



Trends in State Courts 2013

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WHICH COMMERCIAL DRIVING CASES SHOULD GO TO COURT?

Victor E. Flango

Executive Director, Program Resource Development, National Center for State Courts

F. Dale Kasperek, Jr.

Principal Court Management Consultant, Technology Services, National Center for State Courts

Of the record number of 106 million cases coming into state trial courts in 2008, 57.5 million were traffic cases. In other words, 54 percent of all filings in state courts are noncriminal traffic violations (Court Statistics Project, 2012). Even this number is an underestimate because not all courts in the United States report complete data on their caseloads. Moreover, some traffic matters do not go to court, but are handled by traffic bureaus. If the volume of cases were the criteria used to evaluate the work of courts, we would have to conclude that the primary reason courts exist is to handle traffic violations.

Unfortunately, there is no way of determining how many of these traffic cases involve commercial drivers because there is no separate court reporting of commercial driver's cases in any state. Commercial truck and bus drivers are more careful on the road than automobile drivers as judged by the number of crashes and fatal crashes. In 2010, there were 529 fatalities and 20,000 injuries involving large trucks, compared to the 2,435 fatalities and 1,253,000 injuries in passenger vehicles (National Highway Traffic Safety Administration, 2012). A crash involving a commercial truck is usually more catastrophic than an ordinary accident, because a fully loaded commercial truck can weigh 80,000 pounds or more compared to the 3,000 pounds of the average passenger car.

The current financial crisis has courts asking which responsibilities are constitutionally mandated and so must be performed and which can be streamlined or even eliminated (Flango, 2010). Here is a brief illustration of a certain class of traffic case, commercial driving violations, which could be removed from court jurisdiction and resolved using an administrative process.



TREND

Many states are examining their core missions to determine which types of cases must be heard according to state constitution or statute. This article suggests that cases involving holders of commercial driver's licenses (CDL) might best be heard first by departments of motor vehicles, with appeals to state courts.

ADMINISTRATIVE AGENCIES

Courts and administrative agencies share many characteristics, including following law, statutes, regulations, and rules of procedure to make decisions. Yet one reason courts are perceived to be more independent than administrative agencies is that courts hear such a variety of cases that their constituencies constantly change (Shapiro, 1968:52). As courts become more specialized, the distinction between courts and administrative agencies becomes blurred. Administrative agencies were established to do the government's work more directly than the legislature could do by enacting laws, or than courts could do by interpreting the law in specific controversies. Administrative agencies, like the DMV, are often created by legislatures and placed in the executive branch, but have functions of all three branches of government. For example, administrative adjudication is "the exercise by an administrative agency of judicial powers delegated to the agency by a legislative body" (*Gale Encyclopedia of US History*, n.d.). It was once criticized as contrary to the reservation of judicial powers to courts, but the U.S. Supreme Court ruled in *Crowell v. Benson* (1932) that agencies could adjudicate cases as long as provision was made for ultimate judicial review. It is now a recognized role of courts to review acts of administrative agencies for fairness in uniform application.

The jurisdiction of administrative adjudication is usually limited to a narrow subject matter, such as labor relations, worker's compensation, automobile operation and inspection, consumer protection, or veteran's benefits. Administrative adjudication typically deals with individuals in relationship to the government, rather than determination of the rights and duties of individuals against other individuals.

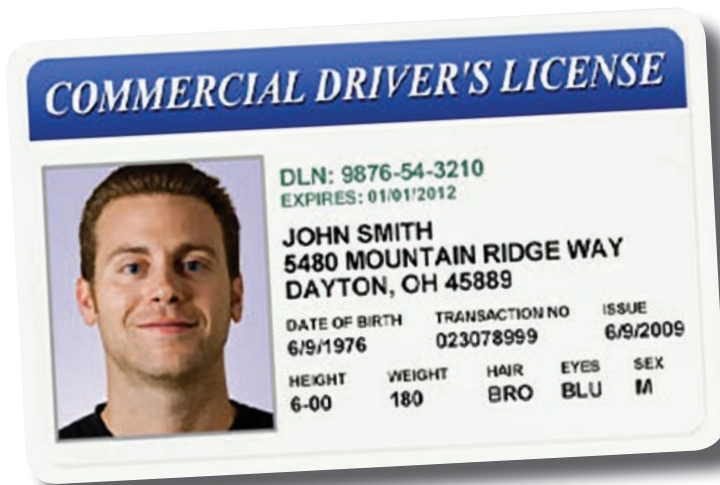
Both courts and administrative agencies respect precedent and compile written, permanent records (Shapiro, 1968:44). Strictly speaking, an administrative hearing is not a trial, or even necessarily an adversary process. Yet administrative hearings, like trials, resolve disputed questions of fact and can order compliance with laws and regulations. Although often not as formal as courtroom trials, administrative hearings are orderly and dignified, and most proceedings are open to the public.

Also like courts, administrative adjudication can be empowered to assess various penalties, such as forfeiture of licenses for violation of laws or regulations. So should cases involving commercial driving violations be decided by court trial or an administrative hearing?

