

03-968-CD
COMMONWEALTH OF Pennsylvania v. MICHAEL SCOTT WILLIAMS

Date: 09/10/2004

Clearfield County Court of Common Pleas

User: BANDERSON

Time: 09:33 AM

ROA Report

Page 1 of 1

Case: 2003-00968-CD

Current Judge: John K. Reilly Jr.

Commonwealth of Pennsylvania vs. Michael Scott Williams

Civil Other

Date

Judge

07/01/2003	Filing: Civil Complaint Paid by: Knaresboro, Gary A. (attorney for Williams, Michael Scott) Receipt number: 1862396 Dated: 07/01/2003 Amount: \$85.00 (Check) 1 CC to ca. 2 CC to Atty. Knaresboro Order: AND NOW, this 30 day of June, 2003, upon review of Petition, it is the ORDER of the Court that Supersedeas is hereby Granted. s/JKR 1 CC to ca. 2 CC to Atty. Knaresboro.	No Judge ✓
09/02/2004	Order, AND NOW, this 2nd day of September, 2004, it is the ORDER of the Court that hearing on Plaintiff's License Suspension Appeal in the above matter has been scheduled for Friday, September 17, 2004 at 11:30 a.m. before the Honorable John K. Reilly, Jr., Senior Judge, in the Clfd. Co. Courthouse. Report to the Court Administrator's Office. BY THE COURT: /s/Fredric J. Ammerman, President Judge. 2 cc to C/A, will serve.	Fredric Joseph Ammerman ✓

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

COMMONWEALTH OF PENNSYLVANIA

v.

MICHAEL SCOTT WILLIAMS

: NO. 03-968-CD

: Type of Pleading:
: PETITION FOR APPEAL FROM AN
: ORDER OF THE PENNSYLVANIA
: DEPARTMENT OF TRANSPORTATION
: SUSPENDING OPERATORS LICENSE
: NUNC PRO TUNC

: Filed on behalf of:
: Petitioner, Michael Scott Williams

: Counsel of record for this party:

: GARY A. KNARESBORO, ESQUIRE
: Supreme Court I. D. No. 52097
: 33 Beaver Drive, Suite 2
: DuBois, PA 15801
: Phone: (814) 375-2311
: Fax: (814) 375-2314

FILED

JUL 01 2003

William A. Shaw
Prothonotary

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

COMMONWEALTH OF PENNSYLVANIA : NO. 03-968-CD
v. :
MICHAEL SCOTT WILLIAMS :

ORDER

AND NOW, this _____ day of _____, 200__, upon consideration of the PETITION TO APPEAL FROM AN ORDER OF THE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION SUSPENDING OPERATORS LISENCE NUNC PRO TUNC, a Rule shall be and is hereby issued upon the Commonwealth to appear in Court and show cause, if any, why the prayer of said petition should not be granted.

RULE RETURNABLE and hearing on the merits of said petition shall be held on the _____ day of _____, 200__, at _____ .m. in Courtroom No. ____ of the Clearfield County Courthouse, Market and Second Streets, Clearfield, Pennsylvania.

BY THE COURT:

JUDGE

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

COMMONWEALTH OF PENNSYLVANIA : NO. 03-968-CD

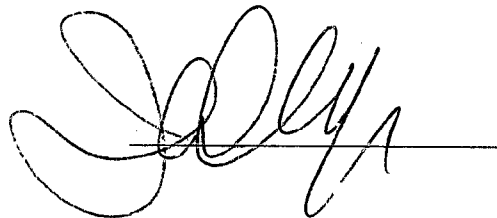
v.

MICHAEL SCOTT WILLIAMS

ORDER OF COURT

AND NOW, this 30 day of July, 2003, upon review of the PETITION FOR APPEAL FROM AN ORDER OF THE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION SUSPENDING OPERATORS LICENSE NUNC PRO TUNC, it is the ORDER of the Court that SUPERSEDEAS is hereby granted. This ORDER shall remain in effect until further ORDER from this Court.

By the Court,

A handwritten signature in black ink, appearing to be 'William A. Shaw', written over a horizontal line.

FILED

JUL 01 2003

William A. Shaw
Prothonotary

William A. Shaw
Prothonotary

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

COMMONWEALTH OF PENNSYLVANIA : NO.

v.

MICHAEL SCOTT WILLIAMS

PETITION FOR APPEAL FROM AN ORDER OF THE PENNSYLVANIA DEPARTMENT
OF TRANSPORTATION SUSPENDING OPERATORS LICENSE NUNC PRO TUNC

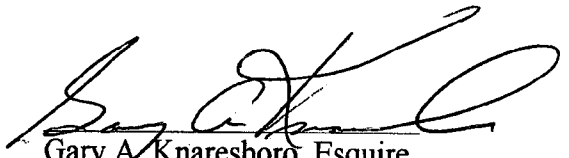
AND NOW, comes the petitioner, Michael Scott Williams, by and through his counsel Gary A. Knaresboro, Esquire and sets forth the following:

1. That your Petitioner is Michael Scott Williams, currently residing at RD 1, Box 65, Rockton, Pennsylvania.
2. That the Petitioner's Operator License number is 23403419.
3. That on or about January 24, 2003, the Petitioner was residing at 2704 Raspberry Street, Erie, Pennsylvania.
4. That on or about January 24, 2003, PennDot sent notice of a license suspension to the Petitioner at the above-mentioned address.
5. That in January 2003, the Petitioner shared an apartment with two roommates, and it is believed that a roommate signed the certified mail from PennDot without informing the Petitioner.
6. That upon discovery of the said suspension letter, the Petitioner was unsuccessful when trying to resolve the situation with PennDot.
7. That on June 18, 2002 to docket numbers 01-711-CRA and 01-712-CRA, Michael Scott Williams, NOT THE PETITIONER, plead guilty to two (2) counts of delivery of a controlled substance and two (2) counts of possession of a controlled substance and received a sentence of 9 to 30 months at a state correctional institution.

8. That the drug offender has a different date of birth, social security number, and operator license number.
9. It is believed that the Petitioner's Operator License number was mistakenly entered on the drug offender's criminal complaint and the Clerk of Court's office copied the mistakenly entered Operator License number on the DL-21D (7-93) Form.
10. PennDot has wrongfully suspended the Operator License of Michael Scott Williams, the Petitioner.
11. That during the pendency of this matter, PennDot has made no attempt to correct this matter at the repeated request made by this petitioner.
12. That the petitioner is entitled to Attorney fees, pursuant to 42 PA C.S.A. 2503, as PennDot's actions have been dilatory and obdurate.

WHEREFORE, your Petitioner respectfully requests that this Honorable Court grant this PETITION FOR APPEAL FROM AN ORDER OF THE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION SUSPENDING OPERATORS LICENSE NUNC PRO TUNC and find that the said suspension is unlawful; and award reasonable attorney fees as a sanction against PennDot.

Respectfully submitted



Gary A. Knaresboro, Esquire

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

COMMONWEALTH OF PENNSYLVANIA : NO.

v.

MICHAEL SCOTT WILLIAMS

VERIFICATION

I, the undersigned, verify that the statements made in the foregoing PETITION FOR APPEAL FROM AN ORDER OF THE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION SUSPENDING OPERATORS LICENSE NUNC PRO TUNC are true and correct to the best of my knowledge, information and belief.

I understand that the false statements made herein are subject to penalties of 18 PA C.S. 4904 relating to unsworn falsification to authorities.

Date: 30 June


Michael Scott Williams

FILED

38 01/10:11 *Est*
JUL 01 2003

ICC to C/A

William A. Shaw
Prothonotary

2 CC to Atty

Atty Knarsberg
pd. 85.00

Sobel, Collins & Knarsberg
ATTORNEYS & COUNSELORS AT LAW
218 SOUTH SECOND STREET
CLEARFIELD, PENNSYLVANIA 16830
(814) 765-5552 (814) 765-6555

CA

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

COMMONWEALTH OF PENNSYLVANIA :
DEPARTMENT OF TRANSPORTATION :

vs.

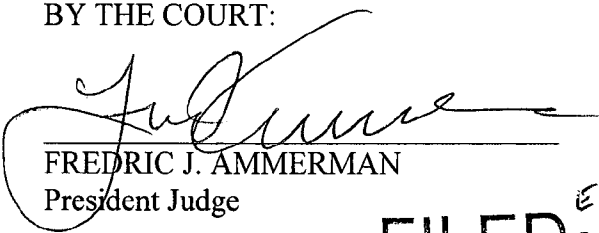
: No. 03-968-CD
:

MICHAEL SCOTT WILLIAMS

ORDER

AND NOW, this 2nd day of September, 2004, it is the ORDER of the Court that hearing on the count regarding Attorney's Fees in the above License Suspension Appeal has been scheduled for **Friday, September 17, 2004 at 11:30 A.M.** before the Honorable John K. Reilly, Jr., Senior Judge, Specially Presiding, in the Clearfield County Courthouse, Clearfield, PA. Please report to the Court Administrator's Office. You will be directed from there where these hearing will be heard.

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

FILED
012:51301
SEP 02 2004

E6K
2cc-
CIA service

William A. Shaw
Prothonotary/Clerk of Courts

CA

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

COMMONWEALTH OF PENNSYLVANIA :

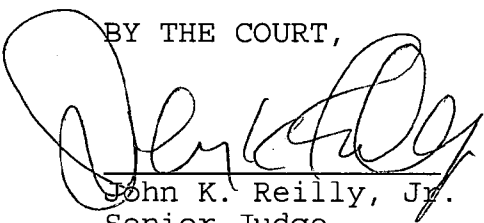
VS. : NO. 03-968-CD

MICHAEL SCOTT WILLIAMS : License Suspension Appeal

O R D E R

NOW, this 17th day of September, 2004, this being the day and date set for hearing into the above-captioned Appeal from License Suspension; following hearing upon consideration thereof, it is the ORDER of this Court that counsel for Appellant be and is hereby given fifteen (15) days within which to submit brief; and Commonwealth given fifteen (15) days thereafter to respond in kind.

BY THE COURT,


John K. Reilly, Jr.
Senior Judge
Specially Presiding

FILED

01/11/30/2004
SEP 20 2004

William A. Shaw
Prothonotary/Clerk of Courts

EGK
Dec
Atty Knaresboro
Atty Kuhar

CA

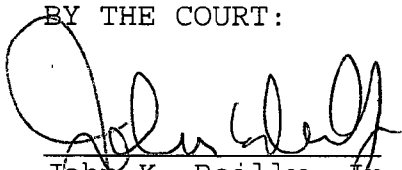
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA :
VS : NO. 03-968-CD
MICHAEL SCOTT WILLIAMS :

O R D E R

NOW, this 3rd day of November, 2004, this matter coming before the Court on Defendant's Petition for Counsel Fees based on the factual circumstances herein and the holding of the Commonwealth Court in Department of Transportation, Bureau of Driver Licensing v. Hruska, 625 A.2d 1339 (Pa.Cmwlt. 1993), it is the ORDER of this Court that said petition be and is hereby denied.

BY THE COURT:


John K. Reilly, Jr.
Senior Judge
Specially Presiding

FILED

NOV 03 2004

0/2/20/

William A. Shaw

Prothonotary/Clerk of Courts

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Kwanabono (1)

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Bureau of Driver Licensing
Mail Date: SEPTEMBER 10, 2003

MICHAEL SCOTT WILLIAMS
RTE 219 CHAPMANS TRL CT
R R 1 BOX 62
DU BOIS PA 15801

WID # 032466170477184 001
PROCESSING DATE 09/03/2003
DRIVER LICENSE # 26233983
DATE OF BIRTH 08/28/1980

Dear MR. WILLIAMS:

This is an Official Notice of the Suspension of your Driving Privilege as authorized by Section 1532C of the Pennsylvania Vehicle Code. As a result of your 06/18/2002 conviction of violating Section 13A30 of the Controlled Substance, Drug, Device and Cosmetic Act, on 05/08/2001:

- Your driving privilege is **SUSPENDED** for a period of 6 MONTH(S) effective 10/15/2003 at 12:01 a.m.

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.

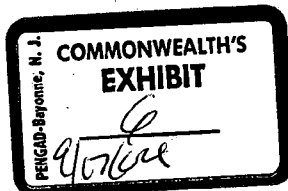
COMPLYING WITH THIS SUSPENSION

You must acknowledge this suspension of your driving privilege. You will not receive credit toward serving any suspension until we receive your acknowledgment form. You may surrender the acknowledgment form before this date, 10/15/2003, for earlier credit. Complete the following steps to acknowledge this suspension:

- Complete the enclosed DL-16LC acknowledgment form.
- Be sure to sign the form.
- Return the form to:

Pennsylvania Department of Transportation
Bureau of Driver Licensing
P.O. Box 68693
Harrisburg, PA 17106-8693

- Upon receipt, review and acceptance of this acknowledgment, PennDOT will send you a receipt confirming the date that credit began. If you do not receive a receipt from us within 3 weeks of mailing your documents, please contact our office. Otherwise, you will not be given



032466170477184

credit toward serving this suspension. PennDOT phone numbers are listed at the end of this letter.

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, SEPTEMBER 10, 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 the enclosed DL-16LC acknowledgment form to PennDOT by 10/15/2003.

Sincerely,

Rebecca L. Bickley

Rebecca L. Bickley, Director
Bureau of Driver Licensing

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

**ACKNOWLEDGMENT of
SUSPENSION/REVOCATION/DISQUALIFICATION/CANCELLATION AS REQUIRED UNDER
SECTION 1541 OF THE VEHICLE CODE**

Please Print All Information in Ink

ALL information MUST be completed or credit will not be given. All credit will be based on the postmark date of your mailing.

INSTRUCTIONS FOR FILLING OUT THIS FORM:

1. **SECTION A:** Please provide any personal information that is not already completed.
2. **SECTION B:** If you have a change of address, please provide this information. **NOTE:** Your voter registration will be changed unless you check the box below your new address information.
3. **SECTION C:** Please sign this section, otherwise this form **WILL BE REJECTED**.
4. **SECTION D:** Please send this form to the address listed in SECTION D.

If you are a resident of Pennsylvania, and you are 16 years of age or older, you are eligible for a photo identification card. You may apply for a photo identification card at any Driver License Center for a cost of 10.00. You must present two (2) forms of proper identification (i.e., birth certificate, valid U.S. passport, marriage certificate, voter registration, etc.) in order to obtain your photo identification card.

PA Driver's License Number	Last Name	Jr., etc.	First Name	Middle Name
26233983	WILLIAMS		MICHAEL	
Date of Birth	Social Security Number	Daytime Telephone Number		
08/28/1980	-- --	()		

CHANGE OR CORRECTION OF ADDRESS			
New Street Address	City	State	Zip Code
<input type="checkbox"/> By law, if you are registered to vote, this application will change your voter registration address unless you check here.			

ACKNOWLEDGMENT AND CERTIFICATION

I, _____, hereby acknowledge that my driving privilege is Suspended/Revoked/Disqualified in Pennsylvania.
Please Print Your Name

AND

I certify that all information given on this acknowledgment is true and correct, and hereby apply for proper credit. I understand that upon restoration, I will be required to apply for the issuance, renewal or replacement of my Driver's License, Learner's Permit or Camera Card, whichever is needed in order to be licensed in Pennsylvania. If I use a messenger service, I hereby authorize PennDOT to furnish them with my driving record for the purpose of processing this form.

X _____
Signature in Ink Date

WARNING: Misstatement of fact is a misdemeanor of the third degree, punishable by a fine of up to 2,500.00 and/or imprisonment up to one year (18 PA C S. Section 4904(b)).

PLEASE NOTE: If you feel you are entitled to credit based on a date other than the postmark date of your mailing, or if you have already surrendered your driver's license or submitted an affidavit, please explain. _____

ADDITIONAL INFORMATION

This form must be mailed to:
PennDOT * Bureau of Driver Licensing * P.O. Box 68693 * Harrisburg, PA 17106-6693

Upon receipt, review and acceptance of this acknowledgment, PennDOT will send you a receipt, confirming the date that credit began. If you do not receive this receipt within 3 weeks of your mailing, please contact PennDOT at the telephone number(s) listed below:

INFORMATION (7:00 a.m. to 5:00 p.m.)
In State: 1-800-832-4800 TDD In State: 1-800-832-0678
Out-of-State: 1-717-301-6180 TDD Out-of-State: 1-717-301-6181

Please keep a copy of this form for your records.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Bureau of Driver Licensing
Mail Date: SEPTEMBER 10, 2003

MICHAEL SCOTT WILLIAMS
RTE 219 CHAPMANS TRL CT
R R 1 BOX 62
DU BOIS PA 15801

WID # 032466170477184 001
PROCESSING DATE 09/03/2003
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- Your driving privilege is **SUSPENDED** for a period of 6 MONTH(S) effective 04/15/2004 at 12:01 a.m.

This suspension is in addition to any other suspensions already on your record.

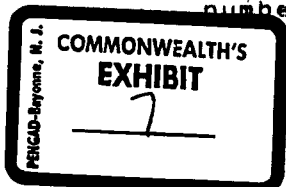
COMPLYING WITH THIS SUSPENSION

You must acknowledge this suspension of your driving privilege. You will not receive credit toward serving any suspension until we receive your acknowledgment form. You may surrender the acknowledgment form before this date, 10/15/2003, for earlier credit. Complete the following steps to acknowledge this suspension:

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Bureau of Driver Licensing
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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.

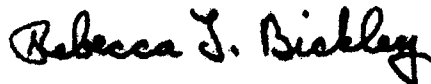
APPEAL

You have the right to appeal this action to the Court of Common Pleas (Civil Division) within 30 days of the mail date, SEPTEMBER 10, 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:

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Office of Chief Counsel
Third Floor, Riverfront Office Center
Harrisburg, PA 17104-2516

Remember, this is an **OFFICIAL NOTICE OF SUSPENSION**. You must return the enclosed DL-16LC acknowledgment form to PennDOT by 10/15/2003.

Sincerely,



Rebecca L. Bickley, Director
Bureau of Driver Licensing

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

032466170477184

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Sincerely,

Rebecca L. Bickley

Rebecca L. Bickley, Director
Bureau of Driver Licensing

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Bureau of Driver Licensing
P.O. Box 68693
Harrisburg, PA 17106-8693

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IN STATE 1-800-932-4600
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TDD IN STATE 1-800-228-0676
TDD OUT-OF-STATE 717-391-6191

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SUSPENSION/REVOCATION/DISQUALIFICATION/CANCELLATION AS REQUIRED UNDER
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- 1 **SECTION A.** Please provide any personal information that is not already completed.
- 2 **SECTION B.** If you have a change of address, please provide this information. NOTE: Your voter registration will be changed unless you check the box below your new address information.
- 3 **SECTION C.** Please sign this section, otherwise this form **WILL BE REJECTED.**
- 4 **SECTION D.** Please send this form to the address listed in SECTION D.

If you are a resident of Pennsylvania, and you are 16 years of age or older, you are eligible for a photo identification card. You may apply for a photo identification card at any Driver License Center for a cost of 10.00. You must present two (2) forms of proper identification (i.e., birth certificate, valid U.S. passport, marriage certificate, voter registration, etc.) in order to obtain your photo identification card.

PA Driver's License Number 26233983	Last Name WILLIAMS	Jr., etc.	First Name MICHAEL	Middle Name
Date of Birth 08/28/1980	Social Security Number -- --	Daytime Telephone Number ()		

CHANGE OR CORRECTION OF ADDRESS			
New Street Address	City	State	Zip Code
<input type="checkbox"/> By law, if you are registered to vote, this application will change your voter registration address unless you check here.			

ACKNOWLEDGMENT AND CERTIFICATION	
Please Print Your Name _____, hereby acknowledge that my driving privilege is Suspended/Revoked/Disqualified in Pennsylvania.	
AND:	
I certify that all information given on this acknowledgment is true and correct, and hereby apply for proper credit. I understand that upon restoration, I will be required to apply for the issuance, renewal or replacement of my Driver's License, Learner's Permit or Camera Card, whichever is needed in order to be licensed in Pennsylvania. If I use a messenger service, I hereby authorize PennDOT to furnish them with my driving record for the purpose of processing this form.	
X _____ Signature in Ink	_____ Date
WARNING: Misstatement of fact is a misdemeanor of the third degree, punishable by a fine of up to 2,500.00 and/or imprisonment up to one year (18 PA C.S. Section 4904(b)).	
PLEASE NOTE: If you feel you are entitled to credit based on a date other than the postmark date of your mailing, or if you have already surrendered your driver's license or submitted an affidavit, please explain. _____	

ADDITIONAL INFORMATION	
This form must be mailed to: PennDOT * Bureau of Driver Licensing * P.O. Box 68693 * Harrisburg, PA 17106-6693	
Upon receipt, review and acceptance of this acknowledgment, PennDOT will send you a receipt, confirming the date that credit began. If you do not receive this receipt within 3 weeks of your mailing, please contact PennDOT at the telephone number(s) listed below:	
INFORMATION (7:00 a.m. to 6:00 p.m.)	
In State: 1-800-832-4800 Out-of-State: 1-717-381-8190	TDD In State: 1-800-328-0878 TDD Out-of-State: 1-717-381-8191

Please keep a copy of this form for your records.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Bureau of Driver Licensing
Harrisburg, PA 17123
09/03/2003

MICHAEL SCOTT WILLIAMS
R D 1 BOX 65
ROCKTON PA 15856

032466170477172 001
09/03/2003
23403419
08/02/1974

Dear MR. WILLIAMS:

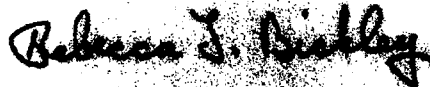
The action which was indicated on the Official Notice that you received with an effective date of 01/01/2003 has been removed from your record. The action that was removed is:

Authority Code: 1532C
Description: DRUG SUSPENSION

This notice only applies to the action listed above. Any other action of which you have been notified remains in effect.

If this action makes you eligible to drive you will receive additional correspondence advising you of that fact.

Sincerely,



Rebecca L. Sickley, Director
Bureau of Driver Licensing

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



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Bureau of Driver Licensing
Harrisburg, PA 17123
09/03/2003

MICHAEL SCOTT WILLIAMS
R D 1 BOX 65
ROCKTON PA 15856

032466170477172 001
09/03/2003
23403419
08/02/1974

Dear MR. WILLIAMS:

The action which was indicated on the Official Notice that you received with an effective date of 07/01/2003 has been removed from your record. The action that was removed is:

Authority Code: 1532C
Description: DRUG SUSPENSION

This notice only applies to the action listed above. Any other action of which you have been notified remains in effect.

If this action makes you eligible to drive you will receive additional correspondence advising you of that fact.

Sincerely,

Rebecca L. Bickley

Rebecca L. Bickley, Director
Bureau of Driver Licensing

INFORMATION (7:00 AM to 9:00 PM)
IN STATE 1-800-932-4600
OUT OF STATE 717-391-6190
IDD IN STATE 1-800-228-0676
IDD OUT-OF-STATE 717-391-6191



Service: Get by LEXSEE®

Citation: 145 Pa. Commw. 164, at 168

*145 Pa. Commw. 164, *; 602 A.2d 499, **;
1992 Pa. Commw. LEXIS 90, ****

COMMONWEALTH of Pennsylvania, DEPARTMENT OF TRANSPORTATION, BUREAU OF DRIVER
LICENSING, Appellant, v. Samuel SMITH, Appellee

No. 1928 C.D. 1989

COMMONWEALTH COURT OF PENNSYLVANIA

145 Pa. Commw. 164; 602 A.2d 499; 1992 Pa. Commw. LEXIS 90

September 10, 1990, Argued
January 23, 1992, Decided
January 23, 1992, Filed

SUBSEQUENT HISTORY: [*1]**

Petition for Allowance of Appeal Denied August 6, 1992.

PRIOR HISTORY: APPEALED From No. 89-2775-11-6. Common Pleas Court of Bucks
County. Judge OSCAR S. BORTNER

CASE SUMMARY

PROCEDURAL POSTURE: Appellant Pennsylvania Department of Transportation sought review of an order of the Court of Common Pleas of Bucks County (Pennsylvania), which ordered appellant to reimburse appellee driver for counsel fees and court costs incurred in challenging the erroneous revocation of appellee's driver's license.


OVERVIEW: Appellant Pennsylvania Department of Transportation erroneously revoked appellee's driver's license. Appellant's employees informed appellee that he needed to hire an attorney to appeal the revocation in court. At trial, appellant conceded that the revocation was erroneous and the trial court awarded counsel fees. On appeal, the court reversed the award of counsel fees to appellee, holding that the trial court had no authority to award counsel fees for alleged misconduct that occurred prior to the filing of the appeal. The court stated that under 42 Pa. Cons. Stat. § 2503(7) and (9), entitlement to counsel fees was not triggered by the misconduct of a party unless it occurred "during the pendency of a matter" or in "commencing the matter." Appellant's alleged misconduct occurred before the commencement of appellee's action, therefore it was not within the statute. The court also determined that in enacting the Costs Act, 71 P.S. §§ 2031-2035, the legislature expressly intended not to permit an award of counsel fees for the erroneous revocation unless it was appealed to a court and the agency thereafter engaged in misconduct covered by 42 Pa. Cons. Stat. § 2503.

OUTCOME: The court reversed the decision of the trial court and held that the award of counsel fees to appellee driver incurred in challenging an erroneous revocation of his driver's license by appellant Pennsylvania Department of Transportation was not permitted because there was no statutory authority for awarding counsel fees for alleged misconduct that occurred before the commencement of the legal action.


CORE TERMS: revocation, misconduct, court of common pleas, license, notice, Costs Act, licensee, pendency, advice, statutory authority, judicial system, pari materia,

commencement, taxation, unified, stupid, commencing, Rules of Civil Procedure, license revocation, prevailing party, plain meaning, local rules, entitlement, reinstated, frivolous, authorize, vexatious, revoking, vacate, substantially justified


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[Civil Procedure](#) > [Costs & Attorney Fees](#) > [Attorney Fees](#) 

HN1 ⚡ There can be no recovery of counsel fees from an adverse party in the absence of express statutory allowance of attorney's fees or a clear contractual agreement of the parties, or some other established exception permitting attorney's fees in a given situation. The burden of proving entitlement to attorney's fees is on the party claiming such entitlement. A trial court's determination regarding the award of counsel fees will not be reversed on appeal if the findings are supported on the record, in the absence of an abuse of discretion. [More Like This Headnote](#)

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HN2 ⚡ See Pa. Cons. Stat. § 2503(7), (9).

[Governments](#) > [Legislation](#) > [Interpretation](#) 


HN3 ⚡ See 1 Pa. Cons. Stat. § 1932.

[Civil Procedure](#) > [Costs & Attorney Fees](#) > [Attorney Fees](#) 

HN4 ⚡ 42 Pa. Cons. Stat. § 2503 does not authorize the agencies of the commonwealth to make awards of attorneys' fees in agency proceedings. [More Like This Headnote](#)

[Civil Procedure](#) > [Costs & Attorney Fees](#) > [Attorney Fees](#) 

HN5 ⚡ The Costs Act, 71 P.S. §§ 2031-2035, authorizes commonwealth agencies to award counsel fees and costs where the agency initiates an adversary adjudication and the prevailing party, other than the commonwealth, incurs fees and other expenses in connection with that proceeding, unless the adjudicative officer finds that the position of the agency, as a party to the proceeding, was substantially justified or that special circumstances make an award unjust. 71 P.S. § 2033(a). The Costs Act also authorizes a court to award fees and expenses to a prevailing party, other than the commonwealth, in the event a party appeals the underlying decision of the agency to a court having jurisdiction over appeals from that agency, unless the court finds that the position of the Commonwealth agency during the adversary adjudication was substantially justified, or that special circumstances make such an award unjust. 71 P.S. § 2033(f). [More Like This Headnote](#)

[Civil Procedure](#) > [Costs & Attorney Fees](#) > [Attorney Fees](#) 

HN6 ⚡ The definition of "adversary adjudication" in the Costs Act specifically excludes the granting, reviewing, revoking or suspending a license or registration. 71 P.S. § 2032(2). Therefore, the general assembly expressly intended not to permit an award of counsel fees for the erroneous revocation unless the revocation is appealed to a court and the agency thereafter engages in misconduct covered by 42 Pa. Cons. Stat. § 2503. [More Like This Headnote](#)

COUNSEL: Timothy P. Wile, Asst. Counsel in Charge of Appellate Section, for appellant.

Andrew F. Schneider, for appellee.

JUDGES: Pellegrini, and Byer, JJ., and Barbieri, Senior Judge. Pellegrini, Judge, concurring.

OPINIONBY: BYER

OPINION: [*166] [500]** The Pennsylvania Department of Transportation (DOT) appeals from an order of the Court of Common Pleas of Bucks County which ordered DOT to reimburse appellee Samuel Smith \$ 650.00 in counsel fees and costs he incurred in appealing what DOT conceded to be the erroneous revocation of Smith's driver's license. Although we understand completely what motivated the trial court to impose this sanction and for that reason might be tempted to affirm, we must conclude that the award of counsel fees, like DOT's original action in revoking Smith's license, is contrary to the governing statutes. Therefore, we reverse that portion of the order which awarded fees n1 and we vacate with respect to the costs.

- - - - - Footnotes - - - - -

n1 DOT does not challenge the reversal of the revocation in this appeal.

- - - - - End Footnotes- - - - - [***2]

DOT notified Smith on March 24, 1989 that his license was being revoked for one year pursuant to 75 Pa.C.S. § 1532 because he had been convicted of violating 75 Pa.C.S. § 3301 ("Driving on right side of roadway"). This was an obvious error, because a conviction under 75 Pa.C.S. § 3301 does not result in any revocation or suspension. n2 Smith contacted his lawyer who advised him to call the toll free "800" number for DOT listed on the notification.

- - - - - Footnotes - - - - -

n2 Such a conviction does not even result in assessment of points under 75 Pa.C.S. § 1535.

- - - - - End Footnotes- - - - -

[*167] According to Smith's uncontradicted testimony before the trial court, the person who answered when he dialed this "800" number informed him that the revocation notice was a mistake. However, this person further advised Smith that he would have to hire an attorney to appeal the revocation to court, and suggested he contact DOT at its location in Harrisburg by another toll free number. Smith dialed the second "800" number, and the DOT employee who answered told Smith that **[***3]** his "best bet was to go back to court, that is the only way to get it off your record." (Notes of testimony, June 20, 1989, at 5(9a)).

Smith gave this information to his lawyer, who then filed an appeal to the Court of Common Pleas of Bucks County. At hearing on the appeal, counsel for DOT conceded that the appeal should be sustained. DOT's counsel also stated that he had been unaware of this obvious error until the day before the hearing, and that he then attempted to call Smith's lawyer but was unable to reach him. Smith paid his lawyer a \$ 600.00 fee and incurred court costs of \$ 50.00 for the appeal. (8a-9a).

The trial court held that because of the "stupid advice" n3 DOT gave Smith when he **[**501]** called the "800" numbers, the **[*168]** "price for giving that [stupid advice] is \$ 650.00 . . . assessed against the Commonwealth." (14a). The trial judge did not explain at the time the legal basis for his ruling. In his subsequent opinion, the trial judge did not cite any supporting statute, but indicated he had imposed the sanction for bad faith conduct, in that Smith had been "compelled to obtain counsel to defend against a meritless license suspension [sic], which the **[***4]** Commonwealth knew to be meritless . . . That advise

[sic] cost [Smith] \$ 650.00 in counsel fees." (22a). Because of the references to "bad faith" and citation of *State Farm Mutual Automobile Ins. Co. v. Allen*, 375 Pa.Superior Ct. 319, 544 A.2d 491 (1988), in its opinion, the opinion implies, or we at least infer, that the trial court based its award of fees on 42 Pa.C.S. § 2503(7) and (9).

- - - - - Footnotes - - - - -

n3 Actually the advice DOT employees gave Smith was good advice, because it ensured that the license revocation would be automatically stayed pending disposition of his statutory appeal. 75 Pa.C.S. § 1550(b). It may have been "stupid" that DOT has no internal procedure for correcting its obvious mistakes, but it was not "stupid" of DOT's employees to advise Smith to file an appeal in order to protect his license. Indeed, if Smith had not appealed, we easily can envision DOT arguing that he would be bound by a concededly erroneous revocation once the time for appeal had expired. See, e.g., *Department of Transportation v. Matlack*, 144 Pa.Commonwealth Ct. 12, 600 A.2d 998 (1991) (even though DOT blocked out the portion of licensee's revocation notice explaining his appellate rights by placing a sticker over that portion stating "we have received notice that you have not been successful in your appeal. Therefore the action of the department is reinstated," nevertheless DOT insisted that licensee's appeal from that reinstated revocation was untimely because it was not filed within 30 days of *that* notice; this court held that licensee had failed to meet his burden of establishing that DOT's obliteration of the explanation of his appeal rights demonstrated fraud or breakdown in DOT's operations sufficient to justify *nunc pro tunc* relief, and held licensee's statutory appeal was untimely). We note that the revocation notice in this case contained the information that "You have the right to appeal to the Court of Common Pleas . . . within thirty (30) days of the mail date of this notice. If you appeal, your license will be reinstated pending a final decision by the Court." (3a).

- - - - - End Footnotes- - - - - **[***5]**

The general (or "American") rule is that ^{HN1} there can be no recovery of counsel fees from an adverse party in the absence of express statutory allowance of attorney's fees or a clear contractual agreement of the parties, or some other established exception permitting attorney's fees in a given situation. *Corace v. Balint*, 418 Pa. 262, 210 A.2d 882 (1965); *Shanks v. Alderson*, 399 Pa.Superior Ct. 485, 582 A.2d 883 (1990); *White v. Redevelopment Authority, City of McKeesport*, 69 Pa.Commonwealth Ct. 307, 451 A.2d 17 (1982).

