

**STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS**

**Andrew Reger,
Petitioner Below, Petitioner**

vs) No. 11-1704 (Kanawha County11-MISC-395)

**West Virginia Department of Transportation,
Division of Motor Vehicles,
Respondent Below, Respondent**

FILED

June 7, 2013

RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

MEMORANDUM DECISION

Petitioner Andrew Reger, by counsel Paul E. Biser, appeals the circuit court's order refusing his petition for a writ of mandamus requiring the West Virginia Department of Transportation, Division of Motor Vehicles ("DMV") to reinstate his driving privileges in West Virginia. The DMV, by counsel Elaine L. Skorich, filed its response.

This Court has considered the parties' briefs and the record on appeal. The facts and legal arguments are adequately presented, and the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review, the briefs, and the record presented, the Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision is appropriate under Rule 21 of the Rules of Appellate Procedure.

On August 6, 2010, petitioner was cited for the operation of a motor vehicle while under the influence of alcohol ("DUI") in the State of Ohio. At his arraignment and without counsel, he pled guilty to the charge. The State of Ohio sent a notice of the conviction to the State of West Virginia after which the DMV revoked petitioner's driving privileges in West Virginia under West Virginia Code § 17B-1A-1.¹ Thereafter, petitioner filed a motion to set aside the Ohio court judgment and to withdraw his guilty plea. The Ohio court vacated the initial conviction after which petitioner pled guilty to physical control of a vehicle while under the influence, a non-moving violation in Ohio.

Petitioner notified the DMV that his conviction for DUI in Ohio had been vacated and that he had been subsequently convicted of a non-moving violation. Notwithstanding this notification, the DMV refused to reinstate petitioner's driving privileges in West Virginia.

¹West Virginia Code § 17B-1A-1, the Driver License Compact, in essence, provides that certain convictions of driver's license violations committed in other states shall be given the same effect in West Virginia.