

03-705=CD
ROBERT H. HUNT, JR. vs. COMM. OF PA. DEPT. OF TRANS

COPY

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF MERCER

03-705-CD

I, ELIZABETH F. FAIR,
PROTHONOTARY, in and for the
County aforesaid, the same being a Court
of Record, do hereby certify that the
attached is a true, full and correct

copy of the original RECORD
in the matter of ROBERT H. HUNT, JR. VS.
COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION
so full and entire as it remains permanently of record in the said Court of Mercer,
Pennsylvania, No. 2003 - 555

MAY 09 2003

William A. Shaw
Prothonotary

Witness my hand and seal of the said
Court of Common Pleas of Mercer
County, Mercer, Pennsylvania, this 29TH
day of APRIL, 2003

Elizabeth F. Fair
PROTHONOTARY

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF MERCER

03705-CD

I, ELIZABETH F. FAIR,
PROTHONOTARY, in and for the
County aforesaid, the same being a Court
of Record, do hereby certify that the
attached is a true, full and correct

copy of the original RECORD

in the matter of ROBERT H. HUNT, JR. VS.

COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION

FILED
so full and entire as it remains permanently of record in the said Court of Mercer,
Pennsylvania, at No. 2003 - 555

MAY 09 2003

William A. Shaw
Prothonotary

Witness my hand and seal of the said
Court of Common Pleas of Mercer
County, Mercer, Pennsylvania, this 29TH
day of APRIL, 2003

Elizabeth F. Fair
PROTHONOTARY

2003-00555 ROBERT H HUNT (vs) COMMONWEALTH OF PA

Reference No.: Filed..... 2/25/2003
Case Type..... APPEAL LICENSE SUSP Time..... 3:28
Judgment..... .00 Execution Date 0/00/0000
Judge Assigned: Jury Trial...
Disposed Desc.: Disposed Date. 0/00/0000
----- Case Comments ----- Higher Crt 1.:
Higher Crt 2.:

General Index

Attorney Info

HUNT ROBERT H JR
369 SPRUCE AVENUE
SHARON PA 16146

PLAINTIFF

WHALEN J. T. JARRETT K.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

DEFENDANT

KARAS, CHESTER J. JR.

***** * Date Entries * *****

	----- FIRST ENTRY -----
2/25/2003	CAPTION: ROBERT H HUNT JR VS COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION
2/25/2003	PETITION FOR APPEAL F/ATTY J JARRETT K WHALEN TO CT ADM W/PROPOSED ORDER
	008 Image page(s) exist(s) for this entry
2/27/2003	ORDER OF 2/26/03 THE ORDER OF DEPT OF TRANSPORTATION IS SET ASIDE PENDING FURTHER ORDER OF THIS COURT A HEARING DE NOVO IS GRANTED SAID HEARING TO BE HELD ON 4/4/03 AT 11 AM IN CT RM #3 TRD FILED 2/27/03 CC: ATTY WHALEN ATTY KARAS CT ADMIN
	001 Image page(s) exist(s) for this entry
4/02/2003	MOTION TO TRANSFER VENUE F/ATTY KARAS
4/02/2003	006 Image page(s) exist(s) for this entry
4/02/2003	ORDER OF 4/1/03 MOTION TO TRANSFER VENUE FILED ON BEHALF OF DEPT OF TRANSPORTATION IS GRANTED & ABOVE-CAPTIONED APPEAL IS HEREBY TRANSFERRED TO CLEARFIELD CO PA TRANSFER COSTS & FILING FEES IF ANY ARE TO BE PAID BY PETITIONER ROBERT L HUNT JR & HE SHALL ENSURE THE CASE IS TRANSFERRED & FILED W/IN 30 DAYS OF THE DATE OF THIS ORDER DEPT OF TRANSPORTATION SHALL REINSTATE THE SUSPENSION OF OPERATING PRIVILEGES IF THE APPEAL HAS NOT BEEN FILED IN ACCORDANCE W/ THIS ORDER TRD FILED 4/2/03 CC: ATTY WHALEN ATTY KARAS
	001 Image page(s) exist(s) for this entry
	----- LAST ENTRY -----

***** Escrow Information *****

APPEAL LIC SUS	75.00	75.00	.00
DISC	7.50	7.50	.00
TAX ON APPEAL	.50	.50	.00
PRO AUTO FUND	5.00	5.00	.00
JCS FEE	10.00	10.00	.00
REMOVE/TRANSFER	22.50	22.50	.00
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	120.50	120.50	.00

* End of Case Information

IN THE COURT OF COMMON PLEAS OF MERCER COUNTY, PENNSYLVANIA

ROBERT H. HUNT, JR.,
Petitioner,

vs.

Commonwealth of Pennsylvania,
Department of Transportation

No. 2003 - 555

NO FILED IN MERCER
2003 APR - 2 A 945
ELIZABETH F. FAIR
PROTHONOTARY

ORDER

AND NOW, this 1st day of April, 2003, it is ORDERED,
ADJUDGED, AND DECREED that the Motion to Transfer Venue, filed on behalf of the
Department of Transportation, is granted and the above-captioned appeal is hereby
transferred to Clearfield County, Pennsylvania,

It is FURTHER ORDERED AND DIRECTED that transfer costs and filing
fees, if any, are to be paid by the Petitioner, Robert L. Hunt Jr., and he shall ensure the
case is transferred and filed within 30 days of the date of this Order.