The burden of proving entitlement to attorney's fees is on the party claiming such entitlement. *Jones v. Muir*, 511 Pa. 535, 515 A.2d 855 (1986). A trial court's determination regarding the award of counsel fees will not be reversed on appeal if the findings are supported on the record, in the absence of an abuse of discretion. *Citizens For Responsible Development v. Carlisle Zoning Hearing Board*, 127 Pa.Commonwealth Ct. 640, 562 A.2d 938 (1989); **[***6] [*169]** *Bower v. Hoefner*, 118 Pa.Commonwealth Ct. 293, 545 A.2d 423 (1988).

The Judicial Code provides express statutory authority for the award of counsel fees in ten enumerated instances, 42 Pa.C.S. § 2503(1)-(10), only two of which are arguably applicable to this case. Section 2503 provides, in relevant part:

^{HN2}

The following participants shall be entitled to a reasonable counsel fee as part of the taxable costs of the matter:

* * *

(7) Any participant who is awarded counsel fees as a sanction against another participant for dilatory, obdurate or vexatious conduct *during the pendency of a matter*.

* * *

(9) Any participant who is awarded counsel fees because the conduct of another party *in commencing the matter or otherwise* was arbitrary, vexatious or in bad faith.

(emphasis added).

Under section 2503(7) and (9), entitlement to counsel fees is not triggered by the misconduct of a party unless it occurs "during the pendency of a matter" or in "commencing the matter." We acknowledge that 42 Pa.C.S. § 2503(9) does use the phrase "in commencing the matter *or otherwise*." (emphasis added). However, we previously **[***7]** have construed the words "or otherwise" as referring to a party's misconduct in raising *defenses* to a pending "matter." White, 69 Pa.Commonwealth Ct. at 314, 451 A.2d at 20. Therefore, it is not open to us to construe "or otherwise" as referring to a party's conduct at a time before the actual commencement of a case in court. See also Cher-Rob, Inc. v. Art Monument Co., 406 Pa.Superior Ct. 330, 333-335, **[**502]** 594 A.2d 362, 364-65 (1991) (approving and following White's interpretation of 42 Pa.C.S. § 2503(7)).

[*170] "Matter" is defined by the Judicial Code as: "Action, proceeding or appeal." 42 Pa.C.S. § 102. "Proceeding" is defined by the Judicial Code as: "Includ[ing] *every declaration, petition or other application which may be made to a court* under law or usage or under special statutory authority, but the term does not include an action or an appeal." *Id.* (emphasis added). "Appeal" is defined by the Judicial Code as: "Any *petition or other application to a court* for review of subordinate governmental determinations" *Id.* (emphasis added).

"Action" **[***8]** is defined by the Judicial Code as: "Any action at law or in equity." *Id.* Although it is not explicit from this definition that an action at law or in equity is limited to an action *in a court*, that limitation becomes apparent upon considering the plain meaning and common usage of the word. See 1 Pa.C.S. § 1903(a) ("Words and phrases shall be construed according to rules of grammar and according to their common and approved usage").

"Action" has been defined as:

["Action"] in its usual legal sense means a suit brought in a court; a formal complaint within the jurisdiction of a court of law The legal and formal demand of one's right from another person or party made and insisted on in a court of justice. An ordinary proceeding in a court of justice by which one party prosecutes another It includes all the formal proceedings in a court of justice attendant upon the demand of a right made by one person of another in such court, including an adjudication upon the right and its enforcement or denial by the court.

Black's Law Dictionary (5th ed. 1979), 26.

"Action" elsewhere has been defined as:

1: a deliberative or authorized proceeding: a (1): *****9** a legal proceeding by which one demands or enforces one's right in a court of justice (2): a judicial proceeding for the enforcement or protection of a right, the redress or prevention of a wrong, or the punishment of a public **[*171]** offense -- usu. distinguished from a *special proceeding*

Webster's Third New International Dictionary (1986), 21.

Therefore, as commonly used and in light of the Judicial Code's definitions of "proceeding" and "appeal" in terms of applications or appeals *to a court*, "action" must refer to a "matter" before a court of the unified judicial system of this Commonwealth. See Kelly v. Thompson, 326 Pa.Superior Ct. 364, 474 A.2d 44 (1984) ("pendency of a matter refers to the pendency of the matter in a court . . ."); Duquesne Light Co. v. Pennsylvania Public Utility Commission, 117 Pa.Commonwealth Ct. 28, 543 A.2d 196, *appeal granted*, 521 Pa. 632, 558 A.2d 533 (1988) (section 2503 applies only to proceedings before "components of the unified judicial system"); Pennsylvania Board of Probation and Parole v. Baker, 82 Pa.Commonwealth Ct. 86, 474 A.2d 415 (1984) *****10** (section 2503 applies only to proceedings before "components of the unified judicial system").

The *in pari materia* principle of statutory construction under 1 Pa.C.S. § 1932 is of particular significance in this case. ^{HN3} Section 1932 provides: "(a) Statutes or parts of statutes are in pari materia when they relate to the same persons or things or to the same class of persons or things. (b) Statutes in pari materia shall be construed together, if possible, as one statute." As DOT points out in its brief, the legislature has provided for the award of counsel fees in proceedings in adversary adjudications before administrative agencies of this Commonwealth in the so-called "Costs Act," Act 1982-257, 71 P.S. §§ 2031-2035. ^{HN4} The Judicial Code, specifically section 2503, does not authorize the agencies of this Commonwealth to make awards of attorneys' fees in agency proceedings, *Duquesne Light; Baker*. However, the Costs Act does provide such authority.

^{HN5} The Costs Act authorizes Commonwealth agencies to award counsel fees and costs where the Commonwealth agency initiates an adversary adjudication and the prevailing *****503** party (other than the Commonwealth) incurs fees and **[*172]** *****11** other expenses in connection with that proceeding, unless the adjudicative officer finds "that the position of the agency, as a party to the proceeding, was substantially justified or that special circumstances make an award unjust." 71 P.S. § 2033(a). The Costs Act also authorizes a court to award fees and expenses to a prevailing party (other than the Commonwealth) in the event a party appeals the underlying decision of the agency to a court having jurisdiction over appeals from that agency, unless the court finds that the position of the Commonwealth agency during the adversary adjudication was substantially justified, or that special circumstances make such an award unjust. 71 P.S. § 2033(f). The Costs Act is *in pari materia* with section 2503 of the Judicial Code and their provisions must be construed in a consistent manner, if possible. 1 Pa.C.S. § 1932.

Although the Costs Act could be read as allowing an award of attorney's fees against an agency where it has initiated an action in the agency, such as by DOT's notice of revocation in this case, ^{HN6} the definition of "adversary adjudication" in the Costs Act specifically *excludes* the "Granting, reviewing, revoking or *****12** suspending a license or registration . . ." 71 P.S. § 2032(2). Therefore, the General Assembly expressly intended not to permit an award of counsel fees for the erroneous revocation unless the revocation is appealed to a court and the agency thereafter engages in misconduct covered by 42 Pa.C.S. § 2503.

Thus, the Costs Act lends support to our interpretation of "matter" within the meaning of 42 Pa.C.S. § 2503(7) and (9) as applying only to those matters pending or commencing in a court of the unified judicial system of this Commonwealth. See Lehotzky v. Commonwealth State Civil Service Commission, 82 Pa.Commonwealth Ct. 612, 615, 477 A.2d 13, 14-15 (1984) ("by passing the Costs Act, the Legislature has indicated that it did not intend the Judicial Code . . . to be construed as permitting an agency to award costs and attorneys' fees For this court to hold that such was the intent and to so interpret the statutes would [*173] be to render the Costs Act surplusage and our interpretation would thus be contrary to the edicts of Section 1922 of the Statutory Construction Act In promulgating the Costs Act, the legislature [***13] has now acknowledged the issue of fees and expenses in litigation involving Commonwealth agencies and evinced an intent to address it. This Court should not engage in what would be, in effect, judicial legislation overriding the efforts of the legislature.").

The misconduct of DOT in this case (the blatantly mistaken notice of revocation of Smith's driver's license, and the failure of DOT employees to informally correct DOT's mistake) did not occur during the pendency of a matter *in a court* or in commencement of a matter *in a court*, as "matter" is defined in 42 Pa.C.S. § 102. Therefore, the "matter" did not commence for purposes of 42 Pa.C.S. § 2503(9) until Smith filed his appeal in the court of common pleas. Likewise, no matter was pending before a court within the meaning of 42 Pa.C.S. § 2503(7) until after the appeal had been filed.

We hold that because the trial court had no statutory authority to award counsel fees for DOT's alleged misconduct occurring before commencement of this matter by Smith's filing his appeal, the court abused its discretion in awarding counsel fees. Although we are sympathetic to Mr. Smith, an innocent man who because of DOT's negligence [***14] was compelled to hire a lawyer to file an appeal to vindicate his statutory rights, there simply is no statutory authority which permits an award of counsel fees, no matter how tempting it may be to allow them here. n4

- - - - - Footnotes - - - - -

n4 Because we have found that 42 Pa.C.S. § 2503(7) and (9) does not apply to the alleged misconduct of DOT under the circumstances, we have no occasion to address and we express no opinion on the issue of whether the record supports the trial court's "finding" of bad faith, or whether the record would otherwise support a finding of alternative types of misconduct which can, in appropriate cases, justify an award of counsel fees under section 2503(7) and (9) (i.e., arbitrary, vexatious, obdurate, dilatory). See generally Santoro v. City of Philadelphia, 59 Pa.Commonwealth Ct. 114, 429 A.2d 113 (1981); In re Estate of Roos, 305 Pa.Superior Ct. 86, 93 n. 2, 451 A.2d 255, 259 n. 2 (1982).

- - - - - End Footnotes - - - - -

[*174] [**504] We also [***15] deem it advisable to address DOT's contention that 42 Pa.C.S. § 2503 does not apply to appeals to common pleas court from a license revocation because such statutory appeals are not governed by the Rules of Civil Procedure and therefore are not considered "civil actions" for purposes of various procedural rules. See Shaw v. Department of Transportation, 122 Pa.Commonwealth Ct. 636, 553 A.2d 108 (1989). We find this argument to be frivolous. n5

- - - - - Footnotes - - - - -

n5 Smith has not requested this court to impose counsel fees or any other sanction relating

to this frivolous argument by DOT.

- - - - - End Footnotes - - - - -

Whether or not an appeal from a license revocation is a "civil action" for purposes of the Rules of Civil Procedure, the plain meaning of 42 Pa.C.S. § 2503(7) and (9) is that attorney's fees may be appropriate for misconduct occurring in commencement of or during the pendency of statutory appeals. This follows from the definition of "matter" as including "proceedings" and "appeals." "Proceeding" includes *****16** every petition or application "which may be made to a court . . . under special statutory authority", and "appeal" includes any petition or application "to a court for review of subordinate governmental determinations." 42 Pa.C.S. § 102. The plain meaning of these terms includes a statutory appeal within the definition of "matter." See *Department of Public Assistance v. Ward*, 108 Pa.Commonwealth Ct. 572, 530 A.2d 145 (1987) (upholding award of counsel fees pursuant to section 2503 against an agency of the Commonwealth, and rejecting Department of Public Assistance's argument that sovereign immunity precluded such awards, noting that the legislature has vested courts with the statutory power to tax costs including counsel fees against all litigants, including the Commonwealth and its agencies). There is nothing in 42 Pa.C.S. § 2503 which limits its scope to civil actions governed by the Rules of Civil Procedure.

