

IN THE SUPREME COURT OF TEXAS

No. 99-0085

TEXAS DEPARTMENT OF PUBLIC SAFETY, PETITIONER

v.

STEPHEN VINCENT DAVIS, RESPONDENT

ON PETITION FOR REVIEW FROM THE
COURT OF APPEALS FOR THE FOURTH DISTRICT OF TEXAS

Per Curiam

Steven Vincent Davis' driver's license was administratively suspended based upon evidence that his alcohol concentration was 0.138 and 0.144 about an hour and a half after his arrest for drunk driving. The county court at law reversed the administrative decision, and the court of appeals affirmed in a memorandum decision. *See* TEX. R. APP. P. 47.1. The court of appeals affirmed based upon its original decision in *Mireles v. Texas Department of Public Safety*, which was then pending on rehearing. After the decision in this case became final, the court of appeals withdrew its decision in *Mireles* and reversed its prior decision. *See Mireles v. Texas Dep't of Pub. Safety*, 993 S.W.2d 426 (Tex. App.—San Antonio 1999), *aff'd*, ___ S.W.3d ___ (Tex. 1999). Today, we affirm the *Mireles* opinion on rehearing. Accordingly, without hearing oral argument, under Rule 59.1 of the Texas Rules of Appellate Procedure, we grant the Department of Public Safety's petition for review and remand to the court of appeals for reconsideration in light of *Mireles*.

Opinion delivered: December 9, 1999