It is FURTHER ORDERED AND DIRECTED that the Department of
Transportation shall reinstate the suspension of operating privileges, if the appeal has
not been filed in accordance with this Order.

BY THE COURT:

4.2.03

CC: Atty Whalen
Atty Karas

Thomas Dobson J.
Thomas Dobson

IN THE COURT OF COMMON PLEAS OF MERCER COUNTY, PENNSYLVANIA

ROBERT H. HUNT, JR.
Petitioner

vs.

Commonwealth of Pennsylvania,
Department of Transportation.

No. 2003 - 555

APR - 2 4 2003
ELIZABETH F. FAIR
PROTHONOTARY
MERCER COUNTY
PA & US
NO FILED IN MERCER COUNTY

MOTION TO TRANSFER VENUE

AND NOW, comes the Department of Transportation, by and through its counsel, Chester J. Karas, Jr., Esquire, and requests the Court transfer the above-captioned appeal to the appropriate forum. Although the Petitioner is a resident of Mercer County, the location of the violation of 75 Pa. C.S. §1547 that is the basis for the Petitioner's appeal is Clearfield County. As such, Mercer County is the improper venue for the appeal. In support thereof, the Department avers the following:

1. By a letter dated February 4, 2003, the Department of Transportation (Department) notified the Petitioner, Robert H. Hunt, Jr., that it was suspending his operating privileges as authorized by Section 1547 of the Vehicle Code for a chemical test refusal that occurred on December 23, 2002.
2. The Department based its action in this matter based upon an affidavit of refusal that State Trooper Kenneth J. Hahn of the Clearfield Barracks submitted to the Department. A copy of said affidavit of refusal is attached to this Motion as Exhibit "A."

3. The Department believes and therefore avers that Trooper Hahn arrested the Petitioner for violating 75 Pa. C.S. §3731 following a motor vehicle accident in Clearfield County and that the chemical test refusal occurred in Clearfield County.

4. The Petitioner filed a statutory appeal, from the notice of suspension referred to in paragraph 1, in the Court of Common Pleas of Mercer County at the above-referenced number.

5. Venue for appeals from determinations of the Department of Transportation is governed by Section 933 of the Judicial Code, which provides in pertinent part:

§933. APPEALS FROM GOVERNMENTAL AGENCIES

(a) **General Rule.** Except as otherwise prescribed by any general rule adopted pursuant to section 503 (relating to reassignment of matters), each court of common pleas shall have jurisdiction of appeals from final orders of government agencies in the following cases:

(1) Appeals from Commonwealth agencies in the following cases:

* * * * *

(ii) Determinations of the Department of Transportation appealable under the following provisions of Title 75 (relating to vehicles):

§1377 (relating to judicial review).

§1550 (relating to judicial review)

* * * * *

Except as otherwise prescribed by general rules, the venue shall be in the county of the principal place of business of any salvor or messenger service, the location of any inspection station involved, the county where the arrest for a violation of 75 Pa. C.S. §3731 (relating to driving under influence of alcohol or controlled substance) was made in appeals involving the suspension of operating privileges under 75 Pa. C.S. §1547 (relating to chemical testing to determine amount of alcohol or controlled substance) or the residence of any individual appellant where the venue is not

shall be in the county in which the offense giving rise to the recall, cancellation, suspension or revocation of operating privileges occurred.

42 Pa. C.S. § 933(a)(1)(ii)(emphasis added)

6. Pursuant to Section 933 proper venue lies only in the court of common pleas where the arrest for violating 75 Pa. C.S. §3731 occurred. The said violation in this matter did not occur in Mercer County, therefore Mercer County is an improper venue for this appeal.

7. Proper venue for the instant appeal would lie in Clearfield County because that is the county of Petitioner's arrest and chemical test refusal.

8. J. Jarrett K. Whalen, counsel for the petitioner, has been consulted regarding this motion to transfer venue. Attorney Whalen has no objection to the transfer of this matter to Clearfield County.

WHEREFORE, the Department of Transportation requests the Court transfer the instant case to Clearfield County.

Respectfully submitted,



Chester J. Karas, Jr.
Assistant Counsel

04/28/03 16:24:12 P1

**CHEMICAL TESTING WARNINGS AND REPORT OF
REFUSAL TO SUBMIT TO CHEMICAL TESTING AS
AUTHORIZED BY SECTION 1547 OF THE VEHICLE CODE**



C03-0729603

NAME			SEX	DATE OF BIRTH		
FIRST ROBERT	MIDDLE HAROLD	LAST WANT, JR	M	MONTH 02	DAY 25	YEAR 63
ADDRESS 369 SPRUCE AVE.			CITY SHARON		STATE PA	ZIP CODE 16146
DRIVER NUMBER 27061371	STATE PA	CHEM TEST REQUEST DATE MONTH 12 DAY 23 YEAR 2002			SOCIAL SECURITY NUMBER 280749687	

SECTION 1547 - CHEMICAL TESTING WARNINGS

1. Please be advised that you are now under arrest for driving under the influence of alcohol or a controlled substance pursuant to section 3731 of the Vehicle Code.

