

**BEFORE THE
INDIANA BUREAU OF MOTOR VEHICLES**

IN THE MATTER OF [REDACTED])	
)	
DL# [REDACTED])	CASE NO. 14-DW-002
)	
Petitioner.)	
)	


FINAL ORDER

1. This matter comes before me as a result of a Notice of Appeal filed by Petitioner [REDACTED] [REDACTED] by letter of August 19, 2014 seeking administrative review of a decision by the Indiana Bureau of Motor Vehicles ("BMV") to impose a driving privilege suspension for "Driving While Suspended" (suspension ID 3) upon the Petitioner, and to require him to complete a driver safety program.
2. This matter was referred to Administrative Law Judge Rachael C. Ehlich, Esq. for review and the issuance of a Recommended Order per Ind. Code § 4-21.5-3-27(a) and 140 IAC 1-1-8, which was completed on October 14, 2014. A copy of the Recommended Order issued by ALJ Ehlich is attached hereto and incorporated as if fully stated herein.
3. On October 28, 2014, Petitioner [REDACTED] objected to the Recommended Order per Ind. Code § 4-21.5-3-29(d) and 140 IAC 1-1-11. While the letter is silent as to the relief he requests, I assume that he urges me to dissolve the Recommended Order, fully reinstate his driving privileges and remove the requirement that he complete a driver safety program, all of which was expressed in the Petitioner's August 19, 2014 letter.

4. The Recommended Order is hereby AFFIRMED in all respects, and Petitioner's Notice of Appeal and Objection to the Recommended Order is DENIED in all respects. Petitioner [REDACTED] suspension will remain in place, as required by Indiana law, but as recommended by ALJ Ehlich, the requirement that he complete a driver safety program will be removed.
5. Petitioner [REDACTED] is hereby notified that this is a FINAL ORDER. Petitioner may seek judicial review of this FINAL ORDER by filing a petition for review with the appropriate court within thirty (30) days after the date that notice of this FINAL ORDER was served, plus three (3) additional days if notice is served through the United States mail. See: Ind. Code §§ 4-21.5-3-2, 4-21.5-5.
6. Pursuant to Ind. Code § 4-21.5-3-32, this FINAL ORDER shall be made available for public inspection and copying. It shall be indexed by name and subject. All identifying details shall be deleted from the public copy of this Order to the extent required by Ind. Code § 5-14-3 or other law, with written justification for all deletions explained in writing and attached to the public copy of this FINAL ORDER.

SO ORDERED.

11-6-2014
Date



Donald M. Snemis, Commissioner
Indiana Bureau of Motor Vehicles

Written notice of this order shall be provided to:

[REDACTED]
BMV Credential Management
Rachael C. Ehlich, Esq.

BEFORE THE
INDIANA BUREAU OF MOTOR VEHICLES

IN THE MATTER OF:

CASE NO. 14-DW-002

DLN: [REDACTED]

RECOMMENDED ORDER

I. RECOMMENDED ORDER

Based upon a consideration of the following facts, law, and/or administrative regulations, this ALJ find Suspension ID: 3 shall remain in effect. The requirement that Eaton complete a driver safety program shall be removed .

II. STATEMENT OF CASE

- a. [REDACTED] ("[REDACTED]") requested a hearing following notice of the Bureau of Motor Vehicles' ("BMV") suspension of his driving privileges for Driving While Suspended.
- b. An administrative hearing was held on October 1, 2014.
- c. Eaton appeared pro se.
- d. In attendance was BMV Staff Attorney Cora Steinmetz ("Steinmetz").
- e. The hearing was recorded.

III. ISSUE(S)

Whether the BMV properly suspended Eaton's driving privileges related to a judgment for Driving While Suspended:

IV. FINDINGS OF FACT

- a. On April 23, 2014, the BMV sent Eaton a notice that his driving privileges would be suspended indefinitely effective April 23, 2014 for failure to comply with a court.



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order. ██████ Official Driver Record (“ODR”) shows that this suspension, Suspension ID: 2, expired on June 23, 2014.

- b. On or about August 13, 2014, the BMV received notice that Eaton had been convicted of Driving While Suspended.
- c. On August 14, 2014, the BMV sent ██████ a notice that his driving privileges would be suspended from September 1, 2014 through November 30, 2014 due to his conviction for Driving While Suspended in Cause No. 30D02-1406-IF-001808. The offense date was June 18, 2014.
- d. In his letter requesting hearing, ██████ stated that he had received a turn signal ticket on February 6, 2014. Eaton stated that he paid the fine by check, mailed on May 24, 2014. Eaton stated that the check was cashed on May 30, 2014.
- e. In his letter requesting hearing, ██████ stated that he paid the ticket for Driving While Suspended because he would not have been able to attend court without having to cancel previously scheduled surgeries for his patients.
- f. The BMV is not responsible for processing payments related to traffic convictions. If there was a court error, it must be corrected by the court.
- g. The BMV did state that the requirement to complete a driver safety program, which was another result of the conviction for Driving While Suspended, is not a penalty the BMV is required to impose.
- h. The BMV is, however, required to impose a suspension upon receiving report of a conviction for Driving While Suspended.
- i. This ALJ finds it reasonable in this case to grant ██████ some relief in the form of removing the requirement to complete a driver safety program:



V. CONCLUSIONS OF LAW

- a. Ind. Code § 9-24-19-5 requires the BMV to, upon receiving a record of conviction of a person upon a charge of driving a motor vehicle while the driving privileges or license of the person is suspended, fix the period of suspension in accordance with the recommendation of the court. If the court fails to recommend a fixed term of suspension, or recommends a fixed term that is less than the minimum term required by statute, the bureau shall impose the minimum period of suspension required under 9-24-19, which is 90 days.
- b. Ind. Code 9-30-3-12 states that if during any twelve (12) month period a person has committed moving traffic violations for which the person has: (1) been convicted of at least two (2) traffic misdemeanors; (2) had at least two (2) traffic judgments entered against the person; or (3) been convicted of at least one (1) traffic misdemeanor and has had at least one (1) traffic judgment entered against the person; the bureau may require the person to attend and satisfactorily complete a driver safety program approved by the bureau.

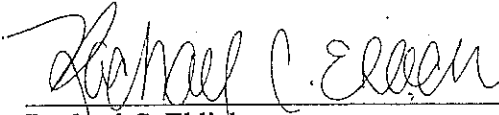
VI. APPEAL RIGHTS

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



within 18 days, this recommended order becomes the final order of the BMV on the 19th day.

DATED: October 14, 2014



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

A copy of the foregoing was sent to the following:

████████████████████

Indiana Bureau of Motor Vehicles

