

02-1042-CD  
Charles Schoentag vs Comm of PA

02

02-1042-CD  
CHARLES F. SCHOENTAG -vs- COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION

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

CHARLES F. SCHOENTAG,  
Petitioner

vs.

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION,  
Respondent

NO. 02-1042-CD

Type of Case: Appeal from  
Driver's License Suspension  
Type of Pleading: Appeal  
Petition

Filed on behalf of: Petitioner

Counsel of Record for this Party:  
David P. King, Esquire  
23 Beaver Drive  
P. O. Box 1016  
DuBois, PA 15801  
(814) 371-3760

Supreme Court No. 22980

**FILED**

JUL 02 2002

William A. Shaw  
Prothonotary

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

CHARLES F. SCHOENTAG, :  
Petitioner :  
: :  
vs. : NO. \_\_\_\_\_ C.D.  
: :  
COMMONWEALTH OF PENNSYLVANIA, :  
DEPARTMENT OF TRANSPORTATION, :  
Respondent : :  
:

APPEAL  
PETITION FOR REVIEW OF ORDER OF DEPARTMENT OF  
TRANSPORTATION SUSPENDING OPERATING PRIVILEGE

AND NOW, comes your Petitioner, CHARLES F. SCHOENTAG, through his Attorney, David P. King, and in support of his Petition pursuant to 75 Pa. Cons. Stat. §1550 for Review of an Order of the Department of Transportation Suspending Petitioner's Operating Privilege, and in support thereof represents as follows:

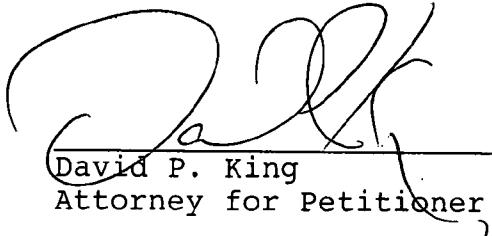
1. The Petitioner is CHARLES F. SCHOENTAG, and he resides at 1265 Treasure Lake, DuBois, PA 15801.
2. Petitioner currently possesses a valid Driver's License issued to him by the Pennsylvania Department of Transportation, License Number 14849773.
3. By letter bearing processing date of June 11, 2002, and indicating a mail date of June 18, 2002, Petitioner was notified in writing by the Department of Transportation of a suspension of his Driver's License and privileges in accordance with Section 1532B of the Pennsylvania Vehicle Code as a result of a conviction on April 25, 2002, in the State of New York for DWAI which is a similar offense to Section 3731 of the

Pennsylvania Motor Vehicle Code. A copy of this letter and notification is attached hereto as Exhibit "A", Pages 1 through 3.

4. The suspension as referred to herein is improper and unlawful, for the following reasons:

- (a) The DWAI offense is not substantially similar to warrant the suspension of driving privileges in Pennsylvania under the Motor Vehicle Code;
- (b) The offense of DWAI in the State of New York is under appeal, and such conviction is anticipated to be nullified;
- (c) That the guilty plea that your Petitioner made to the offense of DWAI in the State of New York is expected to be withdrawn by permission of the Court, consistent with the above; and
- (d) Thus, Petitioner will have no conviction of an offense that could be considered substantially similarly to the Pennsylvania DUI Statute under Section 3731 of the Motor Vehicle Code.

WHEREFORE, Petitioner respectfully requests that the Court set this matter down forthwith for a de novo hearing, pursuant to 75 Pa. Cons. Stat. §1550, and that the Order of the Department of Transportation be set aside, and that Petitioner's Appeal be sustained.



David P. King  
Attorney for Petitioner

I verify that the statements made in this Appeal  
Petition for Review of Order of Department of Transportation  
Suspending Operating Privilege are true and correct. I  
understand that false statements herein are made subject to the  
penalties of 18 Pa.C.S. §4904, relating to unsworn falsification  
to authorities.

Date:

Charles F. Schoentag  
Charles F. Schoentag

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION  
Bureau of Driver Licensing  
Mail Date: JUNE 18, 2002

CHARLES F SCHOENTAG  
1265 TREASURE LAKE  
DU BOIS PA 15801

WID # 021626101802626 001  
PROCESSING DATE 06/11/2002  
DRIVER LICENSE # 14849773  
DATE OF BIRTH 01/15/1951

Dear MR. SCHOENTAG:

This is an Official Notice of the Suspension of your Driving Privilege as authorized by Section 1532B the Pennsylvania Vehicle Code. As a result of your 04/25/2002 conviction in NEW YORK:

- Your driving privilege is SUSPENDED for a period of 1 YEAR(S) effective 07/23/2002 at 12:01 a.m.
- Your driving record reflects a violation on 02/27/2002 that is similar to violating Section 3731 of the Pennsylvania Vehicle Code, DRIVING UNDER INFLUENCE.

