



AFFIRMED
N. J. MOTOR VEHICLE COMMISSION

By ORLA Date 8-29-22

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. MVH 08256-21

AGENCY DKT. NO. 07682

**NEW JERSEY MOTOR VEHICLE
COMMISSION,**

Petitioner,

v.

ADJEI B. DANQUAH,

Respondent.

Scharkner Michaud, Transmitting Officer, for petitioner, pursuant to N.J.A.C.

1:1-5.4(a)2

No Appearance by or on behalf of respondent

Record Closed: June 2, 2022

Decided: July 14, 2022

BEFORE **SUSAN L. OLGATI, ALJ**

STATEMENT OF THE CASE

This matter concerns two separate suspension notices issued by the petitioner, the New Jersey Motor Vehicle Commission (Commission or MVC) to respondent, Adjei B. Danquah, each proposing to suspend his driving privileges for 120 days for being a

persistent violator in that respondent received two convictions for motor vehicle violations within one year of a previously imposed probationary period.

PROCEDURAL HISTORY

By Scheduled Suspension Notice dated December 10, 2019, the Commission proposed to suspend respondent's driving privileges for 120 days due to his New York State conviction on a January 29, 2019 motor vehicle violation for failure to allow a pedestrian to complete a crossing, within one year of his probationary period. By letter dated December 23, 2019, the respondent requested a pre-hearing conference.

Thereafter, by Scheduled Suspension Notice dated February 4, 2020, the MVC proposed to suspend respondent's driving privileges for 120 days due to his New York State conviction on a January 25, 2019 motor vehicle violation for failure to observe a traffic control device within one year of his probationary period.

By letter dated February 24, 2020, Barbara E. Ungar, Esq., attorney for the respondent, requested a hearing on the proposed suspensions. On August 23, 2021, the MVC held a conference with respondent. When the matter did not resolve, the MVC transmitted the matter to the Office of Administrative Law on September 29, 2021 for determination as a contested case pursuant to N.J.S.A. 52:14F-1 et seq.

The matter was originally assigned to another Administrative Law Judge (ALJ) and scheduled for hearing on January 11, 2022. By letter dated January 10, 2022, respondent's attorney advised that respondent was critically ill and had been hospitalized for an extended period. Based on the request of respondent's attorney, the matter was adjourned for three months. In or about March 2022, the matter was reassigned to me. By letter dated March 2, 2022, respondent's attorney requested an additional adjournment until May 2022, as she had been unsuccessful in attempting to contact her client or get a status of his medical condition.

The matter was scheduled for a hearing on May 23, 2022, and May 31, 2022. By letter dated April 26, 2022, respondent's attorney advised that she had a conflict with

the May 23, 2022 hearing date due to a scheduled court appearance in another matter. Respondent's counsel further advised that she remained unsuccessful in her attempts to contact her client or obtain any medical documentation confirming the status of his medical condition. As a result, Ungar advised that she would be filing a motion to be relieved as counsel. The May 31, 2022, hearing date was thereafter designated as a preemptory hearing date.

Ms. Ungar filed her motion to withdraw as counsel on or about April 27, 2022. Having received no opposition to the motion, the motion was granted by Order dated May 10, 2022.

On May 31, 2022, no appearance was made by or on behalf of the respondent. I received no communication from respondent regarding his failure to appear. Accordingly, the hearing was held without respondent. Scharkner Michaud presented the Commission's case in support of the suspensions and I admitted into evidence petitioner's Exhibits 1 through 7. Upon allowing time for respondent to explain his non-appearance and a thorough review of petitioner's exhibits, the record closed on June 2, 2022.

Based on the above, I **FIND** as **FACT** that respondent failed to appear for the May 31, 2022 hearing date without explanation or excuse. Based upon due consideration of the undisputed documentary evidence presented at the hearing, I **FIND** the following **ADDITIONAL FACTS**.

