

00-819-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 00-819 - 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 J.  
Prothonotary

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

COMMONWEALTH OF :  
PENNSYLVANIA :  
: vs. : No. 00-819-CD  
: :  
RICHARD MATTHEW MCCLOSKEY :

**O R D E R**

AND NOW, this 18<sup>th</sup> 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 10 2000

William A. Shaw  
Prothonotary

FILED

JUL 19 2000  
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William A. Shaw  
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Wheeler  
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FILED

JUL 19 2000  
William A. Shaw  
Prothonotary

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 not convicted of violating Section 6308 of the Vehicle Code, (offenses related to alcohol) on 7-12-98, the charge was nolle prossed;
2. Defendant avers that the resulting two 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.

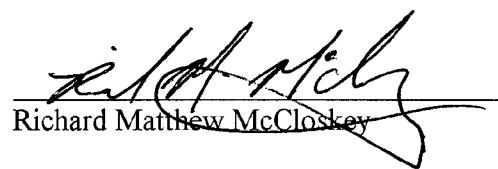
Number 00-\_\_\_\_\_ -CD

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: 7/14/06

  
Richard Matthew McCloskey

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

COMMONWEALTH OF PA

v.

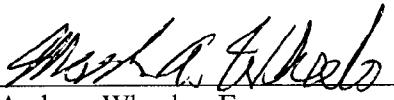
Number 00-\_\_\_\_\_ -CD

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  
Harrisburg, PA 17123  
JUNE 09, 2000

RICHARD MATTHEW MCCLOSKEY 001546258410265 001  
631 TREASURE LAKE 06/02/2000  
DU BOIS PA 15801 24814130  
05/30/1979

Dear MR. MCCLOSKEY:

As a result of your violation on 07/12/1998 of violating Section 6308 (offenses related to alcohol), your driving privilege is being SUSPENDED for a period of 2 YEAR(S) as mandated by section 1532D of the vehicle code.

In order to comply with this sanction you are required to return any current driver's license, learner's permit and/or temporary driver's license (camera card) in your possession no later than the effective date listed. If you cannot comply with the requirements stated above, you are required to submit a DL16LC Form or a sworn affidavit stating that you are aware of the sanction against your driving privilege. Failure to comply with this notice shall result in this Bureau referring this matter to the Pennsylvania State Police for prosecution under SECTION 1571(a)(4) of the Vehicle Code.

Although the law mandates that your driving privilege is under suspension even if you do not surrender your license, credit will not begin until all current driver's license product(s), the DL16LC Form, or a letter acknowledging your sanction is received in this Bureau.

WHEN THE DEPARTMENT RECEIVES YOUR LICENSE OR ACKNOWLEDGEMENT, WE WILL SEND YOU A RECEIPT. IF YOU DO NOT RECEIVE THIS RECEIPT WITHIN 15 DAYS CONTACT THE DEPARTMENT IMMEDIATELY. OTHERWISE, YOU WILL NOT BE GIVEN CREDIT TOWARD SERVING THIS SANCTION.

The effective date of suspension is 09/12/2000, 12:01 a.m.

001546258410265

Sincerely,

*Rebecca L. Bickley*

Rebecca L. Bickley, Director  
Bureau of Driver Licensing

SEND FEE/LICENSE/DL-16LC/TD:  
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 \$8.00  
1cc ea  
12cc Atty w/out order  
1cc Atty w/order

10/13/2000  
14  
William A. Shaw  
Prothonotary

CR

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

Commonwealth of Pennsylvania

vs.

No. 2000-819-CD

Richard Matthew McCloskey,  
Defendant.

**Motion to Quash Appeal**

Filed on Behalf of:  
Commonwealth of Pennsylvania,  
Department of Transportation

Counsel for this Party:

William A. Kuhar, Jr., Esquire  
Pa. ID #38885

Office of Chief Counsel  
Firm #052  
1209 State Office Building  
300 Liberty Avenue  
Pittsburgh, PA 15222

412.565.7555

**FILED**

MAY 30 2001

William A. Shaw  
Prothonotary

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

COMMONWEALTH OF PENNSYLVANIA :  
:  
vs. : No. 2000-819-CD  
:  
RICHARD MATTHEW McCLOSKEY, :  
Defendant. :

**MOTION TO QUASH APPEAL**

AND NOW, comes the Department of Transportation and requests the Court quash this appeal by the defendant/petitioner, Richard Matthew McCloskey, from a reinstatement of a suspension of his operating privilege that he had previously appealed and, in support thereof, avers the following:

1. On or about February 18, 1999, the Department mailed to the defendant/petitioner, Richard Matthew McCloskey, an official notice of a two (2) year suspension of the defendant/petitioner's privilege to operate a vehicle in Pennsylvania, which, pursuant to Section 1532(d) of the Vehicle Code, was imposed due to the defendant/petitioner's reported conviction on January 19, 1999 in the Court of Common Pleas of Washington County for a third violation of Section 6308 of the Crimes Code, with the date of that offense being July 12, 1998. A copy of that February 18, 1999 suspension notice is attached hereto as Exhibit A.

