

U0-818-CD
COMMONWEALTH OF PA -vs- RICHARD MATTHEW MCCLOSKEY

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PA

Number 00- 818 - CD

Type of Case: CIVIL

v.

Type of Pleading: LICENSE SUSPENSION
APPEAL

RICHARD MATTHEW MCCLOSKEY,
Defendant

Filed on behalf of: DEFENDANT

Counsel of Record for DEFENDANT:
Mark Andrew Wheeler
Pa. Sup. Ct. I.D. # 64335

512 Main St. / P.O. Box 176
Reynoldsville, PA 15851
(814) 653-2000
(814) 653-2200 FAX

FILED

JUL 14 2000

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF :
PENNSYLVANIA :
: vs. : No. 00-818-CD
: :
RICHARD MATTHEW MCCLOSKEY :

O R D E R

AND NOW, this 18th day of July, 2000, the Defendant having filed a Petition appealing the Order of the Department of Transportation suspending the Defendant's motor vehicle operating privileges, it is hereby Ordered that the Court Administrator's Office is directed to schedule the matter for hearing on the next available License Suspension Appeal hearing date.

It is further Ordered that the defendant herein shall send a certified copy of this Order and of the Petition for Appeal by certified United State mail to Pennsylvania Department of Transportation, Office of Chief Counsel, Third Floor, Riverfront Office Center, Harrisburg, PA 17104-2516.

BY THE COURT:

JOHN K. REILLY, JR.
Judge

FILED

JUL 19 2000

William A. Shaw
Prothonotary

FILED

JUL 19 2000
CIV. 13121 C.A.T.
William A. Shaw
Prothonotary
L. Wheeler
RECEIVED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PA

v.

Number 00-_____ -CD

RICHARD MATTHEW MCCLOSKEY,
Defendant

LICENSE SUSPENSION APPEAL

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant, Richard Matthew McCloskey, by and through his undersigned counsel, moves this Court to grant him a hearing upon the merits of the following License Suspension Appeal:

1. Defendant was convicted of violating Section 1532B of the Vehicle Code, DUI on 10-15-99;
2. Defendant avers that the resulting one year suspension is an unconstitutional second punishment which violates both his due process rights as well as his right not to suffer double jeopardy pursuant to both Federal and Pennsylvania State constitutions;
3. Defendant requests a hearing upon the validity of the imposition of this license suspension;
4. The Defendant is full timed employed and the surrendering of his license will make it practically impossible for him to continue his employment;
5. At the time of filing, the Defendant has already successfully completed his minimum period of incarceration and is on parole through Clearfield County Probation;

6. The Defendant is a resident of Clearfield County which is a rural area and the Defendant's license suspension has a greater effect and negative punishing influence on the Defendant than a person losing their license who lives in an urban area such as Philadelphia or Pittsburgh and such a greater penalty is a violation of the Defendant's equal protection rights pursuant to both the Federal and Pennsylvania State Constitutions;

7. Defendant received his notice of license suspension as attached and marked "Defendant's Exhibit One";

8. The filing of this appeal should act as a supersedeas and restrict the Department of Transportation from suspending the Defendant's license until final disposition of this case;

WHEREFORE, the Defendant would request that this court disallow the Department of Transportation to suspend the Defendant's license for the reasons previously suggested.

RESPECTFULLY SUBMITTED:



WHEELER LAW OFFICES

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PA

v.

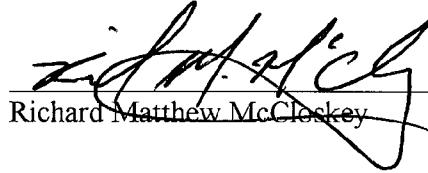
Number 00-_____ -CD

RICHARD MATTHEW MCCLOSKEY,
Defendant

VERIFICATION

I verify that the statements made in this LICENSE SUSPENSION APPEAL are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

Date: 7/14/00


Richard Matthew McCloskey

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PA

v.

Number 00-_____ -CD

RICHARD MATTHEW MCCLOSKEY,
Defendant

CERTIFICATE OF SERVICE

I, Mark Andrew Wheeler, Esquire, attorney for the Defendant, hereby certify that I have caused to be served on the attorney for the Department of Transportation a true and correct copy of the foregoing License Suspension Appeal by first class mail, CERTIFIED, RETURN RECEIPT REQUESTED, at the address indicated:

PA Department of Transportation
Office of Chief Counsel
Third Floor, Riverfront Office Center
Harrisburg, PA 17104



Mark Andrew Wheeler, Esq.

Wheeler Law Offices
512 Main St./P.O. Box 176
Reynoldsville, PA 15851
(814) 653-2000

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Bureau of Driver Licensing
Mail Date: JULY 05, 2000

RICHARD MATTHEW MCCLOSKEY
631 TREASURE LAKE
DU BOIS PA 15801

WID # 001806112411290 001
PROCESSING DATE 06/28/2000
DRIVER LICENSE # 24814130
DATE OF BIRTH 05/30/1979

Dear MR. MCCLOSKEY:

This is an Official Notice of the Suspension of your Driving Privilege as authorized by Section 1532B of the Pennsylvania Vehicle Code. As a result of your 10/15/1999 conviction of violating Section 3731 of the Vehicle Code DRIVING UNDER INFLUENCE on 07/12/1998:

- Your driving privilege is SUSPENDED for a period of 1 YEAR(S) effective 08/13/2000 at 12:01 a.m.

