

04-1589-CD
STEVEN C. AUGHENBAUGH vs. COMMONWEALTH OF PENNSYLVANIA

Steven Aughenbaugh vs Comm of PA
2004-1589-CD

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

STEVEN C. AUGHENBAUGH
Petitioner

vs.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION,
Respondent

No. *24* 1582-CD

PETITION FOR REVIEW

Filed on behalf of:
STEVEN C. AUGHENBAUGH,
PETITIONER

Counsel for this party:
RONALD L. COLLINS, ESQUIRE

Supreme Court No. 36744

SOBEL & COLLINS
Attorneys at Law
218 South Second Street
Clearfield, PA 16830

(814)765-5552
FAX (814)765-6210

FILED

*0 12:22 PM 2004 to atty
original + copy to CH*
OCT 13 2004

William A. Shaw
Prothonotary

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

STEVEN C. AUGHENBAUGH
Petitioner

vs.

No.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION,
Respondent

PETITION FOR REVIEW

AND NOW comes Petitioner, Steven C. Aughenbaugh, by and through Ronald L. Collins, Esquire, who Petitions your Honorable Court as follows:

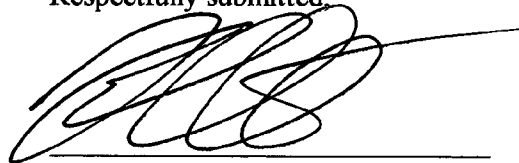
1. That Petitioner is Steven C. Aughenbaugh, of 524 West Locust Street, Clearfield, PA, 16830.
2. That Petitioner was born on February 14, 1956 and has a Drivers License No. 17440557.
3. That Respondent is the Commonwealth of Pennsylvania, Department of Transportation.
4. That by Official Notice dated September 15, 2004, a copy of which is hereinafter attached as Exhibit A, Respondent issued an eighteen (18) month suspension of Petitioner's license for an alleged Chemical Test Refusal pursuant to Section 1547 of the Vehicle Code, Chemical Test Refusal on February 27, 2004.
5. That Petitioner's refusal to submit to the chemical test was ineffective in that he was not properly advised of the consequences of said refusal. To wit, the police officer advised Petitioner incorrectly that the length of the refusal would be only twelve (12) months.
6. That, in addition, Petitioner was under duress at the time of the request for the chemical test in that he had previously suffered a shoulder injury and was in great pain, suffering and discomfort from said injury as a result of the manner in which he was handcuffed by the requesting

officer.

6. That as a result Petitioner is not subject to a suspension.

WHEREFORE, Petitioner respectfully requests your Honorable Court to review the action of Respondent and direct them to rescind said suspension.

Respectfully submitted,

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

Ronald L. Collins, Esquire

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Bureau of Driver Licensing
Mail Date: SEPTEMBER 15, 2004

STEVEN C AUGHENBAUGH
534 W LOCUST ST
CLEARFIELD PA 16830

WID # 042526187374070 001
PROCESSING DATE 09/08/2004
DRIVER LICENSE # 17440557
DATE OF BIRTH 02/14/1956

Dear MR. AUGHENBAUGH:

This is an **Official Notice of the Suspension** of your Driving Privilege as authorized by Section 1547BIII of the Pennsylvania Vehicle Code. As a result of your violation of Section 1547 of the Vehicle Code, **CHEMICAL TEST REFUSAL**, on 08/27/2004:

- Your driving privilege is **SUSPENDED** for a period of 18 MONTH(S) effective 10/20/2004 at 12:01 a.m.

COMPLYING WITH THIS SUSPENSION

You must return all current Pennsylvania driver's licenses, learner's permits, temporary driver's licenses (camera cards) in your possession on or before 10/20/2004. You may surrender these items before, 10/20/2004, for earlier credit; however, you may not drive after these items are surrendered.

YOU MAY NOT RETAIN YOUR DRIVER'S LICENSE FOR IDENTIFICATION PURPOSES. However, you may apply for and obtain a photo identification card at any Driver License Center for a cost of \$10.00. You must present two (2) forms of proper identification (e.g., birth certificate, valid U.S. passport, marriage certificate, etc.) in order to obtain your photo identification card.

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

- Return all current Pennsylvania driver's licenses, learner's permits and/or camera cards to PennDOT. If you do not have any of these items, send a sworn notarized letter stating you are aware of the suspension of your driving privilege. You must specify in your letter why you are unable to return your driver's license. Remember: You may not retain your driver's license for identification purposes. Please send these items to:
Pennsylvania Department of Transportation

EXHIBIT

"A"

042526187374070

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

2. Upon receipt, review and acceptance of your Pennsylvania driver's license(s), learner's permit(s), and/or a sworn notarized letter, PennDOT will send you a receipt confirming the date that credit began. If you do not receive a receipt from us within 3 weeks, please contact our office. Otherwise, you will not be given credit toward serving this suspension. PennDOT phone numbers are listed at the end of this letter.
3. If you do not return all current driver license products, we must refer this matter to the Pennsylvania State Police for prosecution under SECTION 1571(a)(4) of the Pennsylvania Vehicle Code.

PAYING THE RESTORATION FEE

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

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

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 15, 2004, of this letter. If you file an appeal in the County Court, the Court will give you a time-stamped certified copy of the appeal. In order for your appeal to be valid, you must send this time-stamped certified copy of the appeal by certified mail to:

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

Remember, this is an **OFFICIAL NOTICE OF SUSPENSION**. You must return all current Pennsylvania driver license products to PennDOT by 10/20/2004.

