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## Police seizure of CDL not grounds for due process claim

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A truck driver whose license was revoked after police found him sleeping in his parked car does not have a due process claim against the officer whose report led to the revocation, a federal judge held.

In a written opinion last week, U.S. District Judge Andrea R. Wood found Tyrone Bell was deprived of his 14th Amendment right to occupational liberty when his commercial driver's license was revoked and he could not work as a truck driver.

Wood also found Summit police officer James Stechly was responsible for that deprivation.

Wood acknowledged it was the Illinois Secretary of State's Office that took Bell's license away.

But Illinois law required the office to take away the license once it received Stechly's report alleging — falsely, according to Bell — that Bell had blacked out and was involved in a dangerous driving incident, Wood wrote.

"The [s]ecretary of [s]tate's revocation decision is not discretionary; once it receives a report, revocation must follow," Wood wrote.

"Thus, officer Stechly personally caused Bell to lose his occupational liberty interest because his submission of the allegedly false and fabricated report to the [s]ecretary of [s]tate resulted in the automatic revocation of Bell's [commercial driver's license.]"

Also, Wood wrote, citing *McMath v. City of Gary*, 976 F.2d 1026 (7th Cir. 1992), "occupational liberty claims focus on the publication of stigmatizing comments."

And it was Stechly who published the stigmatizing comments about Bell by submitting his report to the secretary of state's office, Wood wrote.

"But even if a plaintiff has adequately pleaded the deprivation of a liberty interest," she continued, "the deprivation still must have occurred without due process."

Bell received due process when he successfully regained his license through administrative procedures, Wood wrote.

Claims still pending in Bell's lawsuit include a count under the Fourth Amendment for illegal search and seizure and counts under Illinois law for false arrest and common law battery.

In addition to Stechly, defendants in the suit are two other police officers, two paramedics and the village of Summit.

Bell alleges he was taking a nap in his parked car in September 2017 with the keys on the passenger seat when he was approached by Stechly and two other officers.

The officers told him they were conducting a well-being check, Bell says.

But when he told the officers he was fine, he alleges, they accused him of being under the influence.

The officers did not conduct a field sobriety test and instead summoned two paramedics to the scene to perform a blood test, Bell alleges.

He maintains the test showed no evidence of alcohol or illegal substances.

He was not charged, but Stechly submitted his report to the secretary of state's office falsely asserting he had suffered a blackout, Bell says.

He says his commercial driver's license was revoked less than two weeks later.

To get a new driver's license, he had to obtain a medical report, take a vision test, pass written and driving exams and pay a fee, Bell contends.

To get a new commercial driver's license, he says, he had to attend driving school.

Bell obtained a driver's license and a commercial learner's permit in November 2017.

In her opinion Wednesday, Wood also dismissed a count of willful and wanton negligence Bell brought under Illinois law against Stechly and the village.

In Illinois, "the provision of false or inaccurate information that results only in economic loss is not recognized as actionable conduct," Wood wrote.

Bell has alleged only economic loss, she wrote, and has not alleged that his claim falls under any of the exceptions to the general rule.

The case is *Tyrone Bell v. Daniel Makowski, et al.*, No. 18-2133.

The lead attorney for Bell is Adrian E. Mazar of Matek & Mazar LLC.

"Whereas I understand the procedural due process aspect of Judge Wood's ruling, I am concerned with the potential for abuse if police officers are allowed the unfettered ability to randomly act to deprive citizens of their driver's licenses simply based on false allegations," Mazar wrote in an email.

"I cannot agree that the post-deprivation procedures provided by the secretary of state, which includes annual medical examinations, are an adequate remedy."

The defendants in the suit are represented by attorneys who include Michael J. McGrath and Robert R. Wilder, both of Odelson & Sterk Ltd. in Evergreen Park.

Attorneys for the defendants could not be reached for comment.

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