paul Mazzeo, dated December 31, 2013. That letter, which relayed expressions of "concerns" of "his family" should have been discredited.

The Hearing Officer overruled objection by counsel and found that Dr. Mazzeo's commentary in his December 31, 2013 and his June 5, 2014 letters fell into the medical diagnosis exception to the Hearsay rule. Her reliance on the exception is unexplained in her ruling, and her failure to address it is telling. Dr. Mazzeo's letter was not solicited by Mr. Vonharten and was the product of out-of-court statements by unidentified "family members" that the doctor then incorporates into a letter. That is not only hearsay, it is double hearsay.¹ In fact, none of the doctor's actual records are in evidence in this matter. Dr. Mazzeo was not at the hearing to justify his conclusions or subject himself to cross-examination, and the only "family member" at the hearing and subject to cross examination was Mr. Vonharten's daughter, who sees him daily and who testified that she was satisfied that Mr. Vonharten could safely operate a motor vehicle.

¹ Also the fact that Mr. Vonharten was separated from his wife was never mentioned by the hearing officer. That fact is important because it would explain the family's motivation to call the Doctor and prevail upon him to write a second letter. He was also aware, at that time that Mr. Vonharten had passed the examinations administered by the DMV, notwithstanding his own adoption of the "family members" concerns for Mr. Vonharten's driving skills. In fact, he states in his letter "he's taken his written examination (which he passed) and may have taken a road test as well." (June 5, 2014 letter to the Driver Improvement Office, not copied to his patient)

Moreover, it is offensive to justice that Dr. Mazzeo can violate his patient's rights under HIPAA laws by offering his unsolicited opinion, unbeknownst to his patient, and then asking the Department of Motor Vehicles Office of Driver Improvement to shield him from accountability for his actions. His closing in the first letter asks the Department to "Please keep the source of this information confidential" (Mazzeo Letter dated 12/31/2013). He asks for confidentiality again in his second letter: "As always, please keep the source of this information confidential" (Mazzeo letter dated June 5, 2013). The second letter, also relied upon by the Hearing Officer, again contains double hearsay: Dr. Mazzeo, claiming that still-unidentified "family members" "have asked me to reiterate to you my opinion that his dementia precludes him from driving safely". Double hearsay is no more admissible than the underlying statements that create it, and it should be discredited.

Dr. Mazzeo's comments, and his relaying comments made by "family members" is not a Statement for Purposes of Medical Diagnosis or Treatment, which would render the documents admissible. It is an opinion motivated by the bias of family members, untested by cross examination or even adopted by Dr. Mazzeo in a manner that would have allowed Mr. Vonharten to attack it in the Court, his last arena of hope for maintaining his driving privileges. The Hearing Officer, and the Department of Motor Vehicles Office of Driver Improvement and the Medical Advisory Board were in error in their reliance on his statements, and in fact, if they had not, Mr. Vonharten would be a licensed driver today.

2. The Hearing Officer failed to credit that a second medical opinion from Dr. Shissias should have been reviewed and considered prior to upholding the revocation.

The Hearing Officer references Dr. Shissias only once in the Findings of Fact, in Paragraph 14. The evidence at the hearing, however, is that the Office of Driver Improvement knew that Mr. Vonharten had a second neurological consult, but did not wait for the results of that assessment before sending materials for review by the Medical Advisory Board. The testimony of Ms. Artis was that "it's the burden of the Defendant" to provide documentation, and that Dr. Shissias never provided it. It was adduced at the hearing that Dr. Shissias was waiting for an MRI result from the Veteran's Administration. Counsel for Mr. Vonharten asked for additional time for Dr. Shissias to provide a report, (Transcript at p. 27) but the Hearing Officer did not address that issue in her findings.

3. The Hearing Officer failed to consider reasonable, less restrictive alternatives to revocation as proposed by Mr. Vonharten's counsel.

The Hearing Officer was offered a number of reasonable opportunities to stop short of full revocation of Mr. Vonharten's driving privilege. Throughout the hearing, Mr. Vonharten and his counsel acknowledged that Mr. Vonharten has some physical limitations, including hypertension, diabetes, and early dementia. As suggested by counsel, there are a great number of restrictions that could be imposed on his privileges, similar to those placed on young drivers. The limitations should reflect a reasonable relationship to his abilities. As his daughter testified, and as demonstrated by the fact that it has been ten years since he was last cited, and the fact that he passed every aspect of the driver's test in June, 2014, Mr. Vonharten can, and did, drive safely. However, reasonable alternatives to revocation were not addressed in the Hearing officer's findings and conclusions. She settled on full revocation, when other less restrictive measures

would have secured the public interest in having safe roads, and Mr. Vonharten's liberty interest in having limited driving privileges. For example, Counsel suggested limiting Mr. Vonharten to:

"a restricted license. And those would include no night driving, no interstate driving, neighborhood driving not to exceed 50 miles per hour, no driving between 7:30 a.m. and 9:30 a.m., 4:30 to 7:00 p.m., and any other restrictions you deem appropriate." (Transcript at p.28.)

The Hearing Officer does not address the reasonable restriction alternative at all in her Findings. She takes the hearsay, HIPAA-violative words of one doctor wholesale, depriving Mr. Vonharten of the autonomy and dignity of being able to drive, ever again. A more just approach—especially in light of the fact that Mr. Vonharten has been a demonstrably safe driver for most of his 84 years-- was apparently not considered. That should not stand.

4. The Hearing Officer erroneously concluded that traffic citations received more than a decade ago support the conclusion that Mr. Vonharten is currently unable to safely operate a motor vehicle.

The Hearing Officer, while not specifically commenting, apparently found it persuasive that Mr. Vonharten's Medical and Accident History form was not correct. Mr. Vonharten's recollection of his last accident was that it occurred in 1995, when in fact it occurred in 2003. (Paragraph 8, Findings of Fact.) If the purpose of noting the error was to demonstrate ineligibility to drive, it was inapt. The fact is, Mr. Vonharten has not had an accident or a citation in over a decade. The overwhelmingly reasonable conclusion to reach is that Mr. Vonharten has a tendency in recent years to be a cautious and safer

driver. His lack of citations or accidents in the past decade mitigate in favor of less drastic result than complete and permanent revocation of Mr. Vonharten's privileges.

5. The Hearing Officer erroneously gave greater weight to the speculative hearsay opinion of Dr. Mazzeo than to the objective evidence that Mr. Vonharten can, and did, drive safely, and in fact passed the vision, knowledge and skills tests on June 3, 2014.

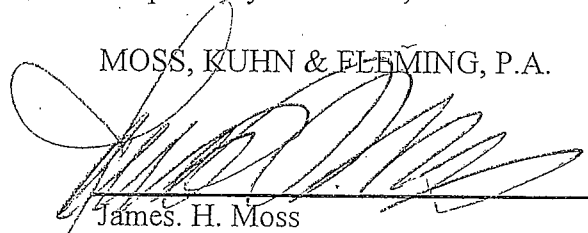
It takes little more than common sense to empathize that a senior citizen faced with permanent revocation of driving privileges feels the loss profoundly. Obtaining driving privileges is a rite of passage for Americans. It represents mobility, freedom, and independence. Those privileges should not be removed from an accident-free, uncited elderly gentlemen on nothing more than the speculative, unproven letter filled with hearsay of one doctor. Dr. Mazzeo's opinion runs in the face of all objective evidence available to the Hearing Officer. The objective evidence is that Mr. Vonharten has driven ten years without an incident, he passed the vision, knowledge and skills tests offered by the trained experts at the DMV, and the daughter who sees him daily says "he's really on top of things." (Transcript at 24.) He lives alone, manages his own affairs, helps non profits with their books. These are objective criteria which were afforded virtually no weight by the Hearing Officer, if any at all. The speculative, secretive and unsolicited commentary by one doctor should not be allowed to contravene the objective facts in this case.

CONCLUSION

Based on the foregoing, the Findings of Fact and Conclusions of Law of the Hearing Officer should be reversed, and Mr. Vonharten's driving privileges should be restored immediately.

Respectfully Submitted,

MOSS, KUHN & ELEMING, P.A.



James H. Moss

Beaufort, South Carolina

March 16, 2015

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SC ADMIN. LAW COURT

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FINDINGS OF FACT

Having observed the witnesses, reviewed the exhibits presented at the hearing, and closely passed upon their credibility, and having taken into consideration the burden of persuasion by the parties, I make the following Findings of Fact by a preponderance of the evidence:

1. On December 31, 2013, Paul Mazzeo, M.D., a licensed physician, submitted a written statement to the Department expressing concern regarding Respondent's ability to safely operate a motor vehicle. Dr. Mazzeo indicated that Respondent, who is 84 years old, was under his neurological care for the treatment of Alzheimer's dementia and that he believed his driver's license should be revoked due to the severity of his condition.

2. On January 17, 2014, the Department notified Respondent that it had received information indicating that his medical condition may be inadequate to operate a motor vehicle safely and requested that he and his physician complete medical statements within thirty (30) days so the Department could assess his medical fitness to operate a motor vehicle.

3. On February 20, 2014, the Department notified Respondent that it had not received his medical statements as requested. It provided him until March 22, 2014 to comply with its request and notified him that failure to submit the statements would result in the revocation of his driving privileges.

4. On February 27, 2014, Respondent underwent an Occupational Therapy Driving Related Skills Assessment ("Assessment") performed by Richard Craner, OTR/L at Beaufort Memorial Hospital.

5. Respondent completed a Driving Related Skills Questionnaire as part of the Assessment on which he indicated that he gets more easily frustrated while driving than he used to, that his family had expressed concern about his ability to drive, and that he has had more difficulty judging distances and noticing signs.

6. On the Assessment, Mr. Craner found that Respondent had: (1) poor sensation in the toes of his feet that could make awareness of the gas/brake pedal pressure difficult to judge; (2) decreased trunk and cervical rotation that limits his ability to see vehicles behind him while changing lanes and backing up; (3) deficits in depth perception and visual organization and orientation that could indicate difficulty anticipating what is taking place in the roadway and his awareness of his

vehicle's position as related to other objects, particularly when making lane changes or parking; and (4) deficits in visuospatial skills, executive functions, attention, fluency, and immediate and delayed recall that could cause him to have difficulty remaining focused on driving, concentrating on traffic patterns and directions, recalling his route and information from traffic signs and his geographical orientation, and his ability to make quick decisions necessary for driving in heavy traffic. With regard to Respondent's ability to safely operate a motor vehicle, Mr. Craner concluded as follows:

Mr. Vonharten has a variety of deficits in physical, visual and cognitive skills. If he had deficits in only one of these areas, adaptations to his vehicle or approach to driving could be taken to improve his ability to drive safely. However, with his presentation of multiple deficits, Mr. Vonharten may have difficulty driving safely and should consider refraining from driving at this time.

7. On April 25, 2014, the Department received incomplete medical statements from Respondent, which included the Medical and Accident History Form DI-7 and Physician's Findings – History and Physical.

8. The Medical and Accident History Form DI-7 was completed by Respondent:

- a. In response to question 1(a) on section 1, page 1, "Have you had any reportable motor vehicle accidents?" Respondent answered "Yes" and gave 1995 as the approximate date of his last accident. However, Respondent was involved in a reportable motor vehicle accident on February 2, 2005, to which he was a contributor. Respondent was also involved in a non-reportable motor vehicle accident on May 14, 2003, to which he was a contributor. Respondent was ticketed for failing to yield the right away as a result of that collision.
- b. Respondent also noted that he was diabetic, had stiffness or weakness in his neck, took blood pressure medications, and had suffered from fainting, blackout spells, loss of consciousness, epilepsy, seizures, or convulsions in 2012.

9. Respondent's physician, Samuel Little, M.D., completed Section II of the medical forms – Physician's Findings – History and Physical:

- a. In response to question 6(a), "History of seizures, convulsions, blackouts, etc?" Dr. Little answered "Yes" and indicated that Respondent blacked out for a few

seconds while eating breakfast in 2012 but that doctors were unable to find out why.

- b. On question 10, Dr. Little summarized his findings and diagnosis as: hypertension, hyperlipidemia, early dementia, diabetes, and history of syncopal episodes.
- c. As his response to question 11, which asked for his comments for the guidance of the Medical Advisory Committee, Dr. Little commented, "Suggest patient be able to demonstrate driving skills."
- d. Dr. Little did not indicate whether or not he would be willing to ride with Respondent as an operator of a motor vehicle.

10. By letter dated May 16, 2014, the Department notified Respondent that the medical statements it had received were incomplete and provided him with fifteen (15) days to submit the additional information to the Department. It also informed him that he would have to submit to a vision, knowledge and skills test.

11. By letter dated May 27, 2014, the Department notified Respondent that it had received his Waiver of Right of Privileged Communication Form DI-5 on May 20, 2014, and directed him to complete a driving skills re-examination within fifteen (15) days.

12. On June 3, 2014, Respondent completed an application for a non-commercial driver's license and completed the knowledge and skills tests. Respondent passed the knowledge test and received a passing score of 23 on the skills test. Respondent also met the vision standards to operate a motor vehicle with corrective lenses. His driving privileges were temporarily restored as of June 3, 2014 based upon his driving test results and his submission of completed medical statements.

13. On June 5, 2014, Dr. Mazzeo wrote the Department to reiterate his opinion that Respondent's dementia prevents him from safely operating a motor vehicle.

14. Although Respondent indicated to the Department that he was seeking a second opinion from neurologist Charles Shissias, M.D. and was provided with a Neurological Questionnaire for him to complete, Respondent did not submit a neurological report from Dr. Shissias. Respondent testified that Dr. Shissias would not complete a neurological report for him.

15. On June 6, 2014, the Department notified Respondent that his medical records and driver's examination results had been forwarded to the Medical Advisory Board ("Board") for review and that his driving privileges were suspended while awaiting the Board's review.

16. On July 10, 2014, Department notified Respondent that, effective August 6, 2014, his driving privileges were revoked pursuant to S.C. Code Ann. § 56-1-270 based upon a finding that he is physically disqualified from safely operating a motor vehicle. The Department based its decision upon a recommendation from the Medical Advisory Board that Respondent's driving privileges be revoked.

17. At the hearing Respondent testified that he had difficulty turning around but that he did not believe it affected his ability to drive. Respondent also testified that he had experienced dementia to some extent within the last six months, in that he has some trouble with short term memory, such as names.

18. Respondent's daughter, Laura Vonharten, testified that Respondent does not have the range of motion in his neck to check his blind spot. She also testified that Respondent currently lives alone and handles his own affairs.

19. On April 7, 2014, Respondent completed a Defensive Driving Course. The school at which he took the course is not certified to make a determination as to whether Respondent is medically fit to safely operate a motor vehicle.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact, I conclude as a matter of law the following:

1. Pursuant to S.C. Code Ann. §1-23-660(A) (Supp. 2013), the Hearing Officers of the OMVH, effective January 1, 2006, preside over contested case hearings involving suspensions, cancellations, or revocations of drivers licenses by the Department. All hearings presided over by the Hearing Officers of the OMVH are contested case hearings and must be conducted in accordance with the Administrative Procedures Act ("APA") and the rules of procedure for the OMVH. § 1-23-660(B) (Supp. 2013). Furthermore, all appeals from final decisions of the Hearing Officers are to the South Carolina Administrative Law Court in accordance with its rules of procedure. § 1-23-660(D).

2. The South Carolina Department of Motor Vehicles is an administrative agency of the State of South Carolina and is charged with administering the motor vehicle laws of this state. S.C. Code Ann. § 56-1-5 (2006).

3. Generally, the burden of proof rests upon the party who asserts the affirmative of an issue. Basic administrative law principles establish that an agency bears the burden of proof in an enforcement action. See Peabody Coal Co. v. Ralston, 578 N.E.2d 751 (Ind. Ct. App. 1991); Randy R. Lowell and Stephen P. Bates, South Carolina Administrative Practice and Procedure, 200-201 (2004). Since Petitioner asserts the affirmative of an issue, i.e. the enforcement of a driver's license revocation, and it will be subject to an adverse ruling if no evidence is introduced, Petitioner bears the burden of proof in this matter. See Alex Sanders and John S. Nichols, Trial Handbook for South Carolina Lawyers, Second Edition, 2001, § 9:3, p. 366.

4. The weight and credibility assigned to evidence presented at the hearing of a matter is within the province of the trier of fact. See S.C. Cable Television Ass'n v. S. Bell Tel. & Tel. Co., 308 S.C. 216, 222, 417 S.E.2d 586, 589 (1992); see also Doe v. Doe, 324 S.C. 492, 502, 478 S.E.2d 854, 859 (Ct. App. 1996) (holding that a trial judge, when acting as a finder of fact, "has the authority to determine the weight and credibility of the evidence before him").

5. Upon at least ten days written notice, the Department may require a person holding a South Carolina's driver's license to submit to an examination if it has good cause to believe that the person is incompetent or otherwise not qualified to be licensed due to a physical or mental disability. Based upon the examination, the Department may suspend or revoke the license, allow the person to retain his license, or issue a license subject to restrictions permitted by § 56-1-170. The Department also may suspend or revoke the license of a person who refuses or neglects to submit to an examination. § 56-1-270.

6. The Department may obtain advice from the Medical Advisory Board ("Board"), a thirteen member board created by §56-1-221, if it has cause to believe that a licensed driver or applicant may not be physically or mentally qualified to be licensed. In formulating its advice, the Board may utilize records and reports or, at the expense of the applicant or licensed driver, may cause an examination and report to be made by one or more Board members or any other qualified person it may designate. The licensed driver or applicant also may obtain an independent written report by a

physician or optometrist of his choice and forward it to the Board for consideration. § 56-1-221(C).

7. Although Respondent asserts that he is able to safely operate a motor vehicle, I conclude that the greater weight of the evidence supports a finding that Respondent is not medically qualified to safely operate a motor vehicle on the highways of this State.

