



# ORIGINAL

NOT FOR OFFICIAL PUBLICATION

IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA

DIVISION IV

**FILED**  
COURT OF CIVIL APPEALS  
STATE OF OKLAHOMA

FEB - 9 2024

JOHN D. HADDEN  
CLERK

CHRISTIAN LITTLEHEAD, )  
 )  
 Plaintiff/Appellee, )  
 )  
 vs. )  
 )  
 STATE OF OKLAHOMA, ex rel. )  
 DEPARTMENT OF PUBLIC SAFETY, )  
 )  
 Defendant/Appellant. )

Case No. 121,146

APPEAL FROM THE DISTRICT COURT OF  
CLEVELAND COUNTY, OKLAHOMA

HONORABLE JEFF VIRGIN, DISTRICT JUDGE

Rec'd (date)	2-9-24
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**REVERSED AND REMANDED**

Nicholas S. Lee  
LEE LAW FIRM, PLLC  
Oklahoma City, Oklahoma

For Plaintiff/Appellee

Kevin L. McClure  
ASSISTANT ATTORNEY GENERAL  
Oklahoma City, Oklahoma

For Defendant/Appellant

OPINION BY GREGORY C. BLACKWELL, JUDGE:

The Department of Public Safety appeals the district court's grant of Christian Littlehead's appeal of the revocation of his driver's license. The court found that no representative of the Department appeared to contest the matter and thereby granted judgment to Littlehead. On review, we find that the proper party to oppose the appeal, Service Oklahoma, did appear, but was prevented

from contesting the appeal by the court's decision that it had no standing. We reverse the decision of the district court and remand for further proceedings.

### I.

Appellee Christian Littlehead was arrested in February 2021 on a charge of driving while intoxicated, and his license was revoked by the Department of Public Safety. Littlehead filed an appeal of this revocation in the district court. His appeal initially centered on the validity of the traffic stop and the evidence of intoxication. Due to a series of continuances, no hearing was held until January 2023. Between the petition and the hearing, the legislature made several changes to the relevant statutes.

At the hearing, Littlehead objected to Service Oklahoma, a newly created division of the Office of Management and Enterprise Services, appearing on behalf of the state. Littlehead argued that the statutory power to appear on behalf of the state at a revocation appeal belonged only to the Department of Public Safety, not Service Oklahoma. The district court agreed and set aside the revocation on the grounds that the state had failed to appear to contest the matter. The Department of Public Safety appeals this decision.

### II.

On appeal from orders of implied consent revocations, the appellate courts may not reverse or disturb the findings below unless the lower court's determinations are found to be erroneous as a matter of law or lacking sufficient evidentiary foundation. *Hollis v. State ex rel. Dep't of Pub. Safety*, 2008 OK 31, ¶ 10 n.4, 183 P.3d 996, 999 n.4. Questions of law are reviewed *de novo*, meaning

they are subject to an appellate court's plenary, independent, and non-deferential reexamination. *Jobe v. State ex rel. Dep't of Pub. Safety*, 2010 OK 50, ¶ 13, 243 P.3d 1171; *Cole v. State ex rel. Dep't of Pub. Safety*, 2020 OK 67, ¶ 6, 473 P.3d 467, 470.

### III.

In *Herrera-Chacon v. State ex rel. Serv. Oklahoma*, 2023 OK 52, the Oklahoma Supreme Court recently addressed the problem of what body may appear on behalf of the state in a driver's license case after the legislature appeared to have moved that function from the Department of Public Safety to Service Oklahoma in May 2022, but then to have moved it back in November of the same year.

The first amended version of 47 O.S. § 6-211 (eff. May 19, 2022), which provides for the right to appeal a driver's license revocation, suspension, cancellation, or denial to the district court, deleted references to "the Department" and replaced them with "Service Oklahoma." Laws 2022, HB 3419, c. 282, § 72. However, a second version of 47 O.S. Supp. 2022, § 6-211 was enacted during the second legislative session and became effective November 1, 2022. Laws 2022, SB 366, c. 376. In this version, the pre-2022 references to the Department were not removed.<sup>1</sup>

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<sup>1</sup> By example, the pre-2022 version of § 6-211(E) required that a petition contesting a revocation be served "upon the Commissioner of Public Safety" at the "Department of Public Safety." The May 2022 version required that a petition be served "to the office of Service Oklahoma" at "Service Oklahoma." The November version reverted to requiring service upon the Commissioner of Public Safety at the Department of Public Safety. Subsequently, effective July 1, 2023, § 6-211(E) and many other relevant statutes were again

The *Herrera-Chacon* opinion held that the legislature’s intent pursuant to 47 O.S. Supp. 2022, § 3-101 and the associated statutes was to “fully transfer all the powers, duties, and responsibilities of the Driver License Services Division of the Department to Service Oklahoma.” *Id.* ¶ 9. The Court held that

It would be absurd to construe 47 O.S. Supp. 2022, § 6-211 to mean that the Driver License Services Division of the Department continues to have powers, duties, and responsibilities over driver license revocations and appeals in implied consent cases when the Driver License Services Division of the Department no longer exists.

*Id.* ¶ 10.

Littlehead argues that *Herrera-Chacon* does not resolve this case because it held only that the powers of the “Driver License Services Division” of the Department had been transferred to Service Oklahoma. Plaintiff argues that his case, a district court appeal of a revocation, falls under the authority of the Driver Compliance Division and Legal Division of the Department of Public Safety rather than the Driver License Services Division, and hence *Herrera-Chacon* has no effect. This narrow focus on the wording of paragraph 10 of *Herrera-Chacon* ignores the remainder of the opinion, however.

In *Herrera-Chacon*, the appellant specifically argued that the November 2022 version of 47 O.S. § 6-211 showed that the legislature revoked its transfer, of the Department’s “appeals and revocations duties” relating to persons operating a motor vehicle while under the influence of intoxicants. *Id.* ¶ 5 (emphasis supplied). The Supreme Court conclusively rejected the argument that

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amended to replace “the Department of Public Safety” with “Service Oklahoma.” See Laws 2023, SB 623, c. 310, § 20.

these appeals remained with the Department, finding it absurd that the unstaffed Department retained the sole statutory power to conduct appeals in implied consent cases. We find it clear that, under *Herrera-Chacon*, the district court's decision in this case must be reversed.

Further, even if we were to accept that *Herrera-Chacon* specifically held that only "driver license services" were transferred, the central rule of the case is that it would be absurd to hold that the legislature intended responsibilities to remain with a division of the Department that is no longer staffed.<sup>2</sup> We find that rule applicable here.

#### IV.

The district court's grant of Littlehead's appeal on the basis that Service Oklahoma had no standing to appear on behalf of the state in the proceedings below is reversed. As our decision does not settle the merits of Littlehead's appeal, however, we remand for further proceedings.

#### **REVERSED AND REMANDED.**

HUBER, P.J., and HIXON, J., concur.

February 9, 2024

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<sup>2</sup> As *Herrera-Chacon* noted, "[a]ll employees whose duties were transferred under the Act were transferred to Service Oklahoma, without exception." *Id.* ¶ 9.