IN THE COURT OF APPEALS OF IOWA

No. 2-013 / 11-0333
Filed February 1, 2012

FRANK DEAN TEAGUE,
Plaintiff-Appellant,

vs.

IOWA DEPARTMENT OF TRANSPORTATION, MOTOR VEHICLE DIVISION,
Defendant-Appellee.

Appeal from the Iowa District Court for Scott County, Thomas G. Reidel, Judge.

The appellant appeals from the district court's ruling on judicial review. **AFFIRMED.**

Frank Dean Teague, Davenport, appellant pro se.

Thomas J. Miller, Attorney General, B.J. Terrones, Assistant Attorney General, for appellee.

Considered by Vogel, P.J., and Potterfield and Doyle, JJ.

VOGEL, P.J.

On two separate occasions in January and February 2009, Frank Teague refused to submit to chemical testing and was charged with two counts of operating while intoxicated in Illinois.[1] As a result of the second refusal, the Iowa Department of Transportation (DOT) revoked Teague's driver's license for two years.[2] *See* Iowa Code § 321J.9 (2009) (providing that if a person refuses to submit to chemical testing, the person's driver's license shall be revoked). In March 2010, Teague petitioned the DOT to reopen the proceedings and rescind the revocation. The following month, the DOT found that Teague did not present any new evidence to support reopening the proceedings as required by Iowa Code section 321J.13(6) (provides the DOT "shall grant the request for a hearing to rescind the revocation if the person . . . submits a petition containing information relating to the discovery of new evidence that provides grounds for rescission of the revocation"). This decision was upheld by a DOT administrative law judge. Teague appealed to the director of the DOT, and the reviewing officer affirmed. Teague then sought judicial review in district court, after which the district court denied Teague's request to present new evidence and affirmed the revocation. Teague appeals.

Teague first asserts the district court abused its discretion by denying his request to present new evidence. As the district court found, the evidence

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[1] As a result of a plea agreement, Teague pleaded guilty to the January offense, and the February charge was dismissed.

[2] The revocation notice cited to Iowa Code sections 321.210(1)(e) (authorizing the DOT to suspend an operator's license with thirty days notice and without a preliminary hearing if the operator committed an offense in another state that would be grounds for suspension in Iowa) and 321A.17 (providing that along with the suspension or revocation of a driver's license, the DOT shall also suspend the registration for all motor vehicles registered in the name of the person).

Teague wanted to present related to "health issues, many of which are subsequent to the violations" and were not relevant to grounds for rescission of the revocation provided under section 321J.13(6). Reviewing the evidence presented, we conclude the district court did not abuse its discretion.

Teague next asserts "[t]he district court should not have denied his request to rescind the administrative revocation." In order to have a hearing, Teague was required to provide evidence relating to the grounds for rescission, namely a court ruling from the corresponding criminal action that held either:

> (1) That the peace officer did not have reasonable grounds to believe that a violation of section 321J.2 or 321J.2A had occurred to support a request for or to administer a chemical test.
> (2) That the chemical test was otherwise inadmissible or invalid.

Id. § 321J.13(6).

In support of his motion to reopen the record, Teague provided evidence that his second OWI charge was dismissed pursuant to a plea agreement. This is not a ground on which his revocation can be rescinded. *See, e.g.*, *Zenor v. Iowa Dep't of Transp.*, 558 N.W.2d 427, 432 (Iowa Ct. App. 1996) ("The motion to dismiss the criminal charge and the order dismissing it were not material. . . . A defendant's acquittal of a charge filed under Iowa Code section 321J.2 does not necessarily rescind the revocation of his or her license."). Teague presented no evidence relevant to the grounds for rescission provided for under section 321J.13(6). We find Teague's arguments without merit and affirm the district court.

AFFIRMED.