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MVD License Revocation Hearings: Strictly Formality!

The MVD hearing following a DWI arrest has always had pretty low standards for drivers license revocation. Essentially, if the cops showed for the hearing, it was almost a foregone conclusion that the license would be revoked.

Basically, once the hearing began, the officers need only show that they legally stopped the driver, the officer had reasonable grounds to believe the driver was driving while under the influence, the person was arrested, the hearing was held within ninety days of arrest, and the driver either blew over .08 or refused the breath alcohol test.

These were pretty low standards. The only possible basis for winning the revocation hearing was showing the stop was illegal. But even this offered a glimmer of hope, and a small thread of due process. It was small indeed. In actuality, the officer would basically have to admit that the driver was stopped illegally to lose the hearing once it commenced. Few officers would ever make such an admission.

Despite the extremely low standards for revocation, the standards just got even lower as a result of the [New Mexico Court of Appeals](#) decision in *Glynn v. New Mexico Tax and Revenue, Motor Vehicles Division*. Remarkably, the Court determined that the first element was no longer necessary. More remarkably, the Court held so despite the protestations of the MVD.

MVD argued that the MVD hearing officers had authority to determine the legality of the stop under the 4th Amendment. In fact, MVD stated that this had always been a part of the hearing arguing that "whether a stop is justified by reasonable suspicion is implicitly within the scope of MVD's statutory authority."

The Court disagreed flat stating "Fourth Amendment requirements is not a necessary element of a license revocation under the Act." The Court thus concluded that the exclusionary rule did not apply either.

The result is that officers are free to stop vehicles under whatever pretense and the license revocation will move forward so long as there a .08, a refusal and the hearing is held on time. The U.S. Constitution simply has no place in the MVD driver's license revocation hearing.

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The MVD hearing is now no more than a sham formality whose purposes defy reason. There really is no need for the pretext of fairness or justice. The only remaining element for revocation is now whether the driver blew over .08 or refused the test. Is a hearing really necessary for this determination?

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