In this case, the Department received information from Dr. Paul Mazzeo, a licensed physician, indicating that Respondent was under his neurological care for the treatment of Alzheimer's dementia and that it was his opinion that the severity of his condition prevented him from safely operating a motor vehicle. Based upon that information, the Department requested medical statements be completed by Respondent and his physician. After several requests, Respondent finally submitted medical statements to the Department which were completed by himself and Dr. Samuel Little. On the forms, Dr. Little noted that Respondent suffered from early dementia and had a history of syncopal episodes, the cause for which was unknown. Dr. Little suggested that Respondent be able to demonstrate his driving skills but did not indicate whether or not he would be willing to ride with Respondent as the operator of a motor vehicle. Respondent did not provide the Department with a second neurological opinion.

Respondent also underwent an Occupational Therapy Driving Related Skills Assessment ("Assessment") performed by Richard Craner, OTR/L at Beaufort Memorial Hospital on February 27, 2014. Mr. Craner concluded that Respondent had multiple physical, visual and cognitive deficits which may affect his ability to drive safely and suggested that he consider refraining from driving at this time. Among the physical deficits, Mr. Craner noted that Respondent had decreased trunk and cervical rotation that limits his ability to see vehicles behind him while changing lanes and backing up. He also noted multiple deficits in Respondent's visuospatial skills, executive functions, attention, fluency, and immediate and delayed recall that could cause him to have difficulty remaining focused on driving, concentrating on traffic patterns and directions, recalling his route and information from traffic signs and his geographical orientation, and his ability to make quick decisions necessary for driving in heavy traffic.

At the hearing, Respondent admitted that he had experienced dementia to some extent within the last six months, in that he has some trouble with short term memory, such as names. Respondent

also admitted that he had some difficulty turning around, and his daughter testified that he does not have the range of motion in his neck to check his blind spot.

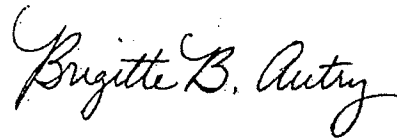
While Respondent did successfully complete the driving skills test on June 3, 2014, based upon the evidence before me, particularly regarding Respondent's neurological condition, and the applicable law, I conclude the recommendation of the Medical Advisory Board and the subsequent determination of the Department were proper. Accordingly, I conclude that the revocation of Respondent's driver's license and driving privilege must be sustained.

ORDER

Based upon the above findings of facts and conclusions of law,

IT IS HEREBY ORDERED that the revocation of Respondent's driver license and driving privilege is sustained.

AND IT IS SO ORDERED.



December 1, 2014
Ridgeland, South Carolina

Brigitte B. Autry
Hearing Officer, OMVH

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

South Carolina Department
of Motor Vehicles,

Petitioner,

vs.

H.H. Vonharten,

Respondent.

HEARING

September 24, 2014



CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

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1 **HEARING OFFICER:** This is docket number 14-OMVH-06-
2 3944CC, South Carolina Department of Motor
3 Vehicles versus H.H. Vonharten. Respondent's
4 driver's license number is 10 -- excuse me,
5 1801323. My name's Brigitte Autry and I've
6 been appointed to preside over this physical
7 disqualification hearing being held Wednesday,
8 September 24, 2014, at the Jasper County
9 Courthouse. Present with the DMV is Ms. Pearl
10 Artis. You're with Driver Improvement,
11 correct?

12 **MS. ARTIS:** Driver improvement, correct.

13 **HEARING OFFICER:** And then respondent is present
14 along with his attorney, Robbie Ferguson. I'd
15 like to remind you this matter is being
16 recorded and is a matter of public record.
17 We're here today because DMV is seeking to
18 revoke Mr. Vonharten's driving privileges based
19 upon the finding that he was -- that he is
20 physically disqualified from safely operating a
21 motor vehicle. And, of course, he's requested
22 a hearing to challenge that decision. And, of
23 course, DMV has the burden of proof in this
24 case. Before we go any further, are there any
25 opening statements from either party? Anything



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1 in opening, Ms. Artis?

2 MS. ARTIS: No.

3 HEARING OFFICER: Anything in opening, Mr. Ferguson?

4 MR. FERGUSON: No, ma'am.

5 HEARING OFFICER: All right. And I know before the
6 hearing I mentioned that we had two sets of
7 documents that DMV submitted. I don't know if
8 you want to go over those first or if you'd
9 like to go ahead and present your testimony,
10 Ms. Artis. It's up to you.

11 MS. ARTIS: That's fine.

12 HEARING OFFICER: Let me go ahead -- let me go ahead
13 and swear you in, too. Will you please raise
14 your right hand and state your full name for
15 me?

16 MS. ARTIS: Pearl Artis.

17 HEARING OFFICER: Swear to tell the truth, the whole
18 truth, and nothing but the truth?

19 MS. ARTIS: Yes.

20 HEARING OFFICER: All right. I'll let you proceed
21 how you wish, okay.

22 MS. ARTIS: Okay.

23 MS. ARTIS - DIRECT TESTIMONY:

24 MS. ARTIS: On January 15th of 2014, the Driver
25 Improvement Office received a letter dated



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1 **MR. FERGUSON:** -- and I would move to exclude that
2 portion because it doesn't fall into the
3 exception of hearsay that deals with medical
4 diagnosis.

5 **HEARING OFFICER:** Okay. Well, as she presents any
6 of that, at that time I'll let you make the
7 objection at the appropriate time, okay.

8 **MR. FERGUSON:** Thank you.

9 **HEARING OFFICER:** All right. Go ahead, Ms. Artis.

10 **MS. ARTIS:** Okay. On January 17th of 2014, the
11 Driver Improvement office sent correspondence
12 to Mr. Vonharten indicating that we had
13 received information that his medical condition
14 again (inaudible) to warrant continuance of his
15 driving privilege and the Department of Motor
16 Vehicles was requesting that he submit medical
17 statements. On February 20th of 2014, the
18 Driver Improvement office sent an official
19 notice because we had not received the medical
20 statements within the 30 day period. That
21 notice that he would -- license would go under
22 revocation on March 22nd, 2014. On April 25th --
23 excuse me, April 25th, 2014, the Driver
24 Improvement received incomplete medical
25 statements from Mr. Vonharten and on May 16 of



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1 2014^r our office acknowledged receipt of the
2 incomplete medicals and notified him that he
3 was also instructed to submit the complete
4 medical statements and to take the driving test
5 at the Department of Motor Vehicles within 15
6 days. On May 27th of 2014, our office wrote Mr.
7 Vonharten again acknowledging receipt of the
8 completed medical statements dated May 20th of
9 2014 and also we were informed that he had
10 taken the re-examination and he did pass. On
11 June 5th of 2014, our office received
12 notification from the Beaufort DMV that he did
13 pass the re-examination. And we also received
14 additional correspondence from Dr. Paul Mazzeo
15 reiterating his opinion of Mr. Vonharten
16 condition and that he was not safe to drive.
17 Along with that, we received a report from
18 Beaufort Memorial Outpatient Rehabilitation
19 noting cognitive deficit and their
20 recommendation was no further driving at this
21 time. On June 6 of 2014, the -- Mr. Vonharten
22 was sent correspondence from the Department of
23 Motor Vehicles indicating that the
24 recommendation of the Medical Advisor Board is
25 that he not continue driving.



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1 HEARING OFFICER: Okay. Anything further?

2 MS. ARTIS: That's it.

3 HEARING OFFICER: Did you wish to move these
4 documents in or no?

5 MS. ARTIS: Yes, uh-huh (affirmative response).

6 HEARING OFFICER: All right. Now, explain to me --
7 I have two sets here, so is the second one the
8 same as the first with just additional
9 documents included?

10 MS. ARTIS: I would just enter the second in.

11 HEARING OFFICER: Okay.

12 MS. ARTIS: Our general counsel office would have
13 forward those documents and I think they may
14 have just did two sets.

15 HEARING OFFICER: So the ones dated September 18th,
16 2014?

17 MS. ARTIS: Correct.

18 HEARING OFFICER: All right. Any objection to the
19 documents, Mr. Ferguson?

20 MR. FERGUSON: Yes, ma'am, I do.

21 HEARING OFFICER: Okay. What's your objection?

22 MR. FERGUSON: We can just I guess walk through --

23 HEARING OFFICER: Sure.

24 MR. FERGUSON: -- the certain pages. Let's see. My
25 first objection is to the letter from Dr. Paul



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1 Mazzeo essentially regurgitating concerns that
2 were expressed by Mr. Vonharten's family. I
3 feel like that's hearsay and should be excluded
4 from the record.

5 **HEARING OFFICER:** Okay. And I've already -- and I'm
6 going to overrule your objection on that --

7 **MR. FERGUSON:** Okay.

8 **HEARING OFFICER:** -- just as far as the medical
9 exception, okay. I'll just let you go through
10 and tell me if there's any objections you have
11 to any of the others.

12 **MR. FERGUSON:** Yes, ma'am.

13 **HEARING OFFICER:** Probably be the easiest way.

14 **MR. FERGUSON:** Again, another letter from Dr. Paul
15 Mazzeo essentially making allegations about
16 doctor shopping. I would move to have that
17 removed from the record. It doesn't have
18 anything to do with medical treatment or
19 diagnosis. It's essentially saying the patient
20 -- the defendant's son contacted the doctor,
21 the doctor then relaying those concerns to DMV,
22 and I feel like if you have those concerns, he
23 could have showed up today to testify to that.
24 Otherwise, it is hearsay.

25 **HEARING OFFICER:** Okay. Anything that would be



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1 hearsay within the letter, I'll exclude, but as
2 far as it being offered, he does say in there
3 that he is reiterating his opinion that --

4 **MR. FERGUSON:** Yes, ma'am.

5 **HEARING OFFICER:** -- his dementia precludes him from
6 driving, I'm going to allow that, okay.

7 **MR. FERGUSON:** Thank you.

8 **HEARING OFFICER:** All right.

9 **MR. FERGUSON:** Also, on the outpatient
10 rehabilitation, again there's a narrative that
11 essentially, you know, upon examining it seems
12 to be regurgitating what a family member has
13 told the outpatient rehabilitation person, so I
14 would move to exclude that in the referral
15 concerns.

16 **HEARING OFFICER:** Let's see.

17 **MR. FERGUSON:** And specifically where's it got per
18 the driving related skills questionnaire, his
19 daughter Tracy reports blank.

20 **HEARING OFFICER:** Hold on, where are you at? The
21 very first -- under referral concerns, you
22 said?

23 **MR. FERGUSON:** Yes, ma'am. Referral concerns, about
24 halfway through the paragraph --

25 **HEARING OFFICER:** Okay.



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1 MR. FERGUSON: -- per the driving related skills
2 questionnaire, his daughter Tracy reports that
3 blank. I object to the daughter's statements
4 coming in.

5 HEARING OFFICER: Okay. I'll strike -- I'll strike
6 those from that record, but as far as the rest
7 of it, I'll allow, okay.

8 MR. FERGUSON: Okay. Thank you.

9 HEARING OFFICER: This is the Beaufort Memorial
10 Rehabilitation?

11 MR. FERGUSON: Yes, ma'am. And I believe that's the
12 extent of my objections to those documents.

13 HEARING OFFICER: Okay. And the rest will be
14 admitted part of the record, okay.

15 MR. FERGUSON: Okay.

16 HEARING OFFICER: All right. Did you have any
17 questions for Ms. Artis?

18 MR. FERGUSON: Yes, ma'am.

19 HEARING OFFICER: Okay. Go ahead.

20 MS. ARTIS - EXAMINATION BY MR. FERGUSON:

21 Q: Ms. Artis, and this is on the documents that
22 were provided under the Medical Advisory Board
23 transmittal form and then at the bottom it says
24 Medical Advisory Board recommendations on the
25 next page.



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1 A: Yes, sir.

2 Q: What is the neurological evaluation that the
3 MAB based their recommendation on?

4 **HEARING OFFICER:** Tell me -- I'm sorry, tell me
5 again where you are so I can follow along with
6 you.

7 **MR. FERGUSON:** Yes, ma'am. It's -- let's see, one,
8 two, three --

9 **HEARING OFFICER:** I have mine printed in a different
10 manner, so I --

11 **MR. FERGUSON:** -- four -- it's on the fifth page.

12 **HEARING OFFICER:** So it'll be the fifth page, okay.

13 **MR. FERGUSON:** Yes, ma'am. And it's the
14 recommendation of the Medical Advisory Board at
15 the bottom and it states that the neuro
16 evaluation -- information provided from the
17 neuro evaluation --

18 **HEARING OFFICER:** Okay.

19 **MR. FERGUSON:** -- and my question is what neuro
20 evaluation.

21 **HEARING OFFICER:** All right. I got you.

22 A: That recommendation was coming from his
23 neurologist, Dr. Mazzeo, the letter that he
24 submitted.

25 Q: Okay.



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1 A: December 31st, I think it was.

2 Q: Thank you.

3 A: Uh-huh (affirmative response).

4 Q: To your knowledge, has there ever been a
5 neurological evaluation transferred to the
6 Medical Advisory Board other than the two
7 letters from Mazzeo?

8 A: That was the information that was provided to
9 us, the documents.

10 Q: Okay. To your knowledge, did the defendant --
11 I'm sorry, well, I guess he is the defendant,
12 seek out a second opinion from Dr. Shissious?
13 And where I am now is on the waiver of rights
14 of privilege communication, the HIPAA Release.

15 **HEARING OFFICER:** Looks like on mine, it will be the
16 seventh page submitted by DMV.

17 A: I'm sorry; now, what was your question again?

18 Q: To your knowledge, did the defendant ever seek
19 a second opinion from an additional
20 neurologist?

21 A: No, Mr. Vonharten -- he was provided a
22 neurological report, but he never submitted it.

23 Q: Okay. Okay. So a neurological report to be
24 filled out by Dr. Shissious, but that has not
25 been returned to your office?



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1 A: He never submitted a neurological report.

2 Q: Mr. Vonharten or Dr. Shissious?

3 A: We haven't received it from Mr. Vonharten.

4 Q: Okay. All right. Is it your understanding
5 that Mr. Vonharten passed the visual
6 requirements for obtaining a driver's license?

7 A: Yes, sir, the general vision statement was meet
8 the minimum standards.

9 Q: And Dr. Little, that's another one that's
10 referenced on the HIPAA release as his primary
11 general practice physician, what -- what were
12 the results of Dr. Little's evaluation of Mr.
13 Vonharten and what was his suggestion?

14 **HEARING OFFICER:** We are on which page now?

15 **MR. FERGUSON:** Let's see.

16 **HEARING OFFICER:** Which document?

17 A: His -- that's the one, page 14 of -- probably
18 14?

19 **MR. FERGUSON:** It's right after the waiver. This is
20 all filled out by Dr. Little.

21 **HEARING OFFICER:** Okay, got it.

22 A: Okay. Under his summary of findings and
23 diagnosis, hypertension, (inaudible) early
24 dementia, diabetes, and history of syncope
25 episodes and he suggested that he demonstrate



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1 his driving skills, which the Department
2 allowed him to do so.

3 Q: Okay. Thank you. And to your knowledge, did
4 the defendant complete a driver's skills test
5 and knowledge test independent of the DMV?

6 A: Independent of the DMV?

7 Q: Yes, ma'am.

8 A: That would have been with the Beaufort --
9 Beaufort Memorial Outpatient Rehabilitation.

10 Q: I'm just referring to -- there's a certificate
11 in the package.

12 A: Uh-huh (affirmative response).

13 Q: And so my question is, you know, Dr. Little
14 suggested that the defendant demonstrate his
15 driving skills and my question is to your -- is
16 it your understanding that he, in fact, did
17 pass a defense driver training program as
18 indicated by the certificate in the package?

19 A: Okay. That certificate was submitted to the
20 Department --

21 Q: Yes, ma'am.

22 A: -- but the evaluation to determine a person
23 medical fitness to drive, this particular
24 school was not certified to do that.

25 Q: Okay.



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1 A: They had -- they have not presented a license
2 to the Department that they are medically
3 certified to make that kind of evaluation.

4 Q: Okay. So this was just included in the packet
5 because it's something that Mr. Vonharten
6 submitted to your office?

7 A: Yes, sir.

8 Q: Okay. Thank you. Is it the DMV's policy once
9 they have this waiver of privilege
10 communication to seek out medical records
11 independently from the providers or is that the
12 burden on the defendant to provide your office
13 with the medical records?

14 A: It's the burden of the defendant.

15 Q: Okay. So y'all don't subpoena any records?

16 A: No, sir.

17 Q: Okay. And Ms. Artis, there's a document in
18 here that says record of examination of road
19 test score form --

20 A: Yes, sir.

21 Q: -- and I know you previously stated that he had
22 passed an exam. Is this the exam that you were
23 speaking of?

24 A: Yes, sir.

25 Q: Okay. Because we just have a score indicated,



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1 but without a scale or without an indication of
2 whether that's pass or fail. So this total
3 score of 23, does this represent a passing
4 score?

5 A: Yes, sir, it does.

6 Q: Okay. Now, Mr. Vonharten's driving record,
7 prior to it being revoked or suspended, do you
8 know if he had any points against his license
9 at the time?

10 A: I don't show it -- show him as having any
11 points against it.

12 Q: And so does that mean he had a clear driving
13 history?

14 A: Well, it -- my history goes back to 2003 --

15 Q: Yes, ma'am.

16 A: -- and he were -- he was involved in a couple
17 of accidents. 2005, a violation -- traffic
18 violation and 2003 an accident (inaudible).

19 Q: Okay. But currently no points against his
20 license --

21 A: No, sir.

22 Q: -- and no recent accidents to report?

23 A: No, sir.

24 Q: And, Ms. Artis, what was the purpose of
25 including the application for the driver's



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1 license that was completed by Mr. Vonharten in
2 the packet, one of the last things that's
3 included in there? Was that just to
4 memorialize the fact that Mr. Vonharten had, in
5 fact, applied to have his privileges
6 reinstated?

7 A: That he was tested on the knowledge and the
8 skills test on page two, right there at the
9 bottom on the left-hand side.

10 Q: Got you. And this indicates that he passed
11 both the knowledge and the skills test?

12 A: Yes, sir.

13 Q: Okay. And, again, it looks like his -- his
14 vision was again checked and found to be with
15 -- to meet the standards?

16 A: Yes, sir.

17 Q: Okay.

18 MR. FERGUSON: No further questions for Ms. Artis,
19 Your Honor.

20 HEARING OFFICER: I do have one question just for
21 clarification in here. There -- just to be
22 sure.

23 MS. ARTIS - EXAMINATION BY THE HEARING OFFICER:

24 HEARING OFFICER: I understand we have the notice of
25 suspension dated July 10th --



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1 MR. FERGUSON: Yes, ma'am.

2 HEARING OFFICER: I don't understand this notice or
3 letter from DMV dated June 3rd which says his
4 privileges are clear. That was included in the
5 packet that's in the record.

6 MR. FERGUSON: Yes, ma'am.

7 HEARING OFFICER: I just didn't quite understand.
8 That was prior to the Department seeking to
9 declare him physically disqualified?

10 MS. ARTIS: I have to look at the record. On June
11 3rd we had to clear him because we received the
12 medical statements, so --

13 HEARING OFFICER: Oh, because you got the medical
14 statements.

15 MS. ARTIS: -- he was no longer disqualified for --

16 HEARING OFFICER: Okay. I didn't understand.

17 MS. ARTIS: -- non-compliance of medicals.

18 HEARING OFFICER: And then after that is when the
19 notice --

20 MS. ARTIS: Yes, sir.

21 HEARING OFFICER: Okay. I just wanted to clarify --

22 MS. ARTIS: I'm sorry. Yes, ma'am.

23 HEARING OFFICER: -- so I understood what that was
24 about. All right. Okay. I'm sorry. Do you
25 have any other questions, you said?



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1 MR. FERGUSON: No, ma'am.

2 HEARING OFFICER: No more questions. Any further
3 testimony, Ms. Artis?

4 MS. ARTIS: No.

5 HEARING OFFICER: Okay. Mr. Ferguson, did you wish
6 to call Mr. Vonharten?

7 MR. FERGUSON: Yes, ma'am, I do.

8 HEARING OFFICER: Of course, I'll allow Ms. Artis to
9 ask him questions on cross, as well.

10 MR. FERGUSON: Certainly.

11 HEARING OFFICER: All right. Mr. Vonharten, if
12 you'll please raise your right hand, state your
13 full name, please.

14 MR. VONHARTEN: Herman H. Vonharten, Jr.

15 HEARING OFFICER: Swear to tell the truth, the whole
16 truth, and nothing but the truth?

17 MR. VONHARTEN: I do.

18 HEARING OFFICER: All right. Mr. Ferguson.

19 MR. FERGUSON: Thank you.

20 MR. VONHARTEN - EXAMINATION BY MR. FERGUSON:

21 Q: Mr. Vonharten, how long have you been driving?

22 A: Since I was 16.

23 Q: And about how many years is that?

24 A: Oh, about 70, 68.

25 Q: Do you have any difficulty driving?



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- 1 A: No, sir.
- 2 Q: Okay.
- 3 A: I had a little trouble turning around, you
- 4 know.
- 5 Q: Yes, sir. In your opinion, does that prohibit
- 6 you from driving safely?
- 7 A: No, sir.
- 8 Q: Do you live on your own?
- 9 A: Yes, sir.
- 10 Q: Okay. And do you handle your own affairs?
- 11 A: Yes, sir.
- 12 Q: Do you handle your own finances?
- 13 A: Yes.
- 14 Q: And how about your medical treatment, do you
- 15 discuss that directly with your doctors and
- 16 providers?
- 17 A: Yes.
- 18 Q: What's your understanding of any medical issues
- 19 that you have going on right now?
- 20 A: Mostly diabetes, you know, type two diabetes.
- 21 Q: Yes, sir. What about neurologically? Have you
- 22 been diagnosed with any diseases?
- 23 A: Just according to what the doctor said about
- 24 the dementia, you know.
- 25 Q: Have you experienced dementia?



- 1 A: To some extent, yes.
- 2 Q: Okay. How often?
- 3 A: I hardly ever think about it.
- 4 Q: Would you say you've experienced it within the
- 5 past six months?
- 6 A: Yeah.
- 7 Q: Okay. And by dementia, explain what you mean
- 8 by that?
- 9 A: I have trouble remembering names and so forth.
- 10 Q: Okay.
- 11 A: It's short term stuff. Old I remember pretty
- 12 good.
- 13 Q: Yes, sir. Now, when you received the documents
- 14 from the South Carolina Department of Motor
- 15 Vehicles, did you take those to your doctor?
- 16 A: Yeah, I got an appointment with Dr. Mazzeo and
- 17 it was almost a month before I could get an
- 18 appointment with him.
- 19 Q: Is he still your doctor?
- 20 A: No, sir.
- 21 Q: And who's your current doctor, neurologist?
- 22 A: Dr. Shissious?
- 23 A: Okay. Has Dr. Shissious diagnosed you with
- 24 anything?
- 25 A: He just said I got it -- he didn't think I have



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1 Alzheimer's, but he never would fill out a form
2 for me. He didn't want to contradict what the
3 other doctor had said.

4 Q: Okay. I don't think I have any further
5 questions, Mr. Vonharten.

6 MR. FERGUSON: Your Honor.

7 HEARING OFFICER: Okay. Do you have any questions
8 for him, Ms. Artis?

9 MS. ARTIS: (Inaudible)

10 HEARING OFFICER: No, okay. Any other witnesses,
11 Mr. Ferguson?

12 MR. FERGUSON: Yes, ma'am. Ms. Laura Vonharten?

13 HEARING OFFICER: All right. We can either pull
14 another chair around; however you want to do
15 it.

16 MR. FERGUSON: Okay. Sure.

17 HEARING OFFICER: Just want to grab one of those?
18 Wherever you're comfortable is fine with me.
19 All right.

20 MS. VONHARTEN: Hello.

21 HEARING OFFICER: Hi. Ms. Vonharten, if you'll
22 please raise your right hand and state your
23 full name.

24 MS. VONHARTEN: Laura L. Vonharten.

25 HEARING OFFICER: Swear to tell the truth, the whole



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1 truth, and nothing but the truth?

2 MS. VONHARTEN: I do.

3 HEARING OFFICER: Okay.

4 MS. VONHARTEN - EXAMINATION BY MR. FERGUSON:

5 Q: How old is your father, Ms. Vonharten?

6 A: He is 84 years old.

7 Q: And does he live on his own?

8 A: Yes.

9 Q: And how often do you see your father?

10 A: I see him on a daily basis.

11 Q: Okay. Have you observed any physical
12 impairments that would limit his ability to
13 drive?

14 A: Only that he doesn't have the range of motion
15 in his neck to check his blind spot, that's the
16 only physical limitation that I've observed.

17 Q: Okay. And how about his mental capacity? Is
18 he able to handle all of his own affairs?

19 A: Absolutely, and actually he helps handle some
20 of my affairs, as well. He does everything
21 with his banking; he helps some not-for-profit
22 groups with their -- doing treasury sort of
23 work for them; he helps me with my finances in
24 helping me keep track of what I need to be
25 doing, so he's really on top of things.



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1 Q: So there's nobody that has a power of attorney
2 over your father?

3 A: My brother does, just in case it's needed for
4 some reason in the future.

5 Q: I got you. But Mr. Vonharten has signatory
6 authority over all those accounts and all?

7 A: Absolutely.

8 Q: Would your concerns about your father's
9 physical impairments limiting his ability to
10 turn around, if there were certain restrictions
11 placed on his license, would you think that
12 that would address those concerns?

13 A: Yes.

14 MR. FERGUSON: No further questions for Ms.
15 Vonharten.

16 HEARING OFFICER: Okay. Any questions for her, Ms.
17 Artis?

18 MS. ARTIS: No, I don't.

19 HEARING OFFICER: Okay. All right. No other
20 witnesses, correct?

21 MR. FERGUSON: No, ma'am.

22 HEARING OFFICER: All right. I'll go ahead and do
23 closing, then. Ms. Artis, anything in closing?

24 CLOSING REMARKS:

25 MS. ARTIS: Yes. Based on the evaluation from the -



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1 - just a second -- from Beaufort Memorial
2 Outpatient Rehabilitation, the medical
3 statements provided from Dr. -- I'm sorry; the
4 medical statements provided from I think it's
5 Dr. Littles -- completed by Dr. Littles and the
6 review of the recommendation of the Medical
7 Advisor Board, I recommend that or ask the
8 Court to uphold the revocation.

9 **HEARING OFFICER:** Okay. Mr. Ferguson?

10 **MR. FERGUSON:** Thank you. You know, essentially,
11 there are members of the defendant's family
12 that are concerned about his driving and
13 they've relayed those concerns to Dr. Mazzeo.
14 Dr. Mazzeo then wrote the DMV. Again, we
15 object to any hearsay which is -- which is
16 included in his letters from being part of the
17 record. But basically they're allegations of
18 bad driving. Additionally, under Section 56-1-
19 221(c), it states that the defendant may cause
20 written reports to the MAB by doctor or
21 optometrist of the defendant's choice and that
22 those reports must be given consideration by
23 the Board. The defendant in this case chose to
24 get a second opinion from Dr. Mazzeo and that
25 is Dr. Shissious. I've traded voice mails with



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000060

1 Dr. Shissious in attempts to get a summary of
2 what his treatment has been with Mr. Vonharten.
3 I know that they were waiting on an MRI that
4 was done through the VA. But essentially that
5 statute states that he gets to choose which
6 doctor submit that report. And, unfortunately,
7 due to a number of reasons, Dr. Shissious has
8 not completed that report and we would ask that
9 he be allowed to submit that to the MAB for
10 their further consideration. There's no
11 written report in the file from Dr. Shissious;
12 the defendant is not doctor shopping. He's
13 seeking a second opinion. Dr. Little, you
14 know, that was referenced by Ms. Artis
15 essentially, his findings were that he
16 recommend that the defendant show that he has
17 the driving skills and he did that. Not only
18 on two different occasions for agencies that
19 aren't recognized by the DMV, but also by the
20 DMV's own testing. So Dr. Little suggested
21 that he exhibit those skills; he did exhibit
22 those skills. He passed several eye exams;
23 passed the road test. Outpatient rehab, they
24 do a detailed variety of deficits in physical,
25 visual, and cognitive skills, I believe stated.



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000061

1 that if one deficit was found, they could
2 adjust things either with his license or his
3 driving behavior to address that. However, Mr.
4 Vonharten's given no opportunity to cure any
5 deficits that were viewed by the outpatient
6 rehabilitation center. You know, essentially,
7 the DMV has asked Your Honor to uphold the
8 revocation of the defendant's driving
9 privileges. We're asking that the revocation
10 be rescinded or, in the alternative, that he be
11 issued a restricted license with any
12 restrictions that you would see fit. And those
13 include no night driving, no interstate
14 driving, neighborhood driving not to exceed 50
15 miles an hour, no driving between 7:30 a.m. and
16 9:30 a.m., 4:30 to 7:00 p.m., and any other
17 restrictions that you deem appropriate.
18 Essentially, the burden is preponderance of
19 evidence and the only thing that's in evidence
20 are Dr. Little saying that physically he wanted
21 -- he wanted the defendant to exhibit those
22 skills and he did so. Anything else that the
23 outpatient rehabilitation center observes I
24 think given the opportunity to cure, Mr.
25 Vonharten could make progress in those areas.

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000062

1 He feels like a lot of this was done behind his
2 back the way Dr. Mazzeo forwarded information
3 to the DMV and he may want to add something to
4 my summary in my closing argument and if Your
5 Honor sees that appropriate, but we're asking
6 that you reconsider or that you essentially not
7 follow MAB's recommendation and rescind the
8 revocation or issue a restrictive driver's
9 license in the alternative. Mr. Vonharten, is
10 there anything that I left out that you'd like
11 Ms. Autry to hear?

12 **MR. VONHARTEN:** I'd like to say a few things?

13 **MR. FERGUSON:** Okay. Is that appropriate, Your
14 Honor?

15 **HEARING OFFICER:** Well, we're in closing, but as
16 long as it's closing, that's fine.

17 **MR. FERGUSON:** Yes, ma'am.

18 **HEARING OFFICER:** Okay.

19 **STATEMENT BY MR. VONHARTEN:**

20 **MR. VONHARTEN:** Yes, ma'am. Me and my wife are
21 going through a separation and (inaudible) with
22 me.

23 **HEARING OFFICER:** We're not in testimony any more at
24 this point, okay.

25 **MR. VONHARTEN:** Okay. And the guy that give me the



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000063

1 report at the hospital, what he put in there,
2 he's got some errors in that thing. He's got
3 somebody else's name in the report and I feel
4 like I'm more or less being railroaded if he
5 can't fill out that report, but yet I got to go
6 by the recommendation he puts out with my
7 driving skill. I didn't do good on the test.
8 Thank you.

9 **HEARING OFFICER:** Okay. Ms. Artis, anything in
10 closing?

11 **MS. ARTIS:** (Inaudible)

12 **HEARING OFFICER:** No, okay. All right. Then we'll
13 go ahead and close the record and I'll issue --
14 I'll review everything and I'll issue a written
15 order, okay.

16 **MR. FERGUSON:** Thank you.

17 (There being nothing further, the hearing was
18 concluded.)
19
20
21
22
23
24
25



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000064

CERTIFICATE

This is to certify the transcript of the hearing consists of thirty (30) pages. This transcript was prepared by me without the benefit of my being present during the hearing. Additionally, this transcript was prepared from a audio recording provided to me.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this February 6, 2015.

Carenn N. Moore

Carenn N. Moore
Notary Public for South Carolina
My Commission Expires: 3/24/2019

Phone (843) 522-1420

Fax (843) 522-1460

Paul Mazzeo, M.D.
Coastal Neurology, P.A.
1833 North Paris Avenue
Port Royal, S.C. 29935

December 31, 2013

S.C. Department of Motor Vehicles
Driver Improvement Office
P.O. Box 1498
Blythewood, S.C. 29016-0016

RE: Herman H. Von Harten
P.O. Box 207
Beaufort, S.C. 29901
DOB: 8/18/1930
SS#: 249-36-9786

SENT

JUL 08 2014

DRIVER IMPROVEMENT

RECEIVED

JAN 15 2014

DRIVER IMPROVEMENT

Dear Sir or Madam:

Mr. Herman VonHarten is under my neurological care for the treatment of Alzheimer's dementia. His family has alerted me to several concerns regarding his driving. Recently, on separate occasions, he ran a motorcyclist and a car off the road due to lane deviations. He was stopped at a light; when the light turned green, he placed the car into reverse instead of drive.

Due to the severity of Mr. VonHarten's Alzheimer's dementia (MMSE 21/30) and his demonstrated danger to himself and others behind the wheel, I believe he should have his driver's license revoked.

Please keep the source of this information confidential.

Thank you.

Sincerely,



Paul Mazzeo, M.D.
Board Certified, Neurology,
Behavioral Neurology & Neuropsychiatry
Medical Director, Beaufort Memorial Memory Center

Certified to be a true and correct
copy of the original document on file
with the South Carolina Department of
Motor Vehicles.



Driver Services, Deputy Director

000066



14-0398

Complete Internal Record - Departmental Use Only

Customer No: 26009338 Driver License No: 1801323
Name: VONHARTEN, H H JR
Address: 166 FULLER PKWY
City: BEAUFORT State: SC Zip: 299025316
County: BEAUFORT Customer Status: ACTIVE
SSN: *****9786 DOB: 8/18/1930 Height: 6'01 Weight: 197 Sex: M Race: WHITE
Citizen: Y Driver Training: N Special Address: Y SR22: Alert: N
Status - DL: NO SUSPENSION CDL: NO DISQUALIFICATION

License Information

Type	Class	Function	Issued	Expires	First Issued	Rest.	Endor.	Med.	Off.	Clerk
Current										
DL	D	Renewal	08/01/2011	08/18/2016	07/15/1996	N	N	N	0007	GRAHAM_BRE
Prior										
DL	D	Re-exam	06/30/2006	08/18/2011	07/15/1996	N	N	N	0007	WASHINGTON
DL	E	Renewal	07/09/2001	08/18/2006	07/15/1996	Y	N	N	CONV	CONVERSION

Name Change -

Name: VON HARTEN, H H JR

Date Changed: 06/17/1971

Address Change -

Address: 114 FULLER PKWAY POB 207
City: BEAUFORT

State: SC

Zip: 299010000

Date Changed: 07/09/2001

Address Change -

Address: 166 FULLER PKWY
City: BEAUFORT

State: SC

Zip: 299025316

Date Changed: 07/17/2003

Point Summary

Total Current Points: 0
Driver Credit: -0
Adjusted Current Points: 0

ACC: REPORTABLE

Accident: 02/07/2005

Accident Case Number: 5020444

Accident Jurisdiction: SC Acc Loc Ref: SCHDPT
Contributed: Y Bodily Injury: N

Posted: 03/10/2005

FR-10 Audit Number: Q-780874

History: N

Property Damage: >= \$1000

VIOL: 444 - Failure to yield right of way

Violation: 05/14/2003 Conviction: 06/12/2003

ACD: N01 Conviction Loc Ref:

Conviction State: SC

Violation No: 1

Status: ACTIVE

Last Change: 07/15/2003

Ticket#: A784545

Recd: 07/15/2003 Post: 07/15/2003

Conviction Reference:

Court Type: MAGISTRATE COURT

Violation Points: 4 Current Points: 0

Complete Internal Record - Departmental Use Only

Customer No: 26009338

Driver License No: 1801323

Name: VONHARTEN, H.H JR

ACC: NON-REPORTABLE

Accident: 05/14/2003

Posted: 06/03/2003

Accident Case Number: 3055660

FR-10 Audit Number: P-692522

Accident Jurisdiction: SC Acc Loc Ref: SCHDPT

History: N

Contributed: Y

Bodily Injury: N

Property Damage: < \$1000

End of Report

10/10/2014

FILED

SEP 19 2014

SCOMVH

Nikki R. Haley
Governor



Kevin A. Shwedo
Executive Director

State of South Carolina
Department of Motor Vehicles

January 17, 2014

PAUL MAZZEO, MD
COASTAL NEUROLOGY, PA
1833 N PARIS AVE
PORT ROYAL, SC 29935

Re: H. H. Vonharten, Jr.
Case No.: 14-0398

Dear Dr. Mazzeo:

This office is in receipt of your letter in reference to the above individual. I am advising you that your request has been approved and in the near future, the individual will be receiving the appropriate documents.

