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Edwards v. Idaho Transportation Department Clerk's Record Dckt. 45896

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IN THE SUPREME COURT OF THE STATE OF IDAHO

Bruce Allen Edwards
vs.
State of Idaho Transportation Dept
Judicial Rev-KC

Supreme Court Case No. 45896

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the First Judicial District,
in and for the County of Kootenai

HONORABLE CYNTHIA K.C. MEYER

Richard Kuck
Attorney at Law
Attorney for Appellant
Coeur d'Alene, Idaho

Lawrence Wasden
Attorney General
Attorney for Respondent
Boise, Idaho

KOOTENAI COUNTY DISTRICT COURT

CASE SUMMARY
CASE NO. CV-2016-3251

Bruce Allen Edwards
 vs.
State of Idaho Transportation Dept Judicial Rev-KC

§
§
§
§
§

Location: **Kootenai County District Court**
 Judicial Officer: **Meyer, Cynthia K.C.**
 Filed on: **04/25/2016**
 Appellate Case Number: **45896**

CASE INFORMATION

Related Cases

CV-2015-6651 (Consolidated Case)

Case Type: **AA- All Initial District Court Filings (Not E, F, and H1)**

Statistical Closures

02/28/2018 Closed

Case **02/28/2018** **Appealed Case -**
 Status: **Supreme Court Appeal**

Bonds

Cash Bond #CV-2016-3251 \$100.00
 2/28/2018 Posted
 Counts: 1

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number CV-2016-3251
 Court Kootenai County District Court
 Date Assigned 04/25/2016
 Judicial Officer Meyer, Cynthia K.C.

PARTY INFORMATION

Plaintiff

Edwards, Bruce Allen

Lead Attorneys

Kuck, Richard Keating
Retained
 208-667-3600(W)

Defendant



State of Idaho Transportation Dept Judicial Rev-KC

Servick, Susan Kaye
Retained
 208-667-1486(W)


DATE


EVENTS & ORDERS OF THE COURT

INDEX


04/25/2016	New Case Filed Other Claims <i>New Case Filed - Other Claims</i>	
04/25/2016	ROA - Converted Event <i>Filing: AA- All initial civil case filings in District Court of any type not listed in categories E, F and H(1) Paid by: Edwards, Bruce Allen (plaintiff) Receipt number: 0017255 Dated: 4/25/2016 Amount: \$.00 (Cash) For: Edwards, Bruce Allen (plaintiff)</i>	
04/25/2016	 Petition <i>Petition for Judicial Review</i>	
04/25/2016	 Summons Issued <i>Summons Issued</i>	
05/02/2016	ROA - Converted Event <i>Filing: 11 - Initial Appearance by persons other than the plaintiff or petitioner Paid by: State of Idaho Department of Transportation (defendant) Receipt number: 0018292 Dated: 5/2/2016 Amount: \$.00 (Cash) For: State of Idaho Department of Transportation (defendant)</i>	
05/02/2016		


CASE SUMMARY
CASE NO. CV-2016-3251


-  Notice of Appearance
Notice Of Appearance - Susan K Servick obo State of Idaho - Dept of Transportation


- 05/09/2016  Notice
Notice of Lodging of Agency Record


- 05/23/2016  Notice
Notice of Filing Agency Record


- 05/23/2016  Miscellaneous
-Agency Record

- 07/11/2016  Notice
Notice of Filing Transcript Estimate


- 10/20/2016  Brief on Appeal
Request for Pre-Trial and Briefing Schedule


- 11/15/2016  Miscellaneous
Second Request for Pre-hearing Scheduling Conference and Briefing Schedule


- 12/20/2016  Miscellaneous
Briefing Schedule


- 12/20/2016  Hearing Scheduled
Hearing Scheduled (Oral Argument on Appeal 03/21/2017 03:00 PM)


- 12/20/2016 ROA - Converted Event
Notice of Hearing

- 01/27/2017  Stipulation
Stipulation to Modify Briefing Schedule


- 02/09/2017  Stipulation
Amended Stipulation to Modify Briefing Schedule

- 02/16/2017  Transcript Filed
Transcript Filed

- 02/16/2017  Notice
Notice Of Filing Supplemental Agency Record

- 03/17/2017  Stipulation
Second Amended Stipulation to Modify Briefing Schedule

- 03/17/2017 ROA - Converted Event
*New File Created*****FILE # 2 ******


- 03/20/2017  Order
Order Modifying Briefing And Hearing Schedule

- 03/20/2017 Hearing Vacated
Hearing result for Oral Argument on Appeal scheduled on 03/21/2017 03:00 PM: Hearing


CASE SUMMARY
CASE No. CV-2016-3251

Vacated


03/20/2017 Hearing Scheduled
Hearing Scheduled (Oral Argument on Appeal 06/27/2017 03:00 PM)

03/20/2017  Miscellaneous
Briefing Schedule


03/21/2017 **CANCELED Oral Argument (3:00 PM)** (Judicial Officer: Meyer, Cynthia K.C.)
Vacated
Hearing result for Oral Argument on Appeal scheduled on 03/21/2017 03:00 PM: Hearing Vacated


05/01/2017  Memorandum
Petitioner's Memorandum in Opposition to Lifetime CDL Disqualification

05/18/2017 Hearing Vacated
Hearing result for Oral Argument on Appeal scheduled on 06/27/2017 03:00 PM: Hearing Vacated

05/18/2017  Hearing Scheduled
Hearing Scheduled (Oral Argument on Appeal 07/18/2017 03:00 PM)

