



NEW MEXICO ADMINISTRATIVE HEARINGS OFFICE

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CHIEF

TULAROSA POLICE DEPARTMENT
609B ST. FRANCIS DR.
TULAROSA NM 88352

29-Jun-2026

Letter ID: L0071292816

RE: NOTICE OF IMPLIED CONSENT ACT HEARING RESULT

Driver's Name: JAMES MYERS
Citation No.: 0012199063
Officer Name: LATHAM GARNSEY

CHIEF,

For your Information, a copy of the hearing results regarding the Implied Consent Act license revocation hearing held on the above-referenced matter is enclosed.

Please ensure that a copy of this decision is forwarded to the arresting officer in this matter.

Administrative Hearings Office

Enclosure



-----nL057

**STATE OF NEW MEXICO
ADMINISTRATIVE HEARINGS OFFICE
IMPLIED CONSENT ACT**



**TAXATION AND REVENUE DEPARTMENT,
MOTOR VEHICLE DIVISION**

v.

JAMES MYERS

DRIVER'S LICENSE NO. NM-025815611

NOTICE OF REVOCATION NO. 0012199063

DECISION AND ORDER

On June 23, 2026, a telephonic hearing was held before ALJ Stephen Stevers to determine whether the driving privilege of James Myers (Driver) should be revoked pursuant to the Implied Consent Act (ICA), § 66-8-112 NMSA 1978. Attorney Gary Mitchell appeared on behalf of Driver, who also appeared. Officer Latham Garnsey (184) of the Tularosa Police Department (TPD) and Lt. Matt Huebert (124) of the New Mexico Mounted Patrol (NMMP) appeared and testified on behalf of the Motor Vehicle Division (MVD). The Notice of Revocation was entered into evidence as MVD 1.

FINDINGS BY THE PREPONDERANCE

1. Garnsey had reasonable grounds to believe Driver was driving a motor vehicle while under the influence of intoxicating liquor or drugs.
2. Garnsey lawfully arrested Driver.
3. The hearing was held no later than ninety days after the Notice of Revocation was issued.
4. Driver refused to submit to a chemical test for blood alcohol content after being advised that failure to submit could result in the revocation of his driving privileges.

DISCUSSION AND ANALYSIS

The evidence established the following by preponderance:

On April 4, 2026, Huebert was in uniform driving a marked NMMP patrol unit in Tularosa, Otero County, New Mexico. He was a sworn, salaried officer working for TPD pursuant to a contract with the village and § 29-6-5 NMSA 1978. He was eastbound on Old Mescalero Road when he was approached by a westbound vehicle that had an auxiliary off-highway lamp lighted. The light was extremely bright and Huebert could not see past it. He engaged the emergency lights on his patrol unit to stop the vehicle for violation of a village ordinance requiring a vehicle to dim its lights when approaching another vehicle. The vehicle continued driving past him. Huebert turned around and followed the vehicle with his emergency lights engaged. The vehicle failed to stop and continued eastbound until it turned right onto Brittany Street. Because the vehicle was not stopping in response to his lights, Huebert engaged his siren and the vehicle finally stopped. Huebert contacted Driver and noted that his speech was slurred. Huebert asked Driver how



much he had to drink and Driver responded, "Probably more than I should." Based on Driver's slurred speech, admission to drinking and apparent failure to notice Huebert's lights, Huebert thought Driver might be intoxicated and he called for a TPD officer to conduct a DWI investigation.

Garnsey arrived in response to Huebert's call for assistance. He was nearby and arrived within 90 seconds of receiving the call. He approached the scene from the opposite direction and saw the auxiliary lamp lighted on Driver's vehicle. The light was so bright that he could not see Huebert's vehicle behind it. He first spoke with Huebert who briefed him on what he had observed. Garnsey then contacted Driver. He asked Driver how much he had to drink and Driver again replied, "Probably more than I should have." Driver told him he had been drinking in the vehicle. Garnsey asked Driver to exit the vehicle and asked if he would be willing to submit to Standardized Field Sobriety Tests (SFSTs). Driver agreed to do so. As they were walking to Garnsey's unit, Garnsey noted that Driver was unsteady on his feet.

Garnsey explained the Horizontal Gaze Nystagmus test (HGN) and Driver indicated that he understood. During the HGN, Garnsey noted that Driver had difficulty holding his head still and tracking the stimulus. Garnsey was ultimately able to detect sustained nystagmus at maximum deviation.

Garnsey explained and demonstrated the Walk and Turn test (WAT) and Driver advised that he would not be able to perform the WAT. Driver said he would not be able to complete the OLS either.

