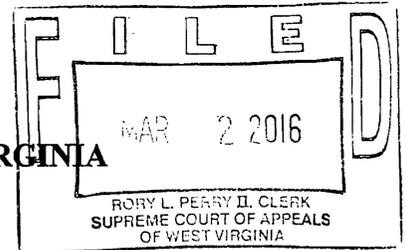


IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

No. 15-0971



**PATRICIA S. REED, Commissioner,  
Division of Motor Vehicles,**

**Petitioner,**

**v.**

**PAMELA HAYNES**

**Respondent.**

**REPLY BRIEF OF THE DIVISION OF MOTOR VEHICLES**

**Respectfully submitted,**

**PATRICIA S. REED,  
COMMISSIONER, DIVISION OF  
MOTOR VEHICLES,**

**By Counsel,**

**PATRICK MORRISEY  
ATTORNEY GENERAL**

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Now comes Patricia S. Reed, Commissioner of the West Virginia Division of Motor Vehicles (“DMV”) and pursuant to Rule 10(g) of the Revised Rules of Appellate Procedure, hereby submits the *Reply Brief of the Division of Motor Vehicles*.

### **I. ARGUMENT**

In her summary response, Ms. Haynes handily omitted the facts that she received another DUI arrest in Ohio in 2006 (App. at P. 250); completed a safety and treatment class (App. at P. 251); made a credit card payment of forty-five dollars (\$45.00) over the phone to reinstate her West Virginia license for the 2003 DUI arrest (App. at PP. 252-253); and received a letter from the WV DMV indicating that her driving privileges were restored in West Virginia. (App. at P. 254.) Further in her summary response, Ms. Haynes argues on page 4 that “she is therefore entitled to challenge a prior revocation that was imposed in violation of her constitutional rights which, if applied to her current arrest, will serve to increase any sanction imposed as a result of this new arrest.”

The DMV satisfied its statutory requirement for service by sending Ms. Haynes *Order of Revocation* to her address of record in 2003. Ms. Haynes received actual notice of the 2003 license revocation in 2006 when she could not reinstate her Ohio driver’s license until she satisfied West Virginia’s reinstatement requirements for the 2003 offense. In 2006, when Ms. Haynes learned of her 2003 revocation in West Virginia, she did not seek a writ of prohibition or mandamus in West Virginia nor did she attempt to file an administrative appeal out of time. Instead, Ms. Haynes completed a safety and treatment course and paid reinstatement fees to West Virginia for the 2003 offense. Consequently, Ms. Haynes waived any argument about her due process rights being violated regarding the 2003 DUI revocation, and her 2012 DUI penalty must be enhanced by her 2003 DUI offense.

It is important to remember that Ms. Haynes was arrested for DUI three times in a ten year period and that neither the first offense sanction in West Virginia nor the first offense sanction in Ohio was effective in preventing her from driving impaired for a third time. The enhanced sanction of mandatory interlock for a repeat offense is intended to offer additional protection to the public against a person that continues to present a danger and to teach the impaired driver how to adjust her driving behavior by physically preventing alcohol impaired driving for a finite time period. Ms. Haynes' resistance to the mandatory program that applies to every other repeat offender in West Virginia is not surprising, but she should not expect any different result by this Court granting the her wish to be treated as a first offender for a third time.

## II. CONCLUSION

For the reasons set forth above as well as in the *Brief of the Division of Motor Vehicles*, the decision of the circuit court should be reversed.

Respectfully submitted,

PATRICIA S. REED, COMMISSIONER,  
DIVISION OF MOTOR VEHICLES,

By Counsel,

PATRICK MORRISEY  
ATTORNEY GENERAL



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v.

NO. 15-0971

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Respondent.

III. CERTIFICATE OF SERVICE

I, Elaine L. Skorich, Assistant Attorney General, does certify that I served a true and correct copy of the forgoing **REPLY BRIEF OF THE DIVISION OF MOTOR VEHICLES** on this 2<sup>nd</sup> day of March, 2016 by depositing it in the United States Mail, first-class postage prepaid addressed to the following, *to wit*:

William B. Richardson, Jr., Esquire  
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Parkersburg, WV 26102

  
Elaine L. Skorich