

**STATE OF NEW JERSEY
MOTOR VEHICLE COMMISSION
CASE FILE NUMBER: CXXXX XXXXX 01642¹
OAL DOCKET NUMBER: M.V.H. 07433-22**

IN THE MATTER OF :
ANTHONY G. CORBO, JR. : **FINAL DECISION**

The Motor Vehicle Commission (“Commission”) hereby determines the matter of the proposed administrative suspension of the New Jersey driving privilege of **ANTHONY G. CORBO, JR.**, respondent, as a “persistent violator” in violation of N.J.S.A. 39:5-30, N.J.S.A. 39:5-30.10 and N.J.A.C. 13:19-10.1 et seq. Pursuant to N.J.A.C. 13:19-10.6(a)(1), respondent’s New Jersey driving privilege is subject to suspension for a period of 90 days because he committed a moving violation within the first six months of his one-year probationary period. Prior to this final agency determination, I have reviewed and considered the Initial Decision rendered by the Administrative Law Judge (“ALJ”) in this matter. No exceptions have been filed. Based upon a de novo review of the record presented, I shall adopt the ALJ’s findings and conclusions, with certain corrections indicated below. Additionally, I shall modify the remedial sanction to be imposed based on the totality of the circumstances here, including the overall driver history record, for the particular reasons specific to this case, as indicated below.

In the Initial Decision, the ALJ concluded, after examination of the testimonial and documentary evidence and analysis of the applicable legal principles, that the Commission met its burden of proof in this proposed administrative suspension action for

¹ This is the corrected Agency Case File Number; the insertion in the Initial Decision is inaccurate as it does not reflect this respondent’s driver license number.

respondent's having been convicted of a moving motor vehicle violation which occurred on September 19, 2021, during the one-year probationary period which began as of May 5, 2021² after respondent's driving privilege had been restored with a warning from his previous "Persistent Violator" suspension order (that previous order is shown on the Certified Complete Abstract of Driver History Record, "Certified Abstract", Exhibit P-1, as "SUS O PVPS", with event date 04-20-21). Initial Decision at 3-4. The one-year probationary period after such restoration is required pursuant to the governing statute, N.J.S.A. 39:5-30.10, and regulation at N.J.A.C. 13:19-10.6(a).

In discussing the conviction for the September 19, 2021 "improper use of divided highway" moving violation, to which respondent pled guilty, the ALJ referenced the notes on the pre-hearing "Conference Report" concerning respondent's statements at that conference for this matter, as had been set out by the Driver Improvement Analyst who conducted that potential settlement conference. See, Initial Decision at 2 and 4. Page One (of the two-page) conference report is transmitted as part of the record for this hearing to establish that such conference was held on the date indicated and for the matter(s) indicated, but is not submitted to establish, by itself, the substantive statements entered thereon. Accordingly, I shall specifically modify as part of this Final Agency Decision, those findings and conclusions in the Initial Decision's analysis and factual discussion sections to eliminate such reference to a "conflict" between what was noted

² The Initial Decision twice references incorrectly the restoration as being on May 6, 2021; thus, this Final Agency Decision corrects that to May 5, 2021 – which is set forth as the effective date of restoration on the "Restoration Notice" (Exhibit P-2) with date prepared of May 6, 2021; and which Restoration with Warning is set forth on the Certified Abstract (Exhibit P-1) with event date May 5, 2021.

and what the respondent testified to in the plenary OAL hearing. Such reference concerned a specific “why”/reason (medical emergency of aunt, or of self) as asserted by the respondent for the triggering motor vehicle violation to which respondent acknowledged that he pled guilty. Indeed, that there is a conviction of this moving violation as reported by the New Jersey court of competent jurisdiction cannot be collaterally attacked in this administrative forum. See, State v. Ferrier, 294 N.J. Super. 198, 200 (App. Div. 1996), certif. denied, 148 N.J. 461 (1997); State v. Laurick, 120 N.J. 1, 11-12 (1990). Thus, it is noted that the possible discrepancy as to respondent’s asserted reason behind the moving violation does not affect the analysis here for purposes of the NJMVC having established the necessary elements of the persistent violator infraction at issue.

The ALJ also specifically found that, while respondent had pled guilty and thus was convicted of the moving motor vehicle violation during his one-year probationary period, he serves as the care provider for his ninety-seven-year-old aunt, who lives in a different city than he and that he sees daily. Considering this in weighing the remedial suspension term to be imposed here, the ALJ recommended a reduced sanction of 40 days suspension. Initial Decision at 2 and 4.

Evaluating this record on a de novo basis to determine the appropriate remedial sanction that should be imposed in this matter, I must balance respondent’s need for his driving privileges against the public’s interest in ensuring public safety on its roadways. In reviewing the totality of the circumstances of this matter, and with specific reference to respondent’s recent and overall driving record and the mitigating factors present, I conclude that the proposed suspension term shall be reduced from the 90-day term

proposed, but that there is still a need for some period of suspension for the purposes of reforming this respondent's behavior. I concur with the ALJ's assessment that some period of suspension is needed as an appropriate remedial sanction, in order to drive home to respondent the absolute necessity that he comply with all motor vehicle and traffic laws.

