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IN THE
COURT OF APPEALS OF INDIANA

DONALD R. BLOSS,	)	
	)	
Appellant-Petitioner,	)	
	)	
vs.	)	No. 20A03-1102-MI-60
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Respondent.	)	

APPEAL FROM THE ELKHART SUPERIOR COURT
The Honorable Olga Stickel, Judge
Cause No. 20D04-1005-MI-8

September 22, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

ROBB, Chief Judge

Case Summary and Issue

The Indiana Bureau of Motor Vehicles ("BMV") determined Donald Bloss was an habitual traffic violator ("HTV") pursuant to Indiana Code section 9-30-10-4(b) and suspended his driver's license for ten years. Following Bloss's verified petition for judicial review challenging the BMV's determination, the trial court denied his petition, finding Bloss's HTV status justified. Bloss raises one issue for our review, which we restate as whether the trial court erred when it concluded the BMV properly suspended Bloss's driver's license for ten years upon determining he was an HTV pursuant to Indiana Code section 9-30-10-4(b). Concluding the trial court did not err and Bloss was properly determined to be an habitual traffic violator, we affirm.

Facts and Procedural History

In December of 1998 Bloss was convicted of possession of a controlled substance and his driving privileges were suspended for a period of 180 days. Bloss violated his suspension and was convicted of driving while suspended in November of 1999. In March of 2002 Bloss was convicted of reckless driving, and in August of 2003 Bloss was convicted of operating a vehicle while intoxicated.

In October of 2003 the BMV determined Bloss was an HTV pursuant to Indiana Code section 9-30-10-4(b) and his license was suspended for ten years. In 2010, Bloss filed a verified petition for judicial review challenging the BMV's determination that he is an HTV pursuant to the above section of the Indiana Code. After a hearing, the trial court denied Bloss's petition, concluding Bloss "has the requisite number of qualifying offenses to justify

his [HTV] status." Appellant's Appendix at 127-30. Bloss then filed a motion to correct error, which was also denied after a hearing. Bloss now appeals the denial of his verified petition for judicial review.

Discussion and Decision

I. Standard of Review

Statutory interpretation is a matter of law and reviewed under a de novo standard. Indiana Ass'n of Beverage Retailers, Inc. v. Indiana Alcohol & Tobacco Comm'n, 945 N.E.2d 187, 197 (Ind. Ct. App. 2011). A statute that is clear and unambiguous must be read to mean what it plainly expresses, and its plain and obvious meaning may not be enlarged or restricted. Id. (quotation and citation omitted). The words and phrases of such a statute shall be taken in their plain, ordinary, and usual sense. Id. at 198. We therefore construe and interpret a statute only if it is ambiguous. Id. If a statute is ambiguous and susceptible to more than one reasonable interpretation, we give great weight to an interpretation of the statute by an administrative agency charged with the duty of enforcing the statute, unless the interpretation would be inconsistent with the statute itself. Id. If a court determines an agency's interpretation is reasonable, it should terminate its analysis and not address the reasonableness of the other party's proposed interpretation. Id. This recognizes the expertise of agencies empowered to interpret and enforce statutes and the increasing public reliance on agency interpretations. Id.

II. Habitual Traffic Violator Statute

Bloss concedes his convictions for driving while intoxicated and reckless driving are judgments under Indiana Code section 9-30-10-4(b) that qualify in an habitual traffic violator determination.[1] Bloss argues, however, that his conviction for driving with a suspended license is not such a judgment, and thus, he does not have the necessary number of qualifying judgments to be adjudicated an HTV. The statute at issue provides:

> (b) A person who has accumulated at least three (3) judgments within a ten (10) year period for any of the following violations, singularly or in combination, not arising out of the same incident, and with at least one (1) violation occurring after March 31, 1984, is a habitual offender:
> . . .
> (5) Operating a motor vehicle while the person's license to do so has been suspended or revoked as a result of the person's conviction of an offense under IC 9-1-4-52 (repealed July 1, 1991), IC 9-24-18-5(b) (repealed July 1, 2000), IC 9-24-19-3, or IC 9-24-19-5.
> . . .