1. Exhibit 1, the certified abstract of respondent's driver history record dated September 20, 2021, accurately reflects his New Jersey driving record. Respondent's driving record, among other things, reflects a prior suspension for persistent violator on February 18, 2019. (See also, Exhibit 7, Conference Report.)
2. Exhibit 2 reflects that by Warning Notice dated June 26, 2018, respondent received confirmation of official warning given to him at the Driver Improvement Program (DIP) class which states that on the date he

completed the DIP class, he would begin a one-year probationary period and that if he committed any violation during this probationary period his driving privileges might be suspended.

3. Exhibit 4 reflects that respondent was convicted of a motor vehicle violation occurring on January 25, 2019. Exhibit 3 reflects that respondent was convicted of a motor vehicle violation occurring on January 29, 2019. These two motor vehicle convictions occurred more than six-months, but less than nine months after the probationary period and triggered the persistent violator provisions.

LEGAL DISCUSSION AND CONCLUSIONS

Petitioner is empowered to suspend a motorist's driving privileges for a violation of any provision of the Motor Vehicle statutes or for any other "reasonable grounds." N.J.S.A. 39:5-30.

N.J.A.C. 13:19-10.6 provides in pertinent part:

(a) Persons whose licenses are restored after a suspension imposed under N.J.A.C. 13:19-10.2 or after a suspension imposed under this section, persons who are officially warned after an administrative hearing, and persons who successfully complete a Commission Driver Improvement Program or Probationary Driver Program may retain their licenses upon the express condition and understanding that any subsequent violation of the Motor Vehicle and Traffic Law of the State of New Jersey committed within one year of the restoration, official warning, or warning following successful completion of a Driver Improvement or Probationary Driver Program shall, except for good cause, result in suspension of driving privileges for the following periods...

(b) A second violation of the Motor Vehicle Laws committed within one year of the restoration, official warning or warning following successful completion of a Driver Improvement or Probationary Driver Program shall,

except for good cause, result in suspension of driving privileges for the following periods: ...

2. When the second violation occurs more than six months but less than nine months after the restoration, official warning or warning following completion of a Driver Improvement or Probationary Driver Program--120 days.

Motor Vehicle license suspensions are primarily intended to foster safety on public highways. David v. Strelecki, 51 N.J. 563, 566 (1968). Violation of Motor Vehicle Statutes or Regulations concerning the movement of vehicles on public roads creates a safety hazard.

The Commission successfully met its burden of proof. Respondent failed to appear for the hearing. He therefore deprived himself of the opportunity to demonstrate any good cause to reduce the period of suspension sought. Accordingly, I **CONCLUDE** that the appropriate remedial sanction to be imposed here and one that will satisfy the competing interests of respondent and the public would be the two, 120-day suspensions as proposed in the Commission's Scheduled Suspension Notices dated December 10, 2019 and February 4, 2020.

ORDER


It is hereby **ORDERED** that the respondent's New Jersey driving privileges are suspended in accordance with the above. The effective date of this suspension shall be set forth in an order of suspension that petitioner shall send to respondent under separate cover.

I hereby **FILE** my initial decision with the **CHIEF ADMINISTRATOR OF THE MOTOR VEHICLE COMMISSION** for consideration.

This recommended decision may be adopted, modified or rejected by the **CHIEF ADMINISTRATOR OF THE MOTOR VEHICLE COMMISSION**, who by law is authorized to make a final decision in this matter. If the Chief Administrator of the Motor

Vehicle Commission does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **CHIEF ADMINISTRATOR OF THE MOTOR VEHICLE COMMISSION, 225 East State Street, PO Box 160, Trenton, New Jersey 08666-0160**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.



June 14, 2022

DATE

SUSAN L. OLGATI, ALJ

Date Received at Agency:

Date Mailed to Parties:

SLO/as

APPENDIX

EXHIBITS

For Petitioner:

- Exhibit 1. Certified Abstract of Driver History Record
- Exhibit 2 Restoration with Warning Notice dated June 26, 2018
- Exhibit 3 Scheduled Suspension Notice dated December 12, 2019
- Exhibit 4 Scheduled Suspension Notice dated February 4, 2020
- Exhibit 5 Hearing request received December 24, 2019
- Exhibit 6 Hearing request received February 27, 2020
- Exhibit 7 Conference Report dated, August 23, 2021

For Respondent:

None