STATE OF NORTH CAROLINA		
DEPARTMENT OF TRANSPORTATION		
DIVISION OF MOTOR VEHICLES		
In the matter of the Driving Privilege of: Petitioner,)) Administrative Hearing) Customer No. Date of Birth:	
Jurisdiction		
This case is adjudicated under the authority of North Carolina General Statute 20-16.2.		
Statement of Case		
The Division of Motor Vehicles revoked the driving privileges of a first after it		
received an affidavit	n which Trooper with the North Carolina State	
Highway Patrol claims to have reasonable ground	s to believe the petitioner operated a vehicle on a public	
highway or public vehicular area while committing	an implied consent offense and willfully refused to	
submit to a chemical analysis of his blood. The po	etitioner requested a hearing to contest the revocation	
of his driving privileges by the Division of Motor Vo	ehicles.	
The hearing was held as noticed on the 3 rd day of October 2019 at 09:00 a.m. at the Forsyth		
County Driver License Office located at	, Winston Salem North Carolina.	
Administrative Hearing Officer conduction	eted the hearing.	

The petitioner was present and was represented by his attorney Clarke Dummit, Bar #

Present as a witness for the Division was Trooper with the North Carolina State

Highway Patrol. Trooper was sworn, and the following testimony and evidence was taken.

Petitioner did not testify.

Division Exhibits number one through three were admitted and made part of the record.

List of Exhibits

- Division's Exhibit One: (1) Form AOC-CVR-1A DHHS 3907, Affidavit and Revocation Report dated 01/30/2019.
- Division's Exhibit Two: (1) Form DHHS 4081 Rights of Person Requested to Submit to a Chemical Analysis to Determine Alcohol Concentration or Presence of an Impairing Substance Rights Form.
- 3. Division's Exhibit Three: (1) Division's copy of the Petitioners North Carolina Motor Vehicle Record.

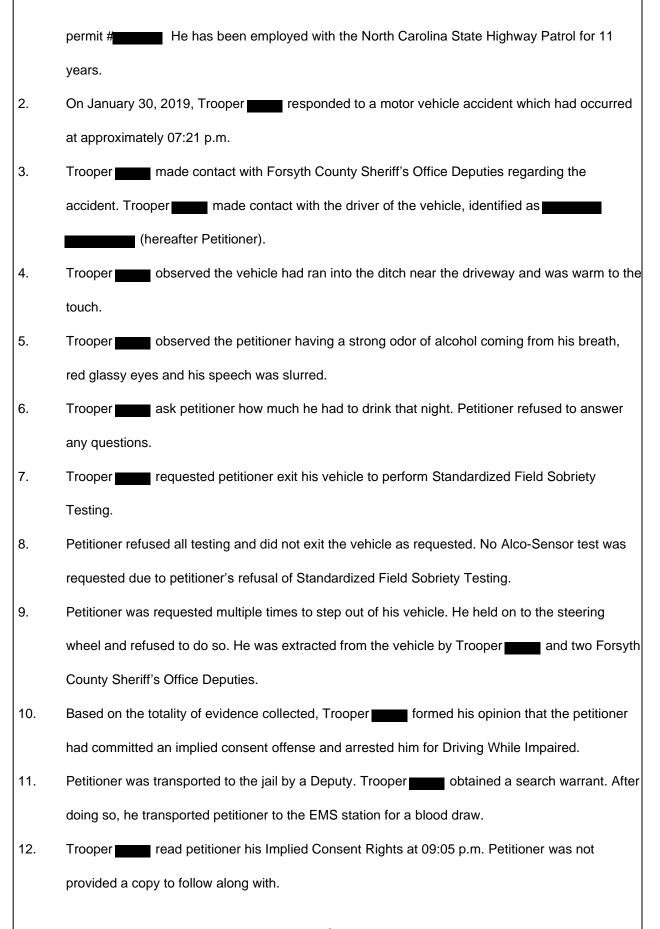
Issues

- 1. Did law enforcement officer have reasonable grounds to believe the petitioner was operating a vehicle on the highways or public vehicular area while committing an implied-consent offense?
- 2. Was the petitioner charged with an implied-consent offense?
- 3. Did the implied-consent offense involve death or critical injury to another person?
- 4. Was the petitioner notified of their rights as required by subsection (a) of G.S. 20-16.2?
- 5. Did the petitioner willfully refuse to submit to a chemical analysis of breath, urine or blood?

Findings of Fact

After consideration of the foregoing testimony and evidence, the Hearing Officer finds that the following facts are supported by substantial evidence:

1. Trooper (hereafter Trooper is the Charging Officer and Chemical Analyst in this matter. He is certified as a Chemical Analyst with the Department of Health and Human Services,



13.	Petitioner did not request to call an attorney or witness prior to being requested to submit to a	
	sample of his blood.	
14.	Trooper requested petitioner submit to a sample of his blood at 07:11 p.m. Petitioner	
	refused stating he wanted an attorney.	
15.	Trooper marked him as a refusal at 07:11 p.m.	
Conclusions		
	Based on the foregoing findings of fact, the Hearing Officer concludes as a matter of law that:	
1.	was charged with an implied-consent offense.	
2.	Trooper had reasonable grounds to believe that had committed an	
	implied-consent offense.	
3.	The implied-consent offense charged did not involve death or critical injury to another person.	
4.	was not notified of his rights as required by N.C.G.S. 20-16.2(a). Trooper	
	did not provide a copy for petitioner to follow along with.	
5.	Based on the above rights issue, the undersigned finds that did not willfully	
	refuse to submit to a chemical analysis of his blood.	
Decision		
	I find that all elements of proof necessary to sustain a revocation for refusing to submit to a	
chemic	cal analyst of his breath under GS 20-16.2 are not supported by substantial evidence.	
	THEREFORE, it is the decision of Administrative Hearing Officer that the Order of	
Revoca	ation of the driving privilege of process and petitioner, is rescinded.	
	Dated this 5 th day of October 2019	
	Administrative Hearing Officer Division of Motor Vehicles	