

**Filed 5/26/16 by Clerk of Supreme Court
IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

2016 ND 86

Justin James Kapple,

Petitioner and Appellee

v.

Director, North Dakota Department
of Transportation,

Respondent and Appellant

No. 20160029

Appeal from the District Court of Burleigh County, South Central Judicial District, the Honorable Bruce B. Haskell, Judge.

REVERSED.

Per Curiam.

Michael R. Hoffman, P.O. Box 1056, Bismarck, ND 58502-1056, for petitioner and appellee.

Michael T. Pitcher, Assistant Attorney General, Office of the Attorney General, 500 N. Ninth St., Bismarck, ND 58501-4509, for respondent and appellant.

Kapple v. N.D. Dept. of Transp.
No. 20160029

Per Curiam.

[¶1] The North Dakota Department of Transportation appealed from a district court’s judgment reversing an administrative hearing officer’s decision revoking Justin Kappel’s driving privileges for three years for refusal to submit to chemical testing.

[¶2] The administrative hearing officer determined law enforcement had reasonable grounds to believe Kapple had been driving while under the influence of alcohol and Kapple refused to submit to a chemical test. Kapple appealed the hearing officer’s decision, arguing the report and notice form did not indicate a reasonable suspicion to lawfully detain him. The district court reversed, concluding the report and notice form did not articulate a reasonable suspicion that Kapple was under the influence of alcohol prior to being detained. The Department appealed, arguing the report and notice form complied with the requirements of N.D.C.C. § 39-20-04(1). We agree, concluding Olson v. Levi, 2015 ND 250, 870 N.W.2d 222, is dispositive of this appeal. In Olson, we stated law enforcement does not need reasonable suspicion to approach an already stopped vehicle. Id. at ¶ 9. We summarily reverse under N.D.R.App.P. 35.1(b) and reinstate the hearing officer’s decision.

[¶3] Gerald W. VandeWalle, C.J.
Lisa Fair McEvers
Daniel J. Crothers
Dale V. Sandstrom
Carol Ronning Kapsner