

CASE NAME: Brandon Ryan vs. Commissioner of the Department of Public Safety
(Case Number: 114375)

FACTS:

The facts are not in dispute that Ryan was arrested on a DUI suspicion charge April 4, 2014 and refused the blood test. Ryan timely requested an administrative hearing which was acknowledged by DPS on June 3, 2014. Ryan's revocation was stayed and his driver's license returned to him during the appeal process and he again received notice of the pending hearing on March 31, 2015. The hearing was finally set for May 18, 2015 and Ryan's counsel received notice of the hearing on April 14, 2015. Following hearing and evidence taken on May 18th, the hearing examiner sustained the revocation of Ryan's license to drive. Ryan then timely appealed to the District Court. Following *de novo* trial with ruling taken under advisement, the District Court upheld the revocation by Order filed September 22, 2015, finding no due process speedy trial violation. Ryan appeals from that Order.

ISSUE:

Did the Oklahoma DPS deny Ryan of procedural due process by the delay in his administrative hearing?

HOLDING:

First, it is clear that our Courts recognize a person's claim to a driver's license is a protected property interest entitled to application of due process standards. We also recognize the state's interest in depriving drunk drivers of permission to continue operating an automobile is particularly strong.

A licensed driver has suffered a deprivation of their constitutional due process rights if (in a civil proceeding) the following four factors weigh in their favor: 1) the length of the delay; 2) the reason for the delay; 3) the party's assertion of the right, and; 4) the prejudice to the party occasioned by the delay.

In Ryan's case, there is no evidence of any reason for the delay and particularly, no evidence of caseload backlog as DPS argues we should consider, all resulting in a deliberate action to postpone the case for some unknown reason from ten to almost fourteen months.

We also find there is evidence Ryan did suffer prejudice by this delay. His testimony indicated there was some thirty day period between the time his "paper" license expired and when he received his "plastic" license back so he could drive. He stated he was a delivery driver but the company made the choice to not allow him to drive anymore.

We agree delay without motive may be insufficient to demonstrate a deprivation of due process. However, in this case, we find delay did result in due process denial. We find the delay after

timely request was not minimal and the evidence does not support a reasonable reason for the delay that did result in prejudice to Ryan.

ADMINISTRATIVE REVOCATION REVERSED, CASE REMANDED