

## Randle Man Continues Battle Against Department of Licensing

New Claims: While Waiting to Hear if the State Supreme Court Will Overturn His DWLS III Conviction, Stephen Johnson Begins a New Legal Battle

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By **Stephanie Schendel** /

The Randle man whose driving while license suspended case went before the Washington State Supreme Court earlier this year is laying the groundwork for a new legal battle with the Department of Licensing.

In April 2013, about a month after Stephen Johnson's Olympia-based attorney argued for the reversal of his client's third-degree driving while license suspended (DWLS III) conviction before the state Supreme Court, his attorney sent a letter to the Department of Licensing demanding the agency reverse all license suspensions that were the result of unpaid traffic infractions.

**In the letter dated** April 18, provided to The Chronicle by Johnson's attorney, Kevin Hochhalter, wrote that the amendments to the law, made by the Legislature during the 2012 session, stripped the DOL of any authority of suspending licenses due to failure to pay a traffic infraction. The amendments were set to go into effect on June 1 of this year.

In the agency's letter responding to Hochhalter, DOL stated it disagreed with the attorney's reasoning.

As the law stands now, explained Brad Benfield, a spokesman for the Department of Licensing, jurisdictions can no longer request the DOL to suspend licenses for failure to pay for non-moving infractions. The unpaid infractions are sent to collections agencies instead.

A non-moving infraction includes citations such parking tickets, he said. If a person receives a moving infraction, such as a speeding ticket, and doesn't pay it, the individual's license can still legally be suspended.

Benfield said DOL will not remove suspensions that were made prior to June 1, 2013.

**Hochhalter said he** and his client disagree that the DOL can legally suspend licenses, and will argue that the language in the law that the DOL historically relied on to suspend licenses was removed during the 2012 session.

Since the law no longer contains the language, Hochhalter said, he will argue that the DOL can no longer legally suspend anyone's license for failing to pay for infractions, whether they be moving or non-moving.

Hochhalter said the next step in the process will be to petition a Thurston County judge for a writ of mandamus, which, if granted, would order the department to reinstate the driver's licenses of those people whose driving privileges are suspended. They have not filed a petition yet, Hochhalter said.

"Specifically, we would be asking the court to order the Department of Licensing to reinstate all these suspensions for failure to pay because the new statute does not allow them to do those suspensions," Hochhalter said.

**The case began when** Hochhalter's client, Johnson, received an infraction for driving without a valid driver's license in the early 2000s. Johnson said he was too poor to pay the \$250 ticket, so he didn't. As a result, the DOL suspended his driving privileges, which made it a crime for him to drive.

In 2007, Johnson was pulled over by a Lewis County sheriff's deputy and arrested for DWLS III — a misdemeanor.

He was eventually convicted of DWLS III, and been fighting against the conviction ever since, describing it as the state's invented crime of "driving while poor."

"My end goal is to get my license back and to get the government off the poor people's back," Johnson said. "It's just destroying this country."

His other goal is to get the government to do what it's suppose to do, Johnson said, which is "fix the potholes and leave the rest of us alone."

While it will likely take several more months for the nine Supreme Court justices to rule on the 64-year-old's case, it is a case attorneys on both sides say could have statewide consequences if the Supreme Court rules in Johnson's favor.

**The main difference** in the arguments of Johnson’s Supreme Court and the arguments Hochhalter will likely present to a Thurston County judge is that the writ of mandamus will be broader.

“The Supreme Court case is limited to indigent people, whereas what we are going for now is any failure to pay,” Hochhalter said.

In his written argument submitted to the state Supreme Court last year, Hochhalter argued that the crime of DWLS III disproportionately affects poor people, and criminally punishes them for not being able to pay traffic infractions.

Third-degree driving while license suspended is the most charged crime in Washington, and the majority of cases end in convictions.

Statewide, 33 percent of all misdemeanor criminal cases are related to a suspended or revoked driver’s license. For Lewis County, which has one of the highest unemployment rates in the state, that percentage is nearly double.