2. I am requesting that you submit to a chemical test of BLOOD (breath, blood or urine. Officer chooses the chemical test.)

3. It is my duty, as a police officer, to inform you that if you refuse to submit to the chemical test your operating privilege will be suspended for a period of one year.

4. a) The constitutional rights you have as a criminal defendant, commonly known as the Miranda Rights, including the right to speak with a lawyer and Consent Law, which is a civil, not a criminal proceeding.

b) You have no right to speak to a lawyer, or anyone else, before taking the chemical test requested by the police officer nor do you have a right to remain silent when asked by the police officer to submit to the chemical test. Unless you agree to submit to the test requested by the police officer your conduct will be deemed to be refusal and your operating privilege will be suspended for one year.

c) Your refusal to submit to chemical testing under the Implied Consent Law may be introduced into evidence in a criminal prosecution for driving while under the influence of alcohol or a controlled substance.

I certify that I have read the above warning to the motorist regarding the suspension of their operating privilege and gave the motorist an opportunity to submit to chemical testing.

Signature of Officer: KENNETH J. WANT Date: 12/23/02

I have been advised of the above.

Signature of Motorist: _____ Date: _____

Motorist refused to sign, after being advised.

Signature of Officer: KENNETH J. WANT Date: 12/23/02

AFFIDAVIT

1. The above motorist was placed under arrest for driving under the influence of alcohol or a controlled substance in violation of Section 3731 of the Vehicle Code, and there were reasonable grounds to believe that the above motorist had been driving, operating or in actual physical control of the movement of a motor vehicle while under the influence of alcohol or a controlled substance or both.

or

That the above named motorist was involved in an accident in which the operator or passenger of any vehicle involved or a pedestrian required treatment at a medical facility or was killed.

2. The above motorist was requested to submit to chemical testing as authorized by Section 1547 of the Vehicle Code.

3. The above motorist was informed by a police officer of the chemical test warnings contained in paragraph 3 and 4 above.

4. The above named motorist refused to submit to chemical testing.

OFFICER NOTE: The refusal to sign this form is not a refusal to submit to the chemical test. You must still give the motorist an opportunity to take the chemical test after reviewing this form. If the individual was operating a commercial motor vehicle while having any alcohol or a controlled substance in their system, you must also complete the reverse side of this form.

Officer Signature: KENNETH J. WANT
Officer Name: KENNETH J. WANT
(Type or Print)

Badge Number: 8378 Jurisdiction: CLEARFIELD PSP
Phone: (814) 857-3800

Mailing Address: 147 DOG HILL RD.

WOODLAND, PA 16881

Forward to:

Department of Transportation
Bureau of Driver Licensing
P.O. Box 60037
Harrisburg, PA 17106-0037

EXHIBIT

"A"

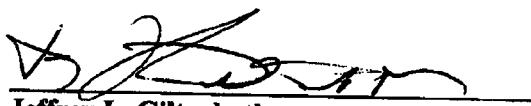
Note: Any pertinent facts not covered by the affidavit should be submitted on a separate sheet and attached hereto. That sheet should include the names of additional witnesses necessary to prove the elements to which you have attested.

ADDITIONAL SUPPLIES OF THIS FORM MAY BE SECURED BY COMPLETING FORM OS-511A

THIS FORM MAY BE DUPLICATED

VERIFICATION

I, Jeffrey L. Giltenboth, verify that the averments made in the within Motion to Transfer Venue are true and correct based upon my personal knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A., Section 4904 relating to unsworn falsification to authorities.



Jeffrey L. Giltenboth
Senior Assistant Counsel

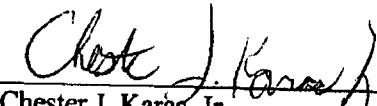
Date: March 31, 2003

CERTIFICATE OF SERVICE

I hereby certify that I have caused to be served a true and correct copy of the Department of Transportation's Motion To Transfer Venue on the date set forth below by mailing by first class mail, postage pre-paid:

J. Jarrett K. Whalen, Esquire
118 North Pitt Street
Mercer, PA 16137

Dated: March 31, 2003



Chester J. Karas, Jr.
Assistant Counsel

IN THE COURT OF COMMON PLEAS OF MERCER COUNTY,
PENNSYLVANIA

ROBERT H. HUNT, JR.,
Petitioner,

vs.

No. 2003 - 555

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION,
Respondent.

ORDER

AND NOW, this 26th day of February, 2003, upon consideration of the Petition of ROBERT H. HUNT, JR for review of an order of the Department of Transportation suspending Petitioner's operating privilege, it is hereby ORDERED AND DECREED:

1. The order of the Department of Transportation is set aside pending further Order of this Court;

2. A hearing de novo is granted, said hearing to be held on the 4th day of April, 2003, at 11:00 AM in Courtroom #3, Mercer County Court of Common Pleas.

PMA J.

7.27.03
CC: Patty Whalen
Patty Karas
cc: admin

2003 FEB 27 P 12:29
CATHERINE FAIR
MERCER COUNTY
CLERK'S OFFICE

IN THE COURT OF COMMON PLEAS OF MERCER COUNTY,
PENNSYLVANIA

ROBERT H. HUNT, JR.,
Petitioner,

vs.