042526187374070

Sincerely,

Rebecca L. Bickley

Rebecca L. Bickley, Director
Bureau of Driver Licensing

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

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

CA

ALL-STATE LEGAL, A DIVISION OF ALL-STATE® INTERNATIONAL, INC.
FORM NO.: 07152-BF • 07153-BL • 07155-GY • 07156-WH

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

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

STEVEN C. AUGHENBAUGH
Petitioner

vs.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION,
Respondent

No. 04-1589-CD

CERTIFICATE OF SERVICE

Filed on behalf of:
Gary Wayne Bumbarger, Defendant

Counsel for this party:
Ronald L. Collins, Esquire

Supreme Court No. 36744

SOBEL & COLLINS
Attorneys at Law
218 South Second Street
Clearfield, PA 16830

(814)765-5552
FAX (814)765-6210

FILED NO CC
m/1:51/61
NOV 01 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

STEVEN C. AUGHENBAUGH
Petitioner

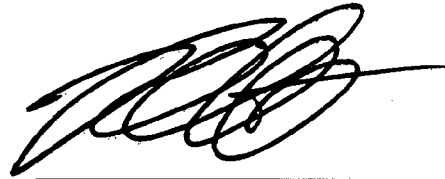
vs.

No. 04-1589-CD

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION,
Respondent

CERTIFICATE OF SERVICE

I, Ronald L. Collins, Esquire do hereby state that on the 15th day of October, 2004, I did forward a copy of the Petition for Review, filed to the above caption, and the same was served upon Commonwealth of Pennsylvania, Department of Transportation, by Certified Mail, senders receipt attached hereto.



Ronald L. Collins, Esquire

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.		<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee <i>X Robert Rindivella</i></p> <p>B. Received by (Printed Name) Robert Rindivella</p> <p>C. Date of Delivery October 15 2004</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
1. Article Addressed to: PA Dept of Transportation Office of Chief Counsel 3rd Floor Riverfront Office Center Harrisburg PA 17104-2516		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
2. Article Number (Transfer from service label) 7004 0550 0000 7175 3350		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540

No. 04-1589-CD
Steven C. Aughenbaugh, Petitioner
v.
Commonwealth of Pennsylvania, Department of Transportation, Respondent
Certificate of Service
RONALD L. COLLINS, ESQUIRE
Seibel & Collins ATTORNEYS & COUNSELORS AT LAW 218 SOUTH SECOND STREET CLEARFIELD, PENNSYLVANIA 16830 (814) 765-6552 (814) 765-6555

FILED
NOV 01 2004
William A. Shaw
Prothonotary/Clerk of Courts

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

STEVEN C. AUGHENBAUGH

vs.

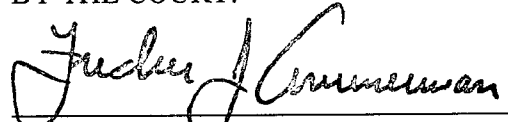
COMMONWEALTH OF PENNSYLVANIA

:
:
: No. 04-1589-CD
:
:

ORDER

AND NOW, this 25th day of August, 2005, 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 23, 2005 at 10:00 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 this hearing will be heard.

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

FILED

0/2:20Lm 2CC C/A
AUG 25 2005 (5)

William A. Shaw
Prothonotary

CA

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

STEVEN C. AUGHENBAUGH

-VS-

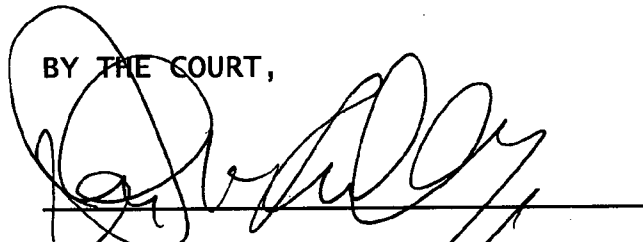
No. 04-1589-CD

COMMONWEALTH OF PENNSYLVANIA:
DEPARTMENT OF TRANSPORTATION:

O R D E R

AND NOW, this 26th day of March, 2008, following hearing into the above-captioned Petition for review, it is the ORDER of this Court that said Petition be and is hereby dismissed.

BY THE COURT,



THE HONORABLE JOHN K. REILLY, JR.
Senior Judge, Specially Presiding

FILED

012:4764
MAR 26 2008

William A. Shaw
Prothonotary/Clerk of Courts

2cc
Atty's
Kuhar
R. Collins

FILED

MAR 26 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 3/26/08


☐ You are responsible for serving all appropriate parties.

☒ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☒ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☒ Defendant(s) Attorney

☐ Special Instructions:

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

Terms: **bureau of driver licensing w/30 flanigan** ([Edit Search](#) | [Suggest Terms for My Search](#))

 Select for FOCUS™ or Delivery



806 A.2d 524, *; 2002 Pa. Commw. LEXIS 794, **

Timothy P. **Flanigan** v. Commonwealth of Pennsylvania, Department of Transportation,
Bureau of Driver Licensing, Appellant

No. 2667 C.D. 2001

COMMONWEALTH COURT OF PENNSYLVANIA

806 A.2d 524; 2002 Pa. Commw. LEXIS 794

September 11, 2002, Decided
September 11, 2002, Filed

PRIOR HISTORY: **[**1]**

Appeal from No. SA 263 of 2001. Common Pleas Court of the County of Allegheny. Judge SASINOSKI.

DISPOSITION: Reversed. One year suspension of operating privilege reinstated.

CASE SUMMARY


PROCEDURAL POSTURE: Appellant transportation department appealed an order by the Court of Common Pleas of Allegheny County (Pennsylvania) that sustained appellee licensee's appeal of his driver's license suspension, claiming, inter alia, that the licensee did not offer medical evidence to support his inability to refuse a blood test.


