

**IN THE COURT OF APPEALS OF IOWA**

No. 7-376 / 06-1887  
Filed July 12, 2007

**DEREK JOHN BREITBACH,**  
Petitioner-Appellant,

**vs.**

**IOWA DEPARTMENT OF TRANSPORTATION,  
MOTOR VEHICLE DIVISION,**  
Respondent-Appellee.

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Appeal from the Iowa District Court for Guthrie County, Peter A. Keller,  
Judge.

Derek Breitbach appeals from the district court order affirming the Iowa  
Department of Transportation's revocation of his driver's license. **AFFIRMED.**

Chad Boehlje of Boehlje Law Firm, P.L.C, Pella, and John Reich of Reich  
Law Firm, Adel, for appellant.

Thomas J. Miller, Attorney General, and Noel C. Hindt, Assistant Attorney  
General, for appellee.

Considered by Huitink, P.J., and Zimmer and Vaitheswaran, JJ.

**VAITHESWARAN, J.**

The Department of Transportation revoked Derek Breitbach's driver's license for operating a motor vehicle while intoxicated. The district court affirmed the agency decision.

On appeal, Breitbach contends reasonable grounds did not exist for the arresting deputy to believe he operated his motor vehicle while intoxicated. See Iowa Code § 321J.12 (2005). "The reasonable grounds test is met when the facts and circumstances known to the officer at the time action was required would have warranted a prudent person's belief that an offense has been committed." *Pointer v. Iowa Dep't of Transp.*, 546 N.W.2d 623, 625 (Iowa 1996) (citations omitted).

The final agency decision-maker adopted the fact findings of an administrative law judge on this issue. That administrative law judge made the following key findings: (1) Breitbach "advised Deputy Long that he had just driven to the location to pick up" two individuals at a tavern and (2) Breitbach "admitted having consumed alcoholic beverages earlier at home before driving to pick up his friends." The parties agree that our review of these fact findings is for substantial evidence. Iowa Code § 17A.19(10)(f). They also agree that we are statutorily obligated to view the record as a whole. *Id.* § 17A.19(10)(f)(3) (stating adequacy of evidence supporting a particular fact finding "must be judged in light of all the relevant evidence in the record cited by any party that detracts from that finding as well as all of the relevant evidence in the record cited by any party that supports it.").

The cited fact findings are supported by the testimony of Deputy Long and another deputy at the scene.<sup>1</sup> While there is contradictory evidence indicating that Breitbach drove to the bar hours before he was apprehended, consumed alcohol at the bar, and was neither in or around his car when he was apprehended, “[i]t is the commissioner’s duty as the trier of fact to . . . weigh the evidence, and decide the facts in issue.” *Arndt v. City of Le Claire*, 728 N.W.2d 389, 394-95 (Iowa 2007).

Because substantial evidence supports the agency’s key fact findings on whether the deputy had reasonable grounds to believe Breitbach was operating a motor vehicle while intoxicated, we affirm.

**AFFIRMED.**

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<sup>1</sup> A deputy also testified that he smelled alcohol on Breitbach and that Breitbach failed field sobriety tests and a breath test.