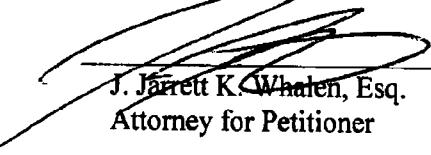
No. 2003 - 555

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION,
Respondent.

NOTICE TO PLEAD

To COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION, Respondent.:

**YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE
ENCLOSED PETITION WITHIN TWENTY (20) DAYS FROM SERVICE
HEREOF OR A JUDGMENT MAY BE ENTERED AGAINST YOU.**


J. Jarrett K. Whalen, Esq.
Attorney for Petitioner

J. JARRETT K. WHALEN
ATTORNEY AT LAW

118 N. Pitt St.
Mercer, PA 16137

(724) 662-1927

pt
gg
J. Jarrett K. Whalen

**IN THE COURT OF COMMON PLEAS OF MERCER COUNTY,
PENNSYLVANIA**

ROBERT H. HUNT, JR.,
Petitioner,

vs.

No. 2003 - _____

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION,
Respondent.

PETITION FOR APPEAL

COMES NOW the Petitioner and respectfully petitions this Honorable Court pursuant to 75 Pa.C.S.A. §1550 for review of an order of the Department of Transportation suspending Petitioner's operating privilege, and in support thereof represents as follows:

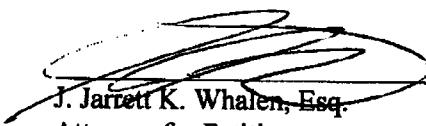
1. Petitioner is ROBERT H. HUNT, JR., who currently resides at 369 Spruce Ave., Sharon, Mercer County, Pennsylvania.
2. Petitioner currently possesses a valid driver's license issued on the 20th day of March, 2001, which license has not heretofore been suspended, cancelled, or revoked.
3. By letter dated the February 4, 2003, a copy of which is marked as Exhibit "A," attached hereto and incorporated herein by reference as though fully set forth herein, Petitioner was notified in writing by Respondent of the entry of an order suspending Petitioner's driver's license for the following reason(s) as set forth in the notice: Violation of Section 1547 of the Vehicle Code, CHEMICAL TEST REFUSAL.
4. The suspension is improper and unlawful for the following reasons:
 - a. Petitioner did not refuse the chemical test.

WHEREFORE, Petitioner respectfully requests that this Honorable Court set this matter down forthwith for a De Novo hearing pursuant to 75 Pa.C.S.A. §1550 and that the order of the Department of Transportation be set aside.

Respectfully Submitted,

J. JARRETT K. WHALEN
ATTORNEY AT LAW

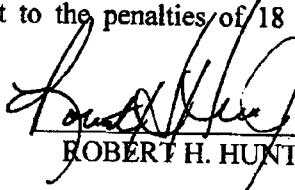
118 N. PITT ST.
MERCER, PA 16137
(724) 662-1927



J. Jarrett K. Whalen, Esq.
Attorney for Petitioner

VERIFICATION

I verify that the statements made in this pleading are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.



ROBERT H. HUNT, JR., Petitioner

**IN THE COURT OF COMMON PLEAS OF MERCER COUNTY,
PENNSYLVANIA**

ROBERT H. HUNT, JR.,
Petitioner,

vs.

No. 2003 -

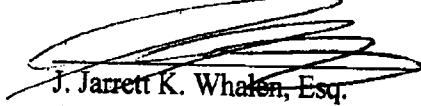
COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION,
Respondent.

CERTIFICATE OF SERVICE

I certify that a copy of the above was served on the following individual(s) in the manner indicated:

First Class and Certified Mail Return Receipt Requested

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


J. Jarrett K. Whalen, Esq.
Attorney for Petitioner

J. JARRETT K. WHALEN
ATTORNEY AT LAW

118 N. Pitt St.
Mercer, PA 16137

(724) 662-1927

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Bureau of Driver Licensing
Mail Date: FEBRUARY 04, 2003

ROBERT H HUNT JR
369 SPRUCE AVE

SHARON PA 16146

WID # 030286112446607 001
PROCESSING DATE 01/28/2003
DRIVER LICENSE # 27061371
DATE OF BIRTH 02/25/1963

Dear MR. HUNT:

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 12/23/2002:

- * Your driving privilege is SUSPENDED for a period of 1 YEAR(S) effective 03/11/2003 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 03/11/2003. You may surrender these items before, 03/11/2003, 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 \$10.00. 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"

030286112446607

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.

030286112446607

APPEAL

You have the right to appeal this action to the Court of Common Pleas (Civil Division) within 30 days of the mail date, FEBRUARY 04, 2003, 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 03/11/2003.

