

*Date of mailing: 2/28/18

STATE OF NEW JERSEY
MOTOR VEHICLE COMMISSION
CASE FILE NUMBER: CXXXX XXXXX 04692
OAL DOCKET NUMBER: MVH 13488-17

IN THE MATTER OF :
SHAWN P. CURRY : FINAL DECISION

The Motor Vehicle Commission (MVC or Commission) hereby determines the matter of the proposed suspension of the New Jersey driving privilege of **SHAWN P. CURRY**, respondent, for his involvement in a motor vehicle accident which resulted in the death of Michael H. Shimanek. Pursuant to N.J.S.A. 39:5-30, the Commission proposed a suspension of respondent's New Jersey driving privilege for a period of six hundred ninety (690) days.

Respondent has been administratively charged with N.J.S.A. 39:4-129a – leaving the scene of an accident and N.J.S.A. 39:4-130 – failure to report an accident.¹ Prior to this final agency determination, I have reviewed and considered the Initial Decision of the Administrative Law Judge (ALJ). No letters of exceptions to the Initial Decision were filed with the Commission by either party. Based upon a de novo review of the record presented, I shall accept and adopt in full the findings and conclusions contained in the

¹ Respondent entered into a plea agreement with the Burlington County prosecutor, approved by the Superior Court, wherein the respondent pleaded guilty to one count of leaving the scene of a motor vehicle accident resulting in death, pursuant to N.J.S.A. 2C:11-5.1. Even though the Title 39 violations were dismissed as part of the plea agreement, the ALJ correctly ruled that N.J.S.A. 39:5-30 authorizes the MVC to suspend respondent's license in "violation of any of the provision of this Title [39] or on any other reasonable grounds." Initial Decision at 6 (emphasis added).

Initial Decision and shall affirm the recommendation of the ALJ.

In the Initial Decision, the ALJ concluded, after a thorough and careful examination of the evidence and a comprehensive analysis of the applicable legal principles, that the Commission met its burden of proof with regard to respondent's being in "violation of N.J.S.A. 2C:11-5.1, so as to warrant a suspension of respondent's driving privileges." Initial Decision at 10. However, in consideration of the facts set forth in the record, weighing the aggravating and mitigating circumstances, the ALJ ultimately concluded that "respondent's driving privileges should be suspended for twenty (20) days." Ibid.

In light of my concurrence with the ALJ's assessment of all relevant factors and the balancing of such on this record, I shall not disturb the ALJ's recommendation with respect to the period of suspension being reduced to twenty (20) days. The Commission notes that respondent's proposed suspension is intended to be rehabilitative rather than punitive in nature.²

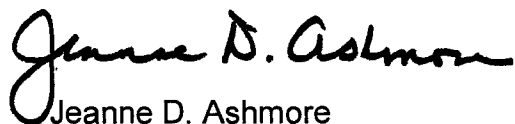
As a condition of restoration, respondent shall submit to a Commission Driver Re-examination pursuant to N.J.S.A. 39:5-30(f).

It is, therefore, on this 28 day of February 2018, **ORDERED** that the New Jersey driving privilege of **SHAWN P. CURRY** be suspended for a period of twenty (20) days; and it is further

ORDERED that Shawn P. Curry submit to a Commission Driver Re-examination pursuant to N.J.S.A. 39:5-30(f) and N.J.A.C. 13:20-12.2.

² The Commission also notes that, as a separate and independent matter from this administrative adjudication, respondent's commercial driving privilege was subject to a mandatory federal regulatory suspension of one year, pursuant to 49 C.F.R. 383.51(b)(5) as a result of the court conviction under N.J.S.A. 2C:11-5.1.

NOTE: The **effective date** of this suspension is set forth in the "Order of Suspension" which the Commission will send in a separate mailing.



Jeanne D. Ashmore
Acting Chair and Chief Administrator

JDA: rdd

cc: Mark A. Gulbranson, Jr., Esq.
Kenneth Vercammen, Esq.