I would like to thank you for taking time out of your busy schedule to acknowledge that an individual may have problems that would make driving unacceptable at this time.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dorothy Ward Sturgeon".

Dorothy Ward Sturgeon
Compliance Specialist
Driver Improvement Office
(803) 896-9925

/dws

000069

Nikki R. Haley
Governor



Kevin A. Shwedo
Executive Director

State of South Carolina
Department of Motor Vehicles

January 17, 2014

H H VONHARTEN JR
PO BOX 207
BEAUFORT, SC 29901

Re: Case No.: 14-0398
Customer No.: 26009338

SENT

JUL 08 2014

DRIVER IMPROVEMENT

Dear Mr. Vonharten:

The SC Department of Motor Vehicles, Driver Improvement Office has received information indicating that your medical condition to safely operate a motor vehicle may be inadequate to warrant continuance of your driving privileges. In order for this office to make an informed decision as to your medical fitness to operate a motor vehicle safely, you and your treating physician must complete the enclosed medical statements within the next thirty (30) days. Please note that in addition to the medical statements, you may be required to demonstrate your knowledge, skills and ability to exercise ordinary and reasonable control in the operation of a motor vehicle.

Failure to comply may result in the revocation of your driving privileges.

/dws

SEND ALL CORRESPONDENCE TO:
SC DEPARTMENT OF MOTOR VEHICLES
DRIVER IMPROVEMENT OFFICE
PO BOX 1498
BLYTHEWOOD SC 29016-0016
(803) 896-9925

Certified to be a true and correct
copy of the original document on file
with the South Carolina Department of
Motor Vehicles.

A. J. Shwedo
Driver Services, Deputy Director

000070



Vonharten, H.H. JR

14-039

South Carolina Department of Motor Vehicles

Report of Vision Screening for
Non-Commercial Beginner Permits or Driver's Licenses

412-NC
(Rev. 11/12)

FORM IS ONLY VALID FOR 12 MONTHS FROM DATE OF VISION SCREENING
**** This form is void if there are any alterations or erasures on it ****

Applicant's Name H.H. Von HARTEN, Jr. Date of Birth 8-18-30 Driver's License Number 180 1323
Applicant's Address P.O. Box 207, Beaufort, S.C. 29901 City SC. Zip Code 29901
Applicant's Signature H.H. Van Herten, Jr. Date 2-6-14 Telephone Number 843-524-2522

THIS SECTION IS TO BE COMPLETED BY A LICENSED EYE CARE PROFESSIONAL
**** Do not use this form for an applicant requiring corrective lenses until new lenses are fitted ****

Applicants must meet the minimum acceptable vision requirements, without the use of a telescopic lens or other attachment, provided below to obtain and maintain a South Carolina non-commercial driver's license or beginner's permit.

The South Carolina Department of Motor Vehicles' minimum visual acuity requirements, with or without corrective lenses, are as follows:

- 20/70 or better in at least one eye; OR
 - ✓ If applicant's weaker eye is worse than 20/200, the stronger eye must read 20/40 or better
- Worse than 20/70 in each eye but 20/70 or better with both eyes together. This reading is only acceptable if accompanied by a statement from the eye care professional that no further improvement in vision can be made.

Distant Vision Only	Right Eye	Left Eye	Both Eyes
Without Corrective Lens	20/	20/	20/
With Corrective Lens	20/ 20	20/ 20	20/ 20
New Prescription	20/	20/	20/

1. DOES THE APPLICANT'S VISION MEET THE ABOVE STANDARDS TO OPERATE A MOTOR VEHICLE? ☒ Yes ☐ No

SECTION A - DRIVING RESTRICTIONS

2. Is a corrective lens, such as a conventional type spectacle or a contact lens, required to operate a motor vehicle? ☒ Yes ☐ No
3. Is the applicant's vision worse than 20/200 in one eye? ☐ Yes ☒ No
4. Should the applicant be restricted to daylight driving only? ☐ Yes ☒ No

SECTION B - PERMANENT SIGHT IMPAIRMENT

5. a) Does the applicant have a permanent sight impairment? ☐ Yes ☒ No
- b) If yes, which eye? ☐ Right ☒ Left

SECTION C - RECHECK VISUAL FITNESS

6. Indicate when the applicant's eyes should be rechecked to determine visual fitness to operate a motor vehicle.
- ☐ in 6 months ☐ in 1 year ☐ in 2 years ☒ in 5 years ☐ Other (Comments) Other

Comments:

1. MARSH S. SIEGEL MD
Printed Name of Eye Care Professional

Professional No. 23292

being licensed to practice

OPHTHALMOLOGY

in the state of

SOUTH CAROLINA

certify that

I have performed a vision screening of the eyes of the above named person. This is a true record of this screening and the applicant met the visual acuity standards without the use of a telescopic lens or other attachment. I further certify that I have answered all of the questions above and that he or she signed in my presence.

Signature of Eye Care Professional

111 HIGH TIDE DR
Business Address

Screening Date 6/5/13

BEAUFORT
City

Telephone Number 843-524-1500

SC 29906
State Zip Code

DMV USE ONLY

I verified that the applicant is not applying for a CDL.

Date

DMV Employee Name

SENT

Office #

000071

JUL 08 2014

Feb. 7, 2014

S.C. Dept. of Motor Vehicles
Driver Improvement Office
P.O. Box 1498
Blythe wood, S.C.

29016 - 0016

Re: H.H. Van Harten, Jr.
Case # 14-0398
S.C. License # 1801323

Gentlemen:

My LAST APPOINTMENT with my
Neurology Doctor will be on Feb. 20.
I will send it along with my other Doctors
report then.

I AM STILL CURIOUS ON WHAT I did
while driving.

Thank you.

H.H. Van Harten, Jr.

RECEIVED

FEB 10 2014

IMPROVEMENT

000072

Nikki R. Haley
Governor



Kevin A. Shirwede
Executive Director

State of South Carolina
Department of Motor Vehicles

February 20, 2014

Mr. H.H. VonHarten Jr.
PO Box 207
Beaufort, SC 29901-0207

Re: Case No.: 14-0398
Customer No.: 26009338

Dear Mr. VonHarten:

This office wrote you on January 17, 2014 requesting that you submit medical statements completed in their entirety by you and your physician. As of this date the medical statements have not been received. Failure to comply with this request before 12:01 AM March 22, 2014 may result in the revocation of your driving privileges.

If, at anytime in the future, you can present satisfactory medical reports, the Department will reconsider your case. Please note that in addition to your medical statements, in order for this office to assess your ability to safely operate a motor vehicle, you may be required to demonstrate your knowledge, skills and ability to exercise ordinary and reasonable control in the operation of a motor vehicle.

If we may be of further assistance regarding this matter, please contact us at (803) 896-9925.

Driver Improvement Supervisor
/sdr

Send All Correspondence To:
Driver Improvement Office
Post Office Box 1498
Blythewood, SC 29016-0016

000073

Post Office Box 1498, Blythewood, South Carolina 29016

Mar. 3. 2014 3:07PM BMH COMPREHENSIVE REHAB

**Beaufort Memorial**
OUTPATIENT REHABILITATION
Beaufort Medical Plaza

No. 6062 P. 2

VONHARTEN JR, HERMAN
MRS. KONTENT
PAID DEC 06/13/13

Paul Mazzuca, MD

03/07/14

Occupational Therapy Driving Related Skills Assessment

Name: Vonharten Jr., Herman

Date: 02/27/14

Primary Insurance: SP

Physician: Dr. Paul Mazzuca

Therapist: Richard Craner OTR/L

Primary Dx 331.0 Alzheimer's disease

Date of Onset: ~ 1 year

Referral Concerns: Mr. Vonharten reports that he received a letter from the DMV reporting that he was an unsafe driver and verification from a physician would be needed to continue driving. He reports that he saw his family doctor and an orthopedist and neither would verify that he was a safe driver. Per patient report, his orthopedist referred him to P.T. to address cervical ROM issue. Pt reports that he saw his "brain doctor" (neurologist) who referred him for this driving related skills evaluation. Per the driving related skills questionnaire, his daughter Tracy reports that Mr. Vonharten gets lost on familiar routes, is easily frustrated while driving, that he has had recent fender benders, runs over curbs while parking, drifts over out of lanes and has recently shown slowed reaction time. She also reports that he has a tendency not to notice signs, traffic signals and pedestrians.

Medical history: Past medical history is significant for Alzheimer's disease, HTN, back and neck pain for over 30 years, diabetes, and swallowing problems.

Driving History: Pt reports that he started driving at 16 years ago. Despite reports from his daughter that he has had recent fender benders, pt reports that he has had only one motor vehicle accident - 15 years ago, in which he pulled out of a parking lot in front of another driver.

Last eye appointment: Approximately 1 year ago Eye Doctor: Dr. Mark Segal

License status: ☒ Current ☐ Expired ☐ Revoked ☐ Permit ☐ Never Licensed

Driver's License Number: SC: 1801323 **Expiration Date:** 08/18/16

History of seizures: ☒ No ☐ Yes - Date of most recent

History of peripheral neuropathy: ☒ Yes ☐ No Pt reports that he has numbness in his feet that occasionally affects his balance.

Mobility: ☒ Ambulatory w/out device ☐ Cane ☐ Walker ☐ Manual w/c ☐ Power w/c

Present level of Function (Reported and/or observed): Pt reports being fully independent with all ADL and IADL.

Objective Tests & Measures:

UE and LE AROM WFL for driving throughout. Bilateral UE and LE MMS grossly 4+/5 to 5/5 throughout

Sensation: Upper Body Proprioception: Right ☒ Intact ☐ Impaired; Left ☒ Intact ☐ Impaired

Upper Body Protective Sensation: Right ☒ Intact ☐ Impaired; Left ☒ Intact ☐ Impaired

Lower Body Proprioception: Right ☒ Intact ☐ Impaired; Left ☒ Intact ☐ Impaired

Lower Body Protective Sensation: Right ☐ Intact ☒ Impaired; Left ☐ Intact ☒ Impaired

Trunk/Cervical Rotation ROM: Right ☐ Pass ☒ Fail Left ☐ Pass ☒ Fail

This is a functional test for trunk and cervical AROM. The examiner stands 10' behind the client and holds up a random number of fingers while the client is facing the opposite direction. The client is then instructed to turn around and look over each shoulder and give the correct number of fingers held up. The test is scored as pass or fail.

Hand Dominance: Right ☒ Left ☐

with the South Carolina Department of Motor Vehicles.

989 Ribaut Rd Suite 330
Beaufort, SC 29902

Phone: 843-522-5593

Fax: 843-522-5960

Page 1 of 5

SENT

Richard Craner, Deputy Director

MAR-03-2014 15:26 From:

JUL 08 2014

ID: Coastal Neurology

Page: 002 R=95%

DRIVER IMPROVEMENT

0000074

3/3/14

Mar. 3. 2014 3:07PM BMH COMPREHENSIVE REHAB

No. 6062 P. 3

**Beaufort Memorial
OUTPATIENT REHABILITATION**

Beaufort Medical Plaza

H0228423
VONMARTEN JR, HERMAN H
MR: D042247
Patient DOB: 08/18/1910 Sex: M Age: 93

Paul Marino, MD

R-00714

Grip Strength: Grip - Right: 75/70/72 lb Average of 3 trials: 72 lb
Left: 70/70/70 lb Average of 3 trials: 70 lb
(Norms: Female: Right 24-61 lb; Left 23-52 lb; Male: Right 31-100 lb Left 27-83 lb)

Tip Pinch Strength: Right: 15/10/11 lb Average of 3 trials: 12 lb
Left: 11/11/10 lb Average of 3 trials: 10.5 lb
(Tip pinch norms: Female: Right 4-16 lb, Left 4-13 lb; Male: Right 7-21 lb, Left 8-25 lb)

Key Pinch Strength: Right: 26/25/25 lb Average of 3 trials: 25 lb
Left: 23/22/21 lb Average of 3 trials: 22 lb
(Key pinch norms: Female: Right 8-17 lb, Left 7-16 lb; Male: Right 9-31 lb, Left 13-24 lb)

Lower Body Coordination/Speed and Agility: ☒ Pass ☐ Fail

Rapid pace walk = total distance: 20 feet: Time: 7.5 seconds/ 7.0 seconds

Device used: ☒ None; ☐ Cane; ☐ Quad Cane; ☐ Walker ☐ Rollator Walker; ☐ Hemi-walker

(Clients taking over 7.5 seconds to complete walk were 2.5 times more likely than age matched controls to be involved in an at-fault crash. Clients with times greater than 9 seconds have a 3-fold increased risk of being in an at-fault automobile accident (Staplin, et al., 2003a).)

Brake Reaction Time: Trial #1: .631 second Trial #2: .669 second Trial #3: .603 second

Average of 3 trials: .634 second (Age 36-55 Mean reaction time: .515; Age 56 to 65 Mean reaction time .538 sec; Age 66 and up mean reaction time .592)

UB Coordination: Minnesota Rate of Manipulation Test:

Placing: Trial 1: .94 seconds Trial #2: .89 seconds Total time for 2 trials: 1.83 seconds ☐ Intact ☒ Impaired
(Very Low score ≥ 140 sec; Low score 128-139 sec; Average 116-127 sec; High 110-117 sec; very high ≤ 109 sec.)

Turning: Trial 1: .89 seconds Trial #2 .88 seconds Total time for 2 trials: 1.77 seconds ☐ Intact ☒ Impaired
(Very Low score ≥ 113 sec; Low score 104-113 sec; Average score 97-103 sec; High score 87-96 sec; very high score ≤ 86 sec.)

Hearing: ☒ WNL ☐ HOH Left ☐ HOH Right ☐ Hearing Aide Left ☐ Hearing Aide Right**Vision:**Patient Wears Glasses? Distance: Yes ☐ No ☒Glasses worn for testing? Yes ☐ No ☒**Stereo Optic Vision Tests:****Peripheral Test:** Left: ☒ 85 ☒ 70 ☒ 55 ☒ Nasal; Right: ☒ 85 ☒ 70 ☒ 55 ☒ Nasal

(South Carolina does not have a visual field standard, but visual field measurements are requested of eye care specialist completing DMV forms. If the total angle is 140 degrees or more, the applicant automatically passes. If the total angle is between 110 and 140 degrees, the case is referred to the MAB. If the total angle is 110 degrees or less, the applicant does not automatically pass.)

Distance Acuity: (Dial at 3/1) Right Eye: 20/40

Left Eye: 20/30

Both Eyes: 20/30

Row	Left	Both	Right	Both Eyes: 20/30
1	ZN	RG	HK	Far Acuity
2	RKS	HNC	ZOD	20/200
3	HCDV	SKZO	RND'S	20/100
4	ZROD	NSCH	VZKN	20/70
5	KEHC	OZNR	DNVE	20/50
				20/40

989 Ribaut Rd Suite 330
Beaufort, SC 29902

Phone: 843-522-5593

Fax: 843-522-5960

Page 2 of 5

MAR-03-2014 15:26

From:

SENT

ID:Coastal Neurology

Page:223 R:954

JUL 08 2014

DRIVER IMPROVEMENT

000075

000061

Mar. 3. 2014 3:07PM BMH COMPREHENSIVE REHAB.



Beaufort Memorial OUTPATIENT REHABILITATION

Beaufort Medical Plaza

 No. 6052
 VONHARTEN, J. J. HERNANDEZ
 MRN: 000000000
 Patient DOB: 06/11/1939

6	ONRZV	DKHCS	KDSO	20/20
7	SDCHN	VRZKO	HSNRD	20/20

(South Carolina's acuity standard: each eye by itself must score 20/40 or better with or without glasses; or if one eye is blind, the other eye must score 20/40 or better with or without glasses. If glasses are used to meet the standard, a driver is restricted to corrective lenses. If a driver cannot meet the standard, he or she is referred to an eye care specialist.)

Near Acuity: (Dial at 7) Right Eye: 20/20 Left Eye: 20/30 Both Eyes: 20/30

Row	Left	Both	Right	Near Acuity
1	SVC	NRK	HZO	20/100
2	RNZH	DOKV	CSZN	20/70
3	CKVD	SNZR	DOHC	20/50
4	VHRN	ODSK	NZCS	20/40
5	HSKRC	NZDOV	ZSHNK	20/30
6	ZONVR	HCKSD	VKCDs	20/20

(WFL: 20/40)

 Color Perception: (Dial at 4/2) Score: 3/8 ☐ Pass ☒ Fail

A-12 B-5 C-26 D-6 E-16 F-Black

(There are 8 numerals in 6 circles: 6-8 numerals = WNL; 5 digits or more = mild deficit; less than 5 digits = fail)

 Depth Perception: (Dial at 9/7) Score: 2/9 ☐ Pass ☒ Fail

1-B, 2-L, 3-B, 4-T, 5-T, 6-L, 7-R, 8-L, 9-R

(If there are 2 consecutive incorrect answers it is considered a failure).

 Fusion: (Dial at 8) ☒ Pass ☐ Fail

 Left eye: ☒ Red box ☒ White box Right Eye: ☒ White box ☒ Blue box

 Both eyes together: ☒ Red box (top) ☒ White box (middle) ☒ Blue box (bottom)

(Any other combination than above is a Fail).

