

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

No. 15-0865

(Circuit Court Civil Action No. 14-P-14)

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

Petitioner,

v.

TAMMY L. ROBBINS,

Respondent.

FROM THE CIRCUIT COURT OF TUCKER COUNTY, WEST VIRGINIA

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

Ms. Robbins’s summary response ignores the actions taken by the Chief Hearing Examiner of the Office of Administrative Hearings (“OAH”). In the instant matter, the Hearing Examiner determined that the blood test results were inadmissible and decided to reverse the order of revocation without consideration of this Court’s decision in *Albrecht v. State*, 173 W. Va. 268, 314 S.E.2d 859 (1984). The Chief Hearing Examiner recognized the Hearing Examiner’s mistake of law and corrected the same as required by W. Va. C. S. R. § 105-1-17.3 (2014). Contrary to the circuit court’s assertion, the DMV did not ask the circuit court to “virtually ignore the determination of its own Hearing Examiner” (App. at P. 3) but to review the applicable law. The Hearing Examiner, the circuit court, and Ms. Robbins ignored the settled law applicable to this matter.

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
WEST VIRGINIA DIVISION OF
MOTOR VEHICLES,

By Counsel,

PATRICK MORRISEY
ATTORNEY GENERAL

Elaine L. Skorich

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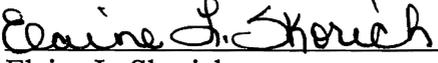
TAMMY L. ROBBINS,

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 29th day of January, 2016 by depositing it in the United States Mail, first-class postage prepaid addressed to the following, *to wit*:

Christopher W. Cooper, Esquire
333 2nd Street, Suite 1
Parsons, WV 26287


Elaine L. Skorich