OVERVIEW: The licensee was arrested for drunk driving after a police officer observed erratic driving, and the licensee failed field sobriety tests. While on the way to a hospital for blood tests, the licensee informed the officer that he suffered from migraine headaches. At the hospital, the licensee's behavior changed severely: he had an exaggerated weak walk and was moaning loudly. He refused to take the blood test until he received his medication. The appellate court held that the licensee was not required to produce expert medical evidence to establish that he had chronic cluster migraines. However, medical evidence was necessary pursuant to 75 Pa. Cons. Stat. § 1547(b)(1) to establish the extent to which the headache prevented the licensee from having his blood drawn while he waited for his medication to arrive or that he was incapable of refusing to consent to the test.


OUTCOME: The order was reversed.


CORE TERMS: blood test, migraine, medication, medical evidence, medicine, headaches, blood, suspension, licensee, headache, driving, symptoms, chronic, one-year, police station, urinate, cluster, submit to chemical testing, influence of alcohol, present controversy, physically, suffering, conscious, straight, warnings, arrest, notice, bottle, empty


LexisNexis(R) Headnotes ♦ [Hide Headnotes](#)


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


[Civil Procedure](#) > [Appeals](#) > [Standards of Review](#) > [Substantial Evidence](#) 


HN1  Appellate review is limited to determining whether a trial court's findings are supported by substantial evidence and whether it committed an error of law or abused its discretion. [More Like This Headnote](#)


[Criminal Law & Procedure](#) > [Criminal Offenses](#) > [Vehicular Crimes](#) > [Implied Consent](#) 

HN2  See 75 Pa. Cons. Stat. § 1547(b)(1).


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

[Criminal Law & Procedure](#) > [Criminal Offenses](#) > [Vehicular Crimes](#) > [Implied Consent](#) 

[Evidence](#) > [Procedural Considerations](#) > [Burdens of Proof](#) 

HN3  To sustain a license suspension under 75 Pa. Cons. Stat. § 1547(b), the Commonwealth of Pennsylvania, Department of Transportation, Bureau of Driver Licensing must demonstrate that a licensee: (1) was arrested for driving under the influence of alcohol; (2) was asked to submit to chemical testing; (3) refused to do so; and (4) was specifically warned that a refusal would result in the suspension of his operating privilege. If the Department is able to sustain its burden, the burden then shifts to the licensee to prove that he was physically unable to take the test or that he was incapable of making a knowing and conscience refusal. [More Like This Headnote](#) | [Shepardize: Restrict By Headnote](#)

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

HN4  Where a motor vehicle licensee suffers from a medical condition that affects his or her ability to perform a test and that condition is not obvious, a finding that the licensee was unable to take the test for medical reasons must be supported by competent medical evidence. [More Like This Headnote](#) | [Shepardize: Restrict By Headnote](#)

COUNSEL: Terrance M. Edwards and Timothy P. Wile, Asst. Counsel In-Charge, Harrisburg, for appellant.

No appearance entered on behalf of appellee.

JUDGES: President Judge JAMES GARDNER COLINS, Judge DORIS A. SMITH-RIBNER, Senior Judge JIM FLAHERTY. OPINION BY SENIOR JUDGE FLAHERTY. Judge SMITH-RIBNER dissents.

OPINIONBY: JIM FLAHERTY

OPINION: [*525]

OPINION BY SENIOR JUDGE FLAHERTY

The Commonwealth of Pennsylvania, Department of Transportation, **Bureau of Driver Licensing** (Department) appeals from the order of the Court of Common Pleas of Allegheny County (trial court) which sustained the appeal of Timothy M. **Flanigan (Flanigan)** from a one-year suspension of his operating privilege pursuant to 75 Pa.C.S. § 1547(b)(1) and reversed the Department. We reverse and reinstate Flanigan's one-year suspension of his operating privilege.

On January 18, 2001, Officer John O'Leary of the Jefferson Hills Police Department (Officer O'Leary) observed Flanigan driving erratically on State Route 51. Officer O'Leary stopped the vehicle, detected an odor of alcohol on Flanigan and observed that **[**2]** his eyes were blood shot and his speech slurred. Flanigan proceeded to fail several field sobriety tests, was

placed under arrest and transported to Jefferson Hospital to have blood drawn for a blood/alcohol test. Flanigan was advised as to where and why he was being taken to the hospital.

While on the way to the hospital, Flanigan advised Officer O'Leary that he suffered from migraine headaches. Officer O'Leary testified that Flanigan's behavior changed severely upon arrival at the hospital. Flanigan had an exaggerated weak walk and was moaning loudly. Flanigan advised Officer O'Leary that he suffered from migraine headaches and that he was **[*526]** on medication for this condition. While Officer O'Leary read Flanigan the chemical test warnings, Flanigan continued to moan and when Officer O'Leary asked him if he understood the warnings, Flanigan looked at him and asked "what." Officer O'Leary again advised him that anything short of submitting to the test would constitute a refusal. Flanigan stated that he was not refusing but that he could not take the test until he took his medicine. Officer O'Leary then advised him that he must submit to the blood test now and that another officer would **[*3]** contact his wife and have her meet them at the police station after the blood test with his medicine. Flanigan still refused to take the blood test until he got his medicine. Officer O'Leary attempted to obtain his consent for 20-25 minutes, then re-cuffed Flanigan and escorted him out of the hospital. On the way out of the hospital, Flanigan went limp and fell to the ground screaming "what are you doing to me." Officer O'Leary picked him up and put him into the police car.

Once at the police station, Officer O'Leary finished processing Flanigan who continued to proclaim that he was not refusing to take the blood test, that he just wanted his medicine first. Flanigan was then released to his wife, who confirmed that he was on prescription medication. However, she produced an empty bottle.

Flanigan testified that the lights at the hospital triggered the symptoms of his condition, chronic cluster migraines. Flanigan stated that his symptoms include severe headaches, an almost epileptic condition and the inability to think straight. Flanigan stated that he told Officer O'Leary that he had a bad headache and asked that he call his wife to get his medicine for him.

