

DEPARTMENT OF MOTOR VEHICLES
LICENSING OPERATIONS DIVISION
Driver Safety Branch



ADMINISTRATIVE PER SE - REFUSAL
NOTIFICATION OF FINDINGS AND DECISION & ORDER OF SET ASIDE

DRIVER LICENSE OR FILE NO.
F5093161
ARREST DATE
May 23, 2020

The stay of the suspension against your driving privilege has been ended. The suspension resulting from the arrest on May 23, 2020, is hereby set aside.

Richard [REDACTED] is hereinafter also known as "Respondent."

The following findings and determinations are the results of your hearing on May 06, 2021.

FINDINGS OF FACT

I

Probable Cause:

On or about Saturday, May 23, 2020 at 3:37 PM, Officer Hawkins, Badge # 465, of the Covina Police Department, observed Respondent driving a motor vehicle and allowing vehicle to exceed the speed limit, a violation of the California Vehicle Code.

The evidentiary basis for the finding on the probable cause issue is:

- ° DMV Exhibits: Arrest Report & DS-367.

II

Objective Symptoms:

Subsequent to making contact with Respondent, Officer Hawkins formed the belief that Respondent was intoxicated after having observed the following objective symptoms of intoxication:

- ° Bloodshot and watery eyes.
- ° Slurred speech.

Officer Hawkins also considered the following as contributing factors in forming the belief of intoxication:

- ° Unsatisfactory Field Sobriety Tests.

The evidentiary basis for the finding on the objective symptoms of intoxication issue is:

- ° The DS-367 (Officer's Sworn Statement).

III

Reasonable Cause:

Based on the preceding findings concerning probable cause, Officer Hawkins' determination of driving, the Officer's belief that Respondent was intoxicated because of the objective symptom of intoxication, and the additional reported factors that the Officer used to form the belief of intoxication, it is hereby determined that Officer Hawkins had reasonable cause to believe that Respondent was driving a motor vehicle while under the influence of alcohol.

IV

Lawful Arrest:

On 5/23/2020, at 10:53 PM Respondent was arrested for violation of Vehicle Code Section 23152, 23153, or 23140.



The determination that Respondent was arrested under the charge of driving under the influence, Vehicle Code Section 23152, 23153, or 23140 is based on:

- Explicit statements in DMV's documentary evidence.

As a result of the reasonable cause determination and the subsequent findings of an arrest taking place, it is hereby determined that Respondent was lawfully arrested for a violation of Vehicle Code Section 23152, 23153, or 23140.

V

Admonition & Refusal:

The following are the determinations of the trier of fact for each indicated contention raised by the Respondent and the findings for each of the indicated primary issues.

ISSUE: Was Respondent admonished that his driving privilege would be suspended or revoked if he refused or failed to complete a required chemical test to determine the alcohol content of his blood?

» Counsel Contends: The chemical test admonition was never presented.

» Determination: The Respondent was not admonished as to the consequence of refusing to take a chemical test. As a result of the preceding finding in favor of the Respondent, it is hereby determined that Respondent did not refuse or fail to complete the chemical test or tests after being requested to do so by a peace officer.

Based on the above findings it is hereby concluded that the administrative action against Respondent's driving privilege cannot be upheld.

VI

Other Findings:

◦ Officer Hawkins was consistent while testifying and testified after implied consent was offered to the Respondent, he agreed to provide a breath test but did not provide a sufficient sample. As a result of not being able to provide a breath test, Respondent was asked to provide a blood test and he declined and the officer proceed with the with the booking process. Therefore, it is hereby determined that Respondent was not told that his driving privilege would be suspended or revoked if he refused to complete the required testing. As a result the administrative action in this case cannot be upheld.

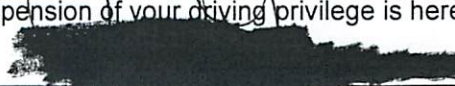
DETERMINATION OF ISSUES

- 1) The peace officer had reasonable cause to believe you were driving a motor vehicle in violation of Vehicle Code Section 23140, 23152, or 23153.
- 2) You were placed under lawful arrest.
- 3) You were not told that your driving privilege would be suspended or revoked if you refused to complete the required testing.
- 4) As a result of the preceding it is determined that You did not refuse or fail to complete the chemical test or tests after being requested to do so by a peace officer.

DECISION

As a result of the preceding Findings & Determination, suspension of your driving privilege is hereby set aside as specified here in these documents.

Dated: April 23, 2021



 _____ - Driver Safety Officer

THIS ACTION IS INDEPENDENT OF ANY OTHER ACTION TAKEN BY THE COURT OR THIS DEPARTMENT

DATE 4/23/2021	SIGNATURE OF AUTHORIZED DMV EMPLOYEE 
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California Relay Telephone Service for the deaf or hearing impaired from TDD Phones: 1-800-735-2929; From Voice Phones: 1-800-735-2922

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