This suspension is in addition to any other suspensions already on your record.

COMPLYING WITH THIS SUSPENSION

You must return all current Pennsylvania driver's licenses, learner's permits, temporary driver's licenses (camera cards) in your possession on or before 07/14/2000. You may surrender these items before, 07/14/2000, for earlier credit; however, you may not drive after these items are surrendered.

YOU MAY NOT RETAIN YOUR DRIVER'S LICENSE FOR IDENTIFICATION PURPOSES. However, you may apply for and obtain a photo identification card at any Driver License Center for a cost of 9.00. You must present two (2) forms of proper identification (e.g., birth certificate, valid U.S. passport, marriage certificate, etc.) in order to get your photo

You will not receive credit toward serving any suspension until we receive your license(s). Complete the following steps to acknowledge this suspension.

1. Return all current Pennsylvania driver's licenses, learner's permits and/or camera cards to PennDOT. If you do not have any of these items, send a sworn notarized letter stating you are aware of the suspension of your driving privilege. You must specify in your letter

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why you are unable to return your driver's license. Remember: You may not retain your driver's license for identification purposes. Please send these items to:

Pennsylvania Department of Transportation
Bureau of Driver Licensing
P.O. Box 68693
Harrisburg, PA 17106-8693

2. Upon receipt, review and acceptance of your Pennsylvania driver's license(s), learner's permit(s), and/or a sworn notarized letter, PennDOT will send you a receipt confirming the date that credit began. If you do not receive a receipt from us within 3 weeks, please contact our office. Otherwise, you will not be given credit toward serving this suspension. PennDOT phone numbers are listed at the end of this letter.
3. If you do not return all current driver license products, we must refer this matter to the Pennsylvania State Police for prosecution under SECTION 1571(a)(4) of the Pennsylvania Vehicle Code.

Additionally, the Court of WASHINGTON CTY, Court Number 2482, Court Term 1998 has sentenced you to serve a prison term for this violation. Pursuant to Section 1541(a.1) of the Vehicle Code, you will not receive credit for this suspension/revocation or any additional suspension/revocation until you complete your prison term and you have complied with the requirements listed in this letter. The Court must certify your completion to PennDOT. You may wish to contact your probation officer and/or the Court after your release to make sure that PennDOT is properly notified.

Additionally, pursuant to Section 1548(d) of the Vehicle Code, the Court of WASHINGTON CTY, Court Number 2482, Court Term 1998 has ordered you to attend a treatment program for alcohol or drug addiction. As a result of the court order, this suspension/revocation shall remain in effect until the Department is notified by the above Court that you have successfully completed treatment and you are otherwise eligible for restoration of your driving privilege.

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PROVIDING PROOF OF INSURANCE

Within the last 30 days of your suspension, we will send you a letter asking that you provide proof of insurance at that time. This letter will list acceptable documents and what will be needed if you do not own a vehicle registered in Pennsylvania.

Important: Please make sure that PennDOT is notified if you move from your current address. You may notify PennDOT of your address change by calling any of the phone numbers listed at the end of this letter.

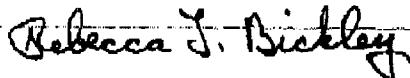
APPEAL

You have the right to appeal this action to the Court of Common Pleas (Civil Division) within 30 days of the mail date of this letter, JULY 05, 2000. If you file an appeal in the County Court, the Court will give you a time-stamped certified copy of the appeal. Send this time-stamped certified copy of the appeal by certified mail to:

PENNSYLVANIA DEPARTMENT OF TRANSPORTATION
OFFICE OF CHIEF COUNSEL
THIRD FLOOR, RIVERFRONT OFFICE CENTER
HARRISBURG, PA. 17104-2516

Remember, this is an **OFFICIAL NOTICE OF SUSPENSION**. You must return all current Pennsylvania driver license products to PennDOT by 07/14/2000.

Sincerely,



Rebecca L. Bickley, Director
Bureau of Driver Licensing

SEND FEE/LICENSE/DL-16LC/TO:
Department of Transportation
Bureau of Driver Licensing
P.O. Box 68693
Harrisburg, PA 17106-8693

INFORMATION (7:00 AM TO 9:00 PM)
IN STATE 1-800-932-4600
OUT-OF-STATE 717-391-6190
TDD IN STATE 1-800-228-0676
TDD OUT-OF-STATE 717-391-6191

Atty Wheeler pd \$0.00

Off 3:48 AM
14 NOV

1cc CA

William A. Shaw
Prothonotary

1cc Atty Wloutorder

1cc Atty Wheeler

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA :

VS : NO. 00-818-CD

RICHARD MATTHEW MCCLOSKY :

O R D E R

NOW, this 26th day of June, 2001, the Court hereby
GRANTS the Appellant's Request to Withdraw his appeal and
AFFIRMS the action of the Department.

BY THE COURT,

President Judge

FILED

JUN 26 2001

William A. Shaw
Prothonotary

FILED

JUN 26 2001
D 27/625-atty Wheeler
William A. Shaw
Prothonotary
cc atty Kurian
QK