The trial court found **[*4]** as follows:

All of the credible evidence clearly proves that Defendant suffered from migraine headaches and that he was suffering from one at the hospital. It is also clear on the record that Officer O'Leary had notice of the Defendant's condition and that while Officer O'Leary elected to ignore the Defendant's condition because of his insistence that the Defendant must play by DOT's rules, the physical symptoms of Defendant's discomfort and his complaints would have made it obvious to any reasonable person that Defendant was in extreme pain and needed his medication....

Nothing in Defendant's conduct was indicative of his refusing to submit to the blood test. O'Leary admits this in his testimony. (T.T. at 20).

It is noteworthy that one of the symptoms in Defendant's condition is that he is unable to "think straight" whenever he experienced this chronic migraine headache. (T.T. at 22& 23). There is no doubt the Defendant was suffering from one of these migraine headaches

whenever the Officer was pressuring him to submit to the test... Defendant's headache certainly was such a physical condition that prevented the Defendant from making such a knowing and conscious **[**5]** refusal.

It is the finding of the Court that Defendant did not refuse to submit to the blood test and that his appeal is, therefore, sustained.

Trial Court Opinion, December 18, 2001, at 4-5.

The Department appeals to our Court contending that the trial court's opinion is not supported by competent evidence, in that Flanigan did not offer competent medical evidence to support his inability to make a knowing and conscious refusal of the blood test or to show that he was **[*527]** physically incapable of having a blood test done. n1

- - - - - Footnotes - - - - -

n1 **HN1** Our review is limited to determining whether the trial court's findings are supported by substantial evidence and whether it committed an error of law or abused its discretion. Department of Transportation, Bureau of Driver Licensing v. Moss, 146 Pa. Commw. 330, 605 A.2d 1279 (Pa. Cmwlth.), petition for allowance of appeal denied, 532 Pa. 648, 614 A.2d 1144 (1992).

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

Section 1547(b)(1) of the Code, commonly referred to as the Implied Consent Law, **[**6]** provides that:

HN2 If any person placed under arrest for a violation of section 3731 (relating to driving under the influence of alcohol or controlled substance) is requested to submit to chemical testing and refuses to do so, the testing shall not be conducted but upon notice by the police officer, the department shall suspend the operating privilege of the person for a period of 12 months.

75 Pa. C.S. § 1547(b)(1).

HN3 To sustain a license suspension under Section 1547(b) of the Code, the Department must demonstrate that the licensee: (1) was arrested for driving under the influence of alcohol; (2) was asked to submit to chemical testing; (3) refused to do so; and (4) was specifically warned that a refusal would result in the suspension of his operating privilege. Carlin v. Department of Transportation, Bureau of Driver Licensing, 739 A.2d 656 (Pa. Cmwlth. 1999), appeal denied, 563 Pa. 678, 759 A.2d 924 (2000). If the Department is able to sustain its burden, the burden then shifts to the licensee to prove that he was physically unable to take the test or that he was incapable of making a knowing and conscience **[**7]** refusal. Department of Transportation, Bureau of Driver Licensing v. Wilhelm, 156 Pa. Commw. 24, 626 A.2d 660 (Pa. Cmwlth. 1993).

HN477 Where a licensee suffers from a medical condition that affects his or her ability to perform a test and that condition is not obvious, a finding that a licensee was unable to take the test for medical reasons must be supported by competent medical evidence. Wright v. Department of Transportation, Bureau of Driver Licensing, 788 A.2d 443 (Pa. Cmwlth. 2001).

Flanigan was not required to produce expert medical evidence to establish that he had chronic cluster migraines, however, such medical evidence was necessary to establish the extent to which his problem prevented him from having the blood test performed on him. See, Wright v. Department of Transportation, Bureau of Driver Licensing, 788 A.2d 443 (Pa. Cmwlth. 2001); Lemon v. Department of Transportation, Bureau of Driver Licensing, 763 A.2d 534 (Pa. Cmwlth. 2000); Ostermeyer v. Department of Transportation, Bureau of Driver Licensing, 703 A.2d 1075 (Pa. Cmwlth. 1997). It was obvious that **Flanigan** had a headache, however, **[**8]** it was not obvious why this headache prevented a technician from drawing blood while **Flanigan** waited for his medication to arrive via his wife. We also note that **Flanigan's** wife brought an empty bottle of the medication to the police station.

The trial court relies on Carlin in developing its decision. Carlin, however, is distinguishable from the present controversy. In Carlin, John A. Carlin (Carlin) was unable to perform the Breathalyzer test due to his need to urinate for over an hour and not being permitted to do so. The question of Carlin not being permitted to urinate is not a medical question at all but was actually a question of whether Carlin was physically incapacitated by his need to urinate.

In the present controversy Flanigan was diagnosed with chronic cluster **[*528]** migraines. The question of whether that diagnosis would prevent him from having his blood drawn before he had his medication is a medical question. As Flanigan failed to present any expert medical evidence on this issue, we are forced to reverse the decision of the trial court.


JIM FLAHERTY, Senior Judge

Judge Smith-Ribner dissents.

ORDER

AND NOW, this 11th day of September, 2002, the order **[**9]** of the Court of Common Pleas of Allegheny County in the above captioned matter is hereby reversed and the one-year suspension of Timothy M. Flanigan's driving privileges imposed by the Department of Transportation is reinstated.

