

**STATE OF INDIANA**  
**BUREAU OF MOTOR VEHICLES**

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IN THE MATTER OF:                    )                   Case No. BMV-0521-001080  
S ■■■■■ S ■■■■■                    )                     
DLN: ■■■■■                         )                   

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FINAL ORDER

1. S ■■■■■ S ■■■■■ (“Petitioner”), by counsel, requested administrative review of the Indiana Bureau of Motor Vehicles’ (“BMV”) decision to invalidate his driving privileges based on a report of ineligibility to obtain a credential from the State of New York.
2. BMV denied Petitioner’s application for an Indiana credential based on an out of state report from New York. BMV Exhibits 2, 3.
3. The matter was referred to Administrative Law Judge Elizabeth Gamboa (“ALJ”) for review under Indiana Code § 4-21.5-3-7(a). A telephonic hearing was held on July 15, 2021. Petitioner appeared by counsel, Allen Stout. The BMV was represented by Staff Attorney Tyler Burgauer. The hearing was conducted using a designated conference line.
4. The hearing was recorded. The BMV offered exhibits into evidence. Petitioner testified on his own behalf.
5. BMV Exhibits 2 and 3 identify Petitioner by name, date of birth, Social Security number and a New York drivers license number. These Exhibits indicate Petitioner is not eligible for a credential.
6. Petitioner was notified by the State of New York on July 19, 2019, that his New York “license/privilege” was denied due to having four drug-related convictions within twenty-five years. Under New York law, if a “lifetime review” of an applicant’s driver history shows the person “has three or four alcohol related convictions within twenty-five years, and, in addition has one or more serious driving offenses within the twenty-five years,” the application for the credential shall be denied. Petitioner’s Exhibit 4.
7. The notice concludes that “a review of (Petitioner’s) driving history indicates that your failure to observe the rules and regulations governing the operation of a motor vehicle constitutes a serious lack of regard on your part for the safety and welfare of other uses of the highway.” Id. The notice concludes with a formal denial of Petitioner’s application and information regarding Petitioner’s appeal rights.

8. Petitioner has taken no further action related to the New York notice.
9. Pursuant to Indiana Code § 9-28-1-3, Indiana has adopted the Driver License Compact (“Compact”). Article 1 of the Compact states that it is the policy of each party state to promote compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles by considering compliance with the Compact a condition precedent to the continuance or issuance of any license.
10. Article 5 of the Compact provides that a party state shall not issue a license to an applicant who holds or has ever held a license to drive issued by any other party state if (1) such license has been suspended by reason of a violation and if such a suspension period has not been terminated; or (2) such license has been revoked by reason of a violation and such revocation has not terminated, except after one (1) year from the date of revocation, the person may make application for a new license if permitted by law.
11. On July 19, 2021, the ALJ issued a Recommended Order that affirmed BMV’s denial of Petitioner’s Indiana credential due to the report from the State of New York.
12. On August 2, 2021, Petitioner’s counsel, Allen Stout submitted a Request for Reconsideration of the ALJ’s Recommended Order.
13. Upon review of evidence and testimony received, Pursuant to I.C. 4-21.5-3-29(b), I hereby AFFIRM the ALJ’s July 19, 2021, Recommended Order.
14. Petitioner is hereby notified that this is a Final Order. Petitioner may seek judicial review of this Final Order pursuant to I.C. 4-21.5-5.

SO ORDERED.

29 September 2021

Date

Peter L. Lacy

Peter L. Lacy, Commissioner

Indiana Bureau of Motor Vehicles

Written notice of this order shall be provided to:

Petitioner

Indiana Bureau of Motor Vehicles