IN THE SUPREME COURT OF IOWA

NO. 20-0963

J. JESUS CARRERAS and LOS PRIMOS AUTO SALES, L.L.C., d/b/a LOS PRIMOS SALES

Plaintiffs-Appellants,

vs.

IOWA DEPARTMENT OF TRANSPORTATION, MOTOR VEHICLE DIVISION,

Defendant-Appellee.

APPEAL FROM THE IOWA DISTRICT COURT FOR POLK COUNTY THE HONORABLE JEANIE VAUDT

APPELLEE'S BRIEF

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STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

I. THE DISTRICT COURT CORRECTLY HELD THAT PETITIONER CARRERAS' STRUCTURING CONVICTION WAS IN CONNECTION WITH SELLING OR OTHER ACTIVITY INVOLVING MOTOR VEHICLES.

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II. THE DISTRICT COURT CORRECTLY HELD THAT THE AGENCY'S ACTION IN REVOKING THE PETITONER CARRERAS' MOTOR VEHICLE DEALER'S LICENSE WAS SUPPORTED BY SUBSTANTIAL RECORD EVIDENCE.

Cases

State v. Lindsey, 165 N.W.2d 807 (Iowa 1969)
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Iowa Code § 322.3(12)

ROUTING STATEMENT

Transfer to the Iowa Court of Appeals is appropriate given the matter can be decided through the application of existing legal principles and established precedent based on the findings of the district court. *See* Iowa R. App. P. 6.1101(3)(a).

STATEMENT OF THE CASE

The respondent/appellee, Iowa Department of Transportation (hereinafter "respondent"), is satisfied with the petitioners' statement of the case (*see* Iowa R. App. P. 6.903(3)), with the exception of petitioners' characterization of the ALJ's opinion, which was subsequently rejected by both the reviewing officer and the district court, as being reached after "thoughtfully considering many legal and non-legal authorities on the meaning of the key phrase…'in connection with.'" Appellants' proof brief at 10. Rather, it has been the respondent's unwavering position the ALJ's opinion constituted an abuse of discretion, as both the reviewing officer and the district court judge agreed in reversing the ALJ's decision.

STATEMENT OF THE FACTS

The underlying facts are largely not in dispute. Petitioner Carreras and his wife are the owners of Los Primos Auto Sales, a motor vehicle

dealer licensed by the respondent. On August 9, 2018, petitioner entered into a plea agreement whereby he was convicted of structuring transactions to evade reporting requirements in violation of 31 U.S.C. section 5324. App. at 45-59. "As part of the factual basis for his plea, [petitioner] admitted that between January 16, 2014, and April 28, 2017, he and Ms. Carreras knowingly structured, assisted in structuring, or attempted to structure a combined total of at least $111,835.00." App. at 7. The remaining seven (7) counts of the indictment resulting from a lengthy multi-agency federal and state investigation into the Carreras' business activities were dismissed.

The respondent conducted a subsequent investigation and, in April of 2019, revoked Los Primos' dealer license under Iowa Code section 322.3(12) based upon petitioner Carreras' federal felony conviction for structuring. At the administrative hearing, both petitioner and his wife testified that all the deposits came directly from motor vehicle sales at Los Primos and involved only their business accounts. It is undisputed that "[t]he money, structured by hundreds of bank deposits of less than $10,000 into the appellant's business accounts, came directly from the sale of motor vehicles." App. at 199. Despite this, petitioner has consistently attempted to

characterize these transactions as not occurring in connection with petitioner's selling of motor vehicles. The district court soundly rejected this argument, which forms the basis for this appeal.

LEGAL ARGUMENT

I. THE DISTRICT COURT CORRECTLY HELD THAT PETITIONER CARRERAS' STRUCTURING CONVICTION WAS IN CONNECTION WITH SELLING OR OTHER ACTIVITY INVOLVING MOTOR VEHICLES.

Error Preservation

This issue was presented to the district court and plaintiffs' notice of appeal from the decision of the district court was timely filed. Therefore, plaintiffs are correct in their assertion that error has been preserved as to this issue.