Traffic Sign Recognition & Depth Perception (Dial at 11/1):

- ☒ Fail
- ☒ Handicap parking
- ☒ Divided highway
- ☒ No parking
- ☒ Regulation
- ☒ Yield
- ☒ No U Turn
- ☒ Do not enter
- ☒ Stop sign
- ☒ RR Crossing
- ☐ School zone
- ☐ No Passing

Recognition score: 10/12 (Signs 9, 10, 11, 12 have outline/shapes only):

 Depth perception score: 3/3 ☒ Pass ☐ Fail

(There is no pass/fail for sign recognition, this is informational only; For depth perception, when asked which signs are "floating toward you" pt must ID #3, 6, & 11 to pass)

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SENT

JUL 08 2014

DRIVER IMPROVEMENT

Driver Services Deputy Director

FILED

JUL 28 2014

 989 Ribaut Rd Suite 330
 Beaufort, SC 29902

Phone: 843-522-5593

 SCOMVH
 Fax: 843-522-5960

Page 3 of 5

Mar. 3. 2014 3:07PM BMH COMPREHENSIVE REHAB



Beaufort Memorial OUTPATIENT REHABILITATION

Beaufort Medical Plaza

Color Recognition: (Dist at 12/2): ☒ Pass ☐ Fail

Score Line A: 4/4; Line B: 4/4; Line C: 4/4; Line D: 4/4

Line A: Amber, Green, Red, Blue; Line B: Red, Amber, Blue, Green

Line C: Green, Blue, Amber, Red; Line D: Blue, Red, Green, Amber

Colors missed:

(Must answer all 4 correctly in a given line to pass the test. Any missed colors in any line is a fail.)

Visual Smooth Pursuits: ☒ Intact ☐ Mild Impairment ☐ Moderate Impairment ☐ Maximal Impairment ☐ AbsentSaccadic Eye Movements: ☒ Intact ☐ Mild Impairment ☐ Moderate Impairment ☐ Maximal Impairment ☐ AbsentVisual Fields: ☒ Intact ☐ Mild Impairment ☐ Moderate Impairment ☐ Maximal Impairment ☐ Absent

Hooper Visual Organization Test Score: 23/30

(No impairment 25-30; Mild Impairment 20-24; Mod. Impairment 10-19; Severe Impairment 0-9)

Cognitive:

Trail Making Test A: ☒ Pass ☐ FailTime: 42 seconds; Errors: 0; Cuing required: ☒ None ☐ Minimal ☐ Moderate ☐ Maximum
(29 seconds = Average; > 78 seconds = deficient)Trail Making Test B: ☐ Pass ☒ FailTime: 4:00; Errors: 4; Cuing required: ☐ None ☒ Minimal ☐ Moderate ☐ Maximum
(75 seconds = Average; > 4 min 30 sec = deficient)**Low scores on the trail making test part B have been highly associated with poor driving performance in numerous studies.*Symbol Digit Modalities Test: Score: 30/30 in 90 seconds: ☒ Pass ☐ Fail

(Age 65 and older Normal: 25-33; Low: 16-24; Moderately low score: 7-15; Very Low Score 6 or below)

Montreal Cognitive Assessment (MOCA): Score: 21/30 ☐ Pass ☒ Fail

(≥ 26 WNL; 19-25 Mild impairment; 11-21 correlated with Alzheimer's disease)

Motor Left-Right Discrimination Test: Score: 20/20 ☒ Pass ☐ Fail

(0=Profound Impairment; 1-10=Severe Impairment; 11-14=Moderate Impairment; 15-19=Noted Impairment; 20=Correct=WNL)

Assessment:

Areas of concern-Physical:

- Bilateral LE protective sensation deficits to entire great toe of both feet and to plantar surface of all other toes.
- Trunk and cervical rotation AROM: Patient has difficulty rotating trunk and head around to see fingers held up by this QT 10' behind him. The patient had to entirely rotate trunk around to see, which, if driving, would have caused him to remove feet from car controls.
- Decreased UE coordination per the Minnesota rate of manipulation test.

Areas of concern-Visual:

- Decreased depth perception: Pt. has inconsistent results on the depth perception tests. Pt. is only able to identify 2/9 items on the depth perception test, but was able to ID 3/3 on depth perception portion of the sign recognition test.
- Deficient Visual Organization per Hooper VOT score 23/30 which is considered in the "Mild impairment" range.

989 Ribaut Rd Suite 330
Beaufort, SC 29902

Phone: 843-522-5593

Fax: 843-522-5960

Page 4 of 5

MAR-23-2014 13:26 From:

SENT

ID:Coastal Neurology

Page:205 R:954

JUL 08 2014

DRIVER IMPROVEMENT

000077

Mar. 3. 2014 3:07PM. BMW COMPREHENSIVE REHAB



Beaufort Memorial OUTPATIENT REHABILITATION

Beaufort Medical Plaza

Areas of concern-Cognitive

- Poor performance on the Trail making part B test: Mr. Vonharten completes the test in 4 minutes (the average time to complete the test in same aged peers is 75 seconds). Completing the test in under 4 minutes 30 seconds with no mistakes is considered deficient, however, Mr. Vonharten made 4 mistakes, and unless cued by the therapist, he would not have completed the test in under 4 minutes 30 sec. *Low scores on this test have been highly associated with poor driving performance in numerous studies.*
- Pt scores in the impaired range on the Montreal Cognitive Assessment: 21/30. *A score of 11-21 correlated with Alzheimer's disease*

Summary: Mr. Vonharten has upper and lower limb AROM and strength, and UB and LB proprioceptive sensation are WNL for driving, and he had no difficulty on the rapid pace walk. However, Mr. Ramsay has poor light touch/protective sensation in the toes of bilateral feet, which could make awareness of gas/brake pedal pressure difficult to judge. In addition, he has decreased trunk and cervical rotation AROM which limits his ability to see vehicles behind him while changing lanes, and to see objects or vehicles while backing up. Visual scanning, saccades, and visual fields are WNL for his age, however, Mr. Vonharten has deficits in depth perception per the Stereo Optic vision testing. He also had deficits in visual organization and orientation in space per the Hooper VOT. These results could indicate possible difficulty looking ahead and determining what to anticipate what is taking place in the road scene; awareness of his vehicle's position as related to other objects - especially when close to other objects such as when making lane changes or parking.

Scores on the cognitive tests are of major concern for safe operation of a motor vehicle - especially the Trail Making Part B test, which has been correlated with poor driving performance in numerous studies. Although Mr. Vanharten completed the test in under 4 minutes and 30 seconds, however, he required multiple cues to correct the errors he made, and he could not have completed the test in the allotted time without cuing. In addition, he had deficits on the MOCA with deficits in visuospatial skills, executive functions, attention, fluency, immediate and delayed recall. These deficits could cause him to have difficulty remaining focused on driving, concentrating on traffic patterns or directions, recalling route and information from traffic signs, effective deductive reasoning and quick decision making necessary for driving in heavy traffic, and geographical orientation.

The final decision regarding the client's legal authorization to operate a motor vehicle resides not with this assessment, but with the physician and the appropriate governmental agencies. However, Mr. Vonharten has a variety of deficits in physical, visual and cognitive skills. If he had deficits in only one of these areas, adaptations to his vehicle or approach to driving could be taken to improve his ability to drive safely. However, with this presentation of multiple deficits, Mr. Vonharten may have difficulty driving safely and should consider refraining from driving at this time.

Therapist Printed Name: Richard Grant OTR/L

Therapist Signature: *Richard Grant*

Date: 02/27/14

Date: 02/28/14

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Motor Vehicles.

D. L. Phelps
Driver Services, Deputy Director

989 Ribaut Rd Suite 330
Beaufort, SC 29902

Phone: 843-522-5593

Fax: 843-522-5960

Page 5 of 5

MAR-03-2014 15:26 From:

SENT

ID:Coastal Neurology

Page:006 R:95x

JUL 08 2014

DRIVER IMPROVEMENT

000078

Mar. 3 2014 9:07PM BMH COMPREHENSIVE REHAB

No. 6062 P. 7

**Beaufort Memorial****OUTPATIENT REHABILITATION**

Beaufort Medical Plaza

Driving Related Skills Questionnaire (Driver)

1. Have you gotten lost on familiar routes? Yes ☐ No ☒
2. Do you get more easily frustrated while driving than you used to? Yes ☒ No ☐
3. Have you had to rely on your passenger for directions? Yes ☐ No ☒
4. Have you had any recent fender benders or scrapes? Yes ☐ No ☒
5. Have you had any warnings or tickets from the police? Yes ☐ No ☒
6. Have you run over curbs while turning/parking more often? Yes ☐ No ☒
7. Have you noticed that you drift over out of lines more often? Yes ☐ No ☒
8. Have you ever confused the gas and brake pedals? Yes ☐ No ☒
9. Have you noticed that your reaction time is slower than it used to be? Yes ☐ No ☒
10. Have your family members expressed concerns re: your ability to drive? Yes ☒ No ☐
11. Have you noticed more difficulty: *children + wife*

changing lanes

Yes ☐ No ☒

backing up

Yes ☐ No ☒

parking

Yes ☐ No ☒

pulling out in a timely manner

Yes ☐ No ☒

judging distances

Yes ☒ No ☐

12. Have you had difficulty noticing:

signs

Yes ☒ No ☐

traffic signals

Yes ☐ No ☒

pedestrians

Yes ☐ No ☒

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Motor Vehicles.

N.H. VonHarten Jr.
Driver Services, Deputy Director

*wrong lane, back into other lane & cut off
Motorcyclist & in front of another car*

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MAR-03-2014 15:26

From:

JUL 08 2014

ID: Coastal Neurology

Page: 007 R-95%

DRIVER IMPROVEMENT

000079

H02285465

VONHARTEN, JH, HERMAN, N

NPI: 0042247

Patient DOB: 08/18/1930

Paul Mazure, MD

0307710

DOB
8/18/1930

HABIT SYSTEM

SCDL#

DEFENSIVE DRIVER TRAINING - EDUCATION

CERTIFICATE

Vonharten

HERMAN

The person above named has successfully completed driving tests and knowledge tests according to established Department of Public Safety standards, as follows:

Satisfactory Performance in 3 Basic Areas
Required for Certification.

Instructor must
initial or line out
areas certified
or tested in.

- ☒ City, Heavy Traffic,
☒ Low Speeds, 20 MPH
☒ Residential, Intermediate
☒ Speeds, 35 MPH
☒ Highway or Expressway,
☒ Higher Speeds, 50 MPH

Classroom Hours & Course Content

8 Hours Minimum on Habits as follows:

- Eye Lead, Cross Traffic, Rules,
Regulations, Vehicle Maintenance,
Alcohol & Drug Abuse

Behind the Wheel Hours

6 Hours Minimum for Beginners

and Persons under age 25

Hour Evaluation, for

Licensed Persons

Class Instructor

Instructor must initial or line out one or both.

I hereby certify that this Certification and Evaluation is true and correct and complies with Department of Public Safety and Insurance Department requirements and standards.

This certificate expires the
same date that Driver's
License expires.

4-7, 2014

Date of Course Completion

A-264

DPS License Number

Best Driver Training LLC

Name of School

P.O. Box 9185

Address of School

Beaufort, South Carolina 29904

City State Zip

Authorized Signature

A copy of this certificate and a detailed evaluation is on file in this office.

000080



South Carolina Department of Motor Vehicles
MEDICAL AND ACCIDENT HISTORY

DI-7
(Rev. 10/04)

Name

Vonharten, H. H. Jr

Case Number

14-0398

This report is in two sections. The first section covers the known medical and accident history of the applicant. It must be completed by the applicant and, if necessary, with the aid of a physician. The second section must be completed by a licensed physician.

SECTION I: HISTORY

1. GENERAL PERSONAL HISTORY

- a. Have you had any reportable motor vehicle accidents?

If yes, give years and States:

BLUFFTON, S.C.

Yes ☒

No ☐

- b. Have you had any chronic illness or physical impairments?

If yes, what are they?

Diabetes

Yes ☒

No ☒

1995 APPROXIMATE!

2. BONE JOINT, SKELETAL AND AMPUTATION DEFECTS

- a. Do you have any stiffness or weakness in any joints or muscles?

If yes, describe:

Neck

Yes ☒

No ☒

- b. Do you have any amputation or missing extremities?

If yes, describe:

Yes ☐

No ☒

- c. Do you wear a brace or supportive appliance?

If yes, describe:

Yes ☐

No ☒

3. NEUROLOGICAL

- a. Have you ever fainted, had blackout spells, loss of consciousness, epilepsy, seizures or convulsions?

If yes, give date of last spell:

Yes ☒

No ☐

- b. Do you take drugs for any of the above?

If yes, what type and for how long?

Yes ☐

No ☒

2012

- c. Have you ever had a stroke?

Yes ☐

No ☒

- d. Have you ever had a sudden onset of weakness or loss of control of any limb whether of brief or long duration?

Yes ☐

No ☒

4. PSYCHIATRIC

- a. Have you ever received psychiatric treatment?

If yes, when and where (name of hospital and physician)

copy of the original document on file

Yes ☐

No ☒

(If within the past 5 years, have the physician submit a brief report of your condition, including a statement of mental competency.)

- b. Do you use medicine (tranquilizers) for any emotional condition?

If yes, give names of drug(s) and dosage:

*Trazadone - as sleep aid

Yes ☐

No ☒

- c. Have you ever been treated for alcoholism?

If yes, give name of physician:

Yes ☐

No ☒

Physician's Signature

David S. L...

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4-21-14
Date

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DI-7 (Section 1, Page 1)

APR 25 2014

000081

Case Number 14-0398

5. HEART, BLOOD VESSELS AND BLOOD PRESSURE

- a. Have you ever been advised by a physician of any heart or blood pressure trouble? Yes ☐ No ☒
- b. Have you ever suffered chest pains, shortness of breath, dizziness or fainting spells? Yes ☐ No ☒
If yes, describe: _____
- c. Do you take drugs or medicine for any of the above (a or b)? Yes ☒ No ☒
If yes, describe: Blood Pressure Lisinopril 20mg. Daily
Hydrochlorothiazide 255mg. "

6. VISION

- a. Have you ever been advised that you need glasses? Yes ☒ No ☐
- b. Do you wear glasses? Yes ☒ Reading ☐ No ☐
- c. Have you ever been advised by a doctor that you have any kind of vision trouble or eye disease? Yes ☐ No ☒
If yes, describe: _____
- d. Have you ever had blurring, dimming, or temporary loss of vision in one or both eyes? Yes ☐ No ☒
If yes, describe: _____
- e. How is your vision? Excellent ☐ Fair ☒ Poor ☐
- f. Are you color blind? Yes ☐ No ☒
- g. Have you ever had double vision? Yes ☐ No ☒

7. OTHER MEDICAL CONDITIONS

- a. Are you a diabetic? Yes ☒ No ☐
If yes, what drugs, if any, do you take? See ATTACHED LIST
How much? _____
- b. Do you have any other medical conditions which may affect your driving ability? Yes ☐ No ☒
If yes, describe: _____

8. DRUGS AND MEDICATIONS

- a. Do you use any drugs or medicines not listed above? Yes ☐ No ☒
If yes, what and for how long? _____
- b. Do you ever use drugs or medications for allergies or hay fever? Yes ☐ No ☒
If yes, give names of drugs: _____
- c. Do you use tranquilizers or weight reducing medicine? Yes ☐ No ☒
If yes, list them: _____
- d. Do you drink alcohol to be a true and correct driver? Yes ☒ No ☐
If yes, to what extent? Occasionally

Applicant's Name H.H. Van Herten Jr. H.H. Van Herten Jr.
Address P.O. Box 207 Samuel J. Lutz
Home Phone No. (843) 524-2522 4-21-14
Driver License No. 001801323 Date

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JUL 08 2014

APR 25 2014

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000082 DRIVER IMPROVEMENT DRIVER IMPROVEMENT

Name

Vonharten, H. H. JR

Case Number

14-0398

5. ORTHOPEDIC AND NEUROMUSCULAR

- a. Amputation or ankylosed joints? Yes ☐ No ☒
- b. Ataxia, paralyses or weakness? Yes ☐ No ☒
- c. Prosthetic devices used while driving? Yes ☐ No ☒
- d. Other orthopedic deformities? Yes ☐ No ☒

If yes to any of the above, describe site, location, degree and evaluation of effect on driving ability: _____

6. NEUROLOGICAL

- a. History of seizures, convulsions, blackouts, etc? Yes ☒ No ☐

If yes, describe: Have blacked out eating breakfast - doctors unable to find out why.

- b. Medication and dosage: _____

- c. Describe warning symptoms, their duration and nature preceding blackouts, if present:

Feed does NOT WANT TO go down throat. Last a few seconds

- d. Date of last seizure: 2012

- e. Is further neurological examination recommended? Yes ☐ No ☒

- f. Ataxia, paralyses or weakness? Yes ☐ No ☐

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7. MENTAL ASSESSMENT

- a. Reading ability: Inadequate _____ Adequate ☒

- b. Is there evidence of psychosis, psychoneurosis, alcoholism, additional habituation, emotional instability or mental deficiency in this applicant? Yes ☐ No ☒

If yes, describe: _____

DRIVER IMPROVEMENT

8. OTHER MEDICAL CONDITIONS, DRUGS OR MEDICATIONS WHICH MAY AFFECT DRIVING ABILITY (Examples: Anemia, uremia, chronic renal disease, hypoglycemia, significantly low hemoglobin, etc.)

9. I have previously seen this patient: Frequently ☒ Occasionally ☐ Rarely ☐ Never ☐

10. SUMMARY OF FINDINGS AND DIAGNOSIS

Hypertension, hyperlipidemia, early dementia, diabetes mellitus, history of syncope episodes.

11. YOUR COMMENTS FOR THE GUIDANCE OF THE MEDICAL ADVISORY COMMITTEE

Suggest pt be able to demonstrate driving skills

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12. Doctor: On the basis of your examination and considering the rights of the public, would you be willing to ride with the applicant as an operator of the motor vehicle? Yes ☐ No ☐

If no, explain: _____

Driver Services, Deputy Director

This is to certify that I have this day examined the above named person and do state that the above findings to the best of my knowledge are correct.

