



D119473404

**COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

COURT OF COMMON PLEAS
ENTER
MES 9/18/17
HON. MEGAN E. SHANAHAN
THE CLERK SHALL SERVE NOTICE
TO PARTIES PURSUANT TO CIVIL
RULE 58 WHICH SHALL BE TAXED
AS COSTS HEREIN.

PATRIECE S. HILL,

Appellant,

v.

**STATE OF OHIO,
BUREAU OF MOTOR VEHICLES,
et al.,**

Appellee.

Case No. A1700293

Judge Shanahan

ENTERED
SEP 18 2017

**ENTRY ADOPTING
MAGISTRATE'S DECISION**

Pursuant to Civil Rule 53, the Court hereby adopts the Magistrate's Decision rendered on August 24, 2017. The objection period has expired with no objections having been filed and no extensions having been granted. The Magistrate's Decision is **AFFIRMED**.

The January 6, 2017 Adjudication Order ("Order") entered by the Ohio Bureau of Motor Vehicles is **AFFIRMED**. The counterclaims of Defendant Grange Insurance are still pending against Appellant Patriece Hill. This case is scheduled for report on September 18, 2017 at 9:30 am in room 585.

MAGISTRATE

SEP 11 2017

HAS SEEN

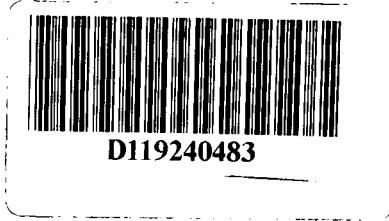
MES 9/18/17
MEGAN E. SHANAHAN
JUDGE
COURT OF COMMON PLEAS

ENTERED

SEP 18 2017

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COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO



PATRIECE S. HILL,	:	Case No. A1700293
Appellant,	:	Judge Shanahan
v.	:	
	:	
STATE OF OHIO,	:	<u>MAGISTRATE'S DECISION</u>
BUREAU OF MOTOR VEHICLES,	:	
et al.,	:	
Appellee.	:	

RENDERED THIS 24th DAY OF AUGUST, 2017.

This administrative appeal of the January 6, 2017 Adjudication Order (“Order”) entered by the Ohio Bureau of Motor Vehicles (“BMV”) which suspended the driver’s license of Appellant Patriece S. Hill (“Appellant”) was filed pursuant to R.C. § 19.05. The parties waived oral arguments. The appeal was submitted on the briefs to the Common Pleas Magistrate on July 21, 2017.

FILED
2017 AUG 24 P 2:46
CLERK OF COURTS
HAMILTON COUNTY, OH
COMMON PLEAS

BACKGROUND

This case began with a motor vehicle accident which occurred on July 15, 2016 in Cincinnati, Ohio. Niya Eifert was driving a Nissan Rogue on Central Parkway when it was allegedly hit by a black Lexus. The black Lexus did not stop after the accident. Ms. Eifert contemporaneously took a picture of the vehicle that ran into her and reported the accident to the police shortly thereafter. It was determined that the black Lexus was owned by the Appellant.

On October 19, 2016, Appellant was sent a Notice of Suspension by the Bureau notifying her of a noncompliance and security suspension. Appellant requested a hearing regarding her suspension. A hearing was held on December 14, 2016 before a hearing

examiner. Both sides were present and given the opportunity to submit evidence. On December 21, 2016, the hearing examiner issued a report and recommendation upholding both the noncompliance and security suspension. On January 6, 2017, the BMV issued a Final Adjudication Order adopting the report of the hearing examiner and suspending Appellant's driver license. Appellant timely appealed the Order to the Court of Common Pleas.

STANDARD OF REVIEW

The court may affirm the order of the agency complained of in the appeal if it finds, upon consideration of the entire record and such additional evidence as the court has admitted, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such a finding, it may reverse, vacate, or modify the order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law. The court shall award compensation for fees in accordance with section 2335.39 of the Revised Code to a prevailing party, other than an agency, in an appeal filed pursuant to this section.¹

A strict reading of this standard of review allows the trial court to weigh the evidence to determine whether it is reliable, probative and substantial. However, the trial court is required to give due deference to the administrative resolution of evidentiary conflicts.² Consequently, an administrative factual finding should not be disturbed without legally sufficient reasons for doing so.

Section 119.12 of the Revised Code requires that evidence considered by the court on appeal be reliable, dependable, probative and substantial.³ Reliable evidence is dependable, confidently trusted, and there is reasonable probability that the evidence is

¹ / Ohio Rev. Code § 119.12 (West 2007).