Moreover, it is disingenuous for DOT to assert here that 42 Pa.C.S. § 2503 does not permit attorneys' fees to be awarded *against DOT* in a statutory appeal, in light of *****175** DOT's inconsistent position asserted in *Department of Transportation v. Zurka*, 135 Pa.Commonwealth Ct. 238, 580 A.2d 466 (1990). *****17** In *Zurka*, DOT asserted that a motorist's petition to a trial court for credit against a suspension order constituted bad faith misconduct within the scope of 42 Pa.C.S. § 2503(9), and urged this court to issue a prospective warning that counsel fees would be awarded against motorists who filed similar petitions in the future. We recognized in *Zurka* that in appropriate cases a court of common pleas may award counsel fees for statutory appeal proceedings before it under section 2503 (6), (7) or (9), but we declined for other reasons to issue the warning DOT requested.

For the foregoing reasons, we reverse the order of the Court of Common Pleas of Bucks County to the extent it awarded counsel fees. However, as noted previously, the court of common pleas included in its award \$ 50.00 in expenses, which appear to have been in the nature of court costs. These and possibly other costs might be taxable against DOT under the general principle that a prevailing party is entitled to recover its costs. See *Gregory v. Harleysville Mutual Ins. Co.*, 374 Pa.Superior Ct. 33, 542 A.2d 133 (1988). Under 42 Pa.C.S. § 1726, the Supreme Court has *****18** the authority to make rules governing the imposition and taxation of costs. That court has not promulgated rules covering statutory appeals to the courts of common pleas, so the courts of common pleas retain the right to adopt local rules governing taxation of costs in statutory appeals. *Department of Transportation v. Rapp*, 139 Pa.Commonwealth Ct. 144, 150, 589 A.2d 805, 807 (1991) (quoting *Appeal of Borough of Churchill*, 525 Pa. 80, 89, 575 A.2d 550, 554 (1990)). If Bucks County has promulgated local rules governing the imposition and taxation of costs in a case such as this, the court of common pleas has the *****505** authority to award costs pursuant to such rules.

Because common pleas included an award of costs in a sanction based upon a statute which we hold inapplicable to this case, we vacate the order to the extent it included costs *****176** in the award. However, nothing in our decision should be construed to preclude Smith from seeking to recover these and other costs which might be taxable against DOT by following the procedures for taxation of costs in any applicable local *****19** rules of the Court of Common Pleas of Bucks County after the record is returned to that court.

Finally, we believe that this is an appropriate case for the exercise of our discretion under

Pa.R.A.P. 2741(4) to deny DOT costs in connection with this appeal even though DOT has prevailed in obtaining a reversal of the order under appeal to the extent it awarded counsel fees. We do so in part because of DOT's culpability in improperly revoking Smith's license and in part because of the argument by DOT which we determined to be frivolous.

This decision was reached and opinion adopted before the conclusion of Judge Byer's service.

ORDER

In accordance with the accompanying opinion, we reverse the order of the Court of Common Pleas of Bucks County to the extent it awards counsel fees to appellee. We vacate the order to the extent it awarded costs as a sanction, without prejudice to appellee's ability to recover taxable costs pursuant to any applicable local rule after return of the record to the court of common pleas. We affirm the order in all other respects.

We further order that appellant shall not be entitled to any costs on appeal, whether taxable in this court or in the court of *****20** common pleas.

CONCURBY: PELLEGRINI

CONCUR: PELLEGRINI, Judge, concurring.

At oral argument, PennDot's counsel stated that the "800 operator" routinely gives advice that was given to Licensee in this case because it is easier *for PennDot* to have an error corrected through court proceedings rather than through its own cumbersome internal operating procedures.

[*177] Although the imposition of counsel fees are most certainly warranted, both because of the legal expenses unnecessarily incurred by the Licensee, as well as clogging common pleas' dockets with matters that PennDot should handle internally, I join with the majority only because, unfortunately, no authority exists to award the fees requested.

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*156 Pa. Commw. 139, *; 625 A.2d 1339, **;
1993 Pa. Commw. LEXIS 332, ****

COMMONWEALTH of Pennsylvania, DEPARTMENT OF TRANSPORTATION, **BUREAU OF DRIVER LICENSING**, Appellant, v. Stephen T. **HRUSKA**, Jr., Appellee. COMMONWEALTH of Pennsylvania, DEPARTMENT OF TRANSPORTATION, **BUREAU OF DRIVER LICENSING**, Appellant, v. John Michael CERVENAK, Appellee. COMMONWEALTH of Pennsylvania, DEPARTMENT OF TRANSPORTATION, BUREAU OF DRIVER LICENSING, Appellant, v. Travis W. McDONOUGH, Appellee. COMMONWEALTH of Pennsylvania, DEPARTMENT OF TRANSPORTATION, BUREAU OF DRIVER LICENSING, Appellant, v. Michael Edward EISEMAN, Appellee. COMMONWEALTH of Pennsylvania, DEPARTMENT OF TRANSPORTATION, BUREAU OF DRIVER LICENSING, Appellant, v. Sean P. McDONOUGH, Appellee

NO. 2365 C.D. 1991; NO. 2399 C.D. 1991; NO. 2423 C.D. 1991; NO. 2439 C.D. 1991; NO. 2469 C.D. 1991

COMMONWEALTH COURT OF PENNSYLVANIA

156 Pa. Commw. 139; 625 A.2d 1339; 1993 Pa. Commw. LEXIS 332

March 4, 1993, Argued
May 27, 1993, Decided
May 27, 1993, Filed

PRIOR HISTORY: [*1]**

APPEALED From Nos. S.A. 1966-91, S.A. 1967-91, S.A. 1968-91, S.A. 1969-91 and S.A. 1970-91. Common Pleas Court of Allegheny county. Judge SCHEIB

CASE SUMMARY

PROCEDURAL POSTURE: Appellant Pennsylvania Department of Transportation, Bureau of Driver Licensing sought review of an order of the Court of Common Pleas of Allegheny County (Pennsylvania), which reversed appellant's suspension of appellee vehicle operators' operating privileges and ordered appellant to pay costs and counsel fees.

OVERVIEW: Appellee vehicle operators were summarily convicted of violations of 18 Pa. Cons. Stat. § 6308. Reports of the convictions were forwarded to appellant Pennsylvania Department of Transportation, Bureau of Driver Licensing (department) pursuant to 18 Pa. Cons. Stat. § 6310.4(a) with orders that appellant suspend each of appellees' operating privileges. Appellees sought review of the convictions and each was found not guilty. Thereafter, appellees requested a de novo hearing to determine the validity of the license suspensions, and requested an award of counsel fees and costs against appellant. At the hearing, appellant's counsel agreed that the license suspensions should be lifted but argued against imposition of fees and costs. The judge reversed the suspensions and granted appellees' applications for costs and counsel fees, and appellant sought review. The court reversed the award of counsel fees and held that 42 Pa. Cons. Stat. § 2503 did not provide a statutory basis for the award because there was no evidence that appellant's actions were arbitrary, vexatious, or in bad faith. The court also vacated the


award of costs because there was no local rule to support the award.

OUTCOME: The court affirmed in part, but reversed the lower court's award of counsel fees and costs to appellee vehicle operators. There was no statutory basis for the award of fees because there was no evidence that appellant Pennsylvania Department of Transportation, Bureau of Driver Licensing's suspension of appellees' operating licenses was arbitrary, vexatious, or in bad faith, and there was no authority for the award of costs.

CORE TERMS: suspension, vexatious, obdurate, dilatory, license, notice, local rule, promulgated, entitlement, violating, taxation, motorist, requesting, overturned, notified, lift

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[Civil Procedure](#) > [Appeals](#) > [Standards of Review](#) > [Abuse of Discretion](#) 

[Civil Procedure](#) > [Appeals](#) > [Costs & Attorney Fees](#) 


HN1 ⚡ The burden of proving entitlement to counsel fees is on the party claiming entitlement; however, a trial court's determination regarding the award of counsel fees will not be reversed on appeal if the findings are supported on the record, in the absence of an abuse of discretion. [More Like This Headnote](#)

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HN2 ⚡ The customarily applied "American rule" is that there can be no recovery of counsel fees from an adverse party in the absence of express statutory allowance of attorney's fees or a clear contractual agreement of the parties, or some other established exception permitting attorney's fees in a given situation. [More Like This Headnote](#)

[Civil Procedure](#) > [Costs & Attorney Fees](#) > [Attorney Fees](#) 

HN3 ⚡ 42 Pa. Cons. Stat. § 2503(7), (9) provide that the following parties shall be eligible for counsel fees: Any participant who is awarded counsel fees as a sanction against another participant for dilatory, obdurate, or vexatious conduct during the pendency of a matter; Any participant who is awarded counsel fees because the conduct of the other party in commencing the matter or otherwise was arbitrary, vexatious, or in bad faith. [More Like This Headnote](#)

[Transportation Law](#) > [Private Motor Vehicles](#) > [Operator Licenses](#) 

HN4 ⚡ When a motorist takes a summary criminal appeal from a district justice conviction the Pennsylvania Department of Transportation, Bureau of Driver Licensing is not relieved from the statutory duty of imposing penalties required by the underlying conviction. [More Like This Headnote](#)

[Civil Procedure](#) > [Costs & Attorney Fees](#) > [Litigation Costs](#) 

HN5 ⚡ Courts of common pleas by local rule may impose costs, but where no local rule has been promulgated such an award is unauthorized. [More Like This Headnote](#)

COUNSEL: Harold H. Cramer, for appellant.

Robert N. Pierce, Jr., for appellees.

JUDGES: McGinley and Pellegrini, JJ., and Narick, Senior Judge. Pellegrini, J., concurs in the result only.

OPINIONBY: McGINLEY

OPINION: [*141] [1340]** The Department of Transportation, Bureau of Driver Licensing (Department) appeals from an order of the Court of **[*142]** Common Pleas of Allegheny County (common pleas court) that sustained the appeals of Stephen T. Hruska, Jr., John Michael Cervenak, Travis W. McDonough, Michael Eiseman and Sean P. McDonough (collectively, Appellees) from notices of suspension of their driver's operating privileges and imposed costs and counsel fees on the Department.

Each of the Appellees was cited on April 7, 1991, for violating 18 Pa.C.S. § 6308, prohibiting consumption of alcoholic beverages **[**1341]** by minors, and was subsequently summarily convicted of that offense on May 29, 1991, before a district justice. On May 30, 1991, pursuant to 18 Pa.C.S. § 6310.4(a), the district justice forwarded reports of Appellees' convictions to the Department **[***2]** and ordered the Department to suspend each of Appellees' operating privileges.

The Department complied with the orders received from the district justice and suspended each of Appellees' operating privileges for 90 days by official notice dated and mailed June 17, 1991. Prior to this date, each of the Appellees had filed appeals of his initial summary conviction, and on June 27, 1991, each of the Appellees was found not guilty of violating 18 Pa.C.S. § 6308.ⁿ¹ On June 28, 1991, Appellees, through their counsel, contacted the Department to advise it of the dismissal of the underaged drinking conviction.

- - - - - Footnotes - - - - -

n1 The Appellees were found guilty of disorderly conduct under 18 Pa.C.S. § 5503.

- - - - - End Footnotes - - - - -

On July 15, 1991, Appellees each filed separate appeals in the common pleas court, requesting that the court grant a *de novo* hearing to determine the validity of Appellees' license suspension, and further requesting an award of counsel fees and costs for the Department's alleged arbitrary and capricious action in imposing license suspensions **[***3]** on Appellees before their appeals were heard and in refusing to rescind the suspension once Appellees' convictions were overturned. Appellees received a hearing on September 18, 1991, at which the Department's trial counsel agreed that the Appellees' appeals should be sustained but argued against imposition of fees and costs. At the hearing, the common pleas court judge sustained each of the Appellees' appeals and granted their applications **[*143]** for costs and counsel fees. Orders were entered to this effect on October 15, 1991. It is from these orders that the Department appeals.

