

02-287-CD
COMMONWEALTH OF PENNSYLVANIA -vs- EMERY WISE,

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

FILED

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION

FEB 28 2002

VS.

William A. Shaw
Prothonotary

2002-287-CD

EMERY WISE

APPEAL FROM SUSPENSION
OF OPERATING

PETITION FOR APPEAL FROM SUSPENSION OF OPERATING PRIVILEGES

TO THE HONORABLE JUDGES OF THE COURT:

1. This Court has jurisdiction over this case by virtue of 42 Pa.C.S. § 933(a) and 75 Pa.C.S. § 1550(a).

2. Petitioner is Emery Wise, whose address is R.R.#2, Box 214, Clearfield, Clearfield County, Pennsylvania, 16830.

3. Respondent is the Bureau of Driver Licensing of the Commonwealth of Pennsylvania, Department of Transportation, which has its principal place of business at the Riverfront Office Center, 1101 South Front Street, Harrisburg, Pennsylvania.

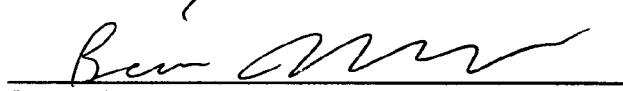
4. By Official Notice(s) from the Director of the Bureau of Driver Licensing, Department of Transportation, Commonwealth of Pennsylvania, true and correct copy(s) of which is/are attached hereto as Exhibit "A" and incorporated herein by reference as though set forth in full, Petitioner was informed that his operating privileges would be suspended for a period of 365 Days, effective March 7, 2002, as a result of alleged violations of Section 1547 of the Motor Vehicle Code.

5. Petitioner believes and therefore avers that the suspension of his operating privileges by the Department of Transportation, Commonwealth of Pennsylvania, is improper and without legal basis for the following reason:

The arresting officer lacked reasonable grounds to believe that Petitioner had been driving, operating, or in actual physical control of the movement of a motor vehicle while Petitioner was under the influence of alcohol or a controlled substance.

WHEREFORE, Petitioner prays that this Honorable Court enter an Order fixing the time and place of a hearing to determine whether the operating privileges of Petitioner should be suspended or the suspension should be set aside as improper and invalid.

Respectfully submitted,


Brian Manchester
Brian Manchester, Esquire
Manchester & Associates
124 W. Bishop St.
Bellefonte, PA 16823
814-355-5421
I.D. # 85080

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

**COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION**

VS.

2002-

EMERY WISE

**APPEAL FROM SUSPENSION
OF OPERATING CERTIFICATE OF
SERVICE**

I, Brian Manchester, Esquire do swear according by law, that I have made service of the Petition For Appeal From Suspension of Operating Privileges upon the Plaintiff, Commonwealth of Pennsylvania, Department of Transportation by certified mail, return receipt requested



Brian Manchester, Esquire

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Bureau of Driver Licensing
Mail Date: JANUARY 31, 2002

6 pages TOTAL
NO cover sheet

EMERY R WISE
CROFT
RR 2 BOX 214
CLEARFIELD PA 16830

WID # 020246102229914 001
PROCESSING DATE 01/24/2002
DRIVER LICENSE # 21057129
DATE OF BIRTH 05/12/1963

Dear MR. WISE:

This is an Official Notice of the Suspension of your Driving Privilege as authorized by Section 1547 of the Pennsylvania Vehicle Code. As a result of your violation of Section 1547 of the Vehicle Code, CHEMICAL TEST REFUSAL, on 12/16/2001:

- Your driving privilege is SUSPENDED for a period of 1 YEAR(S) effective 03/07/2002 at 12:01 a.m.

| WARNING: If you are convicted of driving while your
| license is suspended/revoked the penalties will be a
| MINIMUM of 90 days imprisonment AND a 1,000 fine AND
| your driving privilege will be suspended/revoked for
| a MINIMUM 1 year period

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 03/07/2002. You may surrender these items before, 03/07/2002, 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 obtain your photo identification card.

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

EXHIBIT
A

020246102229914

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 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.

PAYING THE RESTORATION FEE

You must pay a restoration fee to PennDOT to be restored from a suspension/revocation of your driving privilege. To pay your restoration fee, complete the following steps:

1. Return the enclosed Application for Restoration. The amount due is listed on the application.
2. Write your driver's license number (listed on the first page) on the check or money order to ensure proper credit.
3. Follow the payment and mailing instructions on the back of the application.

020246102229914

APPEAL

You have the right to appeal this action to the Court of Common Pleas (Civil Division) within 30 days of the mail date, JANUARY 31, 2002, of this letter. If you file an appeal in the County Court, the Court will give you a time-stamped certified copy of the appeal. In order for your appeal to be valid, you must 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 03/07/2002.

Sincerely,

Rebecca J. Bickley

Rebecca L. Bickley, Director
Bureau of Driver Licensing

INFORMATION 7:00 a.m. to 9:00 p.m.

IN STATE	1-800-932-4600	TDD IN STATE	1-800-228-0676
OUT-OF-STATE	717-391-6190	TDD OUT-OF-STATE	717-391-6191
WEB SITE ADDRESS	www.dot.state.pa.us		

FILED

FEB 28 2002
101 (S7) Atty Manchester, PC \$80.00
William A. Shaw
Prothonotary
LCC GA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

COMMONWEALTH OF PENNSYLVANIA:

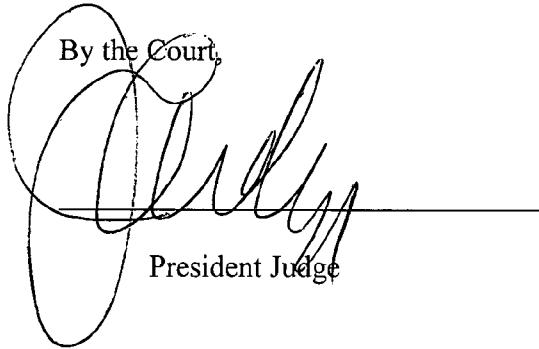
DEPARTMENT OF TRANSPORTATION :

-vs- : No. 02 - 287 - CD

EMERY WISE :

ORDER

NOW, this 31st day of December, 2003, following hearing into the above-captioned appeal from license suspension, it is the ORDER of this Court that said appeal be and is hereby dismissed and the action of the Pennsylvania Department of Transportation in suspending Defendant's operating license affirmed.

By the Court,

President Judge

FILED

DEC 31 2003

William A. Shaw
Prothonotary/Clerk of Courts

FILED 1cc Atty Kishan
012:47 1cc Atty Manchester
DEC 3 12003
EX
William A. Gray
Prothonotary Clerk of Courts

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

COMMONWEALTH OF PENNSYLVANIA : :

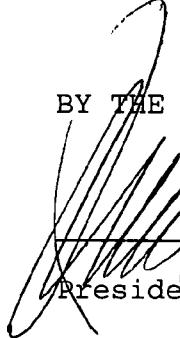
VS. : NO. 02-287-CD

EMERY WISE : License Suspension Appeal

O R D E R

NOW, this 19th day of December, 2003, this being the day and date set for hearing into the above-captioned Appeal from License Suspension; following testimony and upon consideration thereof, it is the ORDER of this Court that Commonwealth have the opportunity to submit brief to this Court by no later than Wednesday, December 24, 2003; and any brief the Appellant may file to be due by no later than Monday, December 29, 2003.

BY THE COURT,


President Judge

FILED

JAN 02 2004

William A. Shaw
Prothonotary