05/18/2017 ROA - Converted Event
Amended Notice of Hearing


05/22/2017  Brief on Appeal
Brief In Opposition To Petitioner's Memorandum


06/20/2017  Memorandum
Petitioner's Reply Memorandum


06/27/2017 **CANCELED Oral Argument (3:00 PM)** (Judicial Officer: Meyer, Cynthia K.C.)
Vacated
Hearing result for Oral Argument on Appeal scheduled on 06/27/2017 03:00 PM: Hearing Vacated

07/18/2017 DC Hearing Held: Court Reporter: # of Pages:
Hearing result for Oral Argument on Appeal scheduled on 07/18/2017 03:00 PM: District Court Hearing Held
Court Reporter: Diane Bolan
Number of Transcript Pages for this hearing estimated: Under 100












07/18/2017 **Oral Argument (3:00 PM)** (Judicial Officer: Meyer, Cynthia K.C.)
Hearing result for Oral Argument on Appeal scheduled on 07/18/2017 03:00 PM: District Court Hearing Held
Court Reporter: Diane Bolan
Number of Transcript Pages for this hearing estimated: Under 100

08/28/2017  Memorandum
Memorandum Decision On Petition For Judicial Review

09/05/2017  Affidavit
Affidavit of Susan K. Servick

09/05/2017  Motion
Motion to Vacate Stay

CASE SUMMARY
CASE NO. CV-2016-3251

- 09/05/2017  Notice of Hearing
Notice Of Hearing
- 09/06/2017 Hearing Scheduled
Hearing Scheduled (Motion 10/03/2017 03:00 PM) Servick 10 min-vacate stay
- 10/03/2017  Motion
Motion for Reconsideration
- 10/03/2017 **Motion Hearing (3:00 PM) (Judicial Officer: Meyer, Cynthia K.C.)**
*Servick 10 min-vacate stay Hearing result for Motion scheduled on 10/03/2017 03:00 PM:
District Court Hearing Held
Court Reporter: Diane Bolan
Number of Transcript Pages for this hearing estimated: Under 100 pages*
- 10/03/2017  Court Minutes
- 10/04/2017 DC Hearing Held: Court Reporter: # of Pages:
*Hearing result for Motion scheduled on 10/03/2017 03:00 PM: District Court Hearing Held
Court Reporter: Diane Bolan
Number of Transcript Pages for this hearing estimated: Under 100 pages Servick 10 min-
vacate stay*
- 10/11/2017 Hearing Scheduled
Hearing Scheduled (Motion to Reconsider 12/05/2017 03:00 PM) Servick-45 min
- 10/16/2017  Order
*Order For Consolidation Case No.
CV 2015-6651 Into Case CV 16-3251
ALL FUTURE FILING INTO CV 16-3251*
- 10/17/2017  Stipulation
Stipulation Re: Briefing Schedule And Hearing
- 10/19/2017  Order
Order Re Briefing Schedule And Hearing
- 10/31/2017  Memorandum
Memorandum in Support of Motion for Reconsideration
- 10/31/2017 Miscellaneous
Request for Judicial Review - Greg D. Horne
- 11/14/2017  Brief on Appeal
Brief in Opposition to Petitioner's Memorandum
- 11/14/2017  Objection
Objection to Request For Judicial Notice
- 11/29/2017  Notice
Second Request For Judicial Notice
- 11/29/2017  Motion
Petitioner's Reply Brief In Support Of Motion For Reconsideration


CASE SUMMARY
CASE NO. CV-2016-3251


- 12/05/2017 **Interim Hearing Held**
Hearing result for Motion to Reconsider scheduled on 12/05/2017 03:00 PM: Interim Hearing Held Servick-45 min

- 12/05/2017 **DC Hearing Held: Court Reporter: # of Pages:**
*District Court Hearing Held
 Court Reporter: Diane Bolan
 Number of Transcript Pages for this hearing estimated: under 100 pages*

- 12/05/2017 **Hearing Scheduled**
Hearing Scheduled (Motion to Reconsider 12/12/2017 03:00 PM) Servick-45 min

- 12/05/2017 **Motion for Reconsideration (3:00 PM) (Judicial Officer: Meyer, Cynthia K.C.)**
Servick-45 min Hearing result for Motion to Reconsider scheduled on 12/05/2017 03:00 PM: Interim Hearing Held


- 12/05/2017  **Court Minutes**


- 12/06/2017  **Notice of Hearing**
Amended Notice Of Hearing


- 12/12/2017 **Hearing Held**
Hearing result for Motion to Reconsider scheduled on 12/12/2017 03:00 PM: Hearing Held Servick-45 min

- 12/12/2017 **DC Hearing Held: Court Reporter: # of Pages:**
*District Court Hearing Held
 Court Reporter: Diane Bolan
 Number of Transcript Pages for this hearing estimated: under 100 pages*


- 12/12/2017 **Motion for Reconsideration (3:00 PM) (Judicial Officer: Meyer, Cynthia K.C.)**
Servick-45 min Hearing result for Motion to Reconsider scheduled on 12/12/2017 03:00 PM: Hearing Held

- 12/12/2017  **Court Minutes**


- 01/19/2018  **Miscellaneous**
Memorandum Decision On Petitioner's Motion For Reconsideration And Request For Judicial Notice

- 02/12/2018  **Stipulation**
Stipulation For Order Staying License Disqualification Pending Appeal

- 02/20/2018 **Civil Disposition Entered**
Civil Disposition entered for: State of Idaho Department of Transportation, Defendant; Edwards, Bruce Allen, Plaintiff. Filing date: 2/20/2018






- 02/20/2018  **Final Judgment, Order Or Decree Entered**
Order and Judgment

- 02/20/2018 **Status Changed**
Case status changed: Closed

- 02/20/2018  **Order**
Supplemental Order Staying License Disqualification Pending Appellate Review

