

750 S.E.2d 521
Supreme Court of North Carolina.

STATE of North Carolina

v.

Bobby Lee MCKENZIE.

No. 52A13. | Oct. 4, 2013.

Synopsis


Background: Defendant truck driver, who had been subject to one-year commercial driver's license suspension following driving while impaired (DWI) arrest, filed a motion to dismiss DWI charge, alleging due process violations; double jeopardy violations; and equal protection violations. The District Court, Duplin County, granted the motion, based on due process and double jeopardy violations. State appealed, and the Superior Court, Duplin County, [Phyllis M. Gorham, J.](#), reversed, reinstated the DWI charge, and remanded. Defendant appealed. The Court of Appeals, [Robert N. Hunter, Jr., J.](#), — N.C.App. —, 736 S.E.2d 591, reversed, and further review was sought.

Holding: The Supreme Court held that revocation of defendant's commercial driver's license constituted a civil sanction, and thus, the criminal prosecution of defendant for driving while impaired (DWI), in addition to revoking his commercial driver's license, did not subject him to double jeopardy.

Reversed and remanded.

West Headnotes (1)

[1] **Double Jeopardy**

 [Administrative or non-judicial proceedings; prison discipline](#)

Revocation of defendant's commercial driver's license constituted a civil sanction, and thus, the

criminal prosecution of defendant for driving while impaired (DWI), in addition to revoking his commercial driver's license, did not subject him to double jeopardy under the two-part test set out in *Hudson v. United States*, per the dissenting opinion of Robert C. Hunter, J., — N.C.App. —, 736 S.E.2d 591. U.S.C.A. Const.Amend. 5; West's N.C.G.S.A. § 20-17.4(a)(7).

[1 Cases that cite this headnote](#)

*521 Appeal pursuant to [N.C.G.S. § 7A-30\(2\)](#) from the decision of a divided panel of the Court of Appeals, — N.C.App. —, 736 S.E.2d 591 (2013), reversing an order entered on 13 March 2012 by Judge Phyllis M. Gorham in Superior Court, Duplin County. Heard in the Supreme Court on 4 September 2013.

Attorneys and Law Firms

Roy Cooper, Attorney General, by [Christopher W. Brooks](#), Assistant Attorney General, for the State-appellant.

Hunter & Price, P.A., Kenansville, by [Justin B. Hunter](#) and [G. Braxton Price](#), for defendant-appellee.

Tin Fulton Walker & Owen, PLLC, Charlotte, by [Noell P. Tin](#), [Jacob H. Sussman](#), and [Matthew G. Pruden](#), for North Carolina Advocates for Justice, amicus curiae.

Opinion

PER CURIAM.

For the reasons stated in the dissenting opinion, the decision of the Court of Appeals is reversed. This case is remanded to the Court of Appeals for further remand to the Superior Court, Duplin County, for additional proceedings consistent with this opinion.

REVERSED AND REMANDED.