



IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

JAMES FRENCH,)
)
 Plaintiff,)
)
 v.)
)
 THE STATE OF OKLAHOMA,)
 ex., rel. The Department of Public Safety,)
 Service Oklahoma, Oklahoma Board of)
 Tests,)
 Defendants.)

CV - 2023 - 895
CASE NO.

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

APR 12 2023

RICK WARREN
COURT CLERK

APPEAL PETITION ON MERITS

42 _____

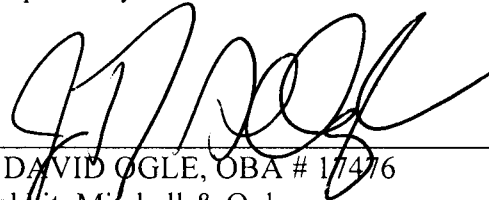
COMES NOW, the Plaintiff, James French, by and through his attorney, J. David Ogle, and pursuant to Title 47 O.S. § 6-211 appeals from a Notice of Revocation/Disqualification of driving privileges received on March 15, 2023 from Service Oklahoma. In support of her cause of action Plaintiff alleges and states:

1. On or about March 12, 2023, Plaintiff was arrested by the Oklahoma City Police Department for an alleged Title 47 driving violation, Driving Under the Influence. On that same date, Plaintiff received and Officer's Affidavit and Notice of Revocation/Disqualification from the arrest Officer (see Exhibit "A")
2. On March 15, 2023, Plaintiff received a Notice and *Order of Revocation/Disqualification* issued by Service Oklahoma on March 15, 2023. (See Exhibit "B"). Said revocation/disqualification is for a period of at least One Hundred and Eighty (180) days.
3. Plaintiff appeals Defendant(s) Order of Revocation/Disqualification pursuant to 47 O.S. § 6-211.
4. The revocation/disqualification is done without legal authority and without proper notice to Plaintiff. Further it is an arbitrary, frivolous, and capricious act of Defendant(s) without justification or reasonable basis, and there said Revocation should be vacated, set aside and held for naught.
5. Defendant Service Oklahoma lacks statutory authority to Revoke Plaintiff's driver's license.

6. Plaintiff's arrest occurred in Oklahoma County. Therefore, jurisdiction and venue are proper.
7. This court has jurisdiction to hear this matter, as Plaintiff has timely filed this Petition pursuant to 47 O.S. § 6-211.

WHEREFORE, Plaintiff prays this Court set this matter for a hearing, not less than thirty (30) days nor more than sixty (60) days from the date of filing and vacate said Revocation/Disqualification, or in the alternative modify said Revocation/Disqualification to allow Plaintiff driving privileges and any other such relief this Court shall deem just and proper.

Respectfully submitter,



J. DAVID OGLE, OBA # 17476
Babbit, Mitchell & Ogle
9905 South Pennsylvania Avenue
Oklahoma City, Oklahoma 73159
Telephone: (405) 692-7676
Facsimile: (405) 692-7670
Email: david@BMOLawOK.com
Attorney for Plaintiff, Mr. French

CERTIFICATE OF SERVICE

I hereby certify that I delivered a full, true and correct copy of the above and foregoing Petition by United States Postal Service, certified mail, on the 17 day of April 2023 to the following:

Service Oklahoma
P.O. Box 11415
Oklahoma City, OK 73136-0415

Commissioner of Public Safety
Department of Public Safety
P.O. Box 53004
Oklahoma City, Oklahoma 73152

Oklahoma Department of Public Safety
3600 North Martin Luther King Avenue
Oklahoma City, OK 73111

Oklahoma Board of Tests
P.O. Box 36307
Oklahoma City, OK 73136-2307



J. DAVID OGLE, OBA No. 17476

OFFICER'S AFFIDAVIT AND NOTICE OF REVOCATION/DISQUALIFICATION

ARREST DATE 12 MARCH 23		ARREST TIME 0152		COUNTY # 55		CITY # 70		CITATION # 200404975		Section 1	
ARREST LOCATION 2716 SW Grand				CITY OKC		COUNTY OK					
SUBJECT NAME French, James				DATE OF BIRTH 5/10/67		SEX M		RACE W		HEIGHT 601	
ADDRESS 2716 SW Grand				CITY OKC		STATE OK		ZIP CODE 73119			
DRIVER LICENSE # [REDACTED]				EXPIRATION DATE 2025		STATE OK		CLASS D		RESTRICTIONS/ENDORSEMENTS	
VEHICLE MAKE Chev				MODEL Traverse		TAG # HLE4975		STATE OK		CMV PLACARD	

On the above date, time, and location, the above named person was arrested, and I had reasonable grounds to believe the person was driving or in actual physical control of a motor vehicle upon a public road, highway, street, turnpike, public parking lot, or other public place, or upon a private road, street, alley or lane which provides access to one or more single or multi-family dwelling within this state while under the influence of alcohol and/or other intoxicating substances as prohibited by law.

(Describe driving behavior or circumstances):

Swearing, fail to signal turn

Describe person's condition (odor, actions, etc.):

odor of Alcohol in breath, watery eyes, slurred speech, was steady on feet

THE PERSON WAS INFORMED OF THE IMPLIED CONSENT TEST REQUEST

REFUSED TEST Whereupon the person refused the requested test(s) by stating or doing the following:

I want to think about it, never said yes or no

IF a TEMPORARY LICENSE is issued - Anyone using this form thirty (30) days after issuance may be driving under suspension. All law enforcement officers may determine if the holder is driving under suspension by requesting a Driver's License status through OLETS. This receipt and permit is issued to individuals who have refused to take a breath or blood test to determine Alcohol Content and the results indicated a Breath Alcohol Content as specified under the Implied Consent Law and Title 47, 11-902, and/or 11-906.4.

