STATE OF RHODE ISLAND **DISTRICT COURT**
PROVIDENCE, Sc. **SIXTH DIVISION**

Aaron Wilson	:	
	:	
v.	:	**A.A. No. 2024 – 002**
	:	
Rhode Island Division of Motor Vehicles (Adjudication Office)	:	

O R D E R

This matter is before the Court pursuant to § 8-8-8.1 of the General Laws for review of the Findings and Recommendations of the Magistrate.

After a de novo review of the record, the Court finds that the Findings and Recommendations of the Magistrate are supported by the record, and are an appropriate disposition of the facts and the law applicable thereto.

It is, therefore, ORDERED, ADJUDGED AND DECREED

that the Findings and Recommendations of the Magistrate are adopted by reference as the decision of the Court and the decision rendered by the Adjudication Office Division of Motor Vehicles in this matter is hereby AFFIRMED.

Entered as an Order of this Court at Providence on this 16th day of September, 2024.

By Order:

/s/

Enter:

/s/
Jeanne E. LaFazia
Chief Judge

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F I N D I N G S   A N D   R E C O M M E N D A T I O N S

Ippolito, M. In this case Mr. Aaron Wilson returns to this Court seeking once again to overturn the refusal of the Division of Motor Vehicles (the DMV) to reinstate his license to operate a motor vehicle pursuant to G.L. 1956 § 31-11-7(a)(1)(iii) because, in its judgment, he poses "an imminent safety risk on the highways."

Jurisdiction for the instant appeal is vested in the District Court by G.L. 1956 § 31-11-15 and the applicable standard of review is found in G.L. 1956 § 42-35-15(g). This matter has been referred to me for the making of findings and recommendations pursuant to G.L. 1956 § 8-8-8.1. After a review of the entire record I find, for the reasons explained below, that the decision rendered by the DMV in this case should be AFFIRMED. I so recommend.

I
Facts and Travel of the Case

The instant case arose in this way:[1] on August 11, 2022, Mr. Aaron Wilson appeared before a Judge of this Court and received a sentence on a Portsmouth Police charge of Driving While Under the Influence (2nd Offense); under that sentence, his license to operate a motor vehicle was suspended for a period of 60 days (effective June 23, 2022). After the expiration of that period, Mr. Wilson, who had seven adjudications for alcohol-related driving offenses, appeared at the DMV Office of Adjudication seeking to reinstate his driving privileges. However, the DMV rejected Mr. Wilson's request; instead, he was informed that, because of the number of alcohol offenses he had accrued, his license would be subject to a further suspension unless he could demonstrate that he was able to be a safe driver. He declined to participate in this process, choosing to file an appeal in the District Court.[2]

Mr. Wilson asserted in that appeal that the DMV could not withhold his license for a period longer than that set out by the judge in the criminal case.[3] But this Court did not agree. We ruled that a suspension ordered by a judge pursuant to the drunk driving statute, G.L. 1956 § 31-27-2, and effected by the DMV

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[1] The following narrative is drawn from this Court's opinion in *Aaron Wilson v. Div. of Motor Vehicles (Adjudication Office),* A.A. No. 2022-195, at 2-3 (Dist.Ct. 3/3/2023) (herein-after *Wilson I*).

[2] *See* Appeal Form for Administrative Appeal No. 6AA-2022-00195, which may be found under the heading "Administrative Appeal Filed" in the electronic record attached to that case, at 1.

[3] *Id.* at 2.

pursuant to G.L. 1956 § 31-11-7(a)(1)(i), did not preclude a further suspension (or a refusal to reissue) pursuant to G.L. 1956 § 31-11-7(a)(1)(iii).[4] Consequently, we remanded the case to the DMV so that it could proceed to the making of a decision on this issue.[5]

Upon remand, the matter was referred to the Division's Medical Advisory Board, which conducted a hearing on December 13, 2023. After which, the Board made recommendations in Mr. Wilson's case, which were adopted by the Chief of the Adjudication Office in his decision which was issued on December 21, 2023.[6]

Mr. Stewart indicated that the Board recommended that Mr. Wilson "… participate in alcohol/substance abuse counseling, including weekly urine toxicology screens for a period of at least one (1) additional year and submit certified documentation of your completion."[7] *Adjudication Office Decision* (Dec. 21, 2023), at 1; *ER* at 2. The Adjudication Chief then enumerated the following bases for the Board's recommendation:

First, Mr. Wilson's eight convictions for alcohol related offenses;[8]

Second, his six prior appearances before the Medical Advisory Board — suggesting the prior suspensions and periods of documenting treatment and

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[4] *Wilson I,* at 5-6.

[5] *Wilson I,* at 6-7.

