

FILED
COMMON PLEAS COURT
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JENNIFER L. WILKINS
CLERK OF COURTS
OTTAWA COUNTY, OHIO

IN THE COMMON PLEAS COURT OF OTTAWA COUNTY, OHIO

State of Ohio)	Case No. 93CR047
Plaintiff,)	
v.)	Judge Bruce Winters
Terri L. Camp)	<u>DECISION AND JUDGMENT</u>
Defendant.)	<u>ENTRY</u>

This matter came before the Court on the Defendant's Motion for driving privileges filed pursuant to R.C. 4510.54, and the State's opposition thereto. The parties have entered into certain stipulations, to wit:

1. 15 years or more have elapsed since the license suspension/revocation was imposed in the above captioned matter;
2. For the last 15 years Terri Camp has not been found guilty of any felony, any offense involving a moving violation under federal law, the law of the State of Ohio or the law of any of its political subdivisions or any violation of a suspension of chapter 4510 or substantially equivalent municipal ordinance;
3. Terry Camp has provided proof of financial responsibility and a policy of liability insurance that meets the minimum standards set forth in ORC 4509.51;
4. Terry Camp has successfully completed an alcohol and/or drug treatment program; and
5. For the last 15 years Terri Camp has not been found guilty of any alcohol-related or drug-related offenses.

The Court is left to determine the following issues:

1. Whether the suspension was imposed because defendant was under the influence of alcohol or a drug of abuse; and
2. Whether the defendant has not abused alcohol or other drugs for a period satisfactory to the court.

Analysis

R.C. 4510.54 provides that a person filing a motion thereunder shall demonstrate all of the following:

- (1) At least fifteen years have elapsed since the suspension began.
- (2) For the past fifteen years, the person has not been found guilty of any felony, any offense involving a moving violation under federal law, the law of this state, or the law of any of its political subdivisions, or any violation of a suspension under this chapter or a substantially equivalent municipal ordinance.
- (3) The person has proof of financial responsibility, a policy of liability insurance in effect that meets the minimum standard set forth in section 4509.51 of the Revised Code, or proof, to the satisfaction of the registrar of motor vehicles, that the person is able to respond in damages in an amount at least equal to the minimum amounts specified in that section.
- (4) If the suspension was imposed because the person was under the influence of alcohol, a drug of abuse, or combination of them at the time of the offense or because at the time of the offense the person's whole blood, blood serum or plasma, breath, or urine contained at least the concentration of alcohol specified in division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code or at least the concentration of a listed controlled substance or a listed metabolite of a controlled substance specified in division (A)(1)(j) of section 4511.19 of the Revised Code, the person also shall demonstrate all of the following:
 - (a) The person successfully completed an alcohol, drug, or alcohol and drug treatment program.
 - (b) The person has not abused alcohol or other drugs for a period satisfactory to the court.
 - (c) For the past fifteen years, the person has not been found guilty of any alcohol-related or drug-related offense.

R.C. 4510.54. The court must also consider the defendant's driving record, the nature of the offense that led to the suspension and the impact of the offense on any victim; consider whether the person committed any other offense while under suspension and determine whether such offense is relevant; and determine whether allowing the person to drive is likely to present a danger to the public. Id. A defendant may apply for reinstatement after 15 years of suspension and may only make application one time - if the application is denied, the person is forever barred from driving or asking the court to reconsider the decision; however, if granted, the court may impose whatever driving restrictions it finds appropriate. Id.

In the present case, the suspension was issued by this court some 17 years ago at the time of sentencing. The evidence presented shows that the defendant served a ten year sentence in prison and has been living in the community for seven years. She is very involved in the Alcoholics Anonymous ("AA") organization and has instituted her own group in Woodville, Ohio and she attends several meetings per week. She has been a featured speaker for AA in several states. She has received her certification as an optician and is regularly employed in her field of training. She states that she has been sober, (drug and alcohol free) since immediately before she was sentenced in this matter and acknowledges that for the first 10 years of her sobriety, while she was in prison, these substances were not available to her. She states she is free from her compulsion for alcohol.

The defendant admits having driven during her suspension on an occasion when she believed her driving was the only alternative to allowing an intoxicated person to drive. The defendant was not stopped or charged as a result of the incident.

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The survivors of the deceased victim testified to the impact the actions of the defendant had on their lives and how the loss of their brother, son and friend has changed their lives forever. They spoke of the heartless and cavalier attitude the defendant displayed on the night of the offense. They clearly related the pain this act brings to their lives.

The mother of the child who was killed in the accident conceded that "people can change" but further states that she is not firmly convinced of the defendant's sobriety.

The court has considered these factors as well as other evidence presented at trial.

When the court fashions a sentence in any criminal case it must consider those factors set forth in R.C. 2929.11 which states that the overriding purposes of felony sentencing is to protect the public from future crime by the offender and to punish the offender. In the case at bar, the defendant was at the time of sentencing an unrepentant and raging alcoholic. The court may have levied the lifetime suspension as a punishment but more likely imposed the restriction to protect the public from future harm by someone who showed no sign of rehabilitation or recovery.

The defendant herein has since shown evidence of rehabilitation and, in fact, if her testimony is to be believed, has done nearly everything which might best ensure her continued sobriety.

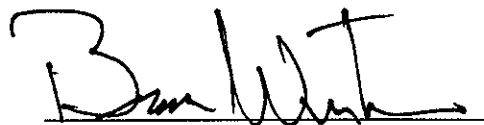
This court takes very seriously its duty to protect the public in this instance. While there is no direct evidence to support the proposition that the defendant is using alcohol or drugs, the court believes additional evidence is warranted.

It is therefore ORDERED, ADJUDGED and DECREED that this matter be set for hearing on **May 17, 2013 at 9:00 a.m.** for further consideration on the defendant's

motion. In the interim, the defendant shall be monitored by the court's adult probation department and shall participate in the random drug and alcohol testing program and be tested no less than once per week. The initial phase of this period of observation will include continuous electronic monitoring (by means of a SCRAM ankle monitor) to detect any alcohol consumption. Any consumption of alcohol or illicit drugs or occasions of driving during this period will remove the matter from further consideration. Defendant shall be responsible for all costs associated with the aforementioned, including but not limited to monitoring and testing costs.

At the time of the hearing the court will consider what if any driving privileges will be granted and what if any restrictions might be put into place including but not limited to: further review hearings, limitations as to the time and purpose of driving, insurance coverage requirements and any other restrictions the court finds necessary.

Clerk of Courts shall send copies of this Decision and Order to all parties of record or their counsel by regular U.S. Mail.


Bruce Winters, Judge