Your conviction in NEW YORK is listed in Article IV of Section 1581 of the Pennsylvania Vehicle Code which mandates that PennDOT process specific out-of-state convictions as though they had occurred in Pennsylvania.

Before PennDOT can restore your driving privilege, you must follow the instructions in this letter for COMPLYING WITH THIS SUSPENSION, PAYING THE RESTORATION FEE and PROVIDING PROOF OF INSURANCE. You should follow ALL instructions very carefully. Even if you have served all the time on the suspension/revocation, we cannot restore your driving privilege until all the requirements are satisfied.

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 07/23/2002. You may surrender these items before, 07/23/2002, 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 iden-

tification (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.

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.

PROVIDING PROOF OF INSURANCE

Within the last 30 days of your suspension/revocation, 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.

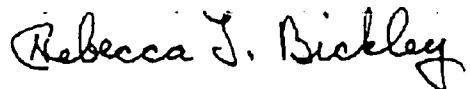
APPEAL

You have the right to appeal this action to the Court of Common Pleas (Civil Division) within 30 days of the mail date, JUNE 18, 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 07/23/2002.

Sincerely,



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**

100 cl4

01/11/04 RSH

JUL 02 2002

2 cc Atty King

Atty pd .80.00

William A. Shaw  
Prothonotary

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vs.

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Counsel of Record for this Party:  
David P. King, Esquire  
23 Beaver Drive  
P. O. Box 1016  
DuBois, PA 15801  
(814) 371-3760

Supreme Court No. 22980

I hereby certify this to be a true  
and attested copy of the original  
statement filed in.

JUL 02 2002

Attest: *William L. Litterer*  
Prothonotary

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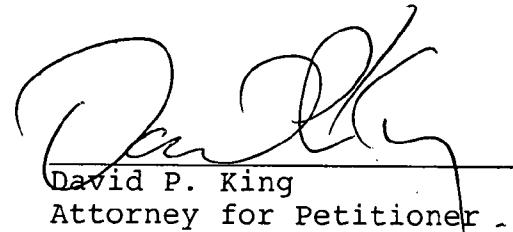
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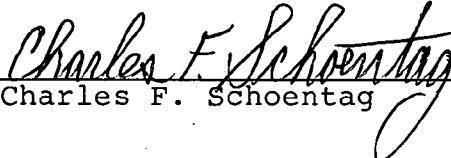
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Date:

  
Charles F. Schoentag

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DEPARTMENT OF TRANSPORTATION  
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Mail Date: JUNE 18, 2002

CHARLES F SCHOENTAG  
1265 TREASURE LAKE  
DU BOIS PA 15801

WID # 021626101802626 001  
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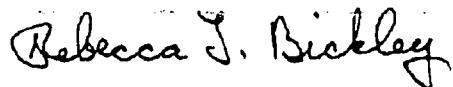
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Rebecca L. Bickley, Director  
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA : :

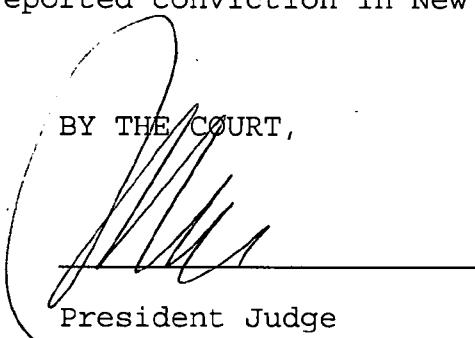
VS. : NO. 02-1042-CD

CHARLES F. SCHOENTAG : License Suspension Appeal

O R D E R

NOW, this 10th day of December, 2003, this being the day and date set for hearing into the above-captioned Appeal from License Suspension; following agreement thereof, it is the ORDER of this Court that said Appeal be and is hereby remanded to the Department for the purpose of rescinding the appealed suspension and deleting the reported conviction in New York from Appellant's driving record.

BY THE COURT,

  
President Judge

FILED

JAN 02 2004

William A. Shaw  
Prothonotary

**FILED**

0  
11/25/04  
cc with Plaintiff  
cc to Plaintiff

JAN 02 2004

OR  
RE

William A. Shaw  
Prothonotary