Sincerely,

Rebecca L. Bickley

Rebecca L. Bickley, Director
Bureau of Driver Licensing

<u>INFORMATION 7:00 a.m. to 9:00 p.m.</u>			
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

Aug Jarrett Whalen

1155 AM
pd 7/10
MAY 09 2003

1cc to C/A

William A. Shaw
Prothonotary

03-705-CJ

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF MERCER

I, ELIZABETH F. FAIR,
PROTHONOTARY, in and for the
County aforesaid, the same being a Court
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so full and entire as it remains permanently of record in the said Court of Mercer,
Pennsylvania, at No. 2003 - 555

Witness my hand and seal of the said
Court of Common Pleas of Mercer
County, Mercer, Pennsylvania, this 29TH
day of APRIL, 2003

Elizabeth F. Fair
PROTHONOTARY

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

MAY 09 2003

Attest,

William L. Brown
Prothonotary/
Clerk of Courts

2003-00555 ROBERT H HUNT JR (vs) COMMONWEALTH OF PA

Reference No...: Filed.....: 2/25/2003
 Case Type.....: APPEAL LICENSE SUSP Time.....: 3:28
 Judgment.....: .00 Execution Date: 0/00/0000
 Judge Assigned: Jury Trial...:
 Disposed Desc.: Disposed Date: 0/00/0000
 ----- Case Comments ----- Higher Crt 1.: Higher Crt 2.:

General Index*****
Attorney InfoHUNT ROBERT H JR
369 SPRUCE AVENUE
SHARON PA 16146

PLAINTIFF

WHALEN J JARRETT K

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

DEFENDANT

KARAS CHESTER J JR

* Date Entries *

2/25/2003 - - - - - FIRST ENTRY - - - - -
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DEPARTMENT OF TRANSPORTATION

2/25/2003 - - - - - PETITION FOR APPEAL F/ATTY J JARRETT K WHALEN TO CT ADM W/PROPOSED ORDER
008 Image page(s) exist(s) for this entry

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PENDING FURTHER ORDER OF THIS COURT A HEARING DE NOVO IS GRANTED
SAID HEARING TO BE HELD ON 4/4/03 AT 11 AM IN CT RM #3 TRD FILED
2/27/03 CC: ATTY WHALEN ATTY KARAS CT ADMIN
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- - - - - LAST ENTRY - - - - -

* Escrow Information *

* Fees & Debits Beg Bal Pymts/Adj End Bal *

APPEAL LIC SUS	75.00	75.00	.00
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	120.50	120.50	.00

* End of Case Information *

IN THE COURT OF COMMON PLEAS OF MERCER COUNTY, PENNSYLVANIA

ROBERT H. HUNT, JR.,
Petitioner,

vs.

Commonwealth of Pennsylvania,
Department of Transportation

No. 2003 - 555

1003

APR - 2

NO FILED IN MERCER
COUNTY ✓
ELIZABETH FAIR
PROTHONOTARY
A 45

ORDER

AND NOW, this 1st day of April, 2003, it is ORDERED,
ADJUDGED, AND DECREED that the Motion to Transfer Venue, filed on behalf of the
Department of Transportation, is granted and the above-captioned appeal is hereby
transferred to Clearfield County, Pennsylvania,

It is FURTHER ORDERED AND DIRECTED that transfer costs and filing
fees, if any, are to be paid by the Petitioner, Robert L. Hunt Jr., and he shall ensure the
case is transferred and filed within 30 days of the date of this Order.

It is FURTHER ORDERED AND DIRECTED that the Department of
Transportation shall reinstate the suspension of operating privileges, if the appeal has
not been filed in accordance with this Order.

BY THE COURT:

4.2.03

CC: Atty Whalen
Atty Karas

Thomas Dobson J.
Thomas Dobson

IN THE COURT OF COMMON PLEAS OF MERCER COUNTY, PENNSYLVANIA

ROBERT H. HUNT, JR.,
Petitioner

vs.

Commonwealth of Pennsylvania,
Department of Transportation.

No. 2003 - 555

NO FILED IN MERCER
1001 APR - 2 A 445
ELIZABETH F. FAIR
PROTHONOTARY

MOTION TO TRANSFER VENUE

AND NOW, comes the Department of Transportation, by and through its counsel, Chester J. Karas, Jr., Esquire, and requests the Court transfer the above-captioned appeal to the appropriate forum. Although the Petitioner is a resident of Mercer County, the location of the violation of 75 Pa. C.S. §1547 that is the basis for the Petitioner's appeal is Clearfield County. As such, Mercer County is the improper venue for the appeal. In support thereof, the Department avers the following:

1. By a letter dated February 4, 2003, the Department of Transportation (Department) notified the Petitioner, Robert H. Hunt, Jr., that it was suspending his operating privileges as authorized by Section 1547 of the Vehicle Code for a chemical test refusal that occurred on December 23, 2002.
2. The Department based its action in this matter based upon an affidavit of refusal that State Trooper Kenneth J. Hahn of the Clearfield Barracks submitted to the Department. A copy of said affidavit of refusal is attached to this Motion as Exhibit "A."

3. The Department believes and therefore avers that Trooper Hahn arrested the Petitioner for violating 75 Pa. C.S. §3731 following a motor vehicle accident in Clearfield County and that the chemical test refusal occurred in Clearfield County.

4. The Petitioner filed a statutory appeal, from the notice of suspension referred to in paragraph 1, in the Court of Common Pleas of Mercer County at the above-referenced number.

5. Venue for appeals from determinations of the Department of Transportation is governed by Section 933 of the Judicial Code, which provides in pertinent part:

§933. APPEALS FROM GOVERNMENTAL AGENCIES

(a) **General Rule.** Except as otherwise prescribed by any general rule adopted pursuant to section 503 (relating to reassignment of matters), each court of common pleas shall have jurisdiction of appeals from final orders of government agencies in the following cases:

(1) Appeals from Commonwealth agencies in the following cases:

* * * * *

(ii) Determinations of the Department of Transportation appealable under the following provisions of Title 75 (relating to vehicles):

§1377 (relating to judicial review).