Scope of Review

When exercising its power of judicial review of agency action, the district court functions in an appellate capacity to correct errors of law by the agency. *Northwestern Bell Telephone Co. v. Iowa State Commerce Comm'n*, 359 N.W.2d 491, 492 (Iowa 1984); *Willett v. Iowa Dept. of Transp.*, 572 N.W.2d 172, 173-174 (Iowa Ct. App. 1997) (citing *Teleconnect v. Iowa State Commerce Comm'n*, 404 N.W.2d 158, 161-62 (Iowa 1987)).

In the review of the district court's action, the Iowa appellate courts "merely apply the standards of section [17A.19(10)] to the agency action to determine whether [the] conclusions [of the appellate court] are the same as those of the district court." *Northwestern Bell Telephone Co.*, 359 N.W.2d at 492; *Willett*, 572 N.W.2d at 174.

The appellate court should not interfere on judicial review unless it finds the petitioners carried their burden of proof as a matter of law. *Heidemann v. Sweitzer*, 375 N.W.2d 665, 670 (Iowa 1985). The licensee's burden of proof is to show "compliance with all lawful requirements for the retention of the license." *Mary v. Iowa Dept. of Transp.*, 382 N.W.2d 128, 132 (Iowa 1986). The heavy burden of proving a lack of substantial evidence is on the driver. *Missman v. Iowa Dept. of Transp.*, 653 N.W.2d 363, 367 (Iowa 2002); *Lee v. Iowa Dept. of Transp*., 693 N.W.2d 342 (Iowa 2005). This Court need only scrutinize the record to see if there is substantial evidence supporting the agency's decision.

Pursuant to Iowa Code section 322.1, "[t]he administration of this chapter shall be vested with the director of the state department of transportation." Petitioner Carreras' motor vehicle dealer's license was revoked pursuant to Iowa Code chapter 322. In fact, as the underlying facts

surrounding petitioner's conviction are not in dispute, the record evidence could fail to support the agency action in this matter **only** if a reviewing court were to examine the relevant statutes and hold as a matter of law that the agency's actions exceeded its statutory authority and unjustifiably applied law to fact. *See Renda v. Iowa Civil Rights Comm'n*, 784 N.W.2d 8, 10-11 (Iowa 2010); *Good v. Iowa Civil Rights Comm'n*, 368 N.W.2d 151, 155 (Iowa 1985).

> The resolution of the issue at hand involves the agency's application of law to the facts. The legislature clearly vested the agency with the application of the law to the facts. We are required to give the agency appropriate deference because the legislature vested the application of the law to the facts with the agency. *Id.* §17A.19(11)(c). We give the agency the appropriate deference by only reversing or modifying the agency action "upon an irrational, illogical, or wholly unjustifiable application of law to fact."

Drake University v. Davis, 769 N.W.2d 176, 182 (Iowa 2009).

Just as this Court held in *Drake*, above, so does the case at hand rest on the agency's application of law to the facts. Since this matter has been properly vested by law with the agency, it follows that, pursuant to Iowa Code section 17A.19(11)(c), deference is to be given to the agency's decision. Thus, reversal is appropriate only if the agency's application of the law was irrational, illogical or wholly unjustifiable.

Argument

Petitioner's conviction for structuring and the facts underlying it are directly and solely connected to vehicle sales and/or proceeds from the dealership he owns. The respondent's subsequent revocation of the petitioner's motor vehicle dealer's license was statutorily mandated by Iowa Code 322.3(12), which provides as follows:

322.3. Prohibited acts. . .

> 12. A person who has been convicted of a fraudulent practice, has been convicted of three or more violations of section 321.92, subsection 2, or section 321.99, has been convicted of three or more violations of subsection 16 of this section in the previous three-year period, or **has been convicted of any other indictable offense in connection with selling or other activity relating to motor vehicles**, in this state or any other state, shall not for a period of five years from the date of conviction be an owner, salesperson, employee, officer of a corporation, or representative of a licensed motor vehicle dealer or represent themselves as an owner, salesperson, employee, officer of a corporation, or representative of a licensed motor vehicle dealer.

Emphasis added.

