



IN THE
Court of Appeals of Indiana

Scott Grundy,
Appellant-Defendant

v.

Indiana Department of Insurance, et al.,
Appellees-Plaintiffs



February 6, 2024
Court of Appeals Case No.
23A-MI-1673
Appeal from the Marion Superior Court
The Honorable John M.T. Chavis, II, Judge
Trial Court Cause No.
45D05-2209-MI-32061

Opinion by Judge Bailey
Judges Crone and Pyle concur.

Bailey, Judge.

Case Summary

- [1] Scott Grundy appeals the denial of his petition for judicial review, which challenged the decision of Amy Beard, as the Commissioner of the Indiana Department of Insurance (“IDOI”), to deny Grundy’s application for a resident producer license. Grundy presents the issue of whether the final agency action is arbitrary and capricious or contrary to law, due to a lack of specificity in the findings. We affirm.

Facts and Procedural History

- [2] Grundy received an offer of employment from State Farm Insurance, contingent upon his obtaining proper licensure. On January 10, 2022, Grundy submitted to IDOI an application for a resident producer license. On his application, Grundy disclosed that he has two felony convictions: a 2014 conviction for aggravated battery and a 2021 conviction for operating a vehicle while intoxicated.
- [3] On February 22, Commissioner Beard issued a “Preliminary Administrative Order and Notice of License Denial” to Grundy. (App. Vol. II, pg. 160.) Therein, the Commissioner stated that “Indiana Code § 27-1-15.6-12(b)(6) authorizes the Commissioner to refuse to issue a producer’s license for having been convicted of a felony” and concluded that Grundy “has not fully met the

requirements of licensure as stated by Indiana Code § 27-1-15.6-12(b)(6) due to [his] criminal history.” *Id.* at 160-61.

[4] Grundy appealed the preliminary order, and an administrative law judge (“ALJ”) conducted an evidentiary hearing. At that hearing, Grundy submitted evidence that he had completed a chemical dependency program at IU Health Methodist Hospital. On June 22, the ALJ issued a recommended order affirming the denial of licensure. Commissioner Beard issued a final order on August 19, affirming the denial.

[5] On September 16, Grundy filed a petition for judicial review. Among other things, Grundy averred that he had: obtained the requisite education, received a job offer from State Farm, completed a chemical dependency program, and participated in anger management classes. He asserted that the ALJ findings and conclusions lacked specificity as to the nature of the felonies. On June 14, 2023, the parties appeared for a hearing. Grundy argued that his felonies were not crimes of dishonesty, and his criminal history would not prevent his performance of his duties. He requested a remand to IDOI for an order with greater specificity. IDOI argued that the Commissioner had a statutory right to deny Grundy’s application on the basis of any felony, regardless of his rehabilitative efforts.

[6] On June 23, 2023, the trial court issued its findings of fact, conclusions thereon, and order affirming the Commissioner’s final order. Grundy appeals.

Discussion and Decision

[7] This is an appeal from a final agency action under the Administrative Orders and Procedures Act, Indiana Code § 4-21-5-1 *et seq.* (“AOPA”). We review an agency’s action directly, applying the same standard as the trial court and giving no deference to its decision. *Baliga v. Ind. Horse Racing Comm’n*, 112 N.E.3d 731, 736 (Ind. Ct. App. 2019), *trans. denied*. Under AOPA, a court can reverse an agency action only if it is:

(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (2) contrary to constitutional right, power, privilege, or immunity; (3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; (4) without observance of procedure required by law; or (5) unsupported by substantial evidence.

Ind. Code § 4-21.5-5-14(d). “The burden of demonstrating the invalidity of agency action is on the party to the judicial review proceeding asserting invalidity.” *Id.* at (a).

[8] Pursuant to Indiana Code Section 27-1-15.6-12(b)(6), the Commissioner may “refuse to issue or renew an insurance producer license” for reasons which include “having been convicted of a felony.” Grundy acknowledges that the Commissioner may exercise discretion to grant or deny a license under the statute. However, he contends that the “severe sanction” of “no license being issued” requires “additional findings” or else the decision is “render[ed] ... arbitrary and capricious and without observance of the procedure required by law.” Appellant’s Brief at 8. According to Grundy:

There are many felonies, whose [sic] elements to establish said crimes, that do not implicate the Petitioner's propensity for being truthful and honest, that does not implicate any issues of dishonesty and does not implicate his ability to perform his duties and serve the needs of the citizens of the State of Indiana.

Id. He observes that IDOI has provided “no explanation how it differentiated conduct between those that are granted and denied.” *Id.* at 11.

[9] In sum, Grundy argues that “the agency is obligated to explain why it denies similarly situated persons that have been convicted of felonies.” *Id.* at 11. To support his contention, Grundy directs our attention to *Indiana State Bd. of Health Facility Adm'rs v. Werner*, 841 N.E.2d 1196 (Ind. Ct. App. 2006). There, a panel of this Court recognized that “[a] decision may also be arbitrary and capricious where only speculation furnishes the basis for a decision.” *Id.* at 1206.

[10] But, as IDOI points out, *Werner* is distinguishable. In *Werner*, an ALJ had conducted a hearing and determined that Werner, a health facility administrator, should be censured without having to pay for the costs of the administrative proceedings. *Id.* at 1207. Thereafter, the Board of Health suspended Werner's license indefinitely and assessed \$16,051.51 in costs against her. *Id.* The Board did so without an explanation for the “significantly more severe punishment.” *Id.* This Court ultimately determined that the Board action has been arbitrary and capricious because the Court was “require[d] to speculate as to the basis for [the Board]'s decision.” *Id.* at 1208.

[11] Here, however, we need not speculate as to why the Commissioner denied the application and the trial court affirmed the denial. The clearly stated basis is Grundy's prior felonies. According to Indiana Code Section 27-1-15.6-12(b)(6), refusal of a license may rest upon "having been convicted of a felony." There is no restriction to a particular felony or class of felonies. Moreover, the statute does not incorporate a requirement of particularized findings, assignment of weight to felonies, or comparison of applicant backgrounds. The denial of Grundy's license is not arbitrary or capricious or contrary to law.

Conclusion

[12] Grundy did not establish the invalidity of the agency action, that is, the denial of his application for a producer license.

[13] Affirmed.

Crone, J., and Pyle, J., concur.

ATTORNEY FOR APPELLANT

Gary M. Selig
Gary M. Selig, P.C.
Indianapolis, Indiana

ATTORNEY FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Natalie F. Weiss
Deputy Attorney General
Indianapolis, Indiana