Physician's Name (print)

Signature

Date

Address

City

State

Phone

DL-7 (Section 2, Page 2)

Please mail to:

S.C. Department of Motor Vehicles
Driver Improvement Office
P. O. Box 1498, Blythewood, SC 29016-0016

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APR 25 2014

12 of 14

000083

Name

Vocharton, H. H. JR

Case Number

14-0398

SECTION II: PHYSICIAN'S FINDING - HISTORY AND PHYSICAL

Height 73" Weight 195 Date of Birth 8-18-30
 Race W Marital Status M Occupation Retired

1. CARDIOVASCULAR

Stokes-Adams Syndrome: Yes ☐ No ☐ Syncope: Yes ☐ No ☐ Vertigo: Yes ☐ No ☐

Angina Pectoris: Yes ☐ No ☐ Stable ☐ Unstable ☐

Cardiac Decompensation: Yes ☐ No ☐

Blood Pressure: Systolic

Pulse:

Respiration:

Diastolic Arrhythmia: Yes ☐ No ☐

If yes on any of the above, describe:

Any history of tachycardia or heart block? Yes ☐ No ☒

Standing BP if on antihypertensive drugs:

EKG and X-Ray report (if available):

Functional capacity (AHA): (check one)

☐ Class I - No limitation of physical activity; ordinary physical activities cause no undue dyspnea, anginal pain, fatigue or palpitation.

☐ Class II - Slight limitation of physical activity, comfortable at rest and with mild exertion.

☐ Class III - Marked limitation of physical activity; comfortable at rest, but symptoms occur even with mild activity.

☐ Class IV - Complete limitation of physical activity; symptoms occur at rest.

2. DIABETES

Is the patient a known diabetic? Yes ☒ No ☐

If yes, answer the following:

Duration 10-12 years Is patient cooperative? Yes ☒ No ☐

Does he/she follow a prescribed diet? Yes ☐ No ☒ Status of Control

Insulin Shock? Yes ☐ No ☐ How often?

Diabetic Acidosis? Yes ☐ No ☐

If yes, describe:

Highest blood sugar in the last year: 212 Lowest blood sugar in the last year: 132
 Fasting or Postprandial

3. VISION

a. Visual acuity without glasses: RE: 20/40 LE: 20/40 BE: 20/40

b. Visual acuity with glasses: RE: 20/20 LE: 20/20 BE: 20/20

c. Color perception: Method:

d. Eye disease:

e. Is further examination suggested? Yes ☐ No ☐

f. Confrontation or visual field: Normal

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 Motor Vehicles.

4. HEARING

a. Does this patient hear conversational voice?

Yes ☒ No ☐

Driver Services, Deputy Director

Physician's Signature

Date

DI-7 (Section 2, Page 1)

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JUL 08 2014

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APR 25 2014

DRIVER IMPROVEMENT

0000084

Nikki R. Haley
Governor



Kevin A. Shwedo
Executive Director

State of South Carolina

May 16, 2014

Department of Motor Vehicles

H. H. Vonharten Jr.
PO Box 207
Beaufort, SC 29901-0207

RE: Case No.: 14-0398
Customer No.: 26009338

Dear Mr. Vonharten:

This letter is to acknowledge receipt of your medical statements. However, these statements are not acceptable. The enclosed medical forms were not included with the paperwork you submitted and must be completed in their entirety by you and your medical doctor. Incomplete medical statements will delay the processing of your paperwork. We ask that all correspondence be mailed to Department of Motor Vehicles, Driver Improvement Office, Post Office Box 1498, Blythewood, SC 29016-0016. Failure to comply within the next (15) fifteen days may result in the revocation of your driving privileges.

The Driver Improvement office is unable to complete our review of your case without the completion of all medical statements. Please note that in addition to the medical reports, in order to assess your ability to safely operate a motor vehicle, you will be required to demonstrate your skills and ability to exercise ordinary and reasonable control in the operation of a motor vehicle.

If we may be of further assistance regarding this matter, please contact us at (803) 896-9925.

Driver Improvement Supervisor

/seh

Enclosure: Medical Statements



South Carolina Department of Motor Vehicles
WAIVER OF RIGHT OF PRIVILEGED COMMUNICATION

DI-5
(Rev. 10/04)

Case Number

14-0398

Driver's License No.

1801323

I, H.H. Von Harten Jr.

Applicant's Name

of 166 Fuller Parkway, Beaufort, S.C. 29902 P.O. Box 207
Beaufort, S.C. 29906

Applicant's Address

General Practitioner
Neurologist
do hereby grant permission to Charles G. Shissias

Ego

Mark S. Siegel, PA-C Physician's Name

M.D.,

to communicate in full to the Department of Motor Vehicles of any of its legal representatives any and all information as to my mental or physical condition, or any matter within his knowledge that might affect my ability to operate a motor vehicle, and I freely and voluntarily waive any right that I might have to confidentiality of communication between doctor and patient in any such matter pertaining to the determination by the Department of Motor Vehicles as to whether or not I am qualified to operate a motor vehicle safely.

H.H. Von Harten Jr.
Signature of Applicant

5-18-14
Date

Jana Von Harten
Witness

5-18-14
Date

* Note: Dr. ~~Shissias~~ Shissias is still waiting for a copy of my brain ^{MRI} taken by the Veterans Administration. He will mail report when he receives this.

1449

Certified to be a true and correct copy of the original document on file with the South Carolina Department of Motor Vehicles.

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JUL 08 2014

D. L. Phillips
Driver Services, Deputy Director

DRIVER IMPROVEMENT

RECEIVED

MAY 20 2014

DRIVER IMPROVEMENT

Nikki R. Haley
Governor



Kevin A. Shwedo
Executive Director

State of South Carolina
Department of Motor Vehicles

May 27, 2014

Mr. H. H. Vonharten, Jr.
P.O. Box 207
Beaufort, SC 29901-0207

RE: Case #14-0398
Customer #26318986

Dear Mr. Vonharten:

This letter is to acknowledge receipt of your Waiver of Right of Privileged Communication Form DI-5 on May 20, 2014; however, our office wrote to you on January 17, 2014 and February 20, 2014 requesting that you submit the issued medical statements completed by you and your physician as to your medical fitness to safely operate a motor vehicle. Our office received your incomplete medical statements on April 25, 2014. As a result of this, your driving privileges were revoked as of March 22, 2014.

In order for this office to make an informed decision as your ability to safely motor vehicle, this office is requesting that you appear at your local DMV for re-examination of the skills test within the next fifteen days. You must present this letter and the enclosed Report of Vision Screening Form 412- NC to the DMV authorizing you for testing. Failure to comply will result in the continued revocation of your driving privileges.

If our office can be of further assistance, please do not hesitate to contact (803) 896-9925.

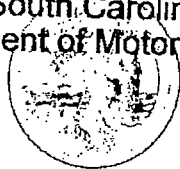
Sincerely,

A handwritten signature in cursive script that reads "Pearl Ardis".

Pearl Ardis, Supervisor
Driver Improvement

Enclosure
Report of Vision Screening Form 412-NC

South Carolina
Department of Motor Vehicles



06/03/2014

VONHARTEN, H H JR
PO BOX 207
BEAUFORT, SC 29901-0207

CUSTOMER NO: 26009338
FILE NO: 17388761
DL NO: 1801323

DEAR CUSTOMER:

DMV records indicate that the period of your South Carolina suspension(s) has ended. You have met the requirements to fully clear the suspension(s).

If you are eligible to obtain a South Carolina driver's license, you must apply at a local DMV Office. You may be required to take the following tests:

Vision
Knowledge
Skills

Driver Records Manager

000088

From:

06/27/2014 10:48

#144 P.002/006

Collect 7D



South Carolina Department of Motor Vehicles

Application for a Non-Commercial Credential (Class D, E, F, G, M, or an ID)

Commercial Applicants must complete Form 447-CDL for Class A, B, or C Licenses or Permits

447-NC
(Rev. 4/13)

I AM APPLYING FOR A (check any that apply):

☐ Beginner's Permit☐ Identification Card☒ Driver's License☐ Moped

IF RENEWING BY MAIL: You may be eligible to renew by mail if you are 65 years old or older and did not renew your driver's license by mail or online the previous renewal period. Licenses issued to international customers cannot be renewed by mail. If mailing application, be sure to include payment (no cash). See our website for driver license fees (www.scdmvonline.com) or call (803) 896-5000.

BP/DL/ID NUMBER

D01801323

CUSTOMER NUMBER

26009338

LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

VON HARTEN

HERMAN

H.

JR.

RESIDENCE ADDRESS (Must be your current address of residence and cannot be a P.O. Box)

COUNTY

240 Cedar Grove Circle

CITY or TOWN

STATE

ZIP CODE

PHONE NUMBER

EMAIL ADDRESS

Beaufort

S.C.

29902

(843) 524-2522

VHARTEN 2522 C Hartman Cm

I understand the Department will send mail to the residence address above unless I have specified a special or temporary mailing address below.

SOCIAL SECURITY NUMBER (SSN)

DATE OF BIRTH

HEIGHT

WEIGHT

RACE

GENDER

249-86-9786

Month

Day

Year

Feet

Inches

195

W

Male

Female

* Your Social Security number is required for the purposes of identifying you and preparing lists pursuant to South Carolina Code of Laws Section 56-1-90 and 14-7-130. The Driver's Privacy Protection Act of 1994 (DPPA), 16 U.S.C. Section 2221-2225, the Family Privacy Protection Act of 2002 (FPPA), 30 U.S.C. 2601-2602, and Section 56-3-545 of the S.C. Code restrict the disclosure of personal information contained in our records.

It is optional to ADD a SPECIAL and/or TEMPORARY mailing address to your file.

SPECIAL MAILING ADDRESS - Optional (To have your mail sent to an address different from residence address)

COUNTY

CITY or TOWN

STATE

ZIP CODE

Do you want to DELETE a special mailing address now on file?

☐ Yes

TEMPORARY MAILING ADDRESS - Optional (To have your mail sent to an address for a limited time period)

EXPIRATION DATE

CITY or TOWN

STATE

ZIP CODE

COUNTY

Do you want to DELETE a temporary mailing address now on file?

☐ Yes

ORGAN AND TISSUE DONATION

☐ YES, I want to be an organ and tissue donor.
☐ YES, I wish to donate \$5.00, more or less, to Donate Life SC.

Amount of donation \$ ____ .00

ORGAN DONOR STATEMENT: If you marked YES that you want to be an organ and tissue donor upon death, your consent shall serve as a legally binding document as outlined under the South Carolina Uniform Anatomical Gift Act. Except in the case where the donor is under the age of 18, the donation does not require the consent of any other person. For donors under the age of 18, the legal guardian of the donor shall make the final decision regarding the donation.

If you marked YES, you verify that you have read the organ donor statement and you consent for the SCDMV to send your personal information to the SC Organ and Tissue Donor Registry. A red heart will be printed on the front of your driver's license. If you are currently registered you must check YES to have the red heart reprinted on your license.

If you change your decision to consent in the future or wish to be removed from the SC Organ and Tissue Donor Registry, you can go online to www.DonateLifeSC.org or contact Donate Life SC at 1-87-PASS-IT-ON. You may also have your name removed from the registry by visiting any SCDMV office or www.SCDMVonline.com while completing a credential transaction. SCDMV will assess an administrative fee for the change and there may be a 72 hour delay in removing your name from the SC Organ and Tissue Donor Registry.

VOTER REGISTRATION

* Must be a United States Citizen and meet requirements to complete a DMV Voter Registration Application.
 Do you want to register to vote or update your address with the County Registration Board? (check one box)

☐ Yes, I wish to complete a DMV Voter Registration Application to register to vote or update my address with the County Registration Board.
☐ No, I decline the DMV Voter Registration Application. ☒ No, I have already registered to vote. ☐ No, I am not eligible to vote.

Sex Offender Registry Notice

Section 23-3-460 of the S.C. Code of Laws states that a person who has been convicted anywhere of an offense listed in 23-3-430 must register with the county sheriff within 3 days of establishing residency in South Carolina. A copy of the Sex Offender Registry Law is available upon request (www.sccodehouse.gov/code/23c003.php).

0000089

From:

06/03/2014 10:49

#144 P.003/006

QUESTIONS 1 through 12 MUST BE ANSWERED FOR PERMITS AND LICENSES (only questions 1 - 4 for an identification card)

1. Are you a resident of South Carolina? ☒ Yes ☐ No
2. Are you a citizen of the United States? ☒ Yes ☐ No
3. Do you now have or have you ever had a South Carolina identification card, beginner's permit, driver's license, or moped license? If yes, give the number and name if different from number and name given on this application ☒ Yes ☐ No
4. Do you now have or have you ever had an identification card, beginner's permit, driver's license, or moped license from another state or country? If yes, list information from last time issued. State/Country Florida
License Number _____ and Issue Date _____ ☒ Yes ☐ No

Do not answer the following questions if you are only applying for an identification card.

5. Is your beginner's permit, driver's license, moped license, or privilege to drive suspended, cancelled, revoked or disqualified in any state? If yes, where? S.C. when last? 3-22-14 ☒ Yes ☐ No
6. Have you recently surrendered your beginner's permit, driver's license, or moped license in court or to a law enforcement officer? If yes, when? _____ Reason _____ ☐ Yes ☒ No
7. In the past 12 months, have you experienced a loss of consciousness, muscular control or seizure? ☐ Yes ☒ No
8. a) In the past six months, have you experienced a heart attack or heart surgery? ☐ Yes ☒ No
b) Has your doctor recommended you not drive or placed restrictions on your driving at this time? ☐ Yes ☒ No
If the answer to "b" is yes, what are the restrictions? _____
9. Have you had a stroke and not recovered sufficiently to safely operate a motor vehicle at this time? ☐ Yes ☒ No
10. Are you a habitual user of alcohol or any other drug to a degree which prevents you from safely operating a motor vehicle at this time? ☐ Yes ☒ No
11. Do you have any mental or physical condition preventing you from safely operating a motor vehicle at this time? ☐ Yes ☒ No
If yes, please list condition(s): _____
12. Has your doctor recommended you not drive or placed restrictions on your driving at this time? ☐ Yes ☒ No
If yes, what are the restrictions? _____

INSURANCE INFORMATION (Check and complete the statement that applies to you.)

- ☐ Under penalties of perjury, I declare that I am insured with the following insurance company and will maintain liability insurance throughout the issuance period. COMPANY NAME: HORACE MANN INSURANCE CO.
- ☐ No motor vehicle required to be registered in South Carolina is owned by me or any relative residing in my household.

CONSENT FOR MINOR: Must be completed for all unemancipated applicants under the age of 18. I am parent or guardian of the unemancipated minor applicant. (1) If guardian, please provide documentation. (2) Responsible adult must complete Form 447-CMV. (3) Emancipated minors must submit one of the following as proof of emancipation (only the original or certified copies will be accepted):

☐ Court Order ☐ Certificate of Marriage ☐ Active Military Orders

I consent to the issuance of a beginner's permit and/or driver's license. I accept responsibility for the actions of the minor applicant as outlined in Section 56-1-10 of the South Carolina Code of Laws. To be released from this responsibility before the applicant reaches age 18, I understand that I must submit a written request for release to the Department of Motor Vehicles to have this application and the applicant's beginner's permit or driver's license cancelled.

RELATIONSHIP TO MINOR APPLICANT _____ PRINTED NAME _____ SIGNATURE _____ DATE _____
FATHER'S NAME (PRINT) _____ ADDRESS _____ ID/DL# _____ PHONE # _____
MOTHER'S NAME (PRINT) _____ ADDRESS _____ ID/DL# _____ PHONE # _____

I CERTIFY under penalty of perjury that all information and statements made in this application are true and correct as of the date of this application. I also CERTIFY that I do not have a valid driver's license other than the one(s) reported in questions #3 and #4 above and that my privilege to operate a motor vehicle is not now or subject to be suspended, cancelled, revoked or disqualified at the time of this application. I understand that I am receiving a S.C. credential based on the information provided on this application, and that SCDMV will verify all information. I also understand that if my privilege to drive is ever suspended, cancelled or revoked in South Carolina or any other state, my S.C. license will be revoked until I have met all reinstatement requirements in South Carolina and any other states.

H.H. Von Harten, Jr. H.H. Von Harten, Jr. 6-2-14
PRINTED NAME SIGNATURE DATE

FOR DMV OFFICE USE ONLY

☐ Exchanging Out-of-State Permit for a SC Permit or License STATE: _____ DOCS BR/DL NO.: _____
TYPE: ☐ Duplicate ☐ Modified ☐ Original ☐ Provisional ☒ Re-exam ☐ Reissue ☐ Renewal ☐ Route Restricted ☐ Temporary Alcohol
CLASS: ☒ D ☐ E ☐ F ☐ G (Moped) ☐ ID ☐ M (Motorcycle) RESTRICTIONS: _____
IDENTIFICATION SUBMITTED: ☐ Birth Certificate ☐ Passport/Visa ☐ SSN ☐ Proof of Residency

Knowledge Test
Date: 6/3/14 ☒ Passed ☐ Failed Comments: SCID
Date: _____ ☐ Passed ☐ Failed Comments: _____
Date: _____ ☐ Passed ☐ Failed Comments: _____
Skills Test
Date: 6-5-14 ☒ Passed ☐ Failed Comments: 14
Date: _____ ☐ Passed ☐ Failed Comments: _____
Date: _____ ☐ Passed ☐ Failed Comments: _____

Hearing: ☐ Impaired ☐ Deaf ☐ Poor ☒ Good
Missing Extremities: ☒ No ☐ Yes:
Vision
With corrective lens: Right 20/ Left 20/ Both 20/
Without corrective lens: Right 20/ Left 20/ Both 20/

Office Number: 97
Employee Signature: Paul Miller

000090

See Eye statement

From:

06/03/2014 10:50

#144 P.006/006



South Carolina Department of Motor Vehicles
Report of Vision Screening for
Non-Commercial Beginner Permits or Driver's Licenses

412-NC
(Rev. 11/12)

FORM IS ONLY VALID FOR 12 MONTHS FROM DATE OF VISION SCREENING

This form is void if there are any alterations or erasures on it.

Applicant's Name H. H. Van HARTEN, JR. Date of Birth 8-18-30 Driver's License Number SC 1801323
 Applicant's Address 240 Cedar Grove Circle City Beaufort State S.C. Zip Code 29902
 Applicant's Signature H. H. VanHarten, Jr. Date 6-3-14 Telephone Number 843-524-2522

THIS SECTION IS TO BE COMPLETED BY A LICENSED EYE CARE PROFESSIONAL

Do not return this form to an applicant requiring corrective lenses until new lenses are fitted.

Applicants must meet the minimum acceptable vision requirements, without the use of a telescopic lens or other attachment, provided below to obtain and maintain a South Carolina non-commercial driver's license or beginner's permit.

The South Carolina Department of Motor Vehicles
minimum visual acuity requirements, with or without corrective lenses,
are as follows:

- 20/70 or better in at least one eye; OR
 - ✓ If applicant's weaker eye is worse than 20/200, the stronger eye must read 20/40 or better
- Worse than 20/70 in each eye but 20/70 or better with both eyes together. This reading is only acceptable if accompanied by a statement from the eye care professional that no further improvement in vision can be made.

Distant Vision Only	Right Eye	Left Eye	Both Eyes
Without Corrective Lens	20/	20/	20/
With Corrective Lens	20/20 ¹	20/20	20/20
New Prescription	20/	20/	20/

1. DOES THE APPLICANT'S VISION MEET THE ABOVE STANDARDS TO OPERATE A MOTOR VEHICLE? ☒ Yes ☐ No

SECTION A - DRIVING RESTRICTIONS

2. Is a corrective lens, such as a conventional type spectacle or a contact lens, needed to operate a motor vehicle? ☒ Yes ☐ No
3. Is the applicant's vision worse than 20/200 in one eye? ☐ Yes ☒ No
4. Should the applicant be restricted to daylight driving only? ☐ Yes ☒ No

SECTION B - PERMANENT SIGHT IMPAIRMENT

5. a) Does the applicant have a permanent sight impairment? ☐ Yes ☒ No
- b) If yes, which eye? ☐ Right ☒ Left

SECTION C - RECHECK VISUAL FITNESS

6. Indicate when the applicant's eyes should be rechecked to determine visual fitness to operate a motor vehicle.
- ☐ In 6 months ☐ In 1 year ☐ In 2 years ☒ In 5 years ☐ Other (Comments)

Comments:

1. Mark S. Smeal, MD Professional No. 23292 being licensed to practice
ophthalmology in the state of South Carolina
 I have performed a vision screening of the eyes of the above named person. This is a true record of this screening and the applicant met the visual acuity standards without the use of a telescopic lens or other attachment. I further certify that I have answered all of the questions above and that he or she signed in my presence.

Signature of Eye Care Professional

Business Address

Screening Date

City

Telephone Number

State

Zip Code

DMV USE ONLY

I verified that the applicant is not applying for a CDL.

Date

DMV Employee Name

Office #

0000091

From:

06/23/2014 10:49

#144 P.004/006



South Carolina Department of Motor Vehicles RECORD OF EXAMINATION ROAD TEST SCORE FORM

447-EX
(Rev. 8/11)

Driver Information

Vonharten

Name: Last

Herman

First

H
MI

001501323

Driver License or Permit Number

AGV 212

Vehicle Tag Number

H. H. Vonharten Jr

Signature of Applicant

6/5/14

Date of Test

Hovos Hovos

Insurance Carrier

[Signature]

Signature of Examiner

03

Examiner Code

Insurance Number

Applicant Vehicle Inspection Items (Scored)

Start engine.....☐
Headlights (low & high beams).....☐
L & R turn signals (front & rear).....☐
Tail light & brake lights.....☐
Windshield wipers.....☐
Horn.....☐
(Only one point may be assessed per item)

Examiner Vehicle Inspection Items (NS)

Tires.....(NS)
Passenger side door.....(NS)
Driver side door.....(NS)
Valid registration card or bill of sale..(NS)
Windows must roll down(>90°).....(NS)
Seats & Seat belts.....(NS)
(See 447-EX (IS) for details)

Vehicle Inspection Score.....☐

AUTOMATIC FAILURES

(XF-41) Dangerous action.....☐
(XF-42) Violation of law.....☐
(XF-43) Non cooperation.....☐
(XF-44) Accident.....☐
(XF-45) Low score.....☐
See Appendix A for details

Notes:

A. L. Phillips
Driver Services, Deputy Director

SENT

JUL 08 2014

DRIVER IMPROVEMENT

VEHICLE INSPECTION SCORE:

BASIC SKILLS SCORE:

ROAD TEST SCORE:

TOTAL SCORE:

000092

SENT

06/28/2014 10:50

#144 P.005/006

JUL 08 2014



South Carolina Department of Motor Vehicles
RECORD OF EXAMINATION ROAD TEST SCORE FORM

447-EX
(Rev. 8/11)

LEFT		TURNS		RIGHT		INTERSECTIONS		STOP/START ON GRADE	
1	2	3	4	Approach	1	2	3	4	Approach
☐	☐	☐	☐	Signal.....	☐	☐	☐	☐	Checks traffic.....
☐	☐	☐	☐	Decelerate.....	☐	☐	☐	☐	Signal on.....
☒	☒	☐	☐	Checks traffic.....	☐	☐	☐	☐	Correct lane.....
☐	☐	☐	☐	Correct lane.....	☐	☐	☐	☐	
If Stopping Occurs									
☐	☐	☐	☐	Necessary.....	☐	☐	☐	☐	Stop
☐	☐	☐	☐	Smooth.....	☐	☐	☐	☐	Parallel, curb.....
☐	☐	☐	☐	Stop line/gap.....	☐	☐	☐	☐	Set proper gear.....
☐	☐	☐	☐	Full stop.....	☐	☐	☐	☐	Ignition turned off.....
☐	☐	☐	☐	Wheels straight	☐	☐	☐	☐	Set parking brake.....
Turning									
☐	☐	☐	☐	Both hands.....	☐	☐	☐	☐	Less than 18" from curb.....
☐	☐	☐	☐	Speed.....	☐	☐	☐	☐	Wheels set properly.....
☐	☐	☐	☐	Yield.....	☐	☐	☐	☐	Did not roll back.....
☐	☐	☐	☐	Wide/short.....	☐	☐	☐	☐	
Completing Turn									
☒	☒	☐	☐	Correct lane.....	☐	☐	☐	☐	Resume
☐	☐	☐	☐	Checks blind spot.....	☐	☐	☐	☐	Checks traffic.....
☐	☐	☐	☐	Finish Right Lane	☐	☐	☐	☐	Checks blind spot.....
☐	☐	☐	☐	Signal and/or cancel signal.....	☐	☐	☐	☐	Signal on.....
2 ✓ ✓ No Errors ✓ ✓ ✓ No Errors									

GENERAL DRIVING

(NOTE: Speed $\leq$ 5 mph over speed limit, deduct points. $\geq$ 5 mph over speed limit, automatic failure.)

	1	2	3	4	5
Uses brakes improperly (smooth braking, full stop).....	☐	☐	☐	☐	☐
Improper steering (one hand, palming, hands inside wheel).....	☐	☐	☐	☐	☐
Improper lane usage (incorrect, over lines).....	☐	☐	☐	☐	☐
Failed to regularly check for traffic.....	☐	☐	☐	☐	☐
Failed to stop at stop line or crosswalk or gap.....	☐	☐	☐	☐	☐
Improper use of turn signals.....	☐	☐	☐	☐	☐
Improper speed.....	☐	☐	☐	☐	☐
No Errors.....	☐	☐	☐	☐	☐

RURAL OR URBAN HWY

		R U		L R	
Regularly checks traffic.....	☐	☐	met Senior Deputy Director	☐	☐
Checks cross traffic.....	☐	☐	Checks traffic.....	☐	☐
Select proper lane.....	☐	☐	Checks blind spot.....	☐	☐
Keeps vehicle in lane.....	☐	☐	Signal.....	☐	☐
Proper speed.....	☐	☐	Spacing.....	☐	☐
Following distance (3 sec. rule).....	☐	☐	Smooth change.....	☐	☐
No Errors	☒	☒	Cancel signal.....	☐	☐
	☒	☒	No Errors	☒	☒

LANE CHANGES

Senior	Deputy Director	LR
Checks traffic		☐
Checks blind spot		☐
Signal		☐
Spacing		☐
Smooth change		☐
Cancel signal		☐
No Errors		

SIGNS/RECOGNITION

	1	2	3	4	5
Sign #	☒	☒	☐	☐	☐
	45	45			
No Errors	1	1	✓	✓	

Road Test Score

STRAIGHT LINE BACKING

Turns facing rear while backing.....	0	1
Checks traffic.....	0	1
Did not reverse direction.....	0	2 4 6
Excessive Speed >10 mph.....	0	5
Did not encroach.....	0	5

No Errors

THREE POINT TURNABOUT

Checks traffic.....	0 1
Turn signals.....	0 2
Did not bump curb lightly/leaves pavement.....	0 2 4 6 8
Did not bump curb hard.....	0 5
Correctly set wheels before backing.....	0 5
Completes exercise in 3 turns.....	0 5

No Errors

PARALLEL PARKING

Did not back more than twice.....0 8
Did not encroach.....0 2 4 6 8
Turn signals.....0 1 2
Checks traffic.....0 1
Checks blind spot.....0 1
Less than 18" curb.....0 5
Final position/completion.....0 8
No Errors.....1 2

No Errors

12

000093

06-05-14;15:10 ;From:Coastal Neurology

To:1803896992 ;8435221460

2/ 2

Phone (843) 522-1420

Fax (843) 522-1460

Paul Mazzeo, M.D.
Coastal Neurology, P.A.
1833 North Paris Avenue
Port Royal, S.C. 29935

June 5, 2014

Ms. Dorothy Ward Sturgeon
S.C. Department of Motor Vehicles
Driver Improvement Office
P.O. Box 1498
Blythewood, S.C. 29016-0016

RE: Herman H. Von Harten
P.O. Box 207
Beaufort, S.C. 29901
DOB: 8/18/1930
SS#: 249-36-9786

SENT

JUL 08 2014

DRIVER IMPROVEMENT

Dear Ms. Sturgeon:

I received a telephone call from the above referenced patient's son today advising me that his father has been "doctor shopping" in an attempt to get his driver's license reinstated. I was informed that he's seen Dr. Charles Shissias and a physician through the VA system. He's taken his written examination (which he passed) and may have taken a road test as well.

I do not know whether or not the physicians that Mr. Von Harten has seen since my last visit with him in March have signed off on his ability to drive. His family is understandably quite concerned; they have asked me to reiterate to you my opinion that his dementia precludes him from driving safely.

Thank you for your review.

As always, please keep the source of this information confidential.

Thank you.

Sincerely,

Paul Mazzeo, M.D.

Paul Mazzeo, M.D.
Board Certified, Neurology,
Behavioral Neurology & Neuropsychiatry

Certified to be a true and correct
copy of the original document on file
with the South Carolina Department of
Motor Vehicles.

RECEIVED

JUN 05 2014

DRIVER IMPROVEMENT

D. L. Bishop

Driver Services Deputy Director

000094

Nikki R. Haley
Governor



Kevin A. Shwedo
Executive Director

State of South Carolina

Department of Motor Vehicles

June 6, 2014

Mr. H.H. Von Harten, Jr.
P.O. Box 207
Beaufort, SC 29901-0207

RE: Case #14-0398
Customer #26009338

Dear Mr. Von Harten:

This letter is to advise you that your medical records and driver's examination results have been forwarded to the Medical Advisory Board for review; however, this review may take up to 30 days to complete. When we receive the Board's recommendation, you will be notified of their decision. Your driver's license status is currently suspended.

The Medical Advisory Board was created to advise the Department on medical criteria and vision standards related to the licensing of drivers. The Board is comprised of doctors selected by the Department of Health and Environmental Control. The Board operates independently of the Department of Motor Vehicles and its purpose in your case is to carefully evaluate your medical file and make an informed decision and recommendation to the Department.

If you should have any questions concerning the above, please do not hesitate to contact this office at (803) 896-9925.

Sincerely,

Pearl Ardis

Pearl Ardis, Supervisor
Driver Improvement

RECEIVED TO US 2 10 14 6:00 PM
JUN 11 2014
JUN 11 2014

Sturgeon, Dorothy W

From: Herman 'Bo' Von Harten <capt_bo@hotmail.com>
Sent: Friday, June 20, 2014 7:41 AM
To: Sturgeon, Dorothy W
Subject: FW: assessment-hh VonHarten
Attachments: HHVONHARTEN-ASSESSMENT.pdf; ATT00001.htm

Good morning Dorothy,

Attached is the first page of a five page driver assessment test that my father took at Beaufort Memorial Hospital this spring. We haven't been able to locate the additional 4 pages, and I am not sure if this info was sent to you by Dr Mazzeo. If you could kindly add it to his file I would appreciate it.

Thanks in advance and have a good weekend, Bo

H.H. 'Bo' Von Harten
1 Peeks Pike
Charleston, SC 29407
843-812-1722

From: patvonharten@gmail.com
Subject: assessment-hh VonHarten
Date: Wed, 18 Jun 2014 20:58:38 -0400
CC: patvonharten@gmail.com; tracyvon@icloud.com; sarahandray@cox.net
To: capt_bo@hotmail.com

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South Carolina Department of
Transportation

000096

MEDICAL ADVISORY BOARD TRANSMITTAL FORM
SC DEPARTMENT OF MOTOR VEHICLES
DRIVER IMPROVEMENT OFFICE

DATE SUBMITTED: 07/08/2014

CUSTOMER NAME: VonHarten, H. H., Jr.

CASE # 14-0398 CUSTOMER # 26009338

CAUSE: Physician Request

IMMEDIATE ACTION:

- ☒ Issued Medical Statements: _____
- ☐ Clearance Letter from Psychiatrist: _____
- ☐ Received Report from Medical Specialist: _____
- ☐ Received Driver Evaluation Report: _____
- ☐ Requested Driver Re-examination: _____

PREVIOUS ACTION:

PAST MEDICAL STATEMENTS: YES

NO

SENT
JUL 08 2014
DRIVER IMPROVEMENT

PREVIOUS ACTION TAKEN BY DEPARTMENT N/A

Notes to MAB: Request MAB Recommendation

Certified to be a true and correct
copy of the original document on file
with the South Carolina Department of
Motor Vehicles.

Pearl Andis
SIGNATURE

D. L. Phelps
Driver Services, Deputy Director

000097

3

**S C DEPARTMENT OF MOTOR VEHICLES
DRIVER IMPROVEMENT MEDICAL UNIT**

DATE 07/08/2014

Case # 14-0398

CUSTOMER NAME: Von Harten, H. H., Jr. Customer# 26009338

After review of the presented medical report of the above named case number, I recommend to the South Carolina Department of Motor Vehicles that the Applicant:

1. Be allowed to continue driving privileges: ()
2. Not be allowed to continue driving privileges: (X)
3. Have limited driving privileges as follows: ()

CHECK REQUIRED RESTRICTIONS

NO NIGHT DRIVING ()
NO INTERSTATE DRIVING ()
NEIGHBORHOOD DRIVING NOT TO EXCEED 50 MILES PER HOUR ()
NO DRIVING BETWEEN THE HOURS OF 7:30AM-9:30AM / 4:30PM-7:00 PM ()

List other Restrictions that are required: _____

CHECK ANY REQUIRED ACTION

DRIVER REQUIRED TO TAKE WRITTEN EXAM ()
DRIVER REQUIRED TO TAKE ROAD TEST ()

SENT

JUL 08 2014

4. Recommend Driver Re-examination and period of time: _____

DRIVER IMPROVEMENT

5. Require further medical examination as follows: _____

Certified to be a true and correct
copy of the original document on file
with the South Carolina Department of
Motor Vehicles.

[Signature]

Chris Services, Deputy Director

MEDICAL ADVISORY BOARD RECOMMENDATION:

The information provided from the neuro evaluation, outpatient rehab, family history & the driving history give ample evidence that Mr. Von Harten should not operate a motor vehicle due to safety concerns for him & others. MAB recommends that driving privileges be revoked.

000098

[Signature] 7/8/2014
SIGNATURE

[Print this page](#)

**South Carolina Board of Medical Examiners
Website Verification**

1833 NORTH PARIS AVENUE
PORT ROYAL, SC 29935

SENT

JUL 08 2014

Name: PAUL MAZZEO Profession: MD

Office Phone: (843) 522-1420

DRIVER IMPROVEMENT

Basis: NB 92

School: GEO

Graduation: 05/25/1991

License No: 17802

Date Issued: 07/01/1995 Expiration: 06/30/2015

Specialty: N* N

Rx#:

Rx Issue Date:

Primary Source Verification of Graduation Certified

Hospital Affiliation (s):

BEAUFORT MEMORIAL HOSPITAL

Credential Status: Active

No disciplinary action taken by the Board. This certifies that the above licensee is in good standing.

Board Public Action History: None

License History:

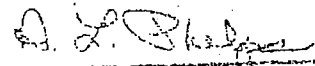
Temporary License Number: OT1800

Temporary License Issue Date: 03/20/1995

Verification disclaimer

File a Complaint against this Licensee

Certified to be a true and correct
copy of the original document on file
with the South Carolina Department of
Motor Vehicles.



Driver Services Deputy Director

000099

Nikki R. Haley
Governor



Kevin A. Shvedo
Executive Director

State of South Carolina
Department of Motor Vehicles

July 10, 2014

Mr. H.H. Von Harten, Jr.
P.O. Box 207
Beaufort, SC 29901-0207

RE: Case #14-0398
Customer #26009338

Dear Mr. Von Harten:

This letter is to advise that your medical reports have been reviewed by the Medical Advisory Board. It is the recommendation of the Medical Advisory Board's having reviewed your medical reports and Outpatient Rehabilitation Evaluation Report that you should not operate a motor vehicle due to safety concerns for yourself and others. In view of this, the Department must revoke your driving privileges.

It is the policy of SC Department of Motor Vehicles to follow the recommendation of the Medical Advisory Board. In view of this, the Department must revoke your driving privileges. After surrendering your driver's license, you may obtain a South Carolina Identification Card from your local DMV.