Counsel Fees

HN1 ¶ The burden of proving entitlement to counsel fees is on the party claiming entitlement; however, a trial court's determination regarding the award of counsel fees will not be reversed on appeal if the findings are supported on the record, in the absence of an abuse of discretion. Department of Transportation, Bureau of Driver Licensing v. Smith, 145 Pa.Commonwealth Ct. 164, 168, 602 A.2d 499, 501 (1992). The Department contends that the common pleas court abused its discretion in awarding counsel fees in the absence of any grant of **[***4]** authority authorizing it to do so in the present circumstances.

HN2 ¶ The customarily applied "American rule" is that there can be no recovery of counsel fees from an adverse party in the absence of express statutory allowance of attorney's fees or a clear contractual agreement of the parties, or some other established exception permitting

attorney's fees in a given situation. Smith, 145 Pa.Commonwealth Ct. at 168, 602 A.2d at 501. The Department contends that no authority for imposition of fees exists in this case.

Appellees contend that the common pleas court possessed the authority to impose counsel fees by virtue of Section 2503 of the Judicial Code, 42 Pa.C.S. § 2503. Section 2503 provides ten specifically enumerated instances where a common pleas court may award counsel fees. It is Appellees' contention that the common pleas court's grant of counsel fees was justified by the provisions of ^{HN3} subsections (7) and (9) of Section 2503, which provide that the following parties shall be eligible for counsel fees:

(7) Any participant who is awarded counsel fees as a sanction against another participant for dilatory, obdurate or vexatious *****5** conduct *during the pendency of a matter*. (Emphasis added.)

[*144]

(9) Any participant who is awarded counsel fees because the conduct of the other party in *commencing the matter or otherwise* was arbitrary, vexatious or in bad faith. (Emphasis added.)

Appellees allege that the Department's conduct in this matter was obdurate, vexatious, and in bad faith because the Department *****1342** did not lift the suspensions, even though it had notice that Appellees appealed their convictions, and also because the Department forced Appellees to proceed to a hearing after being notified that Appellees' underlying convictions had been overturned.

We agree with the Department that subsection (7) of Section 2503 does not entitle Appellees to counsel fees. The Department did not engage in dilatory, obdurate, or vexatious conduct because it did not lift Appellees' license suspensions when Appellees notified it of their appeals of the underlying criminal convictions. The Department's conduct in this matter was proper because ^{HN4} when a motorist takes a summary criminal appeal from a district justice conviction the Department is not relieved from the statutory duty of imposing *****6** penalties required by the underlying conviction. Budinoski v. Department of Transportation, Bureau of Traffic Safety, 130 Pa.Commonwealth Ct. 27, 566 A.2d 936 (1983). In any case, no conduct of the Department's before July 15, 1991, serves as a basis for imposition of counsel fees. July 15, 1991, is the date Appellees filed their statutory appeals with copies of the orders sustaining their summary criminal appeals. There was no other way for the Department to know of the disposition of the Appellee's summary criminal appeals, which did not occur until June 27, 1991, ten days after the Department issued the relevant notices of suspension. Secondly, the record does not reveal, and Appellees do not allege, that the Department engaged in any dilatory, obdurate, or vexatious behavior *after* Appellees appealed their license suspensions. The Department simply allowed the appeal to proceed to a hearing at which it offered no contest.

[*145] Subsection (9) of Section 2503 also provides no basis for imposition of counsel fees. The Department did not "commence" the matter, and again, there is no evidence that its conduct was arbitrary, *****7** vexatious or in bad faith. Appellees seem to allege that the Department's conduct in allowing this matter to go to a hearing was not in their own best interests as it required them to engage the service of their attorney for a longer period of time. Even if true, this is not a basis to award attorneys fees.

And we are unpersuaded by Appellees' constitutional argument. Appellees contend that Article 1, Section 11 of the Pennsylvania Constitution, requiring that every person who finds

it necessary to appear in the courts of Pennsylvania have "justice administered without sale, denial, or delay," will be violated if the Department is permitted to force motorists to "repurchase" operating privileges in uncontested suits. This is not a situation, however, where Appellees were required to purchase justice. Because Appellees hired legal representation, they must foot the bill; this does not violate the State constitution, nor does it amount to a violation of due process.

Costs

As the Supreme Court has not promulgated rules governing the imposition and taxation of costs in the common pleas courts the courts of common pleas retain the right to adopt local rules governing taxation *****8** of costs in statutory appeals. *Smith*, 145 Pa.Commonwealth Ct. at 175, 602 A.2d at 504-05. Because all parties agree that Allegheny County has no such rule costs may not be imposed. In *Smith*, we recognized that ^{HNS} courts of common pleas by local rule may impose costs, but where no local rule has been promulgated such an award is unauthorized. We must vacate the award of costs.

ORDER

AND NOW, this 27th day of May, 1993, the orders of the Court of Common Pleas of Allegheny County are reversed to the extent that they award counsel fees to appellees. The **[*146]** orders are vacated to the extent that they award costs. The orders are affirmed in their other respects.

Source: [Legal](#) > [States Legal - U.S.](#) > [Pennsylvania](#) > [Cases](#) > **PA Commonwealth Court Cases from 1971**

Terms: **hruska w/10 bureau of driver licensing** ([Edit Search](#))

View: Full

Date/Time: Wednesday, September 15, 2004 - 12:03 PM EDT

* Signal Legend:

● - Warning: Negative treatment is indicated

▲ - Caution: Possible negative treatment

◆ - Positive treatment is indicated

Ⓐ - Citing Refs. With Analysis Available

ℹ - Citation information available

* Click on any *Shepard's* signal to *Shepardize*® that case.

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DL-21D (7-93)

16:0147058888
03246 6170 477184☒ AMENDED REPORTREPORT OF A COURT SHOWING
THE CONVICTION OF CERTAIN
VIOLATIONS OF THE CONTROLLED
SUBSTANCE, DRUG, DEVICE AND
COSMETIC ACTCOURT INFORMATION
MAG. DIST. NO.
COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD
NUMBER: 2801-0000712-CR
YEAR: 2001
OTN: H 414624-0

DEFENDANT INFORMATION (please print or type)

NAME FIRST	MIDDLE	LAST	SEX	OPERATOR NO. 26233983
Michael	Scott	Williams	M	STATE: PA
ADDRESS				SOCIAL SECURITY NO. 197-60-3929
RD 1 Box 62 -				License Plate No.
CITY	COUNTY	STATE	ZIP	Year State
DaBois	PA	15801		CHECK IF COMMERCIAL VEHICLE WAS DRIVEN ()
				DATE OF BIRTH
				08/28/1980

VIOLATION INFORMATION

DATE OF VIOLATION			DATE OF CONVICTION			DATE LICENSE OR ACKNOWLEDGE SURRENDERED TO COURT OR DISTRICT ATTORNEY		
MONTH	DAY	YEAR	MONTH	DAY	YEAR	MONTH	DAY	YEAR
May	8th	2001	June	18th	2002			
VIOLATION COMMITTED: (Please use a separate form for each charge)						DATE OF ACQUITTAL/NOLLE PROSEQUI		
POSS. WINT. DEL. NARCOTIC CS780-113A30-F						MONTH	DAY	YEAR

(Check one):

35 P.S. 780-113
CONTROLLED SUBSTANCE, DRUG,
DEVICE AND COSMETIC ACT

<input type="checkbox"/> (a) (1)	<input checked="" type="checkbox"/> (a) (30)
<input type="checkbox"/> (a) (12)	<input type="checkbox"/> (a) (31)
<input type="checkbox"/> (a) (16)	<input type="checkbox"/> (a) (36)

NOTE: This form is only to be used for reporting the above listed violations of the Controlled Substance, Drug, Device and Cosmetic Act whether or
Not a motor vehicle was USED.

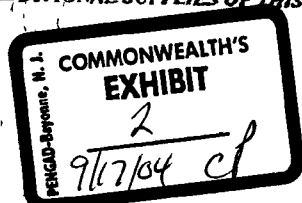
If a motor vehicle was essentially involved you must ALSO submit form DL-21B.

THE UNDERSIGNED CERTIFIES THAT THE FOREGOING IS A CERTIFIED RECORD.

SEAL

Linda Lingle Clerk
Clerk of Courts or District JusticeWILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA 9/03/2003
Date CertifiedIMPORTANT: Under Section 6323 of the Vehicle Code, it is mandatory that the Clerk of Courts and any District Justice report to the Bureau of
Driver Licensing the above listed violations of the Controlled Substance, Drug, Device and Cosmetic Act.SEND THIS Bureau of Driver Licensing, P.O. Box 60037
FORM TO: Harrisburg, Pennsylvania 17106-0037

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



03246 6170 477184

DL-21D (7-93)

**REPORT OF A COURT SHOWING
THE CONVICTION OF CERTAIN
VIOLATIONS OF THE CONTROLLED
SUBSTANCE, DRUG, DEVICE AND
COSMETIC ACT**

COURT INFORMATION

MAG. DIST. NO.
COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD
NUMBER **2001-0000711-CR**
YEAR 2001 (JN H 414625-6)

DEFENDANT INFORMATION (please print or type)

NAME FIRST	MIDDLE	LAST	SEX	OPERATOR NO.	STATE
Michael	Scott	Williams	M	26233983	PA
ADDRESS				SOCIAL SECURITY NO.	LICENSE PLATE NO.
RD 1 Box 62 -				197-60-3929	
CITY	COUNTY	STATE	ZIP	Year	State
DuBois	PA	15801			
DATE OF BIRTH				CHECK IF COMMERCIAL VEHICLE WAS DRIVEN <input type="checkbox"/>	
				08/28/1980	

VIOLATION INFORMATION

DATE OF VIOLATION			DATE OF CONVICTION			DATE LICENSE OR ACKNOWLEDGE SURRENDERED TO COURT OR DISTRICT ATTORNEY		
MONTH	DAY	YEAR	MONTH	DAY	YEAR	MONTH	DAY	YEAR
March	22nd	2001	June	18th	2002			
VIOLATION COMMITTED: (Please use a separate form for each charge)						DATE OF ACQUITTAL/NOLE PROSEQUI		
CS113A30								

(Check one):

35 P.S. 780-113
CONTROLLED SUBSTANCE, DRUG,
DEVICE AND COSMETIC ACT

☐ (a) (1) ☒ (a) (30)
☐ (a) (12) ☐ (a) (31)
☐ (a) (16) ☐ (a) (36)

NOTE: This form is only to be used for reporting the above listed violations of the Controlled Substance, Drug, Device and Cosmetic Act whether or Not a motor vehicle was USED.

If a motor vehicle was essentially involved you must **ALSO** submit form DL-21B.

THE UNDERSIGNED CERTIFIES THAT THE FOREGOING IS A CERTIFIED RECORD.

SEAL

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

Clerk of Courts or District Justice

08/26/2003

Date Certified

IMPORTANT: Under Section 6323 of the Vehicle Code, it's mandatory that the Clerk of Courts and any District Justice report to the Bureau of Driver Licensing the above listed violations of the Controlled Substance, Drug, Device and Cosmetic Act.

