

BIKE v. COMMISSIONER OF MOTOR VEHICLES, No. 97596 (Aug. 22, 1990)

GEORGE C. BIKE, JR. v. COMMISSIONER OF MOTOR VEHICLES ET AL
1990 Ct. Sup. 862
No. 97596 Connecticut Superior Court, Judicial District of
Waterbury
August 22, 1990

[EDITOR'S NOTE: This case is unpublished as indicated by the
issuing court.]

MEMORANDUM OF DECISION

LANGENBACH, J.

The plaintiff has moved for a stay of the suspension of his motor vehicle operator's license, pursuant to Public Act No. 89-314.

Judicial review of the Commissioner of Motor Vehicles' action in suspending the appellant George C. Bike, Jr.'s drivers license is governed by the UAPA and the court may not retry the case or substitute its own judgment for that of the defendant but only determine from the evidence whether the Commissioner acted illegally. *Buckley v. Muzio*, 200 Conn. 1, 3 (1986); *Petrovits v. Commissioner of Motor Vehicles*, 4 C.S.C.R. 184 (January 23, 1989, Corrigan, J.). "If the decision is reasonably supported by the record, it must be sustained." *Petrovits* at 184, citing *Madow v. Muzio*, 176 Conn. 374, 376 (1978).

"An application for a stay of execution of an order during the pendency of an appeal calls upon an exercise of the trial court's general equitable powers." *Park City Hospital v. Commission on Hospitals Health Care*, 210 Conn. 697, 700-01

(1989).

In this case, the arresting officer observed Bike driving in what appeared to be an intoxicated state. Upon closer inspection, CT Page 863 according to the police report, Bike emitted a strong smell of alcoholic beverage, slurred and repetitive speech, red glassy eyes and a lack of coordination. The officer administered field sobriety tests in which the appellant performed poorly. After being placed under arrest, appellant consented to a blood alcohol concentration test which he failed. Following a hearing, his license was suspended for ninety days.

The record provides no opportunity for the court to exercise its equitable powers and appellant's motion for a stay is denied.

LANGENBACH, J.