



STATE OF INDIANA

Michael R. Pence, Governor

Donald M. Snemis, Commissioner
Bureau of Motor Vehicles
100 North Senate Avenue
Indianapolis, Indiana 46204
888-692-6841

July 16, 2014

[REDACTED]
[REDACTED] 46140

Re: [REDACTED] – DL # [REDACTED]
Request Material Error Review

Dear Mr. [REDACTED]:

We are in receipt of your request for administrative review, which the Indiana Bureau of Motor Vehicles received by mail on July 9, 2014. You have requested that the Bureau review the records of your client, [REDACTED], for a material error. You assert that the Bureau's finding, on July 1, 2014, that [REDACTED] is a Habitual Traffic Violator under Indiana Code § 9-30-10 was erroneous. We have reviewed our records, and we have concluded that the Bureau's finding was correct. Therefore, no changes are in order at this time.

We disagree with your assertion that a conviction under IC 9-30-5-1(c) is not a predicate offense for an HTV finding under IC 9-30-10-4(b). Any judgment for "operation of a vehicle while intoxicated" serves as such a predicate. See IC 9-30-10-4(b)(1). The term "intoxicated" includes not only the presence of alcohol, but also the presence of a controlled substance. See IC 9-13-2-86. Therefore, the BMV's 2008 decision to count the Boone County judgment as a predicate offense toward an HTV finding was correct.

The suspension will remain in place. This review is limited to material error on the part of the BMV. Pursuant to IC 9-30-10-6 and 9-30-10-7, your client may seek judicial review of this decision by applying to the proper court within thirty (30) days.

Sincerely,

Donald M. Snemis
Commissioner
Indiana Bureau of Motor Vehicles



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