Iowa Code section 322.3(12) is clear and unambiguous on its face in barring individuals convicted of any crime connected to the selling of motor vehicles from holding a dealer license. Petitioner was convicted of knowingly structuring deposits into his business account(s) in amounts less

than $10,000 each so as to avoid reporting requirements. This conviction is directly connected to vehicle sales at Los Primos Auto. Petitioner's argument to the contrary is not only illogical but entirely lacking in legal merit.

The term "in connection with" is not a term of legal art requiring in-depth analysis to decipher its meaning or the legislative intent behind it. It is an unambiguous term appearing numerous times in the Iowa Code. Black's Law Dictionary 274 (5th ed. 1979) defines connection as simply "[t]he state of being connected or joined." As the Iowa Supreme Court held in *Irving v. Employment Appeal Bd.*, 883 N.W.2d 179, 185 (Iowa 2016), "[w]ords and phrases like 'voluntary,' 'misconduct,' 'employer,' and '**in connection with**' are not alien to the legal lexicon. These terms are not complex or beyond the competency of courts." (*Emphasis added*). *See also SZ Enters., LLC v. Iowa Utilities Bd.*, 850 N.W.2d 441, 445 (Iowa 2014) (discussing the interpretation of "terms that do not on their face appear to be technical in nature").

The Iowa Supreme Court has examined the phrase "in connection with" on more than one occasion, holding that "in the absence of a legislative definition, we note that the phrase 'in connection with' is

commonly defined as 'related to, linked to, or associated with'." *State ex rel. Miller v. Cutty's Des Moines Camping Club*, 694 N.W.2d 518, 526 (Iowa 2005), *citing Metropolitan Property and Casualty Ins. Co. v. Fitchburg Mut. Ins. Co.*, 793 N.E.2d 1252, 1255 (Mass. Ct. App. 2003). The Court in *Cutty's* went on to hold "[in connection with] plainly has a broader reach than the phrases 'arising out of' and 'contained in," concluding that one "need only show some relation or nexus between the two." *Id.* at 526; discussing *Metropolitan Property*, 793 N.E.2d at 1255, and Black's Law Dictionary (8th ed. 2004) at 1070, defining "nexus" as "[a] connection of link, often a causal one."

Petitioner in the case at hand is asking this Court to engage in legal gymnastics in order to overturn the district court's decision and attach a nonsensical meaning to a commonsense term. Each and every one of the nearly 400 deposits listed in petitioner's indictment was connected to the business account of Los Primos Auto Sales to which the appellant and his wife were the sole authorized signers. These deposits totaled over 1.7 million dollars of proceeds in less than 2½ years. Since the entire basis for the appellant's conviction was based on, and only on, proceeds directly derived from vehicle sales at his dealership, it follows that the entire basis

for the resulting revocation was directly and unequivocally connected to the selling of motor vehicles. Petitioner's motor vehicle dealership was not only connected to the crime, it was the mechanism for it**.** It was the sole means by which the criminal activity occurred; but for the dealership proceeds, there would have been no crime. Thus, the dealership was more than 'related to' or even 'integral to' the crime; it was the means by which the criminal activity was conducted, and petitioner's argument to the contrary is absurd.

The district court correctly concluded that "Petitioners' argument that Petitioner Carreras' conviction is not in connection with selling or other activity relating to motor vehicles is illogical and unsupported by the relevant law." App. at 261.

> Their insistence that their illegal structuring activities came after the motor vehicle sales, thereby severing the connection of these activities to motor vehicle sales, is a distinction without a difference for two reasons. First, section 322.3(12) merely requires the activity within its reach to be "in connection with selling or other activity relating to motor vehicles." This provision does not, as Petitioners argue, require the activity at issue to occur "at the time of" or "simultaneous to" the sale of motor vehicles. If a bright-line temporal rule was what the Legislature intended (which is essentially what Petitioners argue here), the Legislature would have said so. It did not. And, the court will not superinscribe such a provision. Doing so would require the court to engage in statutory construction that

> would violate well-established construction canons and conflict with the liberal interpretation the court must give chapter 322.

Id.; App. at 261.