- 02/20/2018 **Dismissed**

CASE SUMMARY
CASE NO. CV-2016-3251

	Party (State of Idaho Transportation Dept Judicial Rev-KC) Party (Edwards, Bruce Allen)
02/28/2018	ROA - Converted Event <i>Filing: L4 - Appeal, Civil appeal or cross-appeal to Supreme Court Paid by: Horne, Gregory D. (attorney for Edwards, Bruce Allen) Receipt number: 0007225 Dated: 2/28/2018 Amount: \$129.00 (Check) For: Edwards, Bruce Allen (plaintiff)</i>
02/28/2018	Bond Posted - Cash <i>Bond Posted - Cash (Receipt 7227 Dated 2/28/2018 for 100.00)</i>
02/28/2018	Status Changed <i>Case status changed: Closed pending clerk action</i>
02/28/2018	 Appeal Filed in Supreme Court <i>Notice Of Appeal</i>
05/22/2018	 Order <i>Conditionally Dismissing Appeal - Idaho Supreme Court</i>
08/13/2018	 Order <i>Second Order Conditionally Dismissing Appeal</i>
09/07/2018	 Order <i>Withdrawing Contidional Dismissal-Idaho Supreme Court</i>
09/21/2018	 Amended <i>Amended Notice of Appeal</i>

DATE	FINANCIAL INFORMATION
	Defendant State of Idaho Transportation Dept Judicial Rev-KC
	Total Charges 0.00
	Total Payments and Credits 0.00
	Balance Due as of 10/19/2018 0.00
	Plaintiff Edwards, Bruce Allen
	Total Charges 129.00
	Total Payments and Credits 129.00
	Balance Due as of 10/19/2018 0.00
	Plaintiff Edwards, Bruce Allen
	Civil Cash Bond Account Type Balance as of 10/19/2018 100.00

GREG D. HORNE
 Greg D. Horne, Esq. Chtd.
 ATTORNEY AT LAW
 P.O. BOX 477
 COEUR d'ALENE, ID 83816-0477
 PHONE: (208) 664-2887
 FAX: (208) 667-9631
 ISB No. 4655

STATE OF IDAHO
 COUNTY OF KOOTENAI SS
 FILED: *fee waived*
 2016 APR 25 PM 4: 14
 CLERK DISTRICT COURT
W. H. G.
 DEPUTY

Attorney for Petitioner

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

BRUCE ALLEN EDWARDS,)	
	)	CASE NO. <i>CV 16-3251</i>
)	
Petitioner.	)	PETITION FOR JUDICIAL REVIEW
)	
-vs-)	
	)	Fee Category: L(3)
STATE OF IDAHO DEPARTMENT OF	)	Filing Fee: Exempt
TRANSPORTATION, a political)	
subdivision of the State of Idaho,)	
)	
Respondent.)	
_____)	

COMES NOW the above-named petitioner, BRUCE ALLEN EDWARDS, and as and for
 cause of action against the respondent, STATE OF IDAHO DEPARTMENT OF
 TRANSPORTATION, complains and alleges as follows:

I.

At all times material hereto, petitioner, Bruce Allen Edwards, ("Edwards"), was and is an
 individual residing in Kootenai County, Idaho.

CYNTHIA K.C. MEYER

205

II.

At all times material hereto, respondent, State of Idaho Department of Transportation, (the "Department"), was and is a political subdivision of the State of Idaho.

III.

This is an action for judicial review pursuant to Chapter 52, Title 67, Idaho Code.

IV.

On or about April 25, 2012, Edwards was arrested for the charge of driving under the influence in Boundary County, Idaho while driving a non-commercial motor vehicle. At the time of his arrest and subsequent BAC testing, Edwards held an Idaho Class A commercial driver's license, which commercial driver's license was necessary for his employment in the trucking industry. The criminal charge against Edwards was later amended to inattentive driving to which he pleaded guilty.

V.

On May 31, 2012, following a hearing on May 16, 2012 before an Idaho Transportation hearing officer, the hearing officer issued Findings of Fact and Conclusions of Law and Order sustaining the suspension of Edward's driving privileges, suspending his (Class D) driving privileges for a period of 90 days commencing on May 25, 2012 and running through August 23, 2012.

VI.

On or about April 30, 2012, the Department sent Edwards a letter notifying him that his privileges to operate a commercial motor vehicle were disqualified for the previously described failure of evidentiary testing, effective May 25, 2012 and running through May 25, 2013.

VII.

A hearing was held on May 24, 2012 before an Idaho Transportation Department hearing officer, regarding the suspension of Edwards' commercial driving privileges. By way of Fact and Conclusions of Law and Preliminary Order dated June 6, 2012, the hearing officer upheld Edwards' disqualification of his commercial driving privileges for the period of one (1) year, based upon the previously identified failure of evidentiary testing.

VIII.

On or about January 27, 2013, Edwards was arrested for the charge of driving under the influence in Kootenai County, Idaho while driving a non-commercial motor vehicle. At the time of his arrest and subsequent BAC testing, Edwards held only an Idaho Class D non-commercial driver's license, and had no commercial driving privileges, said commercial driving privileges having been previously disqualified. The record reflects that Edwards pleaded guilty to the charge and received a DUI conviction on February 27, 2013.

IX.

On or about February 19, 2013, the Department had sent Edwards a Notice of Administrative License Suspension withdrawing his driving privileges (Class D) for one year, effective March 25, 2013, based upon a failure of evidentiary testing due to his arrest on January 27, 2013.

X.

