

**Beria v New York State Dept. of Motor Vehs.**

2025 NY Slip Op 33807(U)

October 6, 2025

Supreme Court, New York County

Docket Number: Index No. 153158/2025

Judge: Leslie A. Stroth

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. LESLIE A. STROTH PART 12M

Justice

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INDEX NO. 153158/2025

DELMARYS J BERIA

MOTION DATE 07/18/2025

Plaintiff,

MOTION SEQ. NO. 001

- v -

NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES,

DECISION + ORDER ON MOTION

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 11, 16, 17, 18, 19, 20, 21

were read on this motion to/for ARTICLE 78 (BODY OR OFFICER)

FACTUAL BACKGROUND

Petitioner Delmarys J. Beria commenced this Article 78 proceeding seeking to annul the January 28, 2025 determination of the New York State Department of Motor Vehicles Appeals Board ("DMV"), which affirmed an Administrative Law Judge's ("ALJ") decision revoking Petitioner's license for refusal to submit to a chemical test under Vehicle and Traffic Law ("VTL") §1194.

Petitioner argues that the determination was arbitrary and capricious and violated due process because the Board was unaware that her related criminal charges were dismissed on November 21, 2024. She maintains that the dismissal of those charges rendered the license revocation unwarranted.

Respondent DMV, by Verified Answer, denies the allegations and asserts multiple defenses, including that the determination was supported by substantial evidence, that dismissal of criminal charges is irrelevant, and that Petitioner's due process rights were not violated.

## LEGAL STANDARD

Judicial review of an administrative determination is limited to whether the determination was made “in violation of lawful procedure, was affected by an error of law or was arbitrary and capricious or an abuse of discretion...” CPLR 7803(3). In *Matter of Pell v Board of Educ.* (34 NY2d 222, 231 [1974]), the Court of Appeals held that an action is “arbitrary and capricious” when it is “...without sound basis in reason and is generally taken without regard to the facts.” If the Court finds that the determination is supported by a rational basis, it must sustain the determination. (Id.)

CPLR 7804(g) requires that an Article 78 petition be transferred to the Appellate Division if the petition challenges whether “a determination made as a result of a hearing held, and at which evidence was taken, pursuant to direction by law is, on the entire record, supported by substantial evidence.” (CPLR 7803(4); CPLR 7804(g)). Further, CPLR 7804(g) provides that the trial court “shall first dispose of such other objections as could terminate the proceeding,” and if such does not dispose the proceeding then transfer is appropriate.

Substantial evidence “such relevant proof as a reasonable mind may accept as adequate to support a conclusion or ultimate fact” even if competing evidence exists (*Haug v State Univ. of New York at Potsdam*, 32 NY3d 1044, 1046 [2018]). “Where substantial evidence exists, the reviewing court may not substitute its judgment for that of the agency, even if the court would have decided the matter differently.” (Id.).

## DISCUSSION

The Court does not find that the Petition explicitly raises a substantial evidence challenge. Petitioner alleges that the DMV’s Appeals Board determination “was arbitrary and capricious and not supported by substantial evidence,” arguing that Respondent “overstepped

itself and abused its discretion” when it revoked her license without consideration of the Certificate of Disposition dismissing her criminal charges. (NYSCEF Doc No. 1 ¶ 16). The Petition further asserts that the revocation was “not made with all available evidence” and that the failure to incorporate the dismissal into the record deprived her of a full and fair administrative review. (Id. ¶¶ 17-18). Therefore, the gravamen of Peititioner’s claim is not that the record before the ALJ was insufficient to sustain the finding of refusal, but rather that the DMV acted arbitrarily and capriciously by failing to consider the subsequent dismissal of her related criminal charges. (Id. ¶¶ 16–18). That assertion is properly reviewed under CPLR 7803(3) as an alleged arbitrary and capricious agency action.

Applying that standard, the Court finds no basis to disturb the DMV’s determination. The administrative record demonstrates that the ALJ and Board found all four statutory elements of VTL §1194(2)(c) satisfied: (1) reasonable grounds to believe Petitioner was driving in violation of VTL §1192, (2) a lawful arrest, (3) clear warnings of the consequences of refusal to submit to the chemical test, and (4) refusal to submit to a chemical test despite multiple opportunities. These findings provided a rational basis for revocation.

Respondent, in turn, expressly frames its defense in terms of substantial evidence. The Verified Answer states that the ALJ’s determination was supported by testimony, documentary evidence, and the sworn Refusal Report, which demonstrated that the arresting officer had reasonable grounds to stop Petitioner, that Petitioner was given repeated warnings about the consequences of refusal, and that Petitioner failed to provide an adequate breath sample despite multiple opportunities.

Petitioner’s reliance on the November 2024 dismissal of her criminal charges is misplaced. The Vehicle and Traffic Law explicitly mandates that refusal revocation occurs

“whether or not the person is found guilty of the charge for which such person is arrested or detained” (VTL §1194(2)(b)). Moreover, refusal proceedings are civil and independent of criminal prosecutions. The dismissal of Petitioner’s charges therefore had no bearing on the agency’s determination.

Finally, Petitioner’s due process claim fails. The Certificate of Disposition was not submitted during the administrative appeal, and in any event was irrelevant to the statutory question of refusal. The absence of that document from the record did not deprive Petitioner of a fair hearing. As such, the DMV determination was not arbitrary and capricious and the Petition must be denied.

Accordingly, it is hereby

ORDERED that the Petition is denied in its entirety.

10/6/2025  
DATE

  
LESLIE A. STROTH, J.S.C.

CHECK ONE:

<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	NON-FINAL DISPOSITION
<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/>	DENIED
<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	GRANTED IN PART
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	SUBMIT ORDER
		<input type="checkbox"/>	FIDUCIARY APPOINTMENT
		<input type="checkbox"/>	OTHER
		<input type="checkbox"/>	REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: