

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-CQ

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:

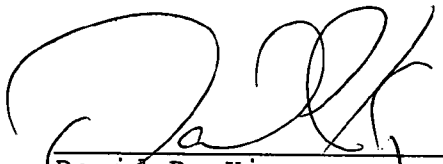
(a) The DWAI offense is not substantially similar to warrant the suspension of driving privileges in Pennsylvania under the Motor Vehicle Code;

(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

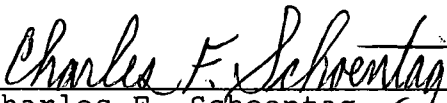
(d) Thus, Petitioner will have no conviction of an offense that could be considered substantially similarly to the Pennsylvania DUI Statute under Section 3731 of the Motor Vehicle Code.

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

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.

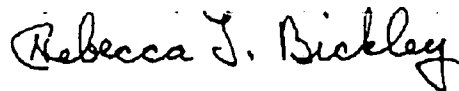
APPEAL

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

~~01/11/10~~
JUL 02 2002

William A. Shaw
Prothonotary

1 cc c/A

cc cc Atty King

Atty pd .80.00

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
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CHARLES F. SCHOENTAG,
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Respondent

NO. 02-1042-C2

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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

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

JUL 02 2002

Attest

William K. King
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
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Petitioner	:	
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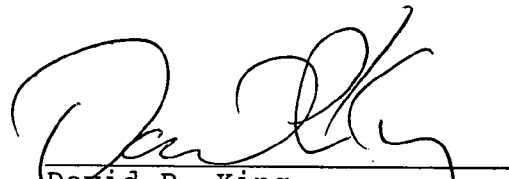
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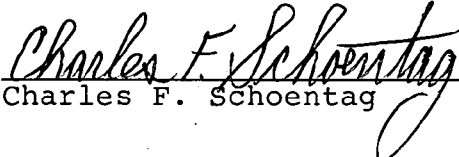
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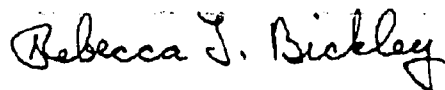
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Rebecca L. Bickley, Director
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CA

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

COMMONWEALTH OF PENNSYLVANIA :

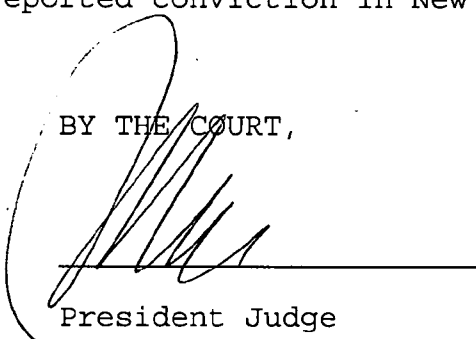
VS. : NO. 02-1042-CD

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

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JAN 02 2004

William A. Shaw
Prothonotary

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of

JAN 02 2004

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HED

William A. Shaw
Prothonotary