On or about February 19, 2013, the Department sent Edwards a Notice of Lifetime Disqualification, disqualifying his commercial driving privileges for life, effective March 25, 2013, based upon the two claimed failures of evidentiary testing identified above.

XI.

On March 27, 2013, following a hearing on March 25, 2013 before an Idaho Transportation

PETITION FOR JUDICIAL REVIEW - 3

Department hearing officer, the hearing officer issued Findings of Fact and Conclusions of Law and Order sustaining the suspension of Edward's driving privileges, suspending his (Class D) driving privileges for a period of one (1) year commencing on March 25, 2013 and running through March 25, 2014.

XII.

On May 24, 2013, Edwards filed a Petition for Judicial Review with the District Court (Kootenai County Case No. CV-13-3935, Hon. Benjamin Simpson) concerning his second ALS suspension.

XIII.

On November 25, 2013, the Court in Case No. CV-13-3935 entered an Order for Leave to Present Additional Evidence on Remand (to the ITD Hearing Officer).

XIV.

On January 22, 2014, a new hearing was held after the remand to the Department and the previous ALS suspension was sustained by way of written decision dated February 24, 2014.

XV.

On March 24, 2015, the Court entered an Order in Case No. CV-13-3935 (ALS) dismissing the case and vacating the suspension of Edwards' driver's license (Class D privileges).

XVI.

The record reflects that Edwards suffered a DUI conviction in Bonner County, Idaho dated December 5, 2013, based upon an arrest dated June 7, 2013. There were no administrative license suspension proceedings as the event was alleged to be a refusal. The refusal case (Bonner County Case No. CV-13-1060) was ultimately dismissed.

XVII.

On December 3, 2014, a hearing was held on the lifetime disqualification of Edwards' driving privileges based upon the two previously identified alleged failures of evidentiary testing. By way of written decision dated December 12, 2014, the hearing officer upheld Edwards' lifetime CDL disqualification.

XVIII.

On January 8, 2015, Edwards filed a Petition for Judicial Review with the District Court (Kootenai County Case No. CV-15-344, Hon. Rich Christensen) concerning the lifetime suspension of his CDL privileges.

XIX.

On February 23, 2015, Judge Christensen entered an Order staying the lifetime disqualification of Edwards' commercial driving privileges until such time as the Court had entered a final decision on the Petition for Judicial Review in the case.

XX.

On March 24, 2015, the Court entered an Order in Case No. CV-15-344 (CDL) dismissing the case and vacating the disqualification of Edwards' commercial driver's license.

XXI.

On or about July 30, 2015, the Department issued a Notice of Lifetime Disqualification (of CDL privileges) based upon (1) the April 30, 2012, Administrative License Suspension identified above, and (2) three other alleged major offenses – the DUI conviction on February 27, 2013, the DUI conviction on December 5, 2013, and the alleged refusal “conviction” in Bonner County Case No. CV-13-1060.

XXII.

On September 8, 2015, a hearing was held on the lifetime disqualification of Edwards' driving privileges based upon the major offenses alleged in the immediately preceding paragraph. By way of written decision dated September 10, 2015, the hearing officer upheld Edwards' lifetime CDL disqualification.

XXIII.

On September 22, 2015, Edwards filed a Petition for Judicial Review with the District Court (Kootenai County Case No. CV-15-6651, Hon. Cynthia K.C. Meyer) concerning the lifetime disqualification of his CDL privileges referenced in the two preceding paragraphs.

XXIV.

Due to the loss of recorded testimony from the September 8, 2015 hearing, the matter was remanded for another hearing before the Department on Edwards' lifetime CDL disqualification.

XXV.

On March 21, 2016, another hearing before the Department was held on the lifetime disqualification of Edwards' driving privileges. By way of written decision dated March 28, 2016, the hearing officer upheld Edwards' lifetime CDL disqualification.

XXVI.

Edwards has exhausted all administrative remedies as required by law.

XXVII.

Edwards is entitled to judgment from this Court that the hearing officer's Findings of Fact, Conclusions of Law and Preliminary Order on Rehearing dated March 28, 2016, are null and void and of no further legal force and effect, and that Edwards' lifetime disqualification is void, as the Findings, Conclusions and Preliminary Order on Rehearing were and are:

PETITION FOR JUDICIAL REVIEW - 6

- (a) in violation of constitutional or statutory provisions,
- (b) in excess of the statutory authority of the agency,
- (c) made upon unlawful procedure,
- (d) not supported by substantial evidence on the record as a whole, and/or
- (e) arbitrary, capricious, or an abuse of discretion,

for the reasons that the second alleged major offenses relied upon by the hearing officer to disqualify Edwards CDL privileges for life were in error because at the time of the alleged second major offenses for DUI convictions, Edwards did not hold a class A, B or C commercial driver's license, a commercial learner's permit (CLP), and was not operating a commercial motor vehicle at the time of the incidents leading to his arrests and convictions and because he did not receive a refusal "conviction"; accordingly, these second alleged major offenses cannot form the basis for a lifetime disqualification from operating a commercial motor vehicle.

XXVIII.

Edwards' substantial rights have been prejudiced by the hearing officer's actions, by way of the unlawful disqualification of his commercial driving privileges for life.

XXIX.

That Edwards is entitled to an Order staying the effectiveness of any administrative license disqualification pursuant to applicable law.

XXX.

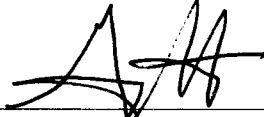
Edwards has been forced to employ an attorney to bring this action and is entitled to recover

all costs and fees incurred in the prosecution thereof against any party contesting the same.

