

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Invasive Species /  
Infested Waters Civil Citation of Emad  
Hassen Amin

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION**

This matter came before Administrative Law Judge Eric L. Lipman for a telephone prehearing conference and evidentiary hearing. The hearing record closed at the end of the evidentiary hearing on October 15, 2014.

Brent Grewe and Jackie Glaser, Conservation Officers, appeared on behalf of the Minnesota Department of Natural Resources. Emad Hassen Amin, the licensee and motorist, appeared on his own behalf and without counsel.

**STATEMENT OF THE ISSUE**

Whether Mr. Amin transported aquatic macrophytes after leaving a water access site in violation of Minn. Stat. § 84D.09 (2014)?

The Administrative Law Judge concludes that Mr. Amin did transport aquatic macrophytes in violation of Minn. Stat. § 84D.09, and therefore recommends that the Commissioner AFFIRM the citation.

**FINDINGS OF FACT**

1. On July 26, 2014, after a day of boating on Lake Minnetonka, Mr. Amin removed two jet skis from the lake at the public boat access site on Maxwell's Bay.<sup>1</sup>

2. While placing the watercraft on to a waiting trailer, Mr. Amin did not notice a clump of aquatic vegetation on the bottom of the jet skis, and which hung down from the trailer. It was Mr. Amin's plan to undertake a thorough cleaning of the items at North Shore Marina, a facility that is a short drive from the public boat access.<sup>2</sup>

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<sup>1</sup> Testimony of Emad Hassen Amin; Test. of Jackie Glaser; Test. of Brent Grewe.

<sup>2</sup> Test. E.H. Amin.

3. Mr. Amin left the public boat access site, turned on to County Road 51, and drove to the North Shore Marina, with the jet skis following behind his vehicle on an attached trailer.<sup>3</sup>

4. Mr. Amin's vehicle was stopped by Conservation Officers Brent Grewe and Jackie Glaser in the parking lot of the North Shore Marina. During the stop, Officer Grewe pointed out the aquatic vegetation below Mr. Amin's jet skis, near the trailer axle, before Lieutenant Glaser placed the items into an evidence container.<sup>4</sup>

5. Mr. Amin acknowledges that he did transport these items for a short distance and that Officer Grewe noted these items during the stop.<sup>5</sup>

6. Officer Grewe issued Mr. Amin Citation Number 174385, for illegally transporting an invasive species on to a public roadway.<sup>6</sup>

7. Mr. Amin timely appealed the citation.<sup>7</sup>

Based upon these Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS OF LAW**

1. The Administrative Law Judge and the Commissioner of Natural Resources have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50; 84D.13, subd. 8; 116.072, subd. 6 (2014).

2. On July 26, 2014, Mr. Amin unlawfully transported aquatic macrophytes in violation of Minn. Stat. § 84D.09.

3. Mistake is not a defense to a citation for transporting an invasive species.<sup>8</sup>

4. Traveling a short distance on a public roadway is not a defense to a citation for transporting an invasive species.<sup>9</sup>

Based upon the Conclusions of Law, and for the reasons explained in the accompanying Memorandum, the Administrative Law Judge makes the following:

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<sup>3</sup> Test. E.H. Amin; Test. of J. Glaser; Test. of B. Grewe.

<sup>4</sup> *Id.*; Test. of Robert Labatt; Exhibits 1 and 2.

<sup>5</sup> Test. E.H. Amin; *see also*, Minn. R. 6216.0250, subp. 2 (2013) (Prohibited Invasive Species).

<sup>6</sup> NOTICE AND ORDER FOR HEARING, Attachment - Citation Number 174385.

<sup>7</sup> *Id.* Attachment – Appeal Letter (August 7, 2014).

<sup>8</sup> Minn. Stat. § 84D.13, subd. 5(1) (2014).

<sup>9</sup> *Id.*

## RECOMMENDATION

The Administrative Law Judge respectfully recommends that the Commissioner of Natural Resources AFFIRM the citation.

Dated: November 14, 2014

s/Eric L. Lipman

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ERIC L. LIPMAN  
Administrative Law Judge

Reported: Digitally recorded.

## NOTICE

Pursuant to Minn. Stat. § 116.072, subd. 6 (e) (2014), the Commissioner may not issue a final order until at least five days after receipt of the report of the Administrative Law Judge. The persons to whom the order is issued may, within those five days, comment to the Commissioner and the Commissioner will consider those comments. The final order of the Commissioner may be appealed pursuant to Minn. Stat. § 14.63-.69 (2014).

## MEMORANDUM

Mr. Amin maintains that given the fact that he drove such a short distance from the public boat launch, before undertaking a more thorough cleaning of his watercraft, the issuance of a citation is inappropriate and disproportionate to the claimed misconduct.

As Conservation Officer Grewe correctly points out, however, not only does the statute bar transporting this kind of vegetation on all public roadways, the logical stopping point of Mr. Amin's alternative is not clear. If short drives on public roadways are permitted, would boaters be allowed to take watercraft with aquatic vegetation to the next launch, or the next city, or the next county; and how would the Department select an appropriate endpoint? Mr. Amin's approach invites more questions than it answers.

The more appropriate result is to apply Minn. Stat. § 84D.09 as it is written and affirm the citation.

**E. L. L.**