As respondent argued and the district court agreed, the petitioner's motor vehicle dealership was not only connected to the crime, it was the mechanism for it. The dealership was more than related to or even integral to the crime; it was the **means** by which the criminal activity was conducted. It is undisputed that all of the structured deposits came from vehicle sales at Los Primos which were subsequently deposited into the Carrerras' business accounts. But for the petitioner's dealership and the sale of vehicles therefrom, there would have been no crime. The district court agreed and was correct in holding as follows:

> Since the entire basis for Petitioner Carreras' federal conviction was structuring proceeds directly derived from motor vehicle sales at his dealership, it follows that the entire basis for the resulting state motor vehicle dealer license revocation was in connection with his selling of motor vehicles at his dealership. Petitioner Los Primos Auto Sales was not only connected to the crime; it was the mechanism for it. Selling motor vehicles was the sole means by which the criminal activity Petitioner Carreras pleaded guilty to occurred. But for the dealership proceeds accumulated by Petitioner Carreras through selling motor vehicles, there could have been no crime.
>
> Thus, the dealership was far more than merely 'related to' or even 'integral to' the crime. Petitioner Carreras selling motor

> vehicles through the dealership was the means by which the criminal activity was conducted, and the money derived therefrom was the money that Petitioner Carreras, through his wife, structured in violation of federal law. Thus, the court finds the agency correctly found that (1) the facts underlying Petitioner Carreras' federal conviction are directly in connection with selling motor vehicles and/or proceeds derived therefrom (other activity relating to motor vehicles) from the dealership Petitioner Carreras owns, and (2) the resulting revocation of Petitioners' state motor vehicle dealer license by Respondent was mandated by chapter 322 and was correct as a matter of law.

App. at 261-262.

II. THE DISTRICT COURT CORRECTLY HELD THAT THE AGENCY'S ACTION IN REVOKING PETITONER CARRERAS' MOTOR VEHICLE DEALER'S LICENSE WAS SUPPORTED BY SUBSTANTIAL RECORD EVIDENCE.

Error Preservation

Respondent does not dispute petitioners' assertion that error has been preserved as to this issue.

Standard of Review

The standard of review set forth in Argument I, above, is hereby adopted in its entirety and incorporated herein as if set forth in full.

Argument

Petitioner makes much of the reviewing officer's characterization of the underlying conviction as "inherently fraudulent and deceptive." The crime of structuring deposits to avoid federal reporting requirements is by its very nature deceptive. It is a crime of dishonesty which involves deliberate action and intent.

Petitioner attempts to remove his conduct from the purview of this statute by asserting it was neither dishonest, deceptive nor fraudulent, and that he has a "stellar reputation." Respondent must respectfully disagree. Once petitioner began using the dealership as a means to launder money and/or "structure" deposits, his conduct was, at a minimum, dishonest and deceptive and, thus, falls directly within the conduct prohibited under Chapter 322. Thus, the reviewing officer was correct in holding as follows:

> Clearly section 322.3(12) [as well as section 322.6(1)(d), which uses almost identical language to deny the application for a motor vehicle dealer license] was designed to shield the general public. The overriding purpose of Chapter 322 is to protect consumers of motor vehicles from fraud and deception. State v. Miner, 331 N.W.2d 683 (Iowa 1983). The federal crime of structuring is inherently fraudulent and deceptive. It is not irrational for the State to seek a comprehensive means of eliminating all potential fraud and deception and afford protection for both the buyer and the seller of the vehicle. Id. at 689. The respondent has a duty to safeguard vehicle buyers and

> sellers from dealers who have been convicted of a felony expressly fueled by auto sales. The appellant has been convicted of an indictable offense in connection with selling or other activity relating to motor vehicles.

App. at 8.

Iowa Code section 322.15 mandates the liberal construction of Iowa Code Chapter 322, which includes Iowa Code section 322.2(12). In Iowa Code section 322.15(1), in the interest of public protection, the Iowa legislature took the extra precaution of mandating that all provisions of the chapter "shall be liberally construed to the end that the practice or commission of fraud in the sale, barter, or disposition of motor vehicles at retail in this state may be prohibited and prevented, and irresponsible, unreliable, or dishonest persons may be prevented from engaging in the business of selling, bartering, or otherwise dealing in motor vehicles at retail in this state…"

The purpose of Iowa Code section 322.15 is to protect the public and broaden the application of the mandates of Chapter 322, not to create any sort of additional hurdle to or burden on administrative action. The Iowa Supreme Court has examined this issue and reiterated that the purpose of these provisions is to protect the public. *See State v. Miner*, 331 N.W.2d 683

(Iowa 1983) (the legislative intent is to provide maximum protection to the consumers of motor vehicles) and *State v. Lindsey*, 165 N.W.2d 807 (Iowa 1969) (even a single act may substantiate adverse action on a license where the primary purpose of the legislation is to protect the public).