WHEREFORE, Petitioner prays for judgment, as follows:

1. For a judgment upon judicial review that the Findings of Fact, Conclusions of Law and Preliminary Order on Rearing entered by the hearing officer dated March 28, 2016 are null and void and of no legal force and effect, and that Edwards' lifetime commercial driver's license disqualification is void;
2. For an Order staying the effectiveness of any administrative commercial license disqualification, pending the disposition this case;
3. For an award of all costs and attorney's fees incurred in the prosecution of this action.
4. For such other and further relief as the Court deems just and equitable.

DATED this 25 day of April, 2016.



GREG D. HORNE
Attorney for Petitioner

STATE OF IDAHO)
 ss.
County of Kootenai)

BRUCE A. EDWARDS, being first duly sworn, deposes and says:

That he is the petitioner in the above entitled action; that he has read the within and foregoing Petition for Judicial Review, knows the contents thereof, and the facts therein stated are true and correct to the best of his information and belief.



BRUCE A. EDWARDS

SUBSCRIBED AND SWORN to before me this 25th day of April, 2016.



Elizabeth M. Carl

Notary Public for Idaho
Residing at: Bayview ID
Commission Expires: 01/16/2020



SUSAN K. SERVICK
Special Deputy Attorney General
618 North 4th Street
Coeur d'Alene, Idaho 83814
Phone: (208) 667-1486
Fax: (208) 667-1825
ISBN 3443

STATE OF IDAHO }
COUNTY OF KOOTENAI } SS
FILED: } *ck*

2016 MAY -2 PM 12: 52

CLERK DISTRICT COURT
Karla Wosley
DEPUTY

Attorney for Respondent -
Idaho Department of Transportation

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

BRUCE ALLEN EDWARDS,

Petitioner,

vs.

STATE OF IDAHO, DEPARTMENT OF
TRANSPORTATION,

Respondent.

CASE NO. CV16-3251

NOTICE OF APPEARANCE

NOTICE IS HEREBY GIVEN that Susan K. Servick, Special Deputy Attorney General, does hereby appear as attorney for the Respondent, State of Idaho, Department of Transportation, in the above-entitled matter. You are hereby notified that all papers to be served on the Respondent shall be served on:

Susan K. Servick
Special Deputy Attorney General
618 North 4th Street
Coeur d'Alene, Idaho 83814
Phone: 208-667-1486
Fax: 208-667-1825

Dated April 29, 2016.

Susan K Servick

Susan K. Servick

1950

2018 MAY - 5 PM 13: 25

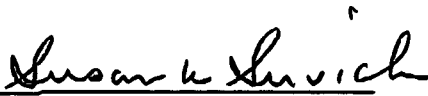
2018 MAY - 5 PM 13: 25

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the **NOTICE OF APPEARANCE** were transmitted, this 29 day of April, 2016 by the following method, to:

GREG D. HORNE
Attorney at Law
PO Box 477
Coeur d'Alene, ID 83816
Fax: 208-667-9631

Fax


Susan K. Servick

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: JSS

2018 FEB 20 AM 10:26

SUSAN K. SERVICK
Special Deputy Attorney General
618 North 4th Street
Coeur d'Alene, Idaho 83814
Phone: (208) 667-1486
Fax: (208) 667-1825
ISBN 3443

CLERK DISTRICT COURT
[Signature]
DEPUTY

Attorney for Respondent -
Idaho Department of Transportation

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

BRUCE ALLEN EDWARDS,

Petitioner,

vs.

STATE OF IDAHO, DEPARTMENT OF
TRANSPORTATION,

Respondent.

CASE NO. CV16-3251

ORDER AND JUDGMENT

JUDGMENT IS ENTERED AS FOLLOWS:

The Petition for Judicial Review is dismissed and the holding of the Hearing Officer is affirmed. Furthermore, the stay of the disqualification of the Petitioner's Commercial Drivers License is hereby vacated.

Dated this 16th day of February, 2018

[Signature]
DISTRICT JUDGE

Approved as to form and content:

[Signature]
Attorney Greg D. Horne

1. The first part of the document is a list of names and addresses of the members of the committee.

2. The second part of the document is a list of names and addresses of the members of the committee.

3. The third part of the document is a list of names and addresses of the members of the committee.

4. The fourth part of the document is a list of names and addresses of the members of the committee.

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the ORDER AND JUDGMENT were transmitted, this 20 day of Feb., 2018 by the following method, to:

GREG D. HORNE
Attorney at Law
PO Box 477
Cocur d'Alene, ID 83816
Fax: 208-667-9631

✓ Fax # 175

Susan K Servick
Attorney at Law
618 N 4th Street
Cocur d'Alene, ID 83814
Fax: 208 667-1825

___ Fax

✓ Email: susan@servicklaw.com

JIM BRANNON

Susan McCoy
Clerk of the Court

RECEIVED
FEB 20 2018

GREG D. HORNE
 Greg D. Horne, Esq. Chtd.
 ATTORNEY AT LAW
 P.O. BOX 477
 COEUR d'ALENE, ID 83816-0477
 PHONE: (208) 641-9155
 FAX: (208) 667-9631
 ISB No. 4655

STATE OF IDAHO
 COUNTY OF KOOTENAI
 FILED: 225

2018 FEB 28 PM 3:02

CLERK DISTRICT COURT
[Signature]
 DEPUTY

Attorney for Petitioner

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

BRUCE ALLEN EDWARDS,)	
	)	CASE NO. CV-16-3251
)	
Petitioner,	)	NOTICE OF APPEAL
)	
-vs-	)	Filing Fee: \$129.00
)	
STATE OF IDAHO DEPARTMENT OF)	
TRANSPORTATION, a political)	
subdivision of the State of Idaho,)	
)	
Respondent.)	
)	

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO DEPARTMENT OF
 TRANSPORTATION, AND THE DEFENDANT'S ATTORNEYS, SUSAN K. SERVICK, 618
 N. 4TH STREET, COEUR D'ALENE, IDAHO 83814, FAX NO. (208) 667-1825, AND THE
 CLERK OF THE ABOVE-ENTITLED COURT AND ALL OTHER INTERESTED PARTIES.