§1550 (relating to judicial review)

* * * * *

Except as otherwise prescribed by general rules, the venue shall be in the county of the principal place of business of any salvor or messenger service, the location of any inspection station involved, the county where the arrest for a violation of 75 Pa. C.S. §3731 (relating to driving under influence of alcohol or controlled substance) was made in appeals involving the suspension of operating privileges under 75 Pa. C.S. §1547 (relating to chemical testing to determine amount of alcohol or controlled substance) or the residence of any individual appellant where the venue is not

shall be in the county in which the offense giving rise to the recall, cancellation, suspension or revocation of operating privileges occurred.

42 Pa. C.S. § 933(a)(1)(ii)(emphasis added)

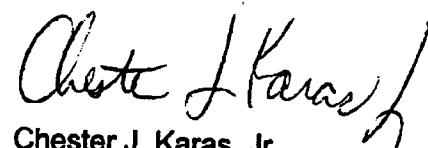
6. Pursuant to Section 933 proper venue lies only in the court of common pleas where the arrest for violating 75 Pa. C.S. §3731 occurred. The said violation in this matter did not occur in Mercer County, therefore Mercer County is an improper venue for this appeal.

7. Proper venue for the instant appeal would lie in Clearfield County because that is the county of Petitioner's arrest and chemical test refusal.

8. J. Jarrett K. Whalen, counsel for the petitioner, has been consulted regarding this motion to transfer venue. Attorney Whalen has no objection to the transfer of this matter to Clearfield County.

WHEREFORE, the Department of Transportation requests the Court transfer the instant case to Clearfield County.

Respectfully submitted,


Chester J. Karas, Jr.
Assistant Counsel

04/28/03 16:24:12 P1

**CHEMICAL TESTING WARNINGS AND REPORT OF
REFUSAL TO SUBMIT TO CHEMICAL TESTING AS
AUTHORIZED BY SECTION 1547 OF THE VEHICLE CODE**

C03-0729603

NAME			SEX	DATE OF BIRTH		
FIRST ROBERT	MIDDLE HAROLD	LAST HUNT, JR	M	MONTH 02	DAY 25	YEAR 63
ADDRESS 369 SPRUCE AVE.			CITY SHARON			STATE PA ZIP CODE 16146
DRIVER NUMBER 27061371	STATE PA	CHEM TEST REQUEST DATE MONTH 12 DAY 23 YEAR 02			SOCIAL SECURITY NUMBER 280 74 9687	

SECTION 1547 - CHEMICAL TESTING WARNINGS

1. Please be advised that you are now under arrest for driving under the influence of alcohol or a controlled substance pursuant to section 3731 of the Vehicle Code.
2. I am requesting that you submit to a chemical test of BLOOD (breath, blood or urine. Officer chooses the chemical test.)
3. It is my duty, as a police officer, to inform you that if you refuse to submit to the chemical test your operating privilege will be suspended for a period of one year.
4. a) The constitutional rights you have as a criminal defendant, commonly known as the Miranda Rights, including the right to speak with a lawyer and Consent Law, which is a civil, not a criminal proceeding.
b) You have no right to speak to a lawyer, or anyone else, before taking the chemical test requested by the police officer nor do you have a right to remain silent when asked by the police officer to submit to the chemical test. Unless you agree to submit to the test requested by the police officer your conduct will be deemed to be refusal and your operating privilege will be suspended for one year.
c) Your refusal to submit to chemical testing under the Implied Consent Law may be introduced into evidence in a criminal prosecution for driving while under the influence of alcohol or a controlled substance.

I certify that I have read the above warning to the motorist regarding the suspension of their operating privilege and gave the motorist an opportunity to submit to chemical testing.

Signature of Officer: TAC Kenneth J. Hahn Date: 12/23/02

I have been advised of the above.

Signature of Motorist: _____ Date: _____

Motorist refused to sign, after being advised.

Signature of Officer: TAC Kenneth J. Hahn Date: 12/23/02

AFFIDAVIT

1. The above motorist was placed under arrest for driving under the influence of alcohol or a controlled substance in violation of Section 3731 of the Vehicle Code, and there were reasonable grounds to believe that the above motorist had been driving, operating or in actual physical control of the movement of a motor vehicle while under the influence of alcohol or a controlled substance or both.

That the above named motorist was involved in an accident in which the operator or passenger of any vehicle involved or a pedestrian required treatment at a medical facility or was killed.
2. The above motorist was requested to submit to chemical testing as authorized by Section 1547 of the Vehicle Code.
3. The above motorist was informed by a police officer of the chemical test warnings contained in paragraph 3 and 4 above.
4. The above named motorist refused to submit to chemical testing.

OFFICER NOTE: The refusal to sign this form is not a refusal to submit to the chemical test. You must still give the motorist an opportunity to take the chemical test after reviewing this form. If the individual was operating a commercial motor vehicle while having any alcohol or a controlled substance in their system, you must also complete the reverse side of this form.