It defies logic to argue that the crime of structuring, *i.e.*, knowingly organizing deposits so as to avoid reporting rules, is not an act of dishonesty. There is no way to "honestly" commit the crime of structuring. There is certainly a public protection interest in prohibiting individuals convicted of knowingly mishandling vehicle sale proceeds from owning and operating the dealership which is providing them the means to do so. This is consistent not only with the mandates of Iowa Code section 322.15, but also of section 322.3(12) and all relevant case law.

This argument is ultimately of no consequence as Iowa Code section 322.3(12) does not require a finding of fraud or deception; rather, the issue turns on whether the conviction is "in connection with selling or other activity related to motor vehicles" as a predicate for mandatory revocation, as discussed in detail in Argument I, above. Further, despite petitioner's characterization to the contrary, the reviewing officer merely mentions in one sentence that "the federal crime of structuring is inherently fraudulent

and deceptive" as part of a much larger thorough legal examination of the applicability of Iowa Code section 322.3(12) to this case. It is clear from the ruling, and the district court's subsequent affirmation of that ruling, that the agency's holding did not turn on any finding regarding the inherently deceptive nature of a structuring conviction, nor is such a finding required in order to impose the mandatory five-year revocation under Iowa Code section 322.3(12).

III. THE DISTRICT COURT DID NOT EXCEED ITS AUTHORITY IN TOLLING THE FIVE-YEAR REVOCATION PERIOD UNDER IOWA CODE SECTION 322.3(12).

Error Preservation

Petitioner does not dispute that error has been preserved as to this issue, which was consolidated for purposes of this appeal.

Standard of Review

The review of a district court's decision to stay agency action and/or enforcement thereof is ordinarily for abuse of discretion. *Teleconnect Co. v. Iowa State Commerce Comm'n*, 366 N.W.2d 511, 514 (Iowa 1985); *Glowacki v. State Bd. Of Medical Examiners*, 501 N.W.2d 539, 541 (Iowa 1991). A district court's decision rendered in an appellate capacity is

reviewed to determine whether it correctly applied the law. *Houlihan v. Employment Appeal Bd.*, 545 N.W.2d 863 (Iowa 1996). It is well settled that the standard of review for questions of statutory interpretation is correction of errors at law. *Vance v. Iowa Dist. Ct.*, 907 N.W.2d 473, 476 (Iowa 2018); *Standard Water Control Systems Inc. v. Jones*, 938 N.W.2d 651, 656 (Iowa 2020).

Argument

On September 20, 2020, at petitioner's request, the district court extended the stay of enforcement of final action during the pendency of this appeal. At respondent's request, the court also tolled the enforcement of the license revocation period. The authority of the court to issue the stay is not at issue here. *See* Iowa Code section 17A.19(5)(d); *R & V Ltd. v. Iowa Dep't of Commerce*, 470 N.W.2d 59 (Iowa Ct. App. 1991). Rather, the petitioners take issue with the court's ability to toll the five-year revocation period mandated by Iowa Code section 322.3(12).

It was petitioner Carreras' guilty plea of September 6, 2018, to the structuring offense in violation of 31 U.S.C. sections 5324(a)(1) and (a)(3) that triggered the respondent's investigation and subsequent revocation of petitioner's motor vehicle dealer license in April of 2019 under Iowa Code

section 322.3(12). Iowa Code section 322.3(12) mandates a five- (5) year revocation period from the date of conviction. The petitioners have continued to operate under stay orders issued at their behest by both the agency and district court as they have availed themselves of their appellate rights at every level since the revocation proceedings began. The district court correctly considered and rejected petitioners' argument that the five-year enforcement period should continue to run from its date of inception nearly three (3) years ago while all proceedings are stayed at their request.