I have been informed of the Implied Consent Test Request and refuse the state's test:

[Signature]
SIGNATURE OF ARRESTEE

(if the person refuses to sign so state here)



Receipt for Driver License and Temporary Driving Permit
If person named in section 1 has a valid Driver License in his/her possession the arresting officer shall seize it and issue this form as a temporary permit good for thirty (30) days from the date issued in section 4.

EFFECTIVE THIRTY (30) DAYS FROM DATE SERVED. Notice of Revocation is given that your driver's license is revoked or denied for a period of one hundred eighty (180) days or more, if you refused or failed the state's tests. In addition, your commercial driving privilege in this state will be disqualified if you refused or failed the state's tests (operating a CMV or CDL holder) OR a test result of .04 or more while operating a commercial motor vehicle. To appeal the drivers license revocation/disqualification, the Department of Public Safety must receive your written request for an Administrative Hearing within fifteen (15) days from the date you received notice of revocation or disqualification. Submit your written request in person at 3600 N. MLK Ave. or by mail to Legal Division, Department of Public Safety, P.O. Box 11415, OKC, OK, 73136

SERVING OF NOTICE: A copy of this form containing the Notice of Revocation was hand-delivered to the person named in Section 1 above ON THE DATE INDICATED IN SECTION 4.

In accordance with Title 12 O.S. Section 426, "I state under penalty of perjury under the laws of Oklahoma that the foregoing is true and correct," Section 4

Date: 12 March 23 Signature of arresting officer: [Signature]

Place (location when signed): OKC CC Jail

NAME (PRINT) S. K. Mac, Chris		AGENCY OCPD	
BADGE 2037	AGENCY ADDRESS 7th Colcord DR		PHONE 297 1000
		ZIP CODE 73127	

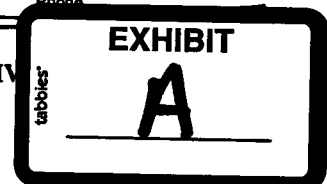
OTHER WITNESSES:

A Name: _____ Title _____ Address: _____ Phone _____

B Name: _____ Title _____ Address: _____ Phone _____

Temporary License Issued:
YES NO

MAKE NECESSARY COPIES - SEND THE ORIGINAL TO DPS LEGAL DIV
BOT Form AFF03 09/2009





JAY DOYLE
Chief Executive Officer

KEVIN STITT
Governor

JAMES FRENCH
700 Colcord Dr
Oklahoma City OK 73102

DATE: 03/15/2023

DL#: [REDACTED]

CASE#: 1000160783

NOTICE

The State of Oklahoma has received the sworn report of a law enforcement officer stating he or she had reasonable grounds to believe the above-referenced person has been driving or was in actual physical control of a motor vehicle upon the public roads, highways, streets, turnpikes, or other public place of this State while under the influence of alcohol, any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance. The sworn report of the law enforcement officer further states the above-referenced person, after being arrested, refused to submit to a chemical test or tests as required by 47 O.S. §751(A).

ORDER OF REVOCATION/DISQUALIFICATION

Effective 55 days from the date of this Order, the Oklahoma driving privileges of the above-referenced person are hereby revoked for a period of no less than one hundred eighty (180) days. Additionally, if the above-referenced person was:

1. The holder of a commercial driver license or commercial learner permit; or
2. Driving a commercial motor vehicle,

the commercial driving privileges of the above-referenced person are disqualified for not applicable.

In addition, the above-referenced person must complete an Alcohol Drug Substance Abuse Course (ADSAC) and the Impaired Driver Accountability Program (IDAP) administered by the Board of Tests for Alcohol and Drug Influence, and pay all reinstatement and/or statutory fees, prior to reinstating driving privileges. The Board of Tests may be reached at (405) 425-2460.

NOTICE OF RIGHTS TO APPEAL

This Order may be appealed to the District Court in which the arrest occurred by filing a Petition within forty (40) days of the date of this Order. See 47 O.S. §§ 2-116, 6-211. The Petition must describe the facts and circumstances of the underlying incident with sufficient detail to identify the law enforcement agency involved and the date of the arrest. The Petitioner, or their legal representative, must serve a certified copy of the Petition and Order for Hearing on the Department of Public Safety via certified mail. Upon receipt of the certified copy of the Petition, the State of Oklahoma will withhold taking the actions described in this Order while the appeal is pending. See 47 O.S. §6-211(J)



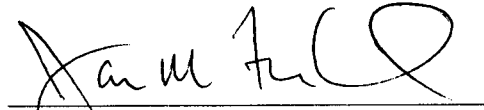
VERIFICATION

STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA) SS:

JAMES FRENCH of lawful age, being first duly sworn upon oath, states:

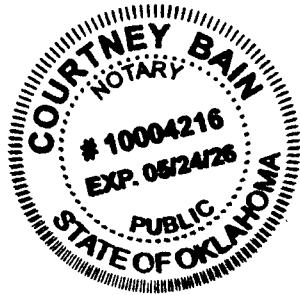
That he is the Plaintiff herein; that he has read the foregoing document, knows the contents thereof, and that the matters and things set forth are true and correct according to his best knowledge and belief.

I declare under penalty of perjury that I have examined the document herein, and to the best of my knowledge and belief, it is true, correct, and complete.



JAMES FRENCH

SUBSCRIBED and SWORN to before me this 11^m day of April 2023.





NOTARY PUBLIC