JIM FLAHERTY, Senior Judge







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

Terms: **bureau of driver licensing w/30 flanigan** ([Edit Search](#) | [Suggest Terms for My Search](#))

View: Full

Date/Time: Thursday, September 22, 2005 - 5:29 PM EDT

* Signal Legend:

-  - Warning: Negative treatment is indicated
-  - Questioned: Validity questioned by citing refs
-  - Caution: Possible negative treatment
-  - Positive treatment is indicated
-  - Citing Refs. With Analysis Available
-  - Citation information available

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

CHEMICAL TESTING WARNINGS AND REPORT OF REFUSAL TO SUBMIT TO CHEMICAL TESTING AS AUTHORIZED BY SECTION 1547 OF THE VEHICLE CODE IN VIOLATION SECTION 3802

(relating to driving under the influence of Alcohol or Controlled Substance)

Side 1

NAME			SEX	DATE OF BIRTH		
FIRST	MIDDLE	LAST		MONTH	DAY	YEAR
STEVEN	C.	Aushebaugh	M	2	1	56
ADDRESS: A P.O. Box number may be used in addition to the actual residence address, but cannot be used as the only address.			CITY	STATE	ZIP CODE	
534 W. Locust St. Clearfield			Clearfield	PA	16830	
DRIVER NUMBER		STATE	CHEM TEST REQUEST DATE		SOCIAL SECURITY NUMBER	
17440557		PA	MONTH	DAY	YEAR	
			3	25	04	196449924

SECTION 1547 - CHEMICAL TESTING WARNINGS

1. Please be advised that you are under arrest for driving under the influence of alcohol or controlled substance in violation of Section 3802 of the Vehicle Code.
2. I am requesting that you submit to a chemical test of Blood (blood, breath or urine. Officer chooses the chemical test).
3. It is my duty as a police officer to inform you that if you refuse to submit to the chemical test, your operating privilege will be suspended for at least one year. In addition, if you refuse to submit to the chemical test, and you are convicted of, plead to, or adjudicated delinquent with respect to violating Section 3802(a) of the Vehicle Code, because of your refusal, you will be subject to the more severe penalties set forth in Section 3804(c) of the Vehicle Code, which include a minimum of 72 hours in jail and a minimum fine of \$1,000.00.
4. It is also my duty as a police officer to inform you that you have no right to speak with an attorney or anyone else before deciding whether to submit to testing and any request to speak with an attorney or anyone else after being provided these warnings or remaining silent when asked to submit to chemical testing will constitute a refusal, resulting in the suspension of your operating privilege and other enhanced criminal sanctions if you are convicted of violating Section 3802(a) of the Vehicle Code.

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

Signature of Officer: [Signature]

Date: 8/27/04

I have been advised of the above.

Signature of Motorist: [Signature]

Date: 8/27/04

Motorist refused to sign, after being advised.

Signature of Officer: [Signature]

Date: 8/27/04

Refused in Lab

AFFIDAVIT

1. The above motorist was placed under arrest for driving under the influence of alcohol or a controlled substance in violation of Section 3802 of the Vehicle Code, and there were reasonable grounds to believe that the above motorist had been driving, operating or in actual physical control of the movement of a motor vehicle while under the influence of alcohol or a controlled substance or both.

OR

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

2. The above motorist was requested to submit to chemical testing as authorized by Section 1547 of the Vehicle Code.
3. The above motorist was read by a police officer of the chemical test warnings contained in paragraph 3 and 4 above.
4. The above named motorist refused to submit to chemical testing after having been read the above warnings.

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

Officer Signature: [Signature]

Officer Name: Michael J. Boskovich

(Type or Print)

Badge Number: 12

Jurisdiction: CLEARFIELD BORO. POLICE DEPT.

Mailing Address: 14 S. FRONT ST. CLEARFIELD, PA 16830

Phone: (814) 765-7819

PLEASE LIST NAME, BADGE NUMBER, AND PHONE NUMBER OF ARRESTING OFFICER IF NOT THE SAME OFFICER WHO WITNESSED THE REFUSAL:

Forward to:

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

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

THIS FORM MAY BE DUPLICATED

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

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

STEVEN C. AUGHENBAUGH
Petitioner

vs.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION,
Respondent

No. 24/1582-LD

PETITION FOR REVIEW

Filed on behalf of:

STEVEN C. AUGHENBAUGH,
PETITIONER

Counsel for this party:

RONALD L. COLLINS, ESQUIRE

Supreme Court No. 36744

SOBEL & COLLINS

Attorneys at Law

218 South Second Street

Clearfield, PA 16830

(814)765-5552

FAX (814)765-6210

FILED

O 12:22 PM 2004 to Acty
original + copy to CH
OCT 13 2004

William A. Shaw
Prothonotary

CERTIFICATION



DATE: June 2, 2005

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 09/15/04, effective 10/20/04; 2) Report of Refusal to submit to Chemical Testing dated 08/27/04, seal attached to original; 3) Official Notice of suspension dated & mailed 10/17/00, effective 08/14/01; 4) Report of the Clerk of Courts of CLEARFIELD County, convicted 06/20/00, seal attached to original, and 5) Driving Record, which appears in the file of the defendant STEVEN C. AUGHENBAUGH, operator's no. 17440557, date of birth 02/14/56, 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: SEPTEMBER 15, 2004

STEVEN C AUGHENBAUGH
534 W LOCUST ST
CLEARFIELD PA 16830

WID # 042526187374070 001
PROCESSING DATE 09/08/2004
DRIVER LICENSE # 17440557
DATE OF BIRTH 02/14/1956

Dear MR. AUGHENBAUGH:

This is an **Official Notice of the Suspension** of your Driving Privilege as authorized by Section 1547B1III of the Pennsylvania Vehicle Code. As a result of your violation of Section 1547 of the Vehicle Code, CHEMICAL TEST REFUSAL, on 08/27/2004:

Your driving privilege is **SUSPENDED** for a period of **18 MONTH(S)** effective 10/20/2004 at 12:01 a.m.

COMPLYING WITH THIS SUSPENSION

You must return all current Pennsylvania driver's licenses, learner's permits, temporary driver's licenses (camera cards) in your possession on or before 10/20/2004. You may surrender these items before, 10/20/2004, for earlier credit; however, you may not drive after these items are surrendered.

