

**IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CIVIL DIVISION**

DENNIS A. BEAUCHAMP,	:	
	:	
Appellant,	:	
	:	Case No. 16CV-4052
vs.	:	(BMV Case No. 2014-32-526)
	:	
DON PETIT, REGISTRAR, OHIO,	:	(JUDGE FRYE)
STATE BUREAU MOTOR VEHICLES,	:	
	:	
Appellee.	:	

DECISION, AND FINAL JUDGMENT.

I. Introduction, Background, & Facts.

This is an administrative appeal, pursuant to R.C. chapter 119. The decision being appealed was issued April 11, 2016, as a “Final Adjudication Order.” The Registrar of The Ohio Bureau of Motor Vehicles adopted a report and recommendation of a hearing officer, after considering appellant’s objections to the report and recommendation. The reader is referred to the Findings of Fact and the Registrar’s Order for additional facts beyond those briefly summarized here.

The issue before the Ohio BMV was whether appellant’s Ohio driver’s license should be cancelled, for the reason that the preponderance of the evidence demonstrated that appellant was not the “real Dennis A Beauchamp.” (Order, ¶¶ E, F.) This case was, in short, a controversy over whether the person who obtained an Ohio license was essentially guilty of identity theft, such that his license was improperly obtained.

Ohio driver’s license applicants are required to provide evidence of their residential address. BMV first opened an investigation of a driver’s license issued in the name of Dennis A. Beauchamp when they learned the license issued to him had apparently been obtained using a business address. Beauchamp eventually complied with the residential address requirement. However, BMV put a “flag” on his ability to renew his license because in May 2015 a person in Florida using the name Dennis Alexis

Beauchamp claimed that he had been the victim of identity theft. (Tr. 33). The person from Florida complained that someone in Ohio was using his identity and faxed the Ohio BMV investigator a photocopy of his Florida license, birth certificate, social security card, along with miscellaneous papers (among them a lease, an insurance card, and information about his children). The documents from Florida appeared to the Ohio BMV investigator to be authentic. (Tr. 33-38).

When the BMV investigator spoke to the Beauchamp in Florida he was able to confirm information the investigator had learned independently. (Tr. 41-42). The Florida Beauchamp appeared to be quite cooperative with Ohio BMV during the investigation. By contrast when the Ohio investigator attempted to contact the Ohio Beauchamp he never received a call back. (Tr. 32).

It is undisputed that the Ohio Beauchamp served 7 years in prison in Massachusetts for selling drugs between 1996 and 2003 or 2004. The Ohio man had been born in Puerto Rico, but allegedly had virtually no memory of, or relationship with, family there. This claim was made even though he lived there until around age 15, when “family” whom he could not identify put him on a plane to New York. (Tr. 17 - 18). After a brief time in New York, he found his way to Massachusetts. When he was “around 19, something like that 18, 19” he was caught selling narcotics and imprisoned. (Tr. 18 - 19). He testified, when asked about the last time he was in Puerto Rico, “It’s been a long time. I haven’t make [sic] any – I haven’t traveled anywhere ever since I got out of prison.” (Tr. 22). His only driver’s license prior to Ohio was allegedly issued in Massachusetts. (Tr. 22).

The Ohio BMV investigation revealed (Ex. A, pp 19 - 20) that fourteen separate applications for social security cards had been made over the years by or on behalf of Dennis Alexis Beauchamp Rodriguez. (Tr. 45). Only one of these applicants used a Massachusetts driver’s license. That application was submitted in person on July 23, 2003. (Ex. A, pp. 24, 27-28). Another SSAN card application had been submitted a few months earlier in April 2003, but not in person.

The Hearing Examiner concluded “that there are at least two persons, possibly more, using the identity of Dennis Alexis Beauchamp Rodriguez, with a birth date of June 16, 1975, and the same social security number ending in “39.” Petitioner is one of

those persons and has been using that identity since at least April 4, 1997, when he was admitted to the Massachusetts Department of Correction.

The Ohio Dennis Beauchamp timely filed this appeal. Upon Motion the court stayed the Order of the Registrar pending completion of the appeal in this court.

II. Standard of Review.

In an administrative appeal under R.C. 119.12, a common pleas court reviews an administrative agency's order to determine whether it is supported by reliable, probative, and substantial evidence, and is in accordance with law. *Lundeen v. State Med. Bd. of Ohio*, 10th Dist. No. 12AP-629, 2013-Ohio-112, ¶ 8. Evidence is reliable if it is dependable, i.e., there is a reasonable probability that the evidence establishes an asserted fact to be true. *HealthSouth Corp. v. Testa*, 132 Ohio St.3d 55, 2012-Ohio-1871, ¶ 12, quoting *Our Place, Inc. v. Ohio Liquor Control Comm.*, 63 Ohio St.3d 570, 571 (1992). Evidence is probative if it is relevant in determining the issue. *Id.* Finally, evidence is substantial if it has some weight, i.e., importance and value. *Our Place* at 571.

A trial court must give some deference to the administrative resolution of factual conflicts unless they are clearly unsupported. *Routson-Gim-Belluardo v. Ohio Dept. of Educ.*, 2nd Dist. Case No. 27148, 2017-Ohio-2611, ¶ 17; *Wightman v. Ohio Real Estate Comm.*, 10th Dist. Case No. 16AP-466, 2017-Ohio-756, ¶ 8.