2. On March 10, 1999, the defendant/petitioner filed a petition for appeal from the above-mentioned February 18, 1999 suspension notice. That statutory appeal was docketed at No. 1999-268-CD.

3. On April 10, 2000, the Honorable John K. Reilly, Jr. of this Court entered an order which dismissed the defendant/petitioner's statutory appeal from the February 18,

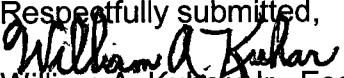
1999 suspension notice referred to in Paragraph 1 of this Motion. A copy of Judge Reilly's April 10, 2000 order of court is attached hereto as Exhibit B.

4. On June 9, 2000, the Department issued the defendant/petitioner a notice which informed him that the two (2) year operating privilege suspension that is referred to in Paragraph 1 of this Motion was now scheduled to go into effect on September 12, 2000. A copy of that suspension reinstatement notice is attached hereto as Exhibit C.

5. The defendant/petitioner filed this appeal from the June 9, 2000 suspension reinstatement notice referred to in Paragraph 4 of this Motion.

6. After a common pleas court enters an order dismissing a licensee's statutory appeal from a suspension of his operating privilege, and thirty days pass from the entry of that order without the licensee appealing the order to the Commonwealth Court of Pennsylvania, no right of appeal to the common pleas court lies from the Department's reinstatement of that operating privilege suspension. *Rinck v. Commonwealth*, 429 A.2d 1255 (Pa. Cmwlth. 1981).

WHEREFORE, the Department of Transportation requests that the Court issue a rule upon the defendant/petitioner, Richard Matthew McCloskey, to show cause, if any, why this appeal from the nonappealable action of the Department in reinstating the two (2) year suspension of the defendant/petitioner's operating privilege pursuant to Section 1532(d) of the Vehicle Code should not be quashed.

Respectfully submitted,  
  
William A. Kuhar, Jr., Esquire  
Assistant Counsel

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION  
Bureau of Driver Licensing  
Harrisburg, PA 17123  
FEBRUARY 18, 1999

----

RICHARD MATTHEW MCCLOSKEY  
631 TREASURE LAKE  
DU BOIS PA 15801

990426101048843 001  
02/11/1999  
24814130  
05/30/1979

LICENSE IN BUREAU

Dear MR. MCCLOSKEY:

As a result of your violation on 07/12/1998 of violating Section 6308 (offenses related to alcohol), your driving privilege is being SUSPENDED for a period of 2 YEAR(S) as mandated by section 1532D of the vehicle code.

The effective date of suspension is 03/30/1999, 12:01 a.m.

The above mentioned sanction is in addition to any previously issued sanction(s).

You have the right to appeal the Department's action to the Court of Common Pleas (Civil Division) within 30 days of the mail date (FEBRUARY 18, 1999) of this notice. PLEASE NOTE that this Civil Appeal is in addition to any appeal you have to file from the criminal conviction.

THE APPEAL MUST BE SENT BY CERTIFIED MAIL TO:

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

Sincerely,

*Rebecca J. Bickley*

Rebecca L. Bickley, Director  
Bureau of Driver Licensing

Exhibit A

990426101048843

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**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**

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

COMMONWEALTH OF PENNSYLVANIA :

-vs- : Nos. 99-267 & 268-CD

RICK MCCLOSKEY : :

O R D E R

NOW, this 10th day of April, 2000, this being the day and date set for hearing into the above-captioned Appeal from License Suspension; the Court having been advised that the Defendant, through counsel, wishes to withdraw said Appeal, it is the ORDER of this Court that the Appeal be and is hereby DISMISSED and the action of the Department SUSTAINED.

BY THE COURT,

/s/JOHN K. REILLY, JR.

President Judge

I hereby certify that to be a true  
and accurate copy of the original  
document.