SEND THIS Bureau of Driver Licensing, P.O. Box 60037
FORM TO: Harrisburg, Pennsylvania 17106-0037



ADDITIONAL SUPPLIES OF THIS FORM MAY BE SECURED BY COMPLETING FORM DS-5114

CERTIFICATION



DATE: August 27, 2003

I hereby certify that Rebecca L. Bickley, Director of the Bureau of Driver Licensing of the Pennsylvania Department of Transportation, is the legal custodian of the Driver License records of the Pennsylvania Department of Transportation. As the Director of the aforesaid Bureau, she has legal custody of the original or microfilm records which are reproduced in the attached certification.

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL OF THIS DEPARTMENT THE DAY AND YEAR AFORESAID.

Allen D. Biehler

ALLEN D. BIEHLER, SECRETARY OF TRANSPORTATION

I HEREBY CERTIFY THAT THE FOREGOING AND ANNEXED IS A FULL, TRUE AND CORRECT CERTIFIED PHOTOSTATIC COPY OF:

1) Official Notice of suspension dated & mailed 01/24/03, effective 07/01/03; 2) Report of a Court of CLEARFIELD County showing the conviction of certain violations of the controlled substance, drug, device and cosmetic act, convicted 06/18/02, seal attached to original; 3) Official Notice of suspension dated & mailed 11/27/02, effective 01/01/03; 4) Report of a Court of CLEARFIELD County showing the conviction of certain violations of the controlled substance, drug, device and cosmetic act, convicted 06/18/02, seal attached to original, and 5) Driving Record, which appears in the file of the defendant MICHAEL SCOTT WILLIAMS, operator's no. 23403419, date of birth 08/02/74, in the Bureau of Driver Licensing, Harrisburg, Pennsylvania.

CERTIFIED TO as prescribed by Sections 6103 and 6109 of the Judicial Code, Act of July 9, 1976, P.L. 586, as amended, 42 Pa.C.S. §§6103 and 6109.

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL THE DAY AND YEAR AFORESAID.



Rebecca L. Bickley SEAL
REBECCA L. BICKLEY, DIRECTOR
BUREAU OF DRIVER LICENSING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Bureau of Driver Licensing
Mail Date: JANUARY 24, 2003

MICHAEL SCOTT WILLIAMS
2704 RASPBERRY ST
ERIE PA 16508

WID # 030176201880053 001
PROCESSING DATE 01/17/2003
DRIVER LICENSE # 23403419
DATE OF BIRTH 08/02/1974

Dear MR. WILLIAMS:

This is an **Official Notice of the Suspension** of your Driving Privilege as authorized by Section 1532C of the Pennsylvania Vehicle Code. As a result of your 06/18/2002 conviction of violating Section 13A30 of the Controlled Substance, Drug, Device and Cosmetic Act, on 03/22/2001:

- Your driving privilege is **SUSPENDED** for a period of **6 MONTH(S)** effective 07/01/2003 at 12:01 a.m.

This suspension is in addition to any other suspensions already on your record.

COMPLYING WITH THIS SUSPENSION

PennDOT records indicate that your driving privilege is currently suspended. You will not receive credit toward serving any suspension until we receive your acknowledgment form. Complete the following steps to acknowledge this suspension:

1. Complete the enclosed DL-16LC acknowledgment form.
2. Be sure to sign the form.
3. Return the form to:
Pennsylvania Department of Transportation
Bureau of Driver Licensing
P.O. Box 68693
Harrisburg, PA 17106-8693
4. Upon receipt, review and acceptance of this acknowledgment, PennDOT will send you a receipt confirming the date that credit began. If you do not receive a receipt from us within 3 weeks of mailing your documents, 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.

#1

030176201880053

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.

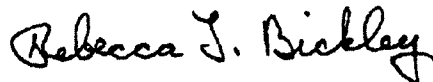
APPEAL

You have the right to appeal this action to the Court of Common Pleas (Civil Division) within 30 days of the mail date, JANUARY 24, 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 the enclosed DL-16LC acknowledgment form to PennDOT **IMMEDIATELY**.

Sincerely,



Rebecca L. Bickley, Director
Bureau of Driver Licensing

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

ACKNOWLEDGMENT of
SUSPENSION/REVOCATION/DISQUALIFICATION/CANCELLATION AS REQUIRED UNDER
SECTION 1541 OF THE VEHICLE CODE

Please Print All Information in Ink

ALL information MUST be completed or credit will not be given. All credit will be based on the postmark date of your mailing.

INSTRUCTIONS FOR FILLING OUT THIS FORM:

1. **SECTION A:** Please provide any personal information that is not already completed.
2. **SECTION B:** If you have a change of address, please provide this information. NOTE: Your voter registration will be changed unless you check the box below your new address information.
3. **SECTION C:** Please sign this section, otherwise this form **WILL BE REJECTED**.
4. **SECTION D:** Please send this form to the address listed in SECTION D.

If you are a resident of Pennsylvania, and you are 16 years of age or older, you are eligible for a photo identification card. You may apply for a photo identification card at any Driver License Center for a cost of \$10.00. You must present two (2) forms of proper identification (i.e., birth certificate, valid U.S. passport, marriage certificate, voter registration, etc.) in order to obtain your photo identification card.

PA Driver's License Number	Last Name	Jr., etc.	First Name	Middle Name
23403419	WILLIAMS		MICHAEL	
Date of Birth	Social Security Number	Daytime Telephone Number		
08/02/1974	-- --	()		

CHANGE OR CORRECTION OF ADDRESS				
New Street Address	City	State	Zip Code	
<input type="checkbox"/> By law, if you are registered to vote, this application will change your voter registration address unless you check here.				

ACKNOWLEDGMENT AND CERTIFICATION	
I, _____, hereby acknowledge that my driving privilege is Suspended/Revoked/Disqualified in Pennsylvania. Please Print Your Name	
AND	
I certify that all information given on this acknowledgment is true and correct, and hereby apply for proper credit. I understand that upon restoration, I will be required to apply for the issuance, renewal or replacement of my Driver's License, Learner's Permit or Camera Card, whichever is needed in order to be licensed in Pennsylvania. If I use a messenger service, I hereby authorize PennDOT to furnish them with my driving record for the purpose of processing this form.	
X _____ Signature in Ink	_____ Date
WARNING: Misstatement of fact is a misdemeanor of the third degree, punishable by a fine of up to \$2,500.00 and/or imprisonment up to one year (18 PA C.S. Section 4904(b)).	
PLEASE NOTE: If you feel you are entitled to credit based on a date other than the postmark date of your mailing, or if you have already surrendered your driver's license or submitted an affidavit, please explain. _____	

ADDITIONAL INFORMATION	
This form must be mailed to: PennDOT * Bureau of Driver Licensing * P.O. Box 68693 * Harrisburg, PA 17106-8693	
Upon receipt, review and acceptance of this acknowledgment, PennDOT will send you a receipt, confirming the date that credit began. If you do not receive this receipt within 3 weeks of your mailing, please contact PennDOT at the telephone number(s) listed below:	
INFORMATION (7:00 a.m. to 9:00 p.m.)	
In State: 1-800-832-4800 Out-of-State: 1-717-391-8190	TDD In State: 1-800-228-0678 TDD Out-of-State: 1-717-391-8191

Please keep a copy of this form for your records.

03017 6201 880053

DL-21D (7-93)	REPORT OF A COURT SHOWING THE CONVICTION OF CERTAIN VIOLATIONS OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT	COURT INFORMATION	
		MAG. DIST. NO.	COUNTY OF CLEARFIELD
<input type="checkbox"/> AMENDED REPORT		NUMBER	2001-0000711-CR
		YEAR	2001 OPEN H 414623-6

DEFENDANT INFORMATION (please print or type)

NAME FIRST	MIDDLE	LAST	SEX	OPERATOR NO. 23403419
Michael	Scott	Williams	M	STATE PA
ADDRESS				SOCIAL SECURITY NO. 197-60-3929
1109 Worth Street -				License Plate No. n/a
CITY				Year n/a State n/a
COUNTY				CHECK IF COMMERCIAL VEHICLE WAS DRIVEN <input type="checkbox"/>
STATE				DATE OF BIRTH
ZIP				
Reynoldsville PA 15851				08/28/1980

VIOLATION INFORMATION

DATE OF VIOLATION			DATE OF CONVICTION			DATE LICENSE OR ACKNOWLEDGE SURRENDERED TO COURT OR DISTRICT ATTORNEY		
MONTH	DAY	YEAR	MONTH	DAY	YEAR	MONTH	DAY	YEAR
March	22nd	2001	June	18th	2002			
VIOLATION COMMITTED: (Please use a separate form for each charge)						DATE OF ACQUITTAL/NO I.E. PROSECUT		
POSSESSION WITH INTENT TO DELIVER OXYCONTIN. 11/01/01						MONTH	DAY	YEAR

(Check one):

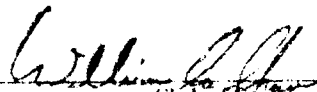
35 P.S. 780-113 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT	<input type="checkbox"/> (a) (1)	<input checked="" type="checkbox"/> (a) (30)
	<input type="checkbox"/> (a) (12)	<input type="checkbox"/> (a) (31)
	<input type="checkbox"/> (a) (16)	<input type="checkbox"/> (a) (36)

NOTE: This form is only to be used for reporting the above listed violations of the Controlled Substance, Drug, Device and Cosmetic Act whether or Not a motor vehicle was USED

If a motor vehicle was essentially involved you must **ALSO** submit form DL-21B.

THE UNDERSIGNED CERTIFIES THAT THE FOREGOING IS A CERTIFIED RECORD.

SEAL



Clerk of Courts or District Justice

08/01/2002

Date Certified

IMPORTANT: Under Section 6323 of the Vehicle Code, it is mandatory that the Clerk of Courts and any District Justice report to the Bureau of Driver Licensing the above listed violations of the Controlled Substance, Drug, Device and Cosmetic Act

SEND THIS Bureau of Driver Licensing, P.O. Box 60037
FORM TO: Harrisburg, Pennsylvania 17106-0037

ADDITIONAL SUPPLIES OF THIS FORM MAY BE SECURED BY COMPLETING FORM 08-5114

#2

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Bureau of Driver Licensing
Mail Date: NOVEMBER 27, 2002

MICHAEL SCOTT WILLIAMS
2704 RASPBERRY ST
ERIE PA 16508

WID # 023246117845845 001
PROCESSING DATE 11/20/2002
DRIVER LICENSE # 23403419
DATE OF BIRTH 08/02/1974

Dear MR. WILLIAMS:

This is an Official Notice of the Suspension of your Driving Privilege as authorized by Section 1532C of the Pennsylvania Vehicle Code. As a result of your 06/18/2002 conviction of violating Section 13A30 of the Controlled Substance, Drug, Device and Cosmetic Act, on 05/08/2001:

- Your driving privilege is SUSPENDED for a period of 6 MONTH(S) effective 01/01/2003 at 12:01 a.m.

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 acknowledge this suspension of your driving privilege. You will not receive credit toward serving any suspension until we receive your acknowledgment form. You may surrender the acknowledgment form before this date, 01/01/2003, for earlier credit. Complete the following steps to acknowledge this suspension:

1. Complete the enclosed DL-16LC acknowledgment form.
2. Be sure to sign the form.
3. Return the form to:
Pennsylvania Department of Transportation
Bureau of Driver Licensing
P.O. Box 68693
Harrisburg, PA 17106-8693
4. Upon receipt, review and acceptance of this acknowledgment, PennDOT will send you a receipt confirming the date that credit began. If you do not receive a receipt from us within 3 weeks of mailing your documents, please contact our office. Otherwise, you will not be given

023246117845845

credit toward serving this suspension. PennDOT phone numbers are listed at the end of this letter.