YOU MAY NOT RETAIN YOUR DRIVER'S LICENSE FOR IDENTIFICATION PURPOSES. However, you may apply for and obtain a photo identification card at any Driver License Center for a cost of \$10.00. You must present two (2) forms of proper identification (e.g., birth certificate, valid U.S. passport, marriage certificate, etc.) in order to obtain your photo identification card.

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

1. Return all current Pennsylvania driver's licenses, learner's permits and/or camera cards to PennDOT. If you do not have any of these items, send a sworn notarized letter stating you are aware of the suspension of your driving privilege. You must specify in your letter why you are unable to return your driver's license. Remember: You may not retain your driver's license for identification purposes. Please send these items to:
Pennsylvania Department of Transportation

41

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

2. Upon receipt, review and acceptance of your Pennsylvania driver's license(s), learner's permit(s), and/or a sworn notarized letter, PennDOT will send you a receipt confirming the date that credit began. If you do not receive a receipt from us within 3 weeks, please contact our office. Otherwise, you will not be given credit toward serving this suspension. PennDOT phone numbers are listed at the end of this letter.
3. If you do not return all current driver license products, we must refer this matter to the Pennsylvania State Police for prosecution under SECTION 1571(a)(4) of the Pennsylvania Vehicle Code.

PAYING THE RESTORATION FEE

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

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

APPEAL

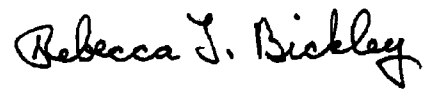
You have the right to appeal this action to the Court of Common Pleas (Civil Division) within 30 days of the mail date, SEPTEMBER 15, 2004, of this letter. **If you file an appeal in the County Court, the Court will give you a time-stamped certified copy of the appeal.** In order for your appeal to be valid, you must send this time-stamped certified copy of the appeal by certified mail to:

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

Remember, this is an **OFFICIAL NOTICE OF SUSPENSION**. You must return all current Pennsylvania driver license products to PennDOT by 10/20/2004.

042526187374070

Sincerely,



Rebecca L. Bickley, Director
Bureau of Driver Licensing

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

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

04050 6187 774070

DL-26 (12-03) **CHEMICAL TESTING WARNINGS AND REPORT OF REFUSAL TO SUBMIT TO CHEMICAL TESTING AS AUTHORIZED BY SECTION 1547 OF THE VEHICLE CODE IN VIOLATION SECTION 3802**
(relating to driving under the influence of Alcohol or Controlled Substance)

Side 1

NAME			SEX	DATE OF BIRTH		
FIRST	MIDDLE	LAST		MONTH	DAY	YEAR
STEVEN	C	Auskenburg	M	2	14	56
ADDRESS: A P.O. Box number may be used in addition to the actual residence address, but cannot be used as the only address.			CITY	STATE	ZIP CODE	
534 W. Locust St. Clear			Clearfield	PA	16830	
DRIVER NUMBER	STATE	CHEM TEST REQUEST DATE		SOCIAL SECURITY NUMBER		
1744057	PA	MONTH	DAY	YEAR	19644924	
		35	14			

SECTION 1547 - CHEMICAL TESTING WARNINGS

1. Please be advised that you are under arrest for driving under the influence of alcohol or controlled substance in violation of Section 3802 of the Vehicle Code.
2. I am requesting that you submit to a chemical test of Blood (blood, breath or urine. Officer chooses the chemical test).
3. It is my duty as a police officer to inform you that if you refuse to submit to the chemical test, your operating privilege will be suspended for at least one year. In addition, if you refuse to submit to the chemical test, and you are convicted of, plead to, or adjudicated delinquent with respect to violating Section 3802(a) of the Vehicle Code, because of your refusal, you will be subject to the more severe penalties set forth in Section 3804(c) of the Vehicle Code, which include a minimum of 72 hours in jail and a minimum fine of \$1,000.00
4. It is also my duty as a police officer to inform you that you have no right to speak with an attorney or anyone else before deciding whether to submit to testing and any request to speak with an attorney or anyone else after being provided these warnings or remaining silent when asked to submit to chemical testing will constitute a refusal, resulting in the suspension of your operating privilege and other enhanced criminal sanctions if you are convicted of violating Section 3802(a) of the Vehicle Code.

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

Signature of Officer: [Signature]Date: 8/27/04

I have been advised of the above.

Signature of Motorist: [Signature]Date: 8/27/04

Motorist refused to sign, after being advised.

Signature of Officer: [Signature]Date: 8/27/04

Refused in Lab

AFFIDAVIT

1. The above motorist was placed under arrest for driving under the influence of alcohol or a controlled substance in violation of Section 3802 of the Vehicle Code, and there were reasonable grounds to believe that the above motorist had been driving, operating or in actual physical control of the movement of a motor vehicle while under the influence of alcohol or a controlled substance or both.

or

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

2. The above motorist was requested to submit to chemical testing as authorized by Section 1547 of the Vehicle Code.
3. The above motorist was read by a police officer of the chemical test warnings contained in paragraph 3 and 4 above.
4. The above named motorist refused to submit to chemical testing after having been read the above warnings.