Attest:

APR 19 2000

Exhibit B

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION  
Bureau of Driver Licensing  
Harrisburg, PA 17123  
JUNE 09, 2000

RICHARD MATTHEW MCCLOSKEY  
631 TREASURE LAKE

DU BOIS PA 15801

001546258410265 001  
06/02/2000  
24814130  
05/30/1979

Dear MR. MCCLOSKEY:

As a result of your violation on 07/12/1998 of violating Section 6308 (offenses related to alcohol), your driving privilege is being SUSPENDED for a period of 2 YEAR(S) as mandated by section 1532D of the vehicle code.

In order to comply with this sanction you are required to return any current driver's license, learner's permit and/or temporary driver's license (camera card) in your possession no later than the effective date listed. If you cannot comply with the requirements stated above, you are required to submit a DL16LC Form or a sworn affidavit stating that you are aware of the sanction against your driving privilege. Failure to comply with this notice shall result in this Bureau referring this matter to the Pennsylvania State Police for prosecution under SECTION 1571(a)(4) of the Vehicle Code.

Although the law mandates that your driving privilege is under suspension even if you do not surrender your license, credit will not begin until all current driver's license product(s), the DL16LC Form, or a letter acknowledging your sanction is received in this Bureau.

WHEN THE DEPARTMENT RECEIVES YOUR LICENSE OR ACKNOWLEDGEMENT, WE WILL SEND YOU A RECEIPT. IF YOU DO NOT RECEIVE THIS RECEIPT WITHIN 15 DAYS CONTACT THE DEPARTMENT IMMEDIATELY. OTHERWISE, YOU WILL NOT BE GIVEN CREDIT TOWARD SERVING THIS SANCTION.

The effective date of suspension is 09/12/2000, 12:01 a.m.

Exhibit C

001546258410265

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Sincerely,

*Rebecca L. Bickley*

Rebecca L. Bickley, Director  
Bureau of Driver Licensing

SEND FEE/LICENSE/DL-16LC/T0:  
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

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

COMMONWEALTH OF PENNSYLVANIA

vs.

No. 2000-819-CD

RICHARD MATTHEW McCLOSKEY,  
Defendant.

ORDER OF COURT

AND NOW, this 29<sup>th</sup> day of May, 2001, it is ORDERED, ADJUDGED AND DECREED that a rule be issued upon the defendant/petitioner, Richard Matthew McCloskey, to show cause, if any, why this appeal from the action of the Department of Transportation in reinstating the two (2) year suspension of the defendant/petitioner's operating privilege pursuant to Section 1532(d) of the Vehicle Code should not be quashed for having been filed from an action of the Department from which no right to appeal lies.

Said rule is returnable on the 26<sup>th</sup> day of June, 2001, at 1:30 p.m., in Courtroom No. 1 of the Clearfield County Courthouse.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J. M. J.", is placed over a horizontal line.

FILED

MAY 30 2001

William A. Shaw  
Prothonotary

FILED

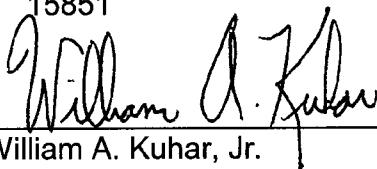
May 30 2001  
SAC-110311cc atty Kuhar  
William A. Shaw  
Prothonotary

**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that, on the date set forth below, he served a true and correct copy of the foregoing Motion to Quash Appeal upon counsel for the defendant/petitioner by regular United States first class mail, postage pre-paid, addressed as follows:

Mark Andrew Wheeler, Esquire  
512 Main Street  
P.O. Box 176  
Reynoldsville, PA 15851

Date: 5/25/2001

  
\_\_\_\_\_  
William A. Kuhar, Jr.

**FILED**

100  
MAY 30 2001  
11:03 AM C.C. -  
William A. Shaw  
Prothonotary  
Kunen

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

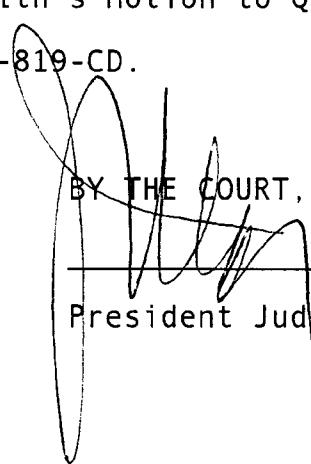
COMMONWEALTH OF PENNSYLVANIA : .

VS : NO. 00-817 & 00-819-CD

RICHARD MATTHEW MCCLOSKY : .

O R D E R

NOW, this 26th day of June, 2001, the Court hereby  
GRANTS the Commonwealth's Motion to Quash to the appeals to  
2000-817-CD and 2000-819-CD.

  
BY THE COURT,  
President Judge

**FILED**

July 26 2001

William A. Shaw  
Prothonotary 