² / *Star Cruises v. Department of Liquor Control*, No. C-950701, 1996 Ohio App. LEXIS 1013, at *4-5 (App. 1 Dist.), see *Univ. of Cincinnati v. Conrad* (1980), 63 Ohio St.2d 108, and *Pons v. Ohio State Med. Bd.* (1993), 66 Ohio St.3d 619.

³ / *Our Place, Inc. v. Ohio Liquor Control Comm'n.* (1992), 63 Ohio St.3d 570, 571.

true.⁴ Probative evidence is relevant and tends to prove the issue in question.⁵ Substantial evidence is evidence with some weight; it must have importance and value.⁶

DISCUSSION

After reviewing the record and the briefs of the parties, it appears that Appellant has a fundamental misunderstanding about the reasons her driver's license was suspended. Appellant denied responsibility at the hearing and continues to deny she was responsible for the accident. However, Appellant's license was not suspended because the BMV found she was responsible. It is not within the BMV's purview to determine liability for a motor vehicle accident. Appellant's license was suspended for failing to maintain financial responsibility on the vehicle and then failing to pay a security deposit because she was uninsured when your vehicle may have been involved in an accident. After reviewing the record, the court finds ample evidence in the record to support both grounds for the suspension.

Appellant freely admitted she was uninsured at the time of the accident. In her own closing argument Appellant stated, "I would just like to say I am guilty of not having insurance, but I am not guilty of having hit this car. That's all I want to say."⁷ It is clear that Appellant violated R.C. 4509.101(A)(1) by failing to maintain financial responsibility on the vehicle and did not present any evidence that she qualified for an exception under R.C. 4509.101(L)(1). Therefore, the noncompliance suspension was supported by substantial, reliable, and probative evidence.

⁴ / *Id.*

⁵ / *Id.*

⁶ / *Id.*

⁷ / R., Transcript p. 62.

Appellant also received a security suspension for failing to pay a security deposit of \$1,474.67. As the BMV points out in its brief, the legislature has developed a procedure to ensure uninsured drivers are held financially responsible for accidents they may be liable for. Once the BMV receives notice of an accident with a potentially uninsured motorist, the BMV sends notice and the alleged uninsured motorist is given an opportunity to provide proof of insurance. The BMV is required to determine the amount of security that is sufficient to satisfy any judgments for damages resulting from the accident as may be recovered against each driver or owner involved in the accident.⁸ Here, Appellant was given notice of the required amount of the deposit and the possibility of a license suspension on October 19, 2016.⁹ Appellant failed to pay the deposit and instead, attempted to litigate her culpability for the accident before the hearing officer.

At the hearing, the BMV presented the testimony of Niya Eifert. Ms. Eifert testified that she was hit by a black Lexus, that she followed the car after it did not stop, and she eventually took a picture of the vehicle that hit her. She then drove to the police station to report the accident. The picture of the vehicle captured the license plates of the car in question and those plates were registered to the Appellant. Ms. Eifert could not identify who was driving the black Lexus. Appellant admitted the Lexus was hers, but denied her vehicle was involved in the accident. Appellant focused on inconsistencies in Ms. Eifert's account and attacked Ms. Eifert's credibility. The only issue for this court to determine in regards to the security suspension is whether there was substantial, reliable, and probative evidence to find there was a reasonable possibility of a judgment

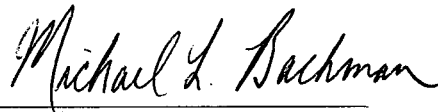
⁸ / R.C. 4509.12(A).

⁹ / R., Tab 14.

for damages against the Appellant. Appellant could have paid the security deposit and then litigated liability for the accident with Ms. Eifert or her insurance company. Appellant chose not to do so. The court finds there was sufficient evidence to find Appellant may ultimately be found liable for the accident and therefore, the court must uphold the security suspension.

DECISION

The January 6, 2017 Adjudication Order (“Order”) entered by the Ohio Bureau of Motor Vehicles is AFFIRMED. The counterclaims of Defendant Grange Insurance are still pending against Appellant Patriece Hill. This case is scheduled for report on September 18, 2017 at 9:30 am in room 585.



**MICHAEL L. BACHMAN,
MAGISTRATE,
COURT OF COMMON PLEAS**

NOTICE

Objections to the Magistrate’s Decision must be filed within fourteen days of the filing date of the Magistrate’s Decision. A party shall not assign as error on appeal the court’s adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ. R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ. R. 53(D)(3)(b).

Copies sent by Clerk of Courts to:

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT COPIES OF THE FOREGOING DECISION
HAVE BEEN SENT BY ORDINARY MAIL TO ALL PARTIES OR THEIR
ATTORNEYS AS PROVIDED ABOVE.

Date: 8/24/17 Deputy Clerk: 