NOTICE IS HEREBY GIVEN THAT:

1. The above-named petitioner, BRUCE ALLEN EDWARDS, appeals from the Memorandum
 NOTICE OF APPEAL - 1

SO:8 MP ES:71...

Decision on Petition for Judicial Review entered by the Court on August 28, 2017, the Memorandum Decision on Petitioner's Motion for Reconsideration and Requests for Judicial Notice entered by the Court on January 19, 2018, and the Order and Judgment entered in this matter on February 20, 2018, the Honorable Cynthia K.C. Meyer, District Court Judge, presiding. The Case number for such case is Kootenai County Case No. CV-16-3251.

2. That the appellant has a right to appeal to the Idaho Supreme Court, and the judgments and/or orders described in paragraph 1 above are appealable under and pursuant to Rule 11(a)(1) I.A.R.

3. The name of the appealing party and the party's attorney, and that of the adverse party and that party's attorney, together with the address, phone number and email address for counsel, are as follows:

Appealing Party: Bruce A. Edwards

Counsel for Appealing Party: Greg D Horne

Address, Phone Number and Email Address for Greg D. Horne are: 118 N. 7th Street, Suite B-14, Coeur d'Alene, Idaho 83814, (208) 641-9155, hornegreg1@gmail.com.

Adverse Party: State of Idaho Department of Transportation

Counsel for Adverse Party: Susan K. Servick

Address, Phone Number and Email Address for Susan K. Servick are: 618 North Fourth Street, Coeur d'Alene, Idaho 83814, (208) 667-1486, susan@servicklaw.com.

4. A preliminary statement of the issues on appeal, which the appellants then intend to assert in the appeal, are as follows:

(a). Did the Court act erroneously in declining to take judicial notice of the relevant portions of the Idaho Commercial Driver's License Manual?

(b). Did the Court act erroneously in declining to correct the factual record concerning it's characterization of the petitioner's alcohol related offenses?

(c). Did the Court act erroneously in concluding that Appellant held a class "A" driver's

NOTICE OF APPEAL - 2

license when he committed other offenses which allegedly triggered a lifetime CDL disqualification?

(d). Did the Court misapply Idaho Code Section 49-335 in support of it's opinion?

(e). Did the Court act erroneously in concluding that adoption of Petitioner's arguments would lead to the granting him a "free pass"?

(f). Did the Court act erroneously in concluding disqualification requires no additional steps are required to restore driving privileges under a disqualification, other than the expiration of the disqualifying period.

Provided, however, pursuant to Rule 17(f), I.A.R., any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal.

5. A statement as to the basis for the right to Idaho Supreme Court are: Qualification under Idaho Appellate Rule 11(a)(1).

6(a). Is a reporter's transcript requested? Yes, a transcript of the hearings is requested.

(b). The appellant request the preparation of the following reporter's transcripts: Transcript for hearings held on July 18, 2017 and on December 12, 2017, (Electronic format).

7. The appellant requests the following additional documents to be included in the clerk's record pursuant to Rule 28, I.A.R. Any and all affidavits and/or declarations filed in support or in opposition to the hearings designated in Paragraph 6(b)above.

8. The appellant requests the following documents, charts, or pictures offered or admitted as exhibits to be copied and sent to the Supreme Court: All exhibits offered or admitted at the hearings of this matter designated in Paragraph 6(b)above, including, but not limited to a large sized timeline of events concerning the Appellant's offenses and the relevant portions of the Idaho Commercial Driver's License Manual.

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9. Has an Order been entered sealing all or any portion of the record? No.

10. I certify:

(a). That a copy of this notice of appeal has been served on the reporter, Diane Bolan, P.O. Box 9000, Coeur d'Alene, Idaho 83816-9000.

(b). That the clerk of the district court has been paid the estimated fee for preparation of the reporter's transcript.

(c). That the estimated fee for preparation of the clerk's record has been paid.

(d). That the appellant filing fee has been paid.

(e). That service has been made upon all parties required to be served pursuant to Rule 20.

DATED this 28 day of February, 2018.




GREG D. HORNE
Attorney for Appellant

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing, by facsimile transmission, on the 28 day of February, 2018, to the following:

Susan K. Servick
Attorney at Law
618 North Fourth Street
Coeur d'Alene, Idaho 83814,

BY: 

GREG D. HORNE

NOTICE OF APPEAL - 4

Richard K. Kuck
RICHARD K. KUCK, PLLC
250 Northwest Blvd., Suite 104
P.O. Box 1320
Coeur d'Alene, ID 83816-1320
Phone (208) 667-3600
Fax: (208) 667-3379
ISB No.3875

Attorney for Petitioner

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

BRUCE ALLEN EDWARDS,)	
	)	CASE NO. CV-16-3251
)	
	)	<u>AMENDED</u>
Petitioner,	)	NOTICE OF APPEAL
)	
-vs-)	
	)	Filing Fee: \$94.00
STATE OF IDAHO DEPARTMENT OF)	
TRANSPORTATION, a political)	
subdivision of the State of Idaho,)	
)	
)	
Respondent,)	
_____)	

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO DEPARTMENT OF
TRANSPORTATION, AND THE ~~DEFENDANT'S~~ RESPONDENT'S ATTORNEYS, SUSAN
K. SERVICK, 618 N. 4TH STREET, COEUR D'ALENE, IDAHO 83814, FAX NO. (208) 667-
1825, AND THE CLERK OF THE ABOVE-ENTITLED COURT AND ALL OTHER
INTERESTED PARTIES.