As for the mitigating factors in the particular circumstances of this case, in addition to the mitigation noted by the ALJ in the Initial Decision, I note from this respondent's 39-year driver history record the following: prior to the September 19, 2021 violation he had not committed any moving/point-carrying traffic violations for a period of two years; also prior to the previous September 17, 2019 two-point violation, his most recent prior traffic violation had been committed in April of 1989, more than thirty years prior (recognizing that his driving privileges had been in suspended status for failures to appear on traffic summonses from 1989 until the 2018 restoration), with those motor vehicle violations having been committed when he was between the ages of 23 and 25 years old; he has committed only three motor vehicle infractions in the most recent 33-and-a-half years (again noting the extended period of suspension of his privileges); and since the triggering September 2021 offense, he has not had another traffic conviction for a period of one year and three months to date.

Despite the mitigation noted, however, it remains that he again did not successfully complete the latest one-year probationary period, for which he received a specific warning, and that he had previously been assessed a lenient, significantly reduced, sanction of seven days suspension, after a plenary OAL hearing, for the prior "persistent violator" violation. Consequently, in my judgment, based on a de novo review of the

record, this driver's behavior is still in need of reform and a period of suspension is needed to reinforce his need to comply with the governing motor vehicle laws and regulations, as well as Commission and court notices/orders.

Respondent must be reminded that he is to obey, at all times, all of the motor vehicle laws and regulations of the State of New Jersey, as well as other jurisdictions. I specifically note that a review of respondent's record reveals that he has not attended the Commission's approved Driver Improvement Program ("DIP" class) in over 34 years -- since May of 1988. Respondent's satisfactory completion of the Commission's approved Driver Improvement Program will redound to his benefit by reinforcing his need to continue with his driving skills improvement. Therefore, I shall require respondent to attend and successfully complete the Commission's approved Driver Improvement Program in lieu of part of the proposed suspension here. See, N.J.S.A. 39:5-30.2; N.J.A.C. 13:20-17.6 and N.J.A.C. 13:19-10.2(b) . In the event of respondent's failure to fulfill the requirements of the Driver Improvement Program, the remaining balance, 70 days, of the original 90-day proposed suspension in the Scheduled Suspension Notice for persistent violator prepared on October 5, 2021, shall be imposed. Following completion of the DIP program, it is also noted that respondent will be placed on a one-year probationary period pursuant to N.J.A.C. 13:19-10.6, which shall subject him to a period of suspension for any subsequent violation of the Motor Vehicle and Traffic Law of the State of New Jersey (or other state) committed within that one-year period.

While I am sympathetic regarding the hardship that respondent may suffer as a result of his New Jersey driving privilege being suspended, respondent must nevertheless appreciate the responsibility that he owes to the public under the motor vehicle laws.

Motor vehicle license suspensions are primarily intended to protect the safety of the public by temporarily removing offenders from the highways of New Jersey. David v. Strelecki, 51 N.J. 563, 566 (1968); Cresse v. Parsekian, 43 N.J. 326, 328-29 (1964). Moreover, respondent is reminded that the operation of a motor vehicle on New Jersey roads is a privilege, not a right. State v. Nunez, 139 N.J. Super. 28, 30 (Law Div. 1976); State v. Kabayama, 94 N.J. Super. 78, 82-83 (Law Div.), aff'd, 98 N.J. Super. 85 (App. Div. 1967), aff'd, 52 N.J. 507 (1968). A period of suspension of twenty (20) days, along with the required Commission-approved Driver Improvement Program (“DIP” class), is both warranted and reasonable in the present case when respondent’s need to maintain his driving privilege is balanced against the public interest in having drivers comply with the motor vehicle laws. The Commission notes that respondent’s suspension is intended to be rehabilitative rather than punitive in nature. Accordingly, the ALJ’s recommended sanction is modified.

ORDER

It is, therefore, on this 5th day of January 2023, **ORDERED** that the New Jersey driving privilege of **ANTHONY G. CORBO, JR.** be suspended for a period of twenty (20) days for having committed a persistent violator violation. **NOTE:** The **effective date** of this suspension is set forth in the “Order of Suspension” which the Commission has included in this mailing.

It is **FURTHER ORDERED** that **ANTHONY G. CORBO, JR.** attend and successfully complete a Driver Improvement Program (approved by the Commission). **ANTHONY G. CORBO, JR.** will be contacted by the Commission by separate mailing with instructions to schedule program attendance for the DIP class. In the event

ANTHONY G. CORBO, JR. fails to fulfill the requirements of the Driver Improvement Program, the remaining balance (70 days) of the originally proposed 90-day suspension for having been in violation of the persistent violator statute and regulations shall automatically be imposed.

A handwritten signature in black ink, appearing to read "Latrecia Littles-Floyd". The signature is fluid and cursive, with a long horizontal stroke at the end.

Latrecia Littles-Floyd

Acting Chair and Chief Administrator

LLF/kw

Enclosure: Order of Suspension (suspension effective 1/25/2023)* - also previously mailed separately on 01/05/23