Officer Signature: TAC Kenneth J. Hahn

Officer Name: TAC KENNETH J. HAHN
(Type or Print)

Badge Number: 8378 Jurisdiction: CLEARFIELD PSP

Phone: (814) 857-3800

Mailing Address: 147 DOG HILL RD.

WOODLAND, PA 16881

Forward to:

Department of Transportation
Bureau of Driver Licensing
P.O. Box 60037
Harrisburg, PA 17106-0037

THIS FORM MAY BE DUPLICATED

EXHIBIT

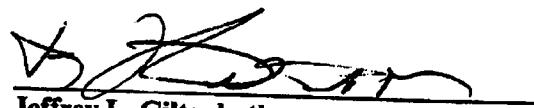
A

Note: Any pertinent facts not covered by the affidavit should be submitted on a separate sheet and attached hereto. That sheet should include the names of additional witnesses necessary to prove the elements to which you have attested.

ADDITIONAL SUPPLIES OF THIS FORM MAY BE SECURED BY COMPLETING FORM OS-511A

VERIFICATION

I, Jeffrey L. Giltenboth, verify that the averments made in the within Motion to Transfer Venue are true and correct based upon my personal knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A., Section 4904 relating to unsworn falsification to authorities.



Jeffrey L. Giltenboth
Senior Assistant Counsel

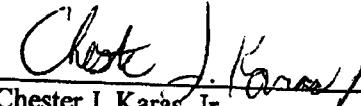
Date: March 31, 2003

CERTIFICATE OF SERVICE

I hereby certify that I have caused to be served a true and correct copy of the Department of Transportation's Motion To Transfer Venue on the date set forth below by mailing by first class mail, postage pre-paid:

J. Jarrett K. Whalen, Esquire
118 North Pitt Street
Mercer, PA 16137

Dated: March 31, 2003



Chester J. Karas, Jr.
Assistant Counsel

IN THE COURT OF COMMON PLEAS OF MERCER COUNTY,
PENNSYLVANIA

ROBERT H. HUNT, JR.,
Petitioner,

VS.

No. 2003 - 555

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION,
Respondent.

ORDER

AND NOW, this 26th day of February, 2003, upon consideration of the Petition of ROBERT H. HUNT, JR for review of an order of the Department of Transportation suspending Petitioner's operating privilege, it is hereby ORDERED AND DECREED:

1. The order of the Department of Transportation is set aside pending further Order of this Court;

2. A hearing de novo is granted, said hearing to be held on the 4th day of April, 2003, at 11:00 a.m. in Courtroom # 3, Mercer County Court of Common Pleas.

J.M.A. J.

2003 FF3 21 P 12:29
CATHERINE FAIR
MERCER COUNTY
CLERK'S OFFICE

3.21.03
CC: Atty Whaler
Atty Karas
At. Admin

IN THE COURT OF COMMON PLEAS OF MERCER COUNTY,
PENNSYLVANIA

ROBERT H. HUNT, JR.,
Petitioner,

vs.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION,
Respondent.

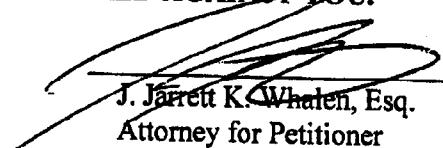
No. 2003 - 555

100 FEB 25 P 3 28
ELIZABETH FAIR
PROTHONOTARY
NO FILED IN MERCER

NOTICE TO PLEAD

To COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION, Respondent:

**YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE
ENCLOSED PETITION WITHIN TWENTY (20) DAYS FROM SERVICE
HEREOF OR A JUDGMENT MAY BE ENTERED AGAINST YOU.**


J. Jarrett K. Whalen, Esq.
Attorney for Petitioner

J. JARRETT K. WHALEN
ATTORNEY AT LAW

118 N. Pitt St.
Mercer, PA 16137

(724) 662-1927

pk
gs
fslb

IN THE COURT OF COMMON PLEAS OF MERCER COUNTY,
PENNSYLVANIA

ROBERT H. HUNT, JR.,
Petitioner,

vs.

No. 2003 -

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION,
Respondent.

PETITION FOR APPEAL

COMES NOW the Petitioner and respectfully petitions this Honorable Court pursuant to 75 Pa.C.S.A. §1550 for review of an order of the Department of Transportation suspending Petitioner's operating privilege, and in support thereof represents as follows:

1. Petitioner is ROBERT H. HUNT, JR., who currently resides at 369 Spruce Ave., Sharon, Mercer County, Pennsylvania.
2. Petitioner currently possesses a valid driver's license issued on the 20th day of March, 2001, which license has not heretofore been suspended, cancelled, or revoked.
3. By letter dated the February 4, 2003, a copy of which is marked as Exhibit "A," attached hereto and incorporated herein by reference as though fully set forth herein, Petitioner was notified in writing by Respondent of the entry of an order suspending Petitioner's driver's license for the following reason(s) as set forth in the notice: Violation of Section 1547 of the Vehicle Code, CHEMICAL TEST REFUSAL.
4. The suspension is improper and unlawful for the following reasons:
 - a. Petitioner did not refuse the chemical test.

WHEREFORE, Petitioner respectfully requests that this Honorable Court set this matter down forthwith for a De Novo hearing pursuant to 75 Pa.C.S.A. §1550 and that the order of the Department of Transportation be set aside.