NOTICE IS HEREBY GIVEN THAT:

AMENDED NOTICE OF APPEAL - 1

1. The above-named pPetitioner, BRUCE ALLEN EDWARDS, appeals from the Memorandum Decision on Petition for Judicial Review entered by the Court on August 28, 2017, the Memorandum Decision on Petitioner's Motion for Reconsideration and Requests for Judicial Notice entered by the Court on January 19, 2018, and the Order and Judgment entered in this matter on February 20, 2018, the Honorable Cynthia K.C. Meyer, District Court Judge, presiding. The Case number for such case is Kootenai County Case No. CV-16-3251. Findings of Fact, Conclusions of Law and Preliminary Order on Rehearing by the State of Idaho Department of Transportation in File No. 450A06320662 on March 28, 2016, Stephen A. Bywater, Hearing Officer presiding. The Court Case number for the ensuing appeal to the District Court is Kootenai County Case No. CV-16-3251, the Honorable Cynthia K.C. Meyer, District Court Judge presiding.

2. That the pPetitioner has a right to appeal to the Idaho Supreme Court, and the judgments and/or orders described in paragraph 1 above are appealable under and pursuant to Rule 11(a)(1) I.A.R.

3. The name of the appealing party and the party's attorney, and that of the adverse party and that party's attorney, together with the address, phone number and email address for counsel, are as follows:

Appealing Party: Bruce A. Edwards
Counsel for Appealing Party: ~~Greg D. Horne~~ Richard K. Kuck
Address, Phone Number and Email Address for ~~Greg D. Horne~~ Richard K. Kuck are:
118 N. 7th Street, Suite B-14, Coeur d'Alene, Idaho 83814, (208) 641-9155,
~~hornegreg1@gmail.com~~, P.O. Box 1320, Coeur d'Alene, Idaho 83816-1320, (208) 667-
3600, richk@rkclaw.com.

Adverse Party: State of Idaho Department of Transportation
Counsel for Adverse Party: Susan K. Servick
Address, Phone Number and Email Address for Susan K. Servick are: 618 North Fourth

AMENDED NOTICE OF APPEAL - 2

Street, Coeur d'Alene, Idaho 83814, (208) 667-1486, susan@servicklaw.com.

4. A preliminary statement of the issues on appeal, which the appellants then intends to assert in the appeal, are as follows:

—(a). Did the Court act erroneously in declining to take judicial notice of the relevant portions of the Idaho Commercial Driver's License Manual?

—(b). Did the Court act erroneously in declining to correct the factual record concerning its characterization of the petitioner's alcohol-related offenses?

—(c). Did the Court act erroneously in concluding that Appellant held a class "A" driver's license when he committed other offenses which allegedly triggered a lifetime CDL disqualification?

—(d). Did the Court misapply Idaho Code Section 49-335 in support of its opinion?

—(e). Did the Court act erroneously in concluding that adoption of Petitioner's arguments would lead to the granting him a "free pass"?

—(f). Did the Court act erroneously in concluding disqualification requires no additional steps are required to restore driving privileges under a disqualification, other than the expiration of the disqualifying period.

(a). Are the State of Idaho Hearing Officer's Findings of Fact, Conclusions of Law and Preliminary Order on Rehearing issued by the State of Idaho Department of Transportation in File No. 450A06320662 on March 28, 2016, clearly erroneous, in violation of applicable Idaho law?

(b). Did the State of Idaho Hearing Officer act erroneously in finding/concluding that Petitioner held a class "A" driver's license when he committed other offenses which allegedly triggered a lifetime CDL disqualification?

AMENDED NOTICE OF APPEAL - 3

Provided, however, pursuant to Rule 17(f), I.A.R., any such list of issues on appeal shall not prevent the ~~appellant~~ Petitioner from asserting other issues on appeal.

5. A statement as to the basis for the right to Idaho Supreme Court are: Qualification under Idaho Appellate Rule 11(a)(1).

6(a). Is a reporter's transcript requested? ~~Yes, a transcript of the hearings is requested.~~
No, a transcript of any hearings held is not being requested at this time.

(b). The Petitioner requests the preparation of the following reporter's transcripts: ~~Transcript for hearings held on July 18, 2017 and on December 12, 2017, (Electronic format).~~ No transcripts are being requested at this time.

7. The Petitioner requests the following additional documents to be included in the clerk's record pursuant to Rule 28, I.A.R.: ~~Any and all affidavits and/or declarations filed in support or in opposition to the hearings designated in Paragraph 6(b) above.~~

(a). Notice of Disqualification and Supporting Document

(b). Notice of Lifetime Disqualification and Supporting Documents

(c). Request for Hearing

(d). Copy of Petitioner's Driver's License Record

(e). Miscellaneous Correspondence and Documents

(i). Hearing Officer Assignment Letter

(ii). Administrative Case Sheet

(iii). Request for Hearing Received

(iv). Disqualification Abstract for 1 year DQ

(v). Suspension Order and Abstract for 2nd Major Offense

(vi). Suspension Order and Abstract for 3rd Major Offense

AMENDED NOTICE OF APPEAL - 4

- (vii). Suspension Order and Abstract for 4th Major Offense
- (viii). Lifetime Disqualification Abstract
- (f). Notice of Telephone Hearing
- (g). Amended Notice of Telephone Hearing
- (h). Petitioner's Memorandum in Opposition to Lifetime CDL Disqualification
- (i). Petitioner's Exhibits
- (j). Findings of Fact and Conclusions of Law and Preliminary Order
- (k). Summons
- (l). Petition for Judicial Review
- (m). Order Staying License Disqualification Pending Judicial Review
- (n). Order Re: Remand
- (o). Notice of Telephonic Hearing on Remand
- (p). Request for Continuance
- (q). Amended Notice of Telephonic Hearing on Remand
- (r). Findings of Fact, Conclusions of Law and Preliminary Order on Rehearing
- (s). Petition for Judicial Review
- (t). Summons
- (u). Transcript of the Administrative Proceeding held on March 21, 2016