The district court laid out three reasons why this argument fails. "First petitioners have not suffered the consequences intended by the Iowa legislature in enacting section 322.3(12)." App. at 296. If the petitioners' position were to be adopted, the agency is essentially stripped of its statutory authority under Iowa Code section 322.1 to regulate motor vehicle dealers. The offending individual or entity can simply continue to operate for years while they exhaust their appellate rights, and then if the agency ultimately prevails, they can evade any enforcement whatsoever by claiming that the time has run.

As the district court pointed out, the agency is rarely in a position to revoke a license under Iowa Code section 322.3(12), or any other section for

that matter, immediately upon the date of conviction. It is illogical that a licensee convicted of a crime that triggers mandatory license revocation should be allowed to avoid any legal consequence by seeking and receiving stays of all proceedings during the appellate proceedings while the enforcement period, on the other hand, continues to run. Thus, in examining this illogical outcome, the district court was correct in finding that the "five years from the date of conviction" language in Iowa Code section 322.3(12) is directory rather than mandatory in nature. *See Taylor v. Iowa Dept. of Transp.*, 260 N.W.2d 521, 523 (Iowa 1977). "Whether a statute is mandatory or directory depends on legislative intent." *Taylor*, 260 N.W.2d at 522.

As held in *Taylor*, if a prescribed duty is essential to the main objective of legislation, a statute ordinarily is mandatory and a violation will invalidate subsequent proceedings under it, but if the duty is not essential to accomplishing principal purpose of legislation, statute ordinarily is directory in nature and a violation will not invalidate subsequent proceedings unless prejudice is shown. *Id.* at 523. "The rule is, that when a statute is merely directory, a thing therein required, omitted to be done at the proper time, may be allowed afterward. * * * If, however, a thing is prohibited, or if it is

to be done at one time and prohibited at any other, such prohibition cannot, without judicial legislation, be disregarded." *Id.*, citing *Hill v. Wolfe*, 28 Iowa 577, 580 (1870).

To read the five-year language as mandatory "would undermine rather than further the legislative objective in enacting section 322.3(12)." App. at 297. Further, it leads to an absurd result. "Under the absurdity doctrine, a court declines to follow the literal terms of the statute to avoid absurd results." *Brakke v. Iowa Dep't of Natural Res.*, 897 N.W.2d 522, 534 (Iowa 2017). To follow and apply the literal terms of Iowa Code section 322.2(12) to the situation at hand produces the absurd result of essentially rendering the agency's enforcement action entirely moot. Thus, the district court was correct in holding "the court is confident the legislature did not intend that someone convicted of a crime under section 322.2(12) should escape the consequences associated with the conviction if the agency's revocation of the license is proper." App. at 297.

CONCLUSION

The district court was correct in upholding the respondent's final agency action in this case of revoking the petitioner's motor vehicle dealer license as mandated by Iowa Code section 322.3(12) on the basis that

structuring deposits from motor vehicle sales to avoid reporting requirements is inherently "in connection with selling or other activity relating to motor vehicles." The agency's action was supported by substantial record evidence and the district court's decision in upholding the agency was not erroneous in any manner. Finally, the district court did not abuse its discretion in tolling the enforcement of the license revocation period. Since there is no legal error for this Court to correct, this case should be affirmed in its entirety.

REQUEST FOR ORAL ARGUMENT

Defendant/appellee hereby requests oral argument upon submission of this case.

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CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATION, TYPEFACE REQUIREMENTS, AND TYPE-STYLE REQUIREMENTS

This Brief complies with the type-volume limitation of Iowa R. App. P. 6.903(1)(g)(1) because this Brief contains 4,097 words, excluding the parts of the brief exempted by Iowa R. App. p. 6.903(1)(g)(1).

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CERTIFICATE OF FILING AND CERTIFICATE OF SERVICE

I, Michelle E. Rabe, hereby certify that on February 1, 2021, a copy of Appellee's Brief was filed electronically with the Clerk of the Iowa Supreme Court through the EDMS system, and which system further will provide access and service to the brief on that same date to:

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