

CV-2022-2115



FILED IN DISTRICT COURT
IN THE DISTRICT COURT OF OKLAHOMA COUNTY OKLAHOMA COUNTY
STATE OF OKLAHOMA

OCT 31 2022

RICK WARREN
COURT CLERK

DUSTIN B. HAND,
Plaintiff,

vs.

Case No.:

88

STATE OF OKLAHOMA *ex rel.*,
DEPARTMENT OF PUBLIC SAFETY

Defendant

CV-2022-2115

PETITION

COMES NOW the Plaintiff, by and through her's attorney, Stephen G. Fabian, Jr., and for his/her cause of action against the Defendant, STATE OF OKLAHOMA, EX REL., DEPARTMENT OF PUBLIC SAFETY herein, hereby alleges and states as follows:

1. That the Plaintiff is a resident of Oklahoma County, State of Oklahoma and the Defendant is an agency of the State of Oklahoma.
2. That the Defendant has issued a Notice or Notices of Revocation and /or Disqualification, cancellation, denial, suspension of the driver's license or Chauffeurs license of the Plaintiff one of which becomes effective on 09/28/2022. That said Revocation and Disqualification, cancellation, denial, or suspension is for a period of at least One Hundred and Eighty (180) days. Plaintiff's appeal is an appeal of the above mentioned revocation and /or disqualification cancellation, denial, or suspension and all other current or outstanding Revocations and/or Disqualifications cancellation, denial, or suspension of the Driver's License or Chauffeur's License of the Plaintiff by the Defendant.
3. That Plaintiff made a timely hearing request which was timely received by the Department of Public safety and as a result of said request, an administrative hearing was, in fact, held in which the Plaintiff or legal representative appeared and that as a result of said hearing the Department of Public Safety issued an Order Sustaining the revocation of the Plaintiff's drivers license. It is from this Order that the Plaintiff appeals pursuant to 47 O.S. § 6-211.

Or, said Revocation and /or Disqualification, cancellation, denial, or suspension is/are done without notice to the Plaintiff and without an opportunity to be heard prior to a revocation, or are done without justification or a reasonable basis, and is further an arbitrary frivolous and capricious act of the agency without justification or reasonable basis, and therefore said revocation, disqualification, cancellation, denial, or suspension should be vacated, set aside, and held for naught.

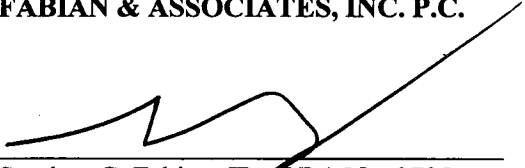
4. That even if said Revocation and/or Disqualification, cancellation, denial, or suspension is justified, said Revocation and/or Disqualification, cancellation, denial, or suspension is for a longer period of time than is justified considering the facts and circumstances currently existent, and said licensee is entitled to have said Revocation and/or Disqualification,

cancellation, denial, or suspension modified to allow the Plaintiff to drive a motor vehicle during the course of Plaintiff's employment and to and from Plaintiff's places of employment and for other purposes, as the imposition of a revocation, disqualification, cancellation, denial, or suspension would cause an extreme and unusual hardship upon the Plaintiff's ability to earn a livelihood, and Plaintiff's ability to function and perform the things necessary to provide for himself/herself and family, and the Plaintiff has no other adequate means of transportation.

5. The Plaintiff moves the Court that upon trial of Plaintiff's matter to make it's findings in the form of Findings of Fact and Conclusions of Law.
6. That said Revocation and/or Disqualification, cancellation, denial, or suspension violates the Plaintiff's Constitutional Rights under both the Oklahoma Constitution and the United States Constitution.
7. If the Plaintiff has been denied a Modification by the Department, then the Statute under which the Department seeks to deny the modification of the revocation of the Drivers license of the Plaintiff is invalid as it's enactment was done in violation of the Constitution of the State of Oklahoma.

WHEREFORE, the Plaintiff, prays the Court set this matter for hearing and vacate said revocation and/or Disqualification, cancellation, denial, or suspension or modify said Revocation and/or Disqualification, cancellation, denial, or suspension to allow the Plaintiff to drive to and from his/her place of employment and during the course of his/her employment and for other purposes, and such other times as the Court finds proper under the circumstances. And other such relief as the Court shall deem just and Proper, including but not limited to the Cost of this action and attorneys fees.

FABIAN & ASSOCIATES, INC. P.C.



Stephen G. Fabian, JR., OBA No. 2795
Brian P. Young OBA # 19979
Cole L. Yarborough OBA# 35267
For the Firm
Court Plaza Building, Suite 700
228 Robert S. Kerr
Oklahoma City, OK 73102
(405) 232-4384