Garnsey explained the number count and Driver said he understood. During that test, Driver skipped several numbers then started counting forward instead of backward as instructed. Garnsey explained and demonstrated the finger-dexterity test and Driver said he understood. Driver was able to complete that test successfully. Based on his observations and training, Garnsey determined that Driver was too impaired to safely operate a motor vehicle and placed him under arrest. He properly advised Driver of the requirements of the ICA, including the consequences of a refusal and Driver refused to submit to a breath test.

On cross examination, Garnsey testified that he did not see Driver driving. Driver declined to do the WAT and the OLS because he had pain in his legs. When asked to exit the vehicle, Driver got out immediately. Driver was an older man, but Garnsey did not remember his exact age. Garnsey did not know Driver personally.

Driver argued that Huebert was not a certified police officer and, as an NMMP officer, was required to be working under the auspices of an actual officer. Section 66-8-124(A) NMSA 1978 (2007) provides that "no person shall be arrested for violating the Motor Vehicle Code...except by a commissioned, salaried peace officer..." *State v. Montano*, 2020-NMSC-009, ¶ 19. A peace officer is defined as "any public official or public officer vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes." § 30-1-12(C) NMSA 1978 (2016); *State v.*

Becenti, 2021-NMCA-060. Members of NMMP are authorized to assist and render aid to any state or local law enforcement entity that requests such aid and assistance and are “deemed to be the agents or deputies of the authority issuing such request...possessed of the same powers and duties as such requesting authorities...” § 29-6-5 NMSA 1978. Huebert was “possessed of the same powers and duties” as a regular TPD officer and was thus a commissioned peace officer for purposes of 66-8-124(A) NMSA 1978 (2007).

Driver argued that Huebert did not cite the specific ordinance that was violated and there was no testimony regarding what the ordinance prohibits, so there is no way of knowing if Driver was violating it. An arrest required for license revocation must be constitutional, which means that all police activity leading up to the arrest must be constitutional. *Schuster v. State Dept. of Taxation and Revenue, Motor Vehicle Division*, 2012-NMSC-025, ¶ 1. A traffic stop must be justified at its inception. *State v. Morales*, 2005-NMCA-027, ¶¶ 10-11. To be justified, a traffic stop must be based on a reasonable suspicion that a traffic law has been or is being violated. *State v. Prince*, 2004-NMCA-127, ¶ 9. For the suspicion to be reasonable, an officer must be aware of specific, articulable facts that, judged objectively, would lead a reasonable person to believe a traffic offense has been committed. *State v. Hubble*, 2009-NMSC-014, ¶ 8. The subjective belief of the officer does not affect the validity of the stop. *State v. Farish*, 2018-NMCA-003, ¶ 7. If an officer believes that certain conduct violates one statute, but that conduct violates a different statute, there is reasonable suspicion to support the stop, despite the officer’s mistake of law. *Id.* Section 66-3-827 NMSA 1978 (2016) requires that auxiliary off-road lamps be turned off at least 500 feet from approaching motor vehicles. Regardless of whether Driver was violating any municipal ordinance, he failed to turn his auxiliary lamp off at least 500 feet from Huebert’s vehicle and was in violation of § 66-3-827. There was sufficient reasonable suspicion to support the stop.

Based on the foregoing and on the record, the State has met its burden by a preponderance of the evidence on the issues relevant to this administrative proceeding. Therefore, the revocation is SUSTAINED. Driver is placed on notice that driving on a revoked license is an arrestable offense.

ORDER SUSTAINING THE REVOCATION

IT IS HEREBY ORDERED that the revocation of the New Mexico driver's license, permit or privilege to drive of the person named above is **SUSTAINED for one year**. The revocation shall remain in effect until all conditions for reinstatement are met. ***The revocation shall begin 14 calendar days from the official “FILED” date stamped on the front of this decision.***

IF DRIVER WISHES TO DRIVE ANY vehicle after the effective date of this decision, he must obtain an ignition interlock license and have an ignition interlock device installed in ANY vehicle he drives. For Driver to reinstate his driver’s license, he must be eligible to reinstate and must be able to,

demonstrate a minimum six-month period of driving with an ignition interlock license without any attempts to circumvent or tamper with the interlock device. He will also be required to pay a \$100 reinstatement fee, take and pass all required tests, and pay the licensing fee. If Driver has any questions, he should contact MVD by email at DWI.Reinstate@tax.nm.gov or by telephone at 888-683-4636.

Pursuant to the provisions of NMSA 1978, Section 66-8-112 (H) (2015), any person adversely affected by this Implied Consent Act decision and order of the Administrative Hearings Office may appeal this decision within thirty (30) days of the filed date affixed to the front of this decision in the district court in the county where the offense for which the driver was arrested took place. The appeal process is governed by Rule 1-074 of the Rules of Civil Procedure for the District Court. If an appeal is not filed within 30 days, this decision and order will become final.

Stephen Stevers

Stephen Stevers
Administrative Law Judge
Administrative Hearings Office