If we may be of further assistance regarding this matter, please contact us at (803) 896-9925.

Sincerely,

A handwritten signature in cursive script that reads "Pearl Ardis".

Pearl Ardis, Supervisor
Driver Improvement

Bcc: H.H. Von Harten, III, P.O.A.

000100

Post Office Box 1498, Blythewood, South Carolina 29016

South Carolina
Department of Motor Vehicles



07/10/2014

VONHARTEN, H H JR
PO BOX 207
BEAUFORT, SC 29901-0207

CUSTOMER NO: 26009338
FILE NO: 17571406
DL NO: 1801323

OFFICIAL NOTICE

You may not drive commercial or non-commercial motor vehicles.

REASON: PHYSICALLY DISQUALIFIED

CAUSE DATE: 07/10/2014

SECTION OF LAW: 56-1-270

BEGINNING DATE: 12:01 AM 08/09/2014

ENDING DATE: When you receive notice from the Department that this action has been cleared.

HEARING:

You may submit a written request for a hearing along with the \$200.00 filing fee to the South Carolina Office of Motor Vehicle Hearings, 1205 Pendleton St., Suite 325, Columbia, SC 29201, within 20 days of the date of this letter to have a hearing scheduled. (Personal checks are not accepted).

SPECIAL DRIVING PRIVILEGES:

There are no special driving privileges available to you. You may not drive until the suspension period has ended and you have done the following:

MEDICAL STATEMENTS:

You must submit satisfactory medical statements to Driver Improvement, PO Box 1498, Blythewood, SC 29016-0016. If satisfactory medical statements are received and approved by the Medical Advisory Board before the beginning date of the above listed suspension, the tests may not be required.

TESTS:

You must successfully complete the vision, knowledge and skills test.

THIS LETTER CONCERNS ONLY THE ACTION LISTED ABOVE AND DOES NOT CHANGE ANY OTHER NOTICES WE HAVE SENT TO YOU.

Driver Records Manager

Certified to be a true and correct
copy of the original document on file
with the South Carolina Department of
Motor Vehicles.

[Signature]

Driver Records Manager

000101

LAW OFFICE OF ROBERT E. FERGUSON, JR., LLC

46-C Sams Point Road • Post Office Box 845

Beaufort, South Carolina 29901

843.521.0141 (o) • 888.844.0723 (f) • robbie@referguson.com

www.referguson.com

July 18, 2014

South Carolina Administrative Law Court
Office of Motor Vehicle Hearings
1205 Pendleton Street, Suite 325
Columbia, SC 29201

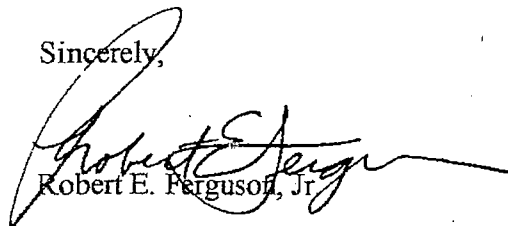
RE: *H. H. Von Harten, Jr.*

SCDL#: 1801323

To whom it may concern,

I have been retained to represent Mr. Von Harten. Please accept this letter as our respectful request for a hearing pursuant to the enclosed Official Notice. Please let me know if you need any additional information to process this request. Thank you for your time and consideration.

Sincerely,



Robert E. Ferguson, Jr.

REF/naw

Enclosure

Cc: Mr. H. H. Von Harten, Jr. (w/ enclosure)

000102

Cash Receipt

Number: CR1407-0444
Till: OMVH Till
Posted: Yes

Dated: 07-22-2014
Total Paid \$200.00

Void Information
Void Method:
Void Posted: No
Void Explanation:
Voided: No

Generate

Cash Receipt

Invoice (1)				
Date	Number	Item Type	Customer	Paid
07-22-2014	NV1407-0438	Case Filing Fee - \$200	Vonharten, H. H., Jr.	200.00

Payment (1)		
Payment Method	Reference	Paid
Check	6839101415	200.00

000103

Docket No. 14-OMVH-06-3944-CC
DL# 1801323

Respondent.

000104

Yolanda Williams

From: Yolanda Williams
Sent: Wednesday, July 23, 2014 11:11 AM
To: Robert Ferguson (robby@referguson.com); HPU@scdmv.net
Subject: Notice of Hearing, HH Vonharten, 09-24-14 dk# 14-3944
Attachments: Notice of Hearing, HH Vonharten, 09-24-14 dk# 14-3944.pdf

Yolanda P. Williams
Administrative Coordinator
Scheduling Assistant for
Brigitte Autry and Tracy Holland
South Carolina Administrative Law Court
Office of Motor Vehicle Hearings
1205 Pendleton Street, Ste 325
Columbia, SC 29201
803-734-3201
803-734-3200 fax

000105

Nikki R. Haley
Governor



Kevin A. Shwedo
Executive Director

State of South Carolina
Department of Motor Vehicles

July 24, 2014

Yolanda P. Williams
Administrator Coordinator, Office of Motor Vehicles Hearings
South Carolina Administrative Law Court
1205 Pendleton Street, Suite 325
Columbia, South Carolina 29201

9-24-14
BA.

RE: *H. H. Von Harten, Jr. v. South Carolina Department of Motor Vehicles*
Physical Disqualification Hearing
Docket No: 14-OMVH-06-3944-CC
SCDL No: 1801323

Dear Ms. Williams:

The South Carolina Department of Motor Vehicles provides the enclosed documents for introduction into the record at the physical disqualification hearing. Please file the original and return a clocked copy to me in the self-addressed envelope.

If you have any questions, please contact me at 803.896.9900.

Sincerely,

Wanda R. Ealy
Wanda R. Ealy
Paralegal Assistant
Office of General Counsel

Enclosures: Notice of Suspension letter dated 07/10/2014
Medical Documents

c: Robert E. Ferguson Jr., Esquire

FILED

JUL 28 2014

SCOMVH

RECEIVED

JUL 28 2014

SCOMVH

Nikki R. Haley
Governor



Kevin A. Skwedo
Executive Director

State of South Carolina
Department of Motor Vehicles

September 18, 2014

Yolanda P. Williams
Administrator Coordinator, Office of Motor Vehicles Hearings
South Carolina Administrative Law Court
1205 Pendleton Street, Suite 325
Columbia, South Carolina 29201

9. 24-14
BA

RE: *H. H. Von Harten, Jr. v. South Carolina Department of Motor Vehicles*
Physical Disqualification Hearing
Docket No: 14-OMVH-06-3944-CC
SCDL No: 1801323

Dear Ms. Williams:

The South Carolina Department of Motor Vehicles provides the enclosed documents for introduction into the record at the physical disqualification hearing. Please file the original and return a clocked copy to me in the self-addressed envelope.

If you have any questions, please contact me at 803.896.9900.

Sincerely,

Wanda R. Ealy

Wanda R. Ealy
Paralegal Assistant
Office of General Counsel

Enclosures: Notice of Suspension letter dated 07/10/2014
Medical Documents

c: Robert E. Ferguson Jr., Esquire

RECEIVED
SEP 19 2014
SCOMVH

FILED
SEP 19 2014
SCOMVH

000107

Exhibits - Physical Disqualification

Hearing: Petitioner: SCDMV
Respondent: HH Vonharten
Attorney: Robert Ferguson, Esq.

Docket No.: 14-OMVH-06-3944-CC

Date of Hearing: September 24, 2014 Location: Jasper County Court House

Hearing Officer: Brigette B. Autry

☐ I hereby certify that neither party offered exhibits into the record.

☒ I hereby certify that exhibit(s) were offered into the record and are indicated below.

PETITIONER:

- ☒ Notice of Revocation dated 7/10/14
- ☒ Letter to Respondent dated 1/17/14
- ☒ Medical Advisory Board recommendation
- ☒ License verification for Dr. Paul Mazzeo
- ☒ Letter from Dr. Mazzeo dated 12/31/13
- ☒ Waiver of Right of Privileged Communication
- ☒ Medical Statements – Medical and Accident History and Physician's Findings
- ☒ Vision Screening Report
- ☒ Record of Examination Road Test Score
- ☒ Letter from Dr. Mazzeo dated 6/5/14
- ☒ Occupational Therapy Driving Related Skills Assessment
- ☒ Letter from Pearl Ardis dated 7/10/14
- ☒ Internal Driving Record

PETITIONER (continued)

- ☒ Letter to Dr. Mazzeo dated 1/17/14
- ☒ Letter from Respondent dated 2/7/14
- ☒ Defensive Driving course certificate
- ☒ Letter to Respondent dated 2/20/14
- ☒ Letter to Respondent dated 5/16/14
- ☒ Letter to Respondent dated 5/27/14
- ☒ Notice regarding driving privileges dated 6/3/14
- ☒ Driver's license application
- ☒ Letter to Respondent dated 6/6/14
- ☒ email dated 6/20/14 from Respondent's son

RESPONDENT

☐ NONE

☒ I hereby certify that no exhibits were attached to this form and it was delivered to the OMVH Office by either _____ hand delivery or X e-mail. (Petitioner's exhibits were forwarded to OMVH prior to hearing – originals already in file)

☐ I hereby certify that the listed exhibits were attached to this form and delivered to the OMVH Office by either _____ hand delivery or _____ e-mail.

Date e-mailed November 30, 2014 or Date hand delivered _____

Signature _____

Brigette B. Autry

000108

Yolanda Williams

From: Yolanda Williams
Sent: Monday, December 01, 2014 3:00 PM
To: Robert Ferguson (robbie@referguson.com); HPU@scdmv.net
Subject: 12-01-14 H.H. Vonharten, PHY DISQ Final Order
Attachments: 1 Reconsideration-appeal instructions 2011.pdf; 12-01-14 Cert. of Serv.-signed.pdf; Vonharten, HH - 14-3944 - Final Order and Decision.pdf

Attached is a copy of the hearing officer's decision. Your client will receive additional information via mail from the DMV regarding their driving privileges.

Yolanda P. Williams
Administrative Coordinator
Scheduling Assistant for
Brigitte Autry and Tracy Holland
South Carolina Administrative Law Court
Office of Motor Vehicle Hearings
1205 Pendleton Street, Ste 325
Columbia, SC 29201
803-734-3201
803-734-3200 fax

000109

LAW OFFICES

MOSS, KUHN & FLEMING, P.A.

JAMES H. MOSS
H. FRED KUHN, JR.
CORY H. FLEMING

1501 North Street P.O. Drawer 507 - Beaufort, South Carolina 29901-0507
TELEPHONE 843-524-3373
FAX 843-524-1302

KIMBERLY L. SMITH
EVE M. FLEMING

ALSO MEMBER OF GABA

December 29, 2014

South Carolina Administrative Law Court
Attn: Clerk
Office of Motor Vehicle Hearings
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201

RE: Docket No.: 14-OMVH-06-3944-CC
DL#: 1801323

Dear Sir or Madam:

I have been retained to represent Mr. Von Harten with regard to the above captioned matter. Enclosed please find our *Notice of Appeal of Final Order and Decision* along with my firm check in the amount of \$150.00 representing the filing fee for this document. After filing the original document, please send me clocked copies in the self-addressed stamped envelope provided herewith.

Finally, please send me a formal *Notice of Hearing* once a date has been such for the same.

With warm regards, I am

Sincerely,

MOSS, KUHN & FLEMING, P.A.

James H. Moss

JHM/cth
Enclosures

cc: Office of the General Counsel, SCDMV
Brigette B. Autry, OMVH
Mr. H. H. Von Harten, Jr.

000110

Transcript - 10/2/15 *1/12/15*
Yolanda Williams

From: Yolanda Williams
Sent: Monday, January 05, 2015 2:30 PM
To: Creel Reporting (amanda@creelreporting.com); crystal@creelreporting.com
Subject: Transcript Request for HH VonHaren
Attachments: Vonharten, HH_20140924-1212_01cfd7f0d8a1d0c0.wma

Attached please find the transcript request for HH. Vonharen. Below is the contact information for the attorney that requested the transcript. If you have any question please let me know.

James H. Moss,
Attorney at Law
P.O. Drawer 507
Beaufort, SC 29901-0507

Yolanda P. Williams
Administrative Coordinator
Scheduling Assistant for
Brigette Autry and Tracy Holland
South Carolina Administrative Law Court
Office of Motor Vehicle Hearings
1205 Pendleton Street, Ste 325
Columbia, SC 29201
803-734-3201
803-734-3200 fax

11-3944

000112

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

H. H. Vonharten,

Appellant,

v.

South Carolina Department of Motor
Vehicles,

Respondent.

NOTICE OF ASSIGNMENT

DOCKET NO. 14-ALJ-21-0604-AP

NOTICE IS GIVEN that a notice of appeal seeking review of agency action was filed on December 29, 2014. In accordance with S.C. Code Ann. § 1-23-570 (Supp. 2013), the **Honorable Deborah Brooks Durden**, Administrative Law Judge, has been assigned to preside in this appeal. The Administrative Law Judge may be contacted by mail at 1205 Pendleton Street, Suite 224, Columbia, South Carolina 29201, and by telephone at (803) 734-0550.

Rules of Procedure governing matters before the Court may be obtained from the Clerk of Court or on the Court's website, www.scalc.net.

The parties are directed to the relevant provisions of the Rules of Procedure for deadlines for perfecting the appeal and briefing the issues on appeal.

This the fourteenth day of January, 2015.

Ralph King Anderson, III
Chief Administrative Law Judge

By: *Jana E. Shealy*
Jana E. Shealy, Clerk
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201

FILED

JAN 14 2015

000113

SC ADMIN. LAW COURT

000114

INDEX

Post-Hearing 1

- ☒ Notice of Assignment
- ☒ Transcript
- ☒ Order of Transcript
- ☐ Request for Transcript
- ☐ No Transcript Request Received
- ☐ No appeal served on OMVH as required in accordance with ALC Rule 33
- ☐ Transcript Ordered/Pending
- ☐ Audiotape Request
- ☐ Brief of Appellant
- ☒ Notice of Appeal
- ☐ Order of Dismissal
- ☒ Final Order and Decision
- ☐ Order for Motion to Reconsider
- ☐ Motion to Reconsider
- ☐ Objection to Motion to Reconsider
- ☐ No Audiotape Available: _____

Hearing / Exhibits 2

- ☐ Notice of Suspension
- ☐ Breath Alcohol Test Report
- ☐ Implied Consent Advisement
- ☐ Datamaster Certification
- ☐ Accident Report
- ☐ Character Affidavits
- ☐ Official 10-year Driver Record
- ☐ VHS/DVD available in OMVH office
- ☒ Other Exhibits See Page Number 00051 - 000110

Pre-Hearing..... 3

- ☐ Order of Continuance: ____ 2nd ____ 3rd ____ 4th
- ☐ Request for Continuance ____ Granted ____ Denied
- ☐ Subpoena Request
- ☒ Legal Representation Letter
- ☐ Pretrial Motion
- ☒ Notice of Hearing
- ☒ Hearing Request Receipt
- ☐ Petition for Reduction of 5-year Suspension Period
- ☐ Official 10-year Driver Record
- ☐ Written Request for Hearing
- ☒ SCDMV Notice of Suspension
- ☐ General Correspondence

Certificate of Service..... 4

000115

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT

DEBORAH BROOKS DURDEN
ADMINISTRATIVE LAW JUDGE

DOCKET NUMBER 14-ALJ-21-0604-AP

H. H. VONHARTEN,

Appellant,

v.

SOUTH CAROLINA
DEPARTMENT OF MOTOR VEHICLES,

Respondent.

OF WHOM H. H. VONHARTEN IS THE APPELLANT.

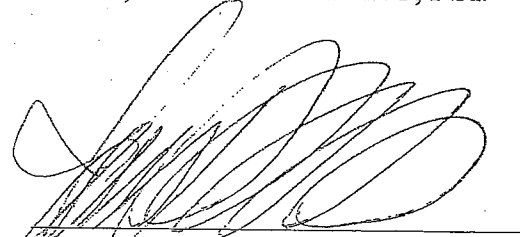
NOTICE OF APPEAL

The Appellant, H. H. Vonharten, hereby appeals the Order of the Honorable
Deborah Brooks Durden, Administrative Law Judge in the South Carolina Administrative

000116

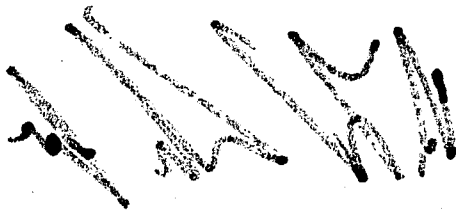
Law Court, dated and filed in Columbia, South Carolina on June 9, 2015, a copy of which is appended hereto. Appellant received written notice of the entry of the Order on June 16, 2015.

MOSS, KUHN & FLEMING, P.A.



James H. Moss
1501 North Street
Post Office Drawer 507
Beaufort, South Carolina 29901
(843) 524-3373
(843) 524-1301 facsimile
jim@mossandkuhn.com

Beaufort, South Carolina
July 7, 2015



000117

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE SOUTH CAROLINA
DEPARTMENT OF MOTOR VEHICLES

CASE NO: 2015-001491

H. H. VONHARTEN,

Appellant,

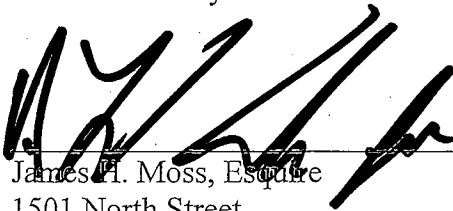
v.

SOUTH CAROLINA
DEPARTMENT OF MOTOR VEHICLES,

Respondent.

CERTIFICATE OF COUNSEL

I certify that the foregoing Record on Appeal contains all material proposed to be included by any of the parties and not any other material. I further certify that all material contained herein is relevant to the issues on Appeal.



James H. Moss, Esquire
1501 North Street
Post Office Drawer 507
Beaufort, South Carolina 29901
(843) 524-3373
(843) 524-1301 facsimile

000118