Ind. Code § 9-30-10-4(b)(5).

Indiana Code section 9-24-18-5(b) had not yet been repealed at the time of Bloss's conviction for driving while suspended. Thus it can properly support a finding of a judgment pursuant to section 9-30-10-4(b)(5). Indiana Code section 9-24-18-5(b) provided that if "(1) a person operates a motor vehicle upon a highway while the person's driving privilege, license, or permit is suspended or revoked; and (2) the person's suspension or revocation was a result of the person's conviction of an offense (as defined in IC 35-41-1-19); the person commits a Class A misdemeanor." Timmons v. State, 723 N.E.2d 916, 923 (Ind. Ct. App.

[1] See Ind. Code § 9-30-10-4(b)(1), (7).

2000), vacated in part, 734 N.E.2d 1084 (Ind. Ct. App. 2000), trans. denied. Bloss's 1999 conviction for driving with a suspended license was predicated on this statute.

Bloss contends Indiana Code section 9-30-10-4(b)(5) should be interpreted to require that in order for a driving while suspended violation to fall under this subsection, and therefore be eligible as one of three judgments required for an HTV status, the underlying suspension of a person's license must have resulted from one of the Indiana Code sections referenced in section 9-30-10-4(b)(5). Because Bloss's driving privileges were originally suspended as a result of a possession of a controlled substance conviction, rather than one of the statutes listed in 9-30-10-4(b)(5), he argues his subsequent 1999 conviction for driving while suspended does not count towards an HTV determination.

Based upon a plain reading of the statute, we disagree. Statutes must be read as a whole and in context. Schafer v. Sellersburg Town Council, 714 N.E.2d 212, 218 (Ind. Ct. App. 1999), trans. denied. The Indiana Code sections cross-referenced in section 9-30-10-4(b)(5) all provide a statutory basis for the offense of driving with a suspended license, and their only requirement regarding the reason for the original suspension is that it resulted from the person's conviction of an offense rather than an infraction. For example, Indiana Code section 9-24-19-3 provides:

> A person who operates a motor vehicle upon a highway when the person knows that the person's driving privilege, license, or permit is suspended or revoked, when the person' suspension or revocation was a result of the person's conviction of an offense (as defined in IC 35-41-1-19) commits a Class A misdemeanor.

Ind. Code § 9-24-19-3. Indiana Code section 35-41-1-19 provides "'offense' means a crime," and "[t]he term does not include an infraction." Thus, it is clear that the statutes cross-referenced form the foundation of the driving while suspended charge, not the foundation of the underlying driver's license suspension as Bloss argues. Therefore, it does not matter that Bloss's underlying suspension arose from a statute not referenced in section 9-30-10-4(b)(5). The trial court did not err in determining the BMV properly adjudicated Bloss an HTV and imposed a corresponding suspension.

Even if Indiana Code section 9-30-10-4(b)(5) is ambiguous, the BMV interpreted the statute such that it applies to Bloss. As discussed above, this interpretation is not unreasonable or inconsistent with the statute itself. Thus, giving deference to the interpretation of the agency empowered to interpret and enforce the statute at issue,[2] we need not address the reasonableness of Bloss's proposed interpretation. Even if the statute is ambiguous, the trial court did not err in determining Bloss's driver's license was properly suspended pursuant to the BMV's interpretation of Indiana Code section 9-30-10-4(b)(5).

Conclusion

Bloss's driving while suspended conviction constitutes one of three necessary judgments for the purposes of his HTV determination. The trial court did not err in concluding the BMV properly interpreted Indiana Code section 9-30-10-4(b)(5) to apply to

[2] See Ind. Code § 9-14-2-1 (providing for the BMV's authority to administer and enforce Title 9 of the Indiana Code).

Bloss. The trial court's order is therefore affirmed.

Affirmed.

BARNES, J., and BRADFORD, J., concur.