Respectfully Submitted,



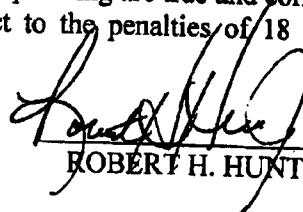
J. Jarrett K. Whalen, Esq.
Attorney for Petitioner

J. JARRETT K. WHALEN
ATTORNEY AT LAW

118 N. Pitt St.
Mercer, PA 16137
(724) 662-1927

VERIFICATION

I verify that the statements made in this pleading are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.



ROBERT H. HUNT, JR., Petitioner

IN THE COURT OF COMMON PLEAS OF MERCER COUNTY,
PENNSYLVANIA

ROBERT H. HUNT, JR.,
Petitioner,

vs.

No. 2003 -

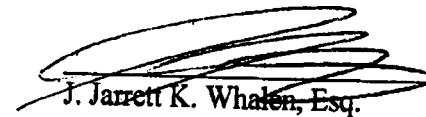
COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION,
Respondent.

CERTIFICATE OF SERVICE

I certify that a copy of the above was served on the following individual(s) in the manner indicated:

First Class and Certified Mail Return Receipt Requested

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



J. Jarrett K. Whalen, Esq.
Attorney for Petitioner

J. JARRETT K. WHALEN
ATTORNEY AT LAW

118 N. Pitt ST.
MERCER, PA 16137

(724) 662-1927

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Bureau of Driver Licensing
Mail Date: FEBRUARY 04, 2003

ROBERT H HUNT JR
369 SPRUCE AVE

SHARON PA 16146

WID # 030286112446607 001
PROCESSING DATE 01/28/2003
DRIVER LICENSE # 27061371
DATE OF BIRTH 02/25/1963

Dear MR. HUNT:

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 12/23/2002:

- Your driving privilege is SUSPENDED for a period of 1 YEAR(S) effective 03/11/2003 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 03/11/2003. You may surrender these items before, 03/11/2003, 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 \$10.00. 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"

030286112446607

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.

030286112446607

APPEAL

You have the right to appeal this action to the Court of Common Pleas (Civil Division) within 30 days of the mail date, FEBRUARY 04, 2003, 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 03/11/2003.

Sincerely,

Rebecca L. 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		

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

ROBERT H. HUNT, JR.,
Petitioner,

vs.

No. 03-706-CD

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION,
Respondent.

ORDER

AND NOW, this 15th day of December, 2003, upon review and consideration of the attached Motion To Withdraw Petition For Appeal, it is hereby ORDERED AND DECREED as follows:

1. the Motion is GRANTED and Petitioner is given leave to WITHDRAW the Petition;
2. the Petition is WITHDRAWN;
3. the Court recommends that Petitioner's suspension begin on June 9, 2004, as per the recommendation of counsel for both parties.

BY THE COURT

J.

FILED

DEC 15 2003

William A. Shaw
Prothonotary/Clerk of Courts

FILED

cc
8/23/03 B&L
DEC 15 2003

AMY WHALEN

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

ROBERT H. HUNT, JR.,
Petitioner,

vs.

No. 03-706-CD

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION,
Respondent.

MOTION TO WITHDRAW PETITION FOR APPEAL

COMES NOW the Petitioner, through Petitioner's undersigned counsel, and moves this Court to allow Petitioner to withdraw the Petition For Appeal and in support thereof avers:

1. On February 25, 2002, Petitioner filed a Petition for Appeal.
2. Upon review of the evidence presented by the Commonwealth, Petitioner believes Petitioner will not succeed on the merits.
3. Counsel for Respondent has been consulted and consents to the Motion.
4. Counsel for Respondent also joins in Petitioner's request that the suspension in the instant case shall begin on June 9, 2004.

WHEREFORE Petitioner, through Petitioner's undersigned counsel, request this Honorable Court grant Petitioner leave to withdraw the Petition For Appeal.

Respectfully submitted,



J. Jarrett K. Whalen, Esq.
Attorney for Petitioner

J. JARRETT K. WHALEN
ATTORNEY AT LAW

118 N. PITT ST.
MERCER, PA 16137
(724) 662-1927

FILED

DEC 12 2003

^ A. Shaw
of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

ROBERT H. HUNT, JR.,
Petitioner,

vs.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION,
Respondent.

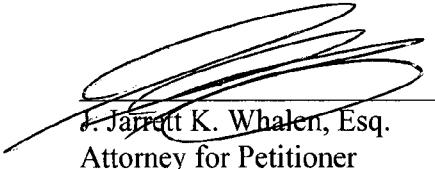
5
No. 03-706-CD

CERTIFICATE OF SERVICE

I hereby certify that I caused to be served a true and correct copy of the foregoing upon the following individual in the manner set forth below:

Facsimile and First Class Mail:

Pennsylvania Department of Transportation
Office of Chief Counsel
Mr. William A. Kuhar, Esq.
1209 State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222


J. Jarrett K. Whalen, Esq.
Attorney for Petitioner

J. JARRETT K. WHALEN
ATTORNEY AT LAW

118 N. PITT ST.
MERCER, PA 16137
(724) 662-1927

FILED
DEC 12 2003

1cc
Amy Whalen
Clerk

William A. Shaw
Prothonotary/Clerk of Courts