

AUG 30 2017

NOT FOR OFFICIAL PUBLICATION

IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA

DIVISION I

JENNIFER A. NICHOLSON,	)	
	)	
Plaintiff/Appellee,	)	
vs.	)	Case No. 115,618
	)	(Comp. w/115,405
	)	& 115,729)
THE STATE OF OKLAHOMA ex rel.,	)	
DEPARTMENT OF PUBLIC SAFETY,	)	
	)	
Defendant/Appellant.	)	

APPEAL FROM THE DISTRICT COURT OF  
GARFIELD COUNTY, OKLAHOMA

HONORABLE PAUL K. WOODWARD, TRIAL JUDGE

AFFIRMED

Eric N. Edwards,  
ERIC N. EDWARDS, P.C.,  
Enid, Oklahoma,

For Plaintiff/Appellee,

Heather M. Poole,  
Assistant General Counsel,  
Oklahoma City, Oklahoma,

For Defendant/Appellant.

OPINION BY BRIAN JACK GOREE, PRESIDING JUDGE:

¶1 Defendant/Appellant, State of Oklahoma ex rel. Department of Public Safety (DPS), seeks review of the district court's order that set aside DPS's order revoking the driver's license of Plaintiff/Appellee, Jennifer A. Nicholson, on the grounds that Nicholson's right to a speedy trial had been violated. Applying *Pierce v. State ex rel. Dep't of Pub. Safety (Pierce)*, 2014 OK 37, 327 P.3d 530, and *Nichols v. State ex. rel. Dep't of Pub. Safety (Nichols)*, 2017 OK 20, 392 P.3d 692, we affirm.

¶2 In *Pierce*, the Court held that a driver's constitutional right to a speedy trial in a license revocation matter, guaranteed by the Okla. Const. Art. 2, §6, is violated by an unreasonable delay. 2014 OK 37 at ¶23. The Court identified four factors for determining whether the delay deprives the driver of the right to a speedy trial: "1) the length of the delay; 2) the reason for the delay; 3) the party's assertion of the right; and 4) the prejudice to the party occasioned by the delay." *Id.* at ¶8. It stated that the issue presented a question of constitutional fact which is reviewed de novo. *Id.* at 7. In *Nichols*, the Court provided guidance to DPS to assist it in avoiding claims of violating the right to a speedy trial. 2017 OK 20 at ¶29. It directed that DPS should give notice of revocation within ten days of the receipt of blood tests when the

arresting officer is available to testify, or if the officer is not available then, immediately upon the officer becoming available to testify. *Id.* DPS should then hold a hearing within sixty days of receiving the driver's request for the hearing. *Id.* Where DPS has complied with these guidelines, we will not set aside a license revocation for failure to provide a speedy trial. Where it has failed to meet the guidelines, we will examine the four *Pierce* factors in reviewing de novo the question of constitutional fact of whether delay deprived the driver of the right to a speedy trial.

¶3 In the present case, a state trooper arrested Nicholson on June 6, 2015 for driving under the influence of alcohol and provided her with notice of her driver's license revocation. Four days later, On June 10, 2015, Nicholson requested a hearing. DPS set the hearing more than a year later, on June 29, 2016. The hearing began that day and concluded on August 3, 2016.

¶4 Nicholson's request for the hearing was prompt. The length of the delay in holding the hearing was excessive, and DPS provided no valid reason for the delay. Nicholson's driving status was in limbo for a substantial period, impairing her ability to find employment. Pursuant to *Nichols*, 2017 OK 20 at ¶26, the potential loss of her property interest in driving privileges is sufficient

to constitute prejudice. Her right to a speedy trial was violated. Accordingly, we AFFIRM the district court's order.

JOPLIN, J., and BELL, J., concur.