Although administrative procedures afforded a party may fall short of the due process accorded in a civil trial, procedural due process does not require all the process that might conceivably be available. There is, for instance, no constitutional right to confront witnesses in civil proceedings. *Toney v. City of Dayton*, 2nd Dist. Case No. 27245, 2017-Ohio-5618, ¶ 18. Thus, it is well settled in Ohio that the rules of evidence are not binding on administrative agencies, and that hearsay may be admitted. *Id.* at ¶ 13, and cases cited.

III. Assignment of Error.

The sole assignment of error in Appellant’s Brief is that the “**BMV’s Judgment Here is Supported Only by Speculation.**”

IV. Analysis.

Appellant faults the Hearing Examiner for things like allowing hearsay from the Florida Beauchamp, and the BMV's investigator's opinion that the signature of the person applying for a duplicate Social Security card who presented a Massachusetts driver's license was dissimilar to the signature on all the other applications. (Tr. 46-47) However, as noted above, the formal rules of evidence do not apply. Furthermore, after a review of the entire record the court is satisfied that the BMV Hearing Examiner had ample evidence that could be found to be reliable, probative and substantial when trying to determine whether the Ohio Dennis Beauchamp was the person whom he claimed to be.

In a case of apparent identity fraud, the Hearing Examiner was also entitled to consider inferences reasonably drawn from the direct evidence, and the credibility of witnesses. It is peculiar, to say the least, that the Ohio Beauchamp dodged meeting with the BMV investigator. (Tr. 32) It seems very odd that the Ohio Beauchamp could not do a better job reconstructing his childhood and pre-prison life. Although he was 15 years old and the experience was world-changing for him, he did not recall who in his family in Puerto Rico put him on a plane to the states, or bought his ticket. (Tr. 17) He similarly dodged the question of where he had lived in the continental United States other than "I went to New York *** and then I ended up in Massachusetts." (Tr. 17-18) That was a three or four year gap in his life story after he left Puerto Rico. (Tr. 19) It is not credible to blame such large gaps in the evidence on the fact that Mr. Beauchamp "came to this country after a fairly abusive upbringing" in Puerto Rico. (Tr. 12) Absent some mental handicap any teenager - particularly one represented by good legal counsel - can sit and reconstruct details about their growing up years, the names of family members, the name of their school, and similar details absent here. Coupled with Mr. Beauchamp's felony conviction for selling drugs in Massachusetts - which was serious enough to land him 7 years in prison - his credibility was reasonably viewed as minimal.

The court recognizes that the Ohio BMV did not contact Puerto Rican law enforcement to verify more details about birth certificates. (Tr. 56) The Massachusetts police file was apparently never obtained. (Tr. 59-60, 81-82). It is unclear whether BMV made much effort to obtain the NCIS or LEADS records that ought to exist for Mr.

Beauchamp. (Tr. 60-61, 81-82). And, of course, the notion that duplicate cards for one individual's social security number could be sought 14 times and that some of those requests were while Ohio Beauchamp apparently was in prison (Tr. 45, 65) is at best confounding. Nevertheless, in sorting all of this out including signatures, photographs, and documents that were sometimes written in Spanish, the Hearing Examiner was entitled to given the material such weight as he deemed reasonable. Moreover, unlike this court on appeal he had the opportunity to see Ohio Beauchamp testify in person, and directly evaluate his credibility.

After considering the entire record, the court finds the Order of the Ohio Registrar of Motor Vehicles is based on reliable, probative, and substantial evidence in the record and is in accordance with law. Accordingly the Final Adjudication Order of the Ohio Registrar of Motor Vehicles in Case Number 2014-32-526 is **AFFIRMED** in its entirety.

The stay previously granted by this court is lifted. The BMV is authorized to cancel Appellant's Ohio license.

Appellant's motion to supplement the record on appeal filed May 9, 2017 is **DENIED**.

FINAL JUDGMENT.

The Final Adjudication Order of the Ohio Registrar of Motor Vehicles in Case Number 2014-32-526 is **AFFIRMED** in its entirety. The stay previously granted by this court is lifted and the BMV is authorized to cancel Appellant's Ohio driver's license.

Court costs are taxed against Appellant Dennis A. Beauchamp.

***** THIS IS A FINAL APPEALABLE ORDER. *****

IT IS SO ORDERED.

Franklin County Court of Common Pleas

Date: 07-21-2017
Case Title: DENNIS A BEAUCHAMP -VS- OHIO STATE BUREAU MOTOR
VEHICLES REGIST
Case Number: 16CV004052
Type: DECISION

It Is So Ordered.

A handwritten signature in cursive script, "Richard A. Frye", is written over a circular official seal. The seal is partially obscured by the signature and has a textured, dotted appearance.

/s/ Judge Richard A. Frye

Court Disposition

Case Number: 16CV004052

Case Style: DENNIS A BEAUCHAMP -VS- OHIO STATE BUREAU
MOTOR VEHICLES REGIST

Case Terminated: 18 - Other Terminations

Final Appealable Order: Yes

Motion Tie Off Information:

1. Motion CMS Document Id: 16CV0040522017-05-0999980000
Document Title: 05-09-2017-MOTION - PLAINTIFF: DENNIS A.
BEAUCHAMP - SUPPLEMENT THE RECORD
Disposition: MOTION DENIED