[6] *See Decision of J. Darren Stewart,* Chief of the Adjudication Office, which may be found in the Electronic Record attached to this case, at 2-3 (henceforth *ER*).

[7] *Id.* at 1; *ER* at 2.

[8] *Id.* at 1; *ER* at 2.

negative toxicology screens have not deterred him from driving under the influence;

Third, Mr. Wilson's responses to the questions posed by the Board at the hearing — some which, in the Board's estimation, were "contradictory and nonsensical."[9] Examples of such responses included his testimony that he had purchased a personal breathalyzer and he was over the limit after just one beer, which was contradicted by the police report for the arrest which reported multiple empty beer cans in his car and his failure to pass the standardized field sobriety tests.[10]

For these reasons, the Adjudication Office found Mr. Wilson to be "… a safety risk to the general public on the highways of this state or any other in which [he] may operate a motor vehicle."[11]

Subsequently, on January 3, 3024, Mr. Wilson filed a timely petition for judicial review in the Sixth Division District Court. He stated his reasons for the instant appeal as follows:

> … I am filing this appeal because I am in disagreement with the Board decision based on the facts that I did what the DMV required me to do in one year of counseling and urine screens. I also disagree with the decision they based their decision on. They state that I have been before the Medical Board (6) six time. That is False, I been before them (3) time which includes the last apperance on December 13, 2023. I would like to state that there was only one medical Doctor in the hearing the rest were DMV workers and their Lawyer because I filed and

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[9] *See Decision of J. Darren Stewart,* Chief of the Adjudication Office, at 2; *ER* at 3.

[10] *Id.* at 2; *ER* at 3.

[11] *Id.* at 2; *ER* at 3.

> Appeal in within the last year against the DMV. So I feel that this was a way to get back at me for filing the Appeal back in August 2022. So the reason for this Appeal is that they are now making there own rules and not compling with any rules out lined by the RIGL. I have complied with what I was suppose to do in accordence to their requirement, and now they are changing the rules as we move on. I am asking this court to intervine with the decision of the Medical Board because I did what was required of me in accordance to RIGL. 31-11-10 and yet I was still denied reinstatement and told to do another year of Alcohol Counsling and unrine screens. So I wish to have this matter heard before a Judge because it seems that the dmv can just do what they want and not complie with the RIGL.[12]
> …

Subsequently, on April 5, 2024, memoranda were received from Appellant and the DMV.

II

Standard of Review under the Administrative Procedures Act

The standard of review which this Court must employ in the instant case is enumerated in G.L. 1956 § 42-35-15(g), a provision of the Rhode Island Administrative Procedures Act (APA), which provides as follows:

> (g) *Standard of review.* The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The district court judge may affirm the decision of the agency or remand the case for further proceedings, or it may reverse or modify the decision if the substantial rights of the appellant have been prejudicial because the administrative findings, inferences, conclusions or decisions are:
> (1) In violation of constitutional or statutory provisions;
> (2) In excess of the statutory authority of the agency;
> (3) Made upon unlawful procedure;

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[12] *See* "Reasons for Appeal" form for Administrative Appeal No. 6AA-2024-00002, which may be found under the heading "01/03/2024 Administrative Appeal Filed" in the electronic record attached to the instant case, at 2.

> (4) Affected by other error of law;
> (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
> (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Under the APA standard, the District Court "* * * may not substitute its judgment for that of the agency and must affirm the decision of the agency unless its findings are 'clearly erroneous.'" *Guarino v. Dep't of Soc. Welfare,* 122 R.I. 583, 588, 410 A.2d 425, 428 (1980). Thus, the Court will not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. *Cahoone v. Bd. of Rev. of the Dep't of Emp't Sec.,* 104 R.I. 503, 506, 246 A.2d 213, 215 (1968). Stated differently, the findings of the agency must be upheld even though a reasonable mind might have reached a contrary result. *Id.* at 506-07, 246 A.2d at 215.

III
Law Applicable to the Case: Authority to Issue or Suspend Licenses

The Division of Motor Vehicles (DMV) is a component part of Rhode Island's Department of Revenue. G.L. 1956 § 31-2-1. The DMV is led by an Administrator, who is responsible for the enforcement of the Motor Vehicle Code (Title 31). G.L. 1956 § 31-2-3. The DMV is granted the authority to issue licenses to operate motor vehicles by § 31-2-1. The DMV is barred from issuing licenses in several circumstances enumerated in G.L. 1956 § 31-10-3. In addition, other provisions of the General Laws specify the circumstances under which an operators' license may be suspended. Among these are:

(1) G.L. 1956 § 31-11-7(a)(1)(i), where the person has been convicted of certain traffic offenses; and

(2) G.L. 1956 § 31-11-7(a)(1)(iii), where the operator "[p]oses an imminent safety risk to the general public as determined by the application of objectively ascertainable standards." When proceeding under this subsection, the DMV must prove the motorist's lack of fitness by clear and convincing evidence. G.L. 1956 § 31-11-7(d). And the DMV may be assisted in making a determination under this subsection by the Medical Advisory Board established in G.L. 1956 § 31-10-44(b).