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, NOVEMBER 27, 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 the enclosed DL-16LC acknowledgment form to PennDOT by 01/01/2003.

023246117845845

Sincerely,

Rebecca L. Bickley

Rebecca L. Bickley, Director
Bureau of Driver Licensing

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

ACKNOWLEDGMENT of
SUSPENSION/REVOCATION/DISQUALIFICATION/CANCELLATION AS REQUIRED UNDER
SECTION 1541 OF THE VEHICLE CODE

Please Print All Information in Ink

ALL information MUST be completed or credit will not be given. All credit will be based on the postmark date of your mailing

INSTRUCTIONS FOR FILLING OUT THIS FORM:

1. **SECTION A.** Please provide any personal information that is not already completed.
2. **SECTION B.** If you have a change of address, please provide this information. NOTE: Your voter registration will be changed unless you check the box below your new address information.
3. **SECTION C:** Please sign this section, otherwise this form **WILL BE REJECTED**
4. **SECTION D.** Please send this form to the address listed in SECTION D

If you are a resident of Pennsylvania, and you are 16 years of age or older, you are eligible for a photo identification card. You may apply for a photo identification card at any Driver License Center for a cost of \$10.00. You must present two (2) forms of proper identification (i.e., birth certificate, valid U.S. passport, marriage certificate, voter registration, etc.) in order to obtain your photo identification card

PA Driver's License Number	Last Name	Jr., etc.	First Name	Middle Name
23403419	WILLIAMS		MICHAEL	
Date of Birth	Social Security Number	Daytime Telephone Number		
08/02/1974	-- --	()		

CHANGE OR CORRECTION OF ADDRESS			
New Street Address	City	State	Zip Code
<input type="checkbox"/> By law, if you are registered to vote, this application will change your voter registration address unless you check here.			

ACKNOWLEDGMENT AND CERTIFICATION	
I, _____, hereby acknowledge that my driving privilege is Suspended/Revoked/Disqualified in Pennsylvania. Please Print Your Name	
AND	
I certify that all information given on this acknowledgment is true and correct, and hereby apply for proper credit. I understand that upon restoration, I will be required to apply for the issuance, renewal or replacement of my Driver's License, Learner's Permit or Camera Card, whichever is needed in order to be licensed in Pennsylvania. If I use a messenger service, I hereby authorize PennDOT to furnish them with my driving record for the purpose of processing this form.	
X _____ Signature in Ink	_____ Date
WARNING: Misstatement of fact is a misdemeanor of the third degree, punishable by a fine of up to \$2,500.00 and/or imprisonment up to one year (18 PA C.S. Section 4904(b)).	
PLEASE NOTE: If you feel you are entitled to credit based on a date other than the postmark date of your mailing, or if you have already surrendered your driver's license or submitted an affidavit, please explain. _____	

ADDITIONAL INFORMATION	
This form must be mailed to: PennDOT * Bureau of Driver Licensing * P.O. Box 68693 * Harrisburg, PA 17106-8693	
Upon receipt, review and acceptance of this acknowledgment, PennDOT will send you a receipt, confirming the date that credit began. If you do not receive this receipt within 3 weeks of your mailing, please contact PennDOT at the telephone number(s) listed below	
INFORMATION (7:00 a.m. to 9:00 p.m.)	
In State: 1-800-832-4800	TDD In State: 1-800-228-0876
Out-of-State: 1-717-391-8190	TDD Out-of-State: 1-717-391-6191

Please keep a copy of this form for your records

02324 6117 845845

DL-21D (7-93)

**REPORT OF A COURT SHOWING
THE CONVICTION OF CERTAIN
VIOLATIONS OF THE CONTROLLED
SUBSTANCE, DRUG, DEVICE AND
COSMETIC ACT**

COURT INFORMATION

MAG DIST NO
COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD
NUMBER **2001-0000712-CR**
YEAR **2002**
OTN **H 414624-0**

☐ AMENDED REPORT**DEFENDANT INFORMATION (please print or type)**

NAME FIRST Michael Scott Williams	MIDDLE	LAST	SEX M	OPERATOR NO 23403419
ADDRESS 1109 Worth Street				STATE PA
CITY Reynoldsville				SOCIAL SECURITY NO 197-60-3929
COUNTY PA				License Plate No. n/a
STATE PA				Year n/a State n/a
ZIP 15851				CHECK IF COMMERCIAL VEHICLE WAS DRIVEN <input type="checkbox"/>
				DATE OF BIRTH 08/28/1980

VIOLATION INFORMATION

DATE OF VIOLATION			DATE OF CONVICTION			DATE LICENSE OR ACKNOWLEDGE SURRENDERED TO COURT OR DISTRICT ATTORNEY		
MONTH	DAY	YEAR	MONTH	DAY	YEAR	MONTH	DAY	YEAR
May	8th	2001	June	18th	2002			
VIOLATION COMMITTED: (Please use a separate form for each charge)						DATE OF ACQUITTAL/NOI I E PROSEQUI		
POSSESSION WITH INTENT TO DELIVER OXYCONTIN. FELONY						MONTH	DAY	YEAR

(Check one):

35 P.S. 780-113

**CONTROLLED SUBSTANCE, DRUG,
DEVICE AND COSMETIC ACT**

☐ (a) (1) ☒ (a) (30)
☐ (a) (12) ☐ (a) (31)
☐ (a) (16) ☐ (a) (36)

NOTE: This form is only to be used for reporting the above listed violations of the Controlled Substance, Drug, Device and Cosmetic Act whether or Not a motor vehicle was USED.

If a motor vehicle was essentially involved you must **ALSO** submit form DL-21B

THE UNDERSIGNED CERTIFIES THAT THE FOREGOING IS A CERTIFIED RECORD.

SEAL



Clerk of Courts or District Justice

11/14/2002

Date Certified

IMPORTANT: Under Section 6323 of the Vehicle Code, it is mandatory that the Clerk of Courts and any District Justice report to the Bureau of Driver Licensing the above listed violations of the Controlled Substance, Drug, Device and Cosmetic Act

SEND THIS Bureau of Driver Licensing, P.O. Box 60037
FORM TO: Harrisburg, Pennsylvania 17106-0037

ADDITIONAL SUPPLIES OF THIS FORM MAY BE SECURED BY COMPLETING FORM 05-5114

#4

PENNSYLVANIA DEPARTMENT OF TRANSPORTATION
BUREAU OF DRIVER LICENSING
CERTIFIED DRIVING HISTORY
AUG 25 2003

DRIVER: MICHAEL SCOTT WILLIAMS
2704 RASPBERRY ST
ERIE, PA 16508

DRIVER LICENSE NO : 23403419
DATE OF BIRTH : AUG 02 1974
SEX : MALE
RECORD TYPE : REG LIC/ID

DRIVER LICENSE (DL)

LICENSE CLASS : C
LICENSE ISSUE DATE: SEP 21 2001
LICENSE EXPIRES : AUG 31 2002
ORIG ISSUE DATE : FEB 13 1991
MED RESTRICTIONS : NONE
LEARNER PERMITS :
LICENSE STATUS : EXPIRED

COMMERCIAL DRIVER LICENSE (CDL)

CDL LICENSE CLASS :
CDL LICENSE ISSUED :
CDL LICENSE EXPIRES:
CDL ENDORSEMENTS : NONE
CDL RESTRICTIONS : NONE
CDL LEARNER PERMITS:
CDL LICENSE STATUS :

SB ENDORSEMENT :

PROBATIONARY LICENSE (PL)

PL LICENSE CLASS :
PL LICENSE ORIG ISS:
PL LICENSE ISSUED :
PL LICENSE EXPIRES :
PL LICENSE STATUS :

OCCUPATIONAL LIMITED LICENSE (OLL)

OLL LICENSE CLASS :
OLL LICENSE ISSUED :
OLL LICENSE EXPIRES:
OLL LICENSE STATUS :

*** CONTINUED ***

#5

REPORT OF VIOLATIONS AND DEPARTMENTAL ACTIONS

VIOLATION DATE: JUL 01 1994
VIOLATION: CRIMES CODE: A6308
DESCRIPTION: UNDERAGE ALCOHOL OFFENSE
ACTION: SUSPENSION FOR 90 DAY(S) EFFECTIVE SEP 21 1994
OFFICIAL NOTICE MAILED AUG 18 1994

ACTION: RESTORATION OF OPERATING PRIVILEGES DEC 20 1994

VIOLATION DATE: MAY 27 2000
VIOLATION: VEHICLE CODE: 3362
DESCRIPTION: EXCEEDING MAXIMUM SPEED
051 MPH IN A 045 MPH ZONE
CONVICTION DATE: JUN 06 2000
ACTION: ASSIGNED POINTS

VIOLATION DATE: MAY 08 2001
VIOLATION: DRUG/DEVICE/COSMETIC ACT: 13A30
DESCRIPTION: DELIVERY OF CTRL SUB
CONVICTION DATE: JUN 18 2002
ACTION: SUSPENSION FOR 6 MONTH(S) EFFECTIVE JAN 01 2003
OFFICIAL NOTICE MAILED NOV 27 2002

VIOLATION DATE: MAR 22 2001
VIOLATION: DRUG/DEVICE/COSMETIC ACT: 13A30
DESCRIPTION: DELIVERY OF CTRL SUB
CONVICTION DATE: JUN 18 2002
ACTION: SUSPENSION FOR 6 MONTH(S) EFFECTIVE JUL 01 2003
OFFICIAL NOTICE MAILED JAN 24 2003

ACTION: PRIVILEGE RESTORED PENDING APPEAL JUN 30 2003

*** CONTINUED ***

ACTION: PRIVILEGE RESTORED PENDING APPEAL JUN 30 2003

REPORT OF MEDICALS AND DEPARTMENTAL ACTIONS

NO MEDICALS OR DEPARTMENTAL ACTIONS DURING THIS REPORTING PERIOD

REPORT OF ACCIDENTS AND DEPARTMENTAL ACTIONS

NO ACCIDENTS DURING THIS REPORTING PERIOD

*** END OF RECORD ***

IN COMPLIANCE WITH YOUR REQUEST, I HEREBY CERTIFY THAT I HAVE CAUSED A SEARCH TO BE MADE OF THE FILES OF THE DEPARTMENT OF TRANSPORTATION, AND HAVE SET FORTH ABOVE AN ACCURATE SUMMARY OF ALL RECORDS IN THE NAME OF THE PERSON INDICATED.

SINCERELY,

Rebecca J. Bickley

SEAL

DIRECTOR, BUREAU OF DRIVER LICENSING
FOR
SECRETARY OF TRANSPORTATION

COMMONWEALTH OF PENNSYLVANIA SS:

DATE: AUG 25 2003

I HEREBY CERTIFY THAT REBECCA L. BICKLEY, DIRECTOR OF THE BUREAU OF DRIVER LICENSING, OF THE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION IS THE LEGAL CUSTODIAN OF THE DRIVER LICENSING RECORDS OF THE DEPARTMENT OF TRANSPORTATION. AS THE DIRECTOR OF THE AFORESAID BUREAU, SHE HAS LEGAL CUSTODY OF THE ORIGINAL OR MICROFILM RECORDS WHICH ARE THE SUBJECT OF THE ABOVE CERTIFICATION.

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL OF THIS DEPARTMENT THE DAY AND YEAR AFORESAID.

SINCERELY,

Allen D. Bickley

SECRETARY OF TRANSPORTATION

SEAL