

2. Petitioner admitted to consuming alcohol earlier in the day and he tested positive for alcohol on a portable breath test device. In addition, Petitioner agreed to perform certain field sobriety tests, which he did not complete to Trooper Griffis' satisfaction. Petitioner was placed under arrest for driving under the influence of alcohol. (Testimony of arresting officer)

3. After placing Petitioner in the back of his patrol car, Trooper Griffis learned that a bag containing a green leafy substance had been found in Petitioner's vehicle. After Trooper Griffis properly read Petitioner the implied consent notice for drivers age 21, he requested a blood test and transported Petitioner to Newnan Hospital. (Testimony of arresting officer)

4. Petitioner agreed to take the state-administered chemical test of his blood under the implied consent law. Trooper Griffis gave a sealed blood test kit to the laboratory technician at the hospital and observed her draw Petitioner's blood, place the test tubes containing the samples in the test kit box, and seal it. The samples were mailed to the Division of Forensic Sciences of the Georgia Bureau of Investigation. (Testimony of arresting officer; Exhibit R-1)

5. At the hearing, Trooper Griffis tendered a copy of the crime lab report from the Division of Forensic Sciences dated October 7, 2008. (Exhibit R-1) The report indicated that Petitioner had a blood-alcohol level of 0.167 grams per 100 ml. Counsel for Petitioner objected to the admission of this exhibit, but the Court overruled the objection, as set forth more fully below.

III. Conclusions of Law

Based upon the above findings of fact, the Court makes the following conclusions of law:

1. “The purpose of the driver's license suspension hearing is to provide a quick, informal procedure to remove dangerous drivers from Georgia's roadways and thereby protect public safety....” Swain v. State, 251 Ga. App. 110 (2001)(citations omitted)(scope of hearing is confined by statute to six discrete issues). See also Miles v. Ahearn, 243 Ga. App. 741 (2000)(the legislature has chosen to expressly limit the issues which may be considered at an administrative license suspension hearing); Dozier v. Pierce, 279 Ga. App. 464 (2006).

2. The Court concludes that Respondent has met its burden of proving the limited statutory requirements set forth for the administrative suspension of Petitioner's license under O.C.G.A. § 40-5-67.1(g)(2). First, the arresting officer had reasonable grounds to believe Petitioner was driving or in actual physical control of a moving motor vehicle while under the influence of alcohol or a controlled substance, and Petitioner was lawfully placed under arrest for violating O.C.G.A. § 40-6-391 and O.C.G.A. § 40-5-67.1(g)(2)(A).

3. Second, at the time he requested that Petitioner submit to the state-administered chemical test, the arresting officer informed Petitioner of his implied consent rights and the consequence of submitting or refusing to submit to such test. O.C.G.A. § 40-5-67.1(g)(2)(C).

4. Third, Petitioner consented to the state-administered chemical test of his blood and the test results indicated an alcohol concentration of more than 0.08 grams for a driver over the age of 21. O.C.G.A. § 40-5-67.1(g)(2)(E).

5. Finally, subparagraph (F) of Section 40-5-67.1(g)(2) requires that Respondent prove that the tests were properly administered by an individual possessing a valid permit issued by the Division of Forensic Sciences of the Georgia Bureau of Investigation on an instrument approved by the Division of Forensic Sciences, and that the machine at the time of the test was operated with all its electronic and operating components prescribed by its manufacturer properly attached and in good working order. Subparagraph (F) further provides that “where the test is performed by the Division of Forensic Sciences, a copy of the crime lab report shall satisfy the requirements of this subparagraph.”

6. In this case, under the plain language of the statute, the copy of the crime lab report from the Division of Forensic Sciences (Exhibit R-2) was sufficient, standing alone, to meet the requirements of subparagraph (F).

7. The Court concludes that given the specific language of Section 40-5-67.1(g)(2) limiting the scope of this summary proceeding, Respondent was not required to submit additional evidence to prove the qualifications of the person who drew Petitioner’s blood under O.C.G.A. § 40-6-392(1)(2).¹

¹ The Court notes that the legislature chose to include in Section 40-5-67.1(g)(2) the requirement that Respondent prove that the tests were administered by a person with a valid permit and on a machine in good working order, notwithstanding that the same requirement appears in Section 40-6-392(a)(1)(A). See O.C.G.A. 40-5-67.1(g)(2)(F). Thus, if the Legislature had intended to include the requirement from Section 40-6-392(a)(2) regarding the qualifications of the blood drawer, it could have specifically delineated that requirement in the list of factors under Section 40-5-67.1(g)(2). As it did

8. Accordingly, the suspension of Petitioner's driver's license or driving privilege by the Department of Driver Services was proper. O.C.G.A. § 40-5-67.1.

IV. Decision

IT IS HEREBY ORDERED THAT the decision of Respondent to administratively suspend Petitioner [REDACTED]'s driver's license, permit, or privilege to operate a motor vehicle or commercial motor vehicle in this state is **AFFIRMED**.

SO ORDERED this _____ day of January, 2009.

KIMBERLY W. SCHROER
Administrative Law Judge

not, the Court concludes that the qualifications of the blood drawer is not a factor that Respondent was required to prove in order to administratively suspend Petitioner's license.