COMMERCIAL DRIVING

Commercial driving offenses are a narrow specialty area more suited to administrative resolution than to judicial resolution. Other arguments in favor of having most commercial driving violations handled outside the courts are:

1. Basic rights are not involved.



Unlike rights guaranteed by the Constitution, holding a driver's license is a privilege. Moreover, it is a privilege granted by an executive branch entity, and the privilege continues as long as the licensee displays behavior consistent with holding the privilege. Violations of that privilege may result in the department of motor vehicles (DMV) suspending or revoking that license, whether it be a regular driver's license or a commercial driver's license (CDL). If the state licensing authority grants the license following its own guidelines and testing procedures, and has the authority to suspend or revoke the driving privilege, why should these administrative processes, such as admitting the offense and paying the fine, be a court concern? If the license holder does not challenge the administrative penalty, there is no reason for court involvement. If the license holder does challenge the assigned penalty, should not the first remedy be an administrative appeal and only then an appeal to courts?

2. Case-processing efficiency and timeliness would improve.

If cases were initially brought to the DMV, a commercial license holder who admits to violating a law would pay financial penalties, fees, or fines directly to the agency that regulates licensing—thus streamlining and expediting the process. One drawback for courts is the fear that relinquishing authority over commercial traffic cases would mean a potential loss of revenue. That revenue loss could be at least partially offset by saving the resources courts use to process, schedule, hear, adjudicate, convict, notice, report, and collect payment on these cases.

From the standpoint of traffic safety, the delay between the time a case is adjudicated in court and the date that report of conviction is received by the state DMV is unnecessary. The delay increases the risk that a commercial driver will be involved in an accident,

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perhaps with fatalities. This delay would be eliminated if the courts were not involved in routine cases, especially *uncontested* cases. The Motor Carrier Improvement Act of 1999 requires state courts to submit notice of conviction of holders of a commercial driver's license to the DMV within ten days. Although this act took effect on September 30, 2005, most states are not fully compliant with the law. Without timely notification of court convictions, DMVs are not able to revoke or suspend the commercial driver's licenses of offenders, and dangerous drivers remain on the road.

3. Legal complications would be reduced.

Federal law and some state statutes prohibit judges and prosecutors from allowing convictions of commercial drivers to be deferred, dismissed, or unreported. The Federal Motor Carrier Safety Administration (FMCSA), in federal law 49 CFR 34.226, forbids a state to "mask, defer imposition of judgment, or allow an individual to enter a diversion program that would prevent a conviction" from appearing on a CDL driver's record (no matter where he or she is licensed) for *any* state or local traffic violation in any type of motor vehicle. Masking can only occur in trial courts of original jurisdiction *after* a judgment of guilt has been rendered.

It is interesting to note that some state motor vehicle departments impose a penalty required by the language in the CFR, but not imposed by the sentencing court. If an administrative agency can pass judgment independently of the court that adjudicated the matter, why is the matter in court to begin with? If traffic cases involving CDL holders were initially heard by state DMVs, masking would be rare, if it occurred at all.

4. Judicial independence is preserved.

With respect to sentencing, courts need to be involved in cases where judges can exercise discretion and judgment. In cases involving commercial drivers, federal regulations in 49 CFR 383.51 specify sentences that judges must apply as part of FMCSA compliance imposed upon the states. State DMVs, upon receiving notice of conviction, have applied the "mandated" sentence when a judge's sentence does not align with the mandated sentence. This is far more stringent than sentencing guidelines, which were designed to bring some uniformity to judicial sentencing, and another reason why these cases need to be resolved administratively rather than judicially.

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YEARS AGO

Commercial Motor Vehicle Safety Act of 1986

The Commercial Motor Vehicle Safety Act of 1986 was signed into law on October 27, 1986 and became effective on July 1, 1987. The goal of the act is to improve highway safety by ensuring that drivers of large trucks and buses are qualified to operate those vehicles and to remove unsafe and unqualified drivers from the highways. The act retained the state's right to issue a commercial driver's license (CDL), but established minimum national standards states must meet when issuing CDLs.

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Penalties can be duplicative when DMVs and courts are involved. For example, some violations could warrant an administrative suspension of a driver's license, and some warrant a court suspension. Some offenses, such as drunk driving, can result in both an administrative suspension and a court suspension.

An administrative suspension is often an automatic action by the DMV—no hearing is necessary. The offender must go before an administrative board to get the license back. A court suspension is usually a part of a sentence given in criminal court after conviction. It is possible to have a driver's license returned after an administrative hearing and then taken away by a court, or it may be that lack of conviction in court can result in the administrative suspension being overturned. In any event, the relationship can be confusing because there are two separate legal obligations to deal with. One primarily administrative process would eliminate this confusion.

Following the principles articulated here, court jurisdiction would be reserved only for those cases involving commercial drivers where the driver was challenging the administrative regulations, the uniform application of the regulation, or the application of the penalty.

CONCLUSION

Commercial driving offenses are a narrow specialty area of law more suited to administrative resolution, with appeals to state courts. Following this recommendation would result in more rapid elimination of unsafe drivers from the highways, increased case-processing efficiency and timeliness of reporting, fewer unnecessary data exchanges between courts and DMVs, fewer conflicts between unfettered court sentences and federal requirements, and less encroachment on judicial independence. Other types of cases should undergo similar analysis to determine how appropriate they are for court resolution.

