IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
DEPARTMENT OF MOTOR VEHICLES,
Appellant,
vs.
LINDA MEINHOLD-THOMAS,
Respondent.

No. 51496

FILED

FEB 20 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order granting a petition for judicial review in a driver's license revocation proceeding. Eighth Judicial District Court, Clark County; Kenneth C. Cory, Judge.

On August 11, 2005, respondent Linda Meinhold-Thomas was convicted of driving under the influence (DUI). Meinhold-Thomas was convicted of DUI a second time on May 15, 2007. Both convictions were for first-time offenses. After the 2007 conviction, appellant, the State of Nevada, Department of Motor Vehicles, notified Meinhold-Thomas that her driving privileges were being revoked for one year because she had been convicted of two DUI violations within seven years. Meinhold-Thomas sought an administrative hearing regarding her license revocation, after which the one-year revocation was upheld. She then sought judicial review in the district court, which granted her petition. The district court concluded that because Meinhold-Thomas was convicted of a first offense for the 2007 conviction, which was punishable under NRS

484.3792(1)(a), the DMV could revoke her license only for 90 days under NRS 483.460(1)(c). This appeal followed.

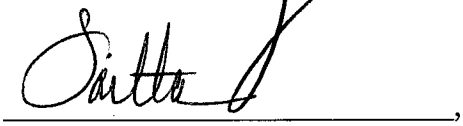
On appeal, the DMV argues that, notwithstanding the 2005 legislative amendments to NRS 483.460, a conviction for a second DUI offense within a seven-year period triggers a mandatory one-year revocation of the offender's driver's license. Our recent decision in State, Department of Motor Vehicles v. Terracin, 125 Nev. ___, ___ P.3d ___ (Adv. Op. No. 4, January 29, 2009) is dispositive of this issue. In Terracin, we held that, due to the 2005 amendments, the plain language of NRS 483.460(1) mandates that the length of the period of license revocation depends on the level of punishment prescribed by NRS 484.3792, rather than on the number of DUI convictions within a seven-year period. Id. Accordingly, under the revised version of NRS 483.460(1), the DMV must revoke an individual's driver's license for 90 days if the driver is convicted of an offense punishable as a first-time offense under NRS 484.3792(1)(a). Id. A one-year revocation is mandated if the driver is convicted of an offense punishable as a second-time offense under NRS 484.3792(1)(b). Id. Thus, even when an individual is convicted of two DUI offenses within a seven-year period, if the individual is convicted of a first-time offense DUI under NRS 484.3792(1)(a) for the second DUI, the DMV may suspend the offender's license only for 90 days. Id.

Here, despite Meinhold-Thomas's 2007 conviction being her second offense within a seven-year period, she was nevertheless convicted as a first-time offender for the 2007 incident pursuant to NRS 484.3792(1)(a). The district court, therefore, correctly interpreted NRS 483.460(1) as mandating that Meinhold-Thomas's driver's license be

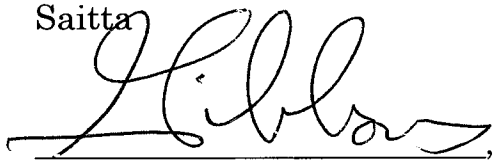
suspended for 90 days rather than one year. Accordingly, we affirm the district court order granting respondent's petition for judicial review.

It is so ORDERED.

_____, J.
Cherry



_____, J.
Saitta



_____, J.
Gibbons

cc: Hon. Kenneth C. Cory, District Judge
Attorney General Catherine Cortez Masto/Transportation Division/Las Vegas
Law Offices of John G. Watkins
Eighth District Court Clerk