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Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-0646**

Christopher Hall Posey, petitioner,
Appellant,

vs.

Commissioner of Public Safety,
Respondent.

**Filed December 26, 2017
Affirmed
Schellhas, Judge**

Hennepin County District Court
File No. 27-CV-17-686

Christopher Hall Posey, Woodbury, Minnesota (pro se appellant)

Lori Swanson, Attorney General, Cory Beth Monnens, Assistant Attorney General, St.
Paul, Minnesota (for respondent)

Considered and decided by Halbrooks, Presiding Judge; Schellhas, Judge; and Kirk,
Judge.

UNPUBLISHED OPINION

SCHELLHAS, Judge

Appellant challenges the district court's order sustaining the revocation of his
driving privileges. We affirm.

FACTS

Respondent Minnesota Commissioner of Public Safety (CPS) revoked appellant Christopher Posey's driving privileges following his arrest for driving while intoxicated (DWI). Posey petitioned for judicial review of his license revocation. At a hearing on the petition, Officer Daniel Walton testified that on January 6, 2017, he stopped Posey for erratic driving. Officer Walton observed that Posey had a "flushed face," "watery and bloodshot eyes," and smelled of alcohol. Posey also failed several field sobriety tests and a preliminary breath test, which indicated an alcohol concentration of 0.114. Officer Walton arrested Posey and transported him to the police department where he read the implied-consent advisory to Posey. Posey stated that he understood the advisory and agreed to provide a breath sample, which showed an alcohol concentration of 0.09.

The district court found that Posey operated his vehicle with an alcohol concentration of 0.09 and therefore sustained the revocation of Posey's driving privileges. This appeal follows.

DECISION

This court reviews the district court's factual findings supporting an order sustaining a license revocation for clear error. *Jasper v. Comm'r of Pub. Safety*, 642 N.W.2d 435, 440 (Minn. 2002). "Findings of fact are clearly erroneous if, on the entire evidence, [the reviewing court is] left with the definite and firm conviction that a mistake occurred." *State v. Diede*, 795 N.W.2d 836, 846–47 (Minn. 2011). "[We] defer to the district court's credibility determinations and ability to weigh the evidence." *Constans v. Comm'r of Pub. Safety*, 835 N.W.2d 518, 523 (Minn. App. 2013).

Under Minnesota law, CPS must revoke a driver's license when the driver has submitted to a chemical test and the test results indicate an alcohol concentration of 0.08 or more. Minn. Stat. § 169A.52, subd. 4(a) (2016). Such a revocation becomes effective when the commissioner or a peace officer "notifies the person of the intention to revoke . . . and of revocation." *Id.*, subd. 6 (2016). A person may obtain judicial review of the revocation by serving and filing a petition within the statutory time-period "following receipt of a notice and order of revocation or disqualification pursuant to section 169A.52." Minn. Stat. § 169A.53, subd. 2(a) (Supp. 2017). "In a civil action to rescind the revocation of driving privileges under the implied-consent law, the commissioner has the burden to demonstrate, by a preponderance of the evidence, that revocation was appropriate." *Ellingson v. Comm'r of Pub. Safety*, 800 N.W.2d 805, 806 (Minn. App. 2011), *review denied* (Minn. Aug. 24, 2011).

Posey argues that his driver's license should be reinstated because the revocation imposes the following hardships: (1) he resides in a neighborhood that does not provide public transportation; (2) he has to "seek rides to and from doctor appointments" for his broken ankle; and (3) he has a pregnant daughter who needs transportation to her doctor appointments. But these types of personal hardships are outside the limited scope of issues that may be raised in an implied-consent hearing. *See* Minn. Stat. § 169A.53, subd. 3(b) (Supp. 2017) (stating that the scope of an implied-consent hearing "is limited to the issues in clauses (1) to (12)"); *see also Dornbusch v. Comm'r of Pub. Safety*, 860 N.W.2d 381, 383 (Minn. App. 2015), *review denied* (Minn. May 27, 2015). Moreover, "[a]n assignment of error based on mere assertion and not supported by any argument or authorities in

appellant's brief is waived and will not be considered on appeal unless prejudicial error is obvious on mere inspection." *State v. Yang*, 774 N.W.2d 539, 552 (Minn. 2009) (quotation omitted); *see also State v. Bartylla*, 755 N.W.2d 8, 22–23 (Minn. 2008) (declining to review pro se issues that "are lacking in supportive arguments and/or legal authority" and that do not reveal "prejudicial error [that] is obvious on mere inspection" (quotation omitted)).

Here, the district court found that Posey was operating his vehicle with an alcohol concentration of 0.09. The district court therefore determined that CPS proved that Posey's driver's license was properly revoked under Minn. Stat. § 169A.52, subd. 4. Posey does not challenge any of the district court's findings and otherwise fails to articulate any error made by the district court. He also fails to cite any legal authority in support of his argument. Moreover, no obvious prejudicial error exists on mere inspection. Accordingly, Posey waived his challenge to the revocation of his driver's license, and we decline to further consider his argument.

Affirmed.