

CITY OF TUCUMCARI V. BRISCOE, 1954-NMSC-103, 58 N.M. 721, 275 P.2d 958 (S. Ct. 1954)

**CITY OF TUCUMCARI, New Mexico, Plaintiff-Appellee,
vs.
Ira BRISCOE, Defendant-Appellant**

No. 5807

SUPREME COURT OF NEW MEXICO

1954-NMSC-103, 58 N.M. 721, 275 P.2d 958

November 03, 1954

Defendant was convicted by police judge on the charge of driving a motor vehicle while intoxicated in violation of a city ordinance, and from a judgment of conviction in the District Court for Quay County, David S. Bonem, D.J., the defendant appeals. The Supreme Court, Seymour, J., held that defendant was not improperly denied the right to a trial by jury notwithstanding the mandatory revocation by state authorities of his driving license for a period of one year.

COUNSEL

James L. Briscoe, Tucumcari, for appellant.

J. V. Gallegos, Tucumcari, for appellee.

JUDGES

Seymour, Justice. McGhee, C.J., and Sadler and Lujan, JJ., concur.

Compton, J., not participating.

AUTHOR: SEYMOUR

OPINION

{*722} {1} Appellant was convicted by the police judge of the City of Tucumcari on the charge of driving a motor vehicle on the streets of that city while under the influence of intoxicating liquor in violation of a city ordinance. The offense occurred June 16, 1953.

{2} Appellant has relied in this appeal on a single point, namely, that he was denied the right to trial by a jury in district court on appeal, in violation of §§ 12 and 14, Art 2, N.M. Const.

{3} The questions raised have already been disposed of to our satisfaction in the case of Gutierrez v. Gober, 1939, 43 N.M. 146, 87 P.2d 437.

{4} Counsel for appellant admits that, absent a single factor, the above-cited case is controlling. That factor is the mandatory revocation by state authorities of the driving license of any person so convicted for a period of one year, as provided in §§ 68-317, 68-320 and 68-902, N.M.S.A. 1941.

{5} Appellant has cited no authority to sustain his position and relies solely upon the fact that loss of a driving license may in some cases be a matter of great import to the person suffering the loss. We deem the efficient protection of the public against intoxicated drivers of far greater importance. The action by the state in the interest of public safety is clearly within the proper exercise of the police power belonging to the state. The fact that a conviction under a municipal ordinance for drunken driving automatically sets in motion a proper exercise of the state police power has no connection with or relevance to the appellant's right to a jury trial. This additional consequence flowing from a conviction for drunken driving does not remove this offense from the class of offenses covered by Gutierrez v. Gober, supra.

{6} Judgment is affirmed.

{7} It is so ordered.