8. The Petitioner requests the following documents, charts, or pictures offered or admitted as exhibits to be copied and sent to the Supreme Court: ~~All exhibits offered or admitted at the hearings of this matter designated in Paragraph 6(b) above, including, but not limited to a large sized timeline of events concerning the Appellant's offenses and the relevant portions of the Idaho Commercial Driver's License Manual.~~ All documents, charts, or pictures offered to or

AMENDED NOTICE OF APPEAL - 5

admitted as exhibits by the Hearing Officer in this matter.

9. Has an Order been entered sealing all or any portion of the record? No.

10. I certify:

(a). That a copy of this amended notice of appeal has been served on the reporter, Diane Bolan, P.O. Box 9000, Coeur d'Alene, Idaho 83816-9000.

(b). ~~That the clerk of the district court has been paid the estimated fee for preparation of the reporter's transcript.~~ That the clerk of the district court has not been paid the estimated fee for preparation of the reporter's transcript, as no transcripts are being requested.

(c). That the estimated fee for preparation of the clerk's record has been paid.

(d). That the appellant filing fee has been paid.

(e). That service has been made upon all parties required to be served pursuant to Rule 20.

DATED this 21st day of ~~February~~, September, 2018.

/s/ Richard K. Kuck
RICHARD K. KUCK, ISB No. 3875
Attorney for Appellant Petitioner

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing, by eservice, on the 21st day of ~~February~~, September, 2018, to the following:

Susan K. Servick
Attorney at Law
618 North Fourth Street
Coeur d'Alene, Idaho 83814.
Fax No. (208) 667-1825
Eservice to: susan@servicklaw.com

BY: _____
GREG D. HORNE Richard K. Kuck

AMENDED NOTICE OF APPEAL - 6

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

Bruce Allen Edwards
vs.
State of Idaho Transportation Dept
Judicial Rev-KC

Supreme Court No. 45896
CERTIFICATE OF EXHIBITS

I, Katherine Hayden, Deputy Clerk of the District Court of the First Judicial District of the State of Idaho in and for the County of Kootenai, do hereby certify there were no exhibits offered for identification or admitted into evidence during the course of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court on this the 22nd day of October, 2018.

JIM BRANNON
Clerk of the Court

By: *Katherine Hayden*
Deputy Clerk

Seal

CERTIFICATE OF SERVICE

I certify that on this date, I served a copy of the attached to:

Lawrence Wasden
Richard Kuck

janet.carter@ag.idaho.gov
eservice@rklaw.com

By E-mail
 By E-mail

Jim Brannon
Clerk of the Court

Dated: 10/22/2018

By: *Katherine Hayden*
Deputy Clerk

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

Bruce Allen Edwards
vs.
State of Idaho Transportation Dept
Judicial Rev-KC

Supreme Court No. 45896
CLERK'S CERTIFICATE TO THE RECORD

I, Jim Brannon, Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Kootenai, do hereby certify that the above and foregoing record in the above-entitled cause was compiled under my direction and is a true, full and correct record of, the pleadings and documents under Rule 28 of the Idaho Appellate Rules.

I do further certify that copies of all documents, charts and pictures offered or admitted as exhibits in a trial or hearing in the above-entitled cause will be duly lodged with the Clerk of the Supreme Court, along with the Court Reporter's Transcript and Clerk's Record, except that pictures or depictions of child pornography shall not be copied and sent to the parties or the Supreme Court unless specifically ordered by the court. Documentary exhibits in pdf format may be sent to the Supreme Court on a CD that includes an index. All other exhibits shall be retained by the clerk of the district court as required by Rule 31 of the Idaho Appellate Rules.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court on this the 22nd day of October, 2018.

JIM BRANNON
Clerk of the Court

By: Katherine Hayden
Deputy Clerk

Seal

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

Bruce Allen Edwards

vs.

State of Idaho Transportation Dept Judicial
Rev-KC

Case No. CV-2016-3251

Clerk's Certificate of Service

I, Katherine Hayden, Deputy Clerk of the District Court of the First Judicial District, of the State of Idaho, in and for the County of Kootenai, do hereby certify that the above and foregoing Record in the above entitled cause was electronically compiled at my direction, and is a true, full and correct Record of the pleadings and documents as requested by the parties.

I further certify that I have caused to be served the Clerk's Record and Reporter's Transcript (if requested), along with copies of all Exhibits offered or admitted; No Exhibits submitted; Pre-sentence Investigation, or Other Confidential Documents; or Confidential Exhibits (if applicable) to each of the Attorneys of Record or Parties in this case as follows:

CERTIFICATE OF SERVICE

I certify that on October 17, 2018, I served a copy of the attached to:

Lawrence Wasden
Richard Keating Kuck

janet.carter@ag.idaho.gov
eservice@rklaw.com

[X] By E-mail
[X] By E-mail

Dated: 10/22/2018

Jim Brannon
Clerk of the Court

By: *Katherine Hayden*
Deputy Clerk