III
Analysis

Mr. Wilson's overarching legal viewpoint in this case is that the DMV was required to reissue his license at the expiration of the suspension ordered by the Court in the criminal case. This Court rejected that theory in *Wilson I* and, for purposes of preserving the record, the Court reiterates that position here. The DMV is authorized to refrain from reissuing licenses to persons who will pose a safety hazard on the highways, under § 31-11-7(a)(1)(iii). *See Wilson I,* slip op. at 5-6.

Of course, upon remand, the Office of Adjudication, with the assistance of the Medical Advisory Board, was tasked with considering whether Mr. Wilson met that standard — that is, whether he presents "an imminent safety risk to the general public as determined by the application of objectively ascertainable standards." After doing so, the DMV found that he did. I must therefore conclude

that this decision was grounded on competent evidence of record, based on objective criteria.

Firstly, the Board considered Mr. Wilson's record of recidivism, which is beyond concerning; it is troubling. It demonstrates a pattern of alcohol abuse. Mr. Wilson does not attempt to minimize the number of his prior transgressions and it would have been an exercise in futility had he tried.

Secondly, the Board considered Mr. Wilson's prior appearances before the Medical Advisory Board — suggesting that its prior efforts to prevent Mr. Wilson from reoffending have been unsuccessful, and that any future attempts it might make might also fail. Mr. Wilson counters that he has only been before the Board on three prior occasions. Even assuming this lesser figure is accurate — and the DMV did not challenge this figure in its memorandum — the Board was unquestionably justified in being less than optimistic that on this occasion he would finally attain permanent sobriety.

Thirdly, the Medical Advisory Board was very troubled by Mr. Wilson's extraordinary assertions about his metabolism, at least as it relates to the processing of alcohol. To be specific, Mr. Wilson advanced his belief that he can achieve alcohol readings above the legal limit after drinking one beer. He told the Board that he had validated this claim by using a personal breathalyzer.

The Medical Board found this claim implausible — to the extent that it found this aspect of his testimony to be so incredible that, in the eyes of the Board, it affected his overall credibility regarding the issue of his sobriety. And, since the

Office of Adjudication is entitled to defer to the Board on medical issues, it had the right to rely upon this finding. Of course, from a lay perspective, the Office of Adjudication was certainly able to comprehend that Mr. Wilson's statement about his last incident was contradicted by the observations of the officer regarding the number of empty beer cans in his vehicle and the statement of the witness as to his behavior.

Yet, even more curious than Mr. Wilson's assertions regarding his metabolism is the fact that he believes that it somehow constitutes a defense. It is a crime to drive when one's blood-alcohol content is above the legal limit of .08. Whether Mr. Wilson achieves this reading after imbibing four beers or one beer is of no matter. *See* G.L. 1956 § 31-27-2 *and State v. Lussier,* 511 A.2d 958, 960-61 (R.I. 1986) (stating that once the legal limit is exceeded, "… the penal consequences will apply without regard to how the alcohol has affected the individual personally."). Thus, Mr. Wilson's contention as to his unique metabolism, if credited, would justify the DMV's insistence that he show that he is able to maintain *absolute* sobriety — not merely to avoid the *abuse* of alcohol; and not just for a year, but for as long as he wishes to be a licensed driver. And that is a heavy burden to carry.

Accordingly, I recommend that this Court find that the DMV's ruling, based on the findings of the Medical Advisory Board, that Mr. Wilson be required to document an additional year of alcohol/substance abuse counseling and urine

toxicology screens before his license is reinstated is supported by competent evidence of record.

IV
Conclusion

Upon careful review of the evidence, I recommend that this Court find that the Division of Motor Vehicles' effort to determine whether Mr. Wilson is fit to drive is based upon lawful procedure. *See* § 42-35-15(g)(3). Nor is it otherwise affected by error of law. *See* § 42-35-15(g)(4). Furthermore, said decision is neither arbitrary nor capricious and is not clearly erroneous in view of the reliable, probative, and substantial evidence of record. Section 42-35-15(g)(5),(6).

Accordingly, I recommend that decision issued by the Division of Motor Vehicles Adjudication Office upon consultation with the Medical Advisory Board after a hearing denying Mr. Wilson's request for the immediate reinstatement of his license to operate a motor vehicle be AFFIRMED.

/s/
Joseph P. Ippolito
MAGISTRATE

September 16, 2024