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

Officer Signature: [Signature]Officer Name: Michael J. Hoskavich

(Type or Print)

Badge Number: 12Jurisdiction: CLEARFIELD Boro. Police Dept.Mailing Address: 145 FRONT ST CLEARFIELD, PA 16830Phone: (412) 765-7819

PLEASE LIST NAME, BADGE NUMBER, AND PHONE NUMBER OF ARRESTING OFFICER IF NOT THE SAME OFFICER WHO WITNESSED THE REFUSAL:

Forward to:
Department of Transportation
Bureau of Driver Licensing
P.O. Box 80037
Harrisburg, PA 17108-0037

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

THIS FORM MAY BE DUPLICATED

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

#2

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Bureau of Driver Licensing
Mail Date: OCTOBER 17, 2000

STEVEN C AUGHENBAUGH
534 W LOCUST ST
CLEARFIELD PA 16830

WID # 002846101413034 001
PROCESSING DATE 10/10/2000
DRIVER LICENSE # 17440557
DATE OF BIRTH 02/14/1956

LICENSE IN BUREAU

Dear MR. AUGHENBAUGH:

This is an Official Notice of the Suspension of your Driving Privilege as authorized by Section 1532B of the Pennsylvania Vehicle Code. As a result of your 06/20/2000 conviction of violating Section 3731 of the Vehicle Code DRIVING UNDER INFLUENCE on 02/14/2000:

- Your driving privilege is SUSPENDED for a period of 1 YEAR(S) effective 08/14/2001 at 12:01 a.m.

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

Additionally, the Court of CLEARFIELD CTY, Court Number 211, Court Term 2000 has sentenced you to serve a prison term for this violation. Pursuant to Section 1541(a.1) of the Vehicle Code, you will not receive credit for this suspension/revocation or any additional suspension/revocation until you complete your prison term. The Court must certify your completion to PennDOT. You may wish to contact your probation officer and/or the Court after your release to make sure that PennDOT is properly notified.

PROVIDING PROOF OF INSURANCE

Within the last 30 days of your suspension, 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.

#3

002846101413034

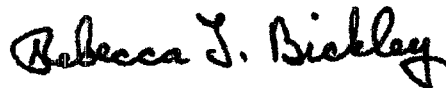
APPEAL

You have the right to appeal this action to the Court of Common Pleas (Civil Division) within 30 days of the mail date, OCTOBER 17, 2000, 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.

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



REPORT OF THE CLERK OF COURTS SHOWING THE CONVICTION OR ACQUITTAL OF ANY VIOLATION OF THE VEHICLE CODE

☐ SUMMARY APPEAL

☐ AMENDED REPORT

☐ DEFENDANT REQUESTS ADDRESS CHANGE

Under Section 6323 of the Vehicle Code, it is mandatory that the Clerk of Courts report all violations of the Vehicle Code.

A DEFENDANT INFORMATION (TYPE OR PRINT CLEARLY)												
NAME								SEX		DATE OF BIRTH		
FIRST		MIDDLE		LAST				M		MONTH	DAY	YEAR
Steven		Carl		Aughenbaugh						02	14	56
ADDRESS (PO Box Number may be used in addition to the actual address, but cannot be used as the only address)												
534 West Locust St.												
CITY				STATE		ZIP CODE		SOCIAL SECURITY NUMBER				
Clearfield				PA		16830		1 9 6 4 4 8 9 2 4				
DRIVER NUMBER				STATE		LICENSE PLATE NUMBER		YEAR		STATE		
17440557				PA		BRH2820		00		PA		
B VIOLATION INFORMATION												
THE VEHICLE CODE				Act of June 17, 1976 P.L. 162 as amended.		SECTION 3731		SUBSECTION a1		CLAUSE		
SENTENCE: Defendant Sentenced to Prison						Offense Occurred While Driving/Transporting						
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Time Served						<input type="checkbox"/> Commercial Vehicle <input type="checkbox"/> Hazardous Material						
DATE OF VIOLATION			DATE OF CONVICTION			DATE OF ACQUITTAL/NOLLE PROSEQUI						
MONTH	DAY	YEAR	MONTH	DAY	YEAR	MONTH	DAY	YEAR				
02	14	00	6	20	00							
CHARGE			VIOLATION COMMITTED			DATE LICENSE OR ACKNOWLEDGMENT SUR-RENDERED TO COURT OR DISTRICT ATTORNEY						
If speed violation, enter traveling speed and legal speed: DRIVING UNDER THE INFLUENCE			(Check One) <input type="checkbox"/> Felony <input type="checkbox"/> Summary <input checked="" type="checkbox"/> Misdemeanor			MONTH 8 DAY 14 YEAR 00						
C SUMMARY APPEAL RESULTS												
THE VEHICLE CODE Act of June 17, 1976 P.L. 162 as amended.												
Original Charge						Amended Charge						
Section Subsection Clause			Date of Violation			COMPLETE ONLY IF FOUND NOT GUILTY OF ORIGINAL CHARGE						
Charge			Citation Number			Section Subsection Clause			Charge			
Guilty			Not Guilty			Guilty			Speed Traveled/Speed Limit			
Month	Day	Year	Month	Day	Year	Month	Day	Year				
D COURT INFORMATION												
COURT OF Common Pleas				COUNTY OF Clearfield								
NUMBER 00-211-CRA				YEAR 2000								
OTN H104989-3												
E SIGNATURE AND DATE CERTIFIED												
THE UNDERSIGNED CERTIFIES THAT THE FOREGOING IS A CERTIFIED RECORD OF A CONVICTION OR ACQUITTAL/NOLLE PROSEQUI												
SEAL 9/25/00												
Clerk of Courts Date Certified												
F ACT 122 TREATMENT REQUIRED (check one)												
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO												
G ACT 122 COMPLIANCE/ACT 151 (check one)												
<input type="checkbox"/> Act 122 Requirements Met												
<input checked="" type="checkbox"/> Act 151 Date Released from Prison												
8/14/00												
DATE												
Certified by Clerk of Courts												
CLERK OF COURTS												
FOR DEPARTMENT USE ONLY												
SEAL 9/25/00												
DATE												

SEE BACK OF THIS FORM FOR INSTRUCTIONS

PENNSYLVANIA DEPARTMENT OF TRANSPORTATION
BUREAU OF DRIVER LICENSING
CERTIFIED DRIVING HISTORY
OCT 22 2004

DRIVER: STEVEN C AUGHENBAUGH
534 W LOCUST ST
CLEARFIELD, PA 16830

DRIVER LICENSE NO : 17440557
DATE OF BIRTH : FEB 14 1956
SEX : MALE
RECORD TYPE : REG LICENSE

DRIVER LICENSE (DL)

LICENSE CLASS : C M
LICENSE ISSUE DATE: NOV 27 2002
LICENSE EXPIRES : FEB 15 2007

MED RESTRICTIONS : NONE
LEARNER PERMITS :
LICENSE STATUS : SUSPENDED

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 : SUSPENDED

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 ***

Hg

REPORT OF VIOLATIONS AND DEPARTMENTAL ACTIONS

VIOLATION DATE:
VIOLATION: VEHICLE CODE: 1785
DESCRIPTION: FAIL TO PROVIDE FR-ACCID
CONVICTION DATE: MAR 14 1985
ACTION: SUSPENSION FOR 3 MONTH(S) EFFECTIVE APR 26 1985
OFFICIAL NOTICE MAILED MAR 21 1985

VIOLATION DATE: JAN 12 1992
VIOLATION: VEHICLE CODE: 1543
DESCRIPTION: DRIVING WHILE SUSP/REVOKE
CONVICTION DATE: DEC 29 1992
ACTION: SUSPENSION FOR 1 YEAR(S) EFFECTIVE FEB 16 1993
OFFICIAL NOTICE MAILED FEB 16 1993

VIOLATION DATE: JAN 12 1992
VIOLATION: VEHICLE CODE: 3731 MAJOR VIOLATION
DESCRIPTION: DRIVING UNDER INFLUENCE
CONVICTION DATE: DEC 29 1992
ACTION: SUSPENSION FOR 1 YEAR(S) EFFECTIVE FEB 16 1994
OFFICIAL NOTICE MAILED FEB 16 1993

ACTION: RESTORATION OF OPERATING PRIVILEGES MAR 28 1995

VIOLATION DATE: JUN 30 1996
VIOLATION: VEHICLE CODE: 3114A1
DESCRIPTION: FLASHING RED LIGHT VIOL
CONVICTION DATE: JUL 05 1996
ACTION: ASSIGNED POINTS

*** CONTINUED ***

CERTIFIED DRIVING HISTORY - OCT 22 2004 - LICENSE NUMBER 17440557 CONTINUED

VIOLATION DATE: FEB 14 2000
VIOLATION: VEHICLE CODE: 1547
DESCRIPTION: CHEMICAL TEST REFUSAL
ACTION: SUSPENSION FOR 1 YEAR(S) EFFECTIVE APR 05 2000
OFFICIAL NOTICE MAILED MAR 01 2000

ACTION: PRIVILEGE RESTORED PENDING APPEAL MAR 21 2000

VIOLATION DATE: FEB 14 2000
VIOLATION: VEHICLE CODE: 1547
DESCRIPTION: CHEMICAL TEST REFUSAL
ACTION: REIMPOSED SUSPENSION FOR 1 YEAR(S)
EFFECTIVE AUG 14 2000
OFFICIAL NOTICE MAILED SEP 20 2000

VIOLATION DATE: FEB 14 2000
VIOLATION: VEHICLE CODE: 3731 MAJOR VIOLATION
DESCRIPTION: DRIVING UNDER INFLUENCE
CONVICTION DATE: JUN 20 2000
ACTION: SUSPENSION FOR 1 YEAR(S) EFFECTIVE AUG 14 2001
OFFICIAL NOTICE MAILED OCT 17 2000

VIOLATION DATE: FEB 14 2000
VIOLATION: VEHICLE CODE: 3361
DESCRIPTION: TOO FAST FOR CONDITIONS
CONVICTION DATE: JUN 20 2000
ACTION: SUSPENSION FOR 10 DAY(S) EFFECTIVE AUG 14 2002
OFFICIAL NOTICE MAILED OCT 17 2000

ACTION: RESTORATION OF OPERATING PRIVILEGES AUG 24 2002

*** CONTINUED ***

CERTIFIED DRIVING HISTORY - OCT 22 2004 - LICENSE NUMBER 17440557 CONTINUED

VIOLATION DATE: AUG 27 2004
VIOLATION: VEHICLE CODE: 1547
DESCRIPTION: CHEMICAL TEST REFUSAL
ACTION: SUSPENSION FOR 18 MONTH(S) EFFECTIVE OCT 20 2004
OFFICIAL NOTICE MAILED SEP 15 2004

REPORT OF MEDICALS AND DEPARTMENTAL ACTIONS

NO MEDICALS OR DEPARTMENTAL ACTIONS DURING THIS REPORTING PERIOD

REPORT OF ACCIDENTS AND DEPARTMENTAL ACTIONS

MOTOR VEHICLE ACCIDENT RECORDS LISTED ON THIS OPERATING REPORT DO NOT INDICATE FAULT FOR THE ACCIDENT. THE RECORD ONLY INDICATES THAT THIS INDIVIDUAL OR THE INDIVIDUAL'S VEHICLE WAS INVOLVED IN AN ACCIDENT ON THE DATE LISTED.

ACCIDENT DATE: NOV 14 1984
LOCATION: INDIANA COUNTY
VEHICLE TYPE: PASSENGER

*** CONTINUED ***

ACCIDENT DATE: JUL 08 1995
LOCATION: BLAIR COUNTY
VEHICLE TYPE: PASSENGER

*** 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 L. Bickley

SEAL

DIRECTOR, BUREAU OF DRIVER LICENSING
FOR
SECRETARY OF TRANSPORTATION

COMMONWEALTH OF PENNSYLVANIA SS:

DATE: OCT 22 2004

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. Biehler

SECRETARY OF TRANSPORTATION

SEAL