

05-379-CD  
Comm. of PA vs. Perry Irwin et al

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Comm. of PA vs. Perry Irwin et al

ATTORNEYS AT LAW  
15 NORTH FRONT STREET  
P. O. BOX 1  
CLEARFIELD, PENNSYLVANIA 16830

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

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION,  
Appellee

vs.

No. 2005-379-cp

PERRY IRWIN, t/d/b/a IRWIN CITGO,  
Appellant

**NOTICE OF APPEAL FROM SUSPENSION**  
**AS OFFICIAL SAFETY INSPECTION STATION/**  
**MOTION FOR SUPERSEDEAS**

NOW COMES, Perry Irwin, t/d/b/a Irwin Citgo, Appellant above named, and by his Attorneys, Belin & Kubista, files his appeal pursuant to 75 Pa.C.S.A. § 4724 (b) and avers as follows:

1. Appellant is the holder of a Certificate of Appointment as an Official Safety Inspection Station and has his principal place of business at 104 Nichols Street, Clearfield, Clearfield County, Pennsylvania, 16830.
2. Appellant has received notification of a suspension from the Commonwealth of Pennsylvania Department of Transportation, said period of suspension being for two (2) months. A true and correct copy of the Order of Suspension is attached hereto, marked Exhibit "A" and incorporated herein by reference as if set forth at length.
3. Appellant believes and therefore avers that the suspension is improper in that there was not a faulty inspection of the vehicle as alleged by the Department of Transportation.

ON<sup>61</sup> C/12  
to

FILED

MAR 17 2005

013:006

William A. Shaw  
Prothonotary/Clerk of Courts

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

COMMONWEALTH OF PENNSYLVANIA :  
DEPARTMENT OF TRANSPORTATION, :  
Appellee :  
: :  
vs. : No. 2005-379-CO  
: :  
PERRY IRWIN, t/d/b/a IRWIN CITGO, :  
Appellant :  
:

**NOTICE OF APPEAL FROM SUSPENSION**  
**AS OFFICIAL SAFETY INSPECTION STATION/**  
**MOTION FOR SUPERSEDEAS**

NOW COMES, Perry Irwin, t/d/b/a Irwin Citgo, Appellant above named, and by his Attorneys, Belin & Kubista, files his appeal pursuant to 75 Pa.C.S.A. § 4724 (b) and avers as follows:

1. Appellant is the holder of a Certificate of Appointment as an Official Safety Inspection Station and has his principal place of business at 104 Nichols Street, Clearfield, Clearfield County, Pennsylvania, 16830.
2. Appellant has received notification of a suspension from the Commonwealth of Pennsylvania Department of Transportation, said period of suspension being for two (2) months. A true and correct copy of the Order of Suspension is attached hereto, marked Exhibit "A" and incorporated herein by reference as if set forth at length.
3. Appellant believes and therefore avers that the suspension is improper in that there was not a faulty inspection of the vehicle as alleged by the Department of Transportation.

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*MAR 17 2005*  
*013-006*  
William A. Shaw  
Prothonotary/Clerk of Courts

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4. Appellant accordingly files this Appeal pursuant to 75 Pa.C.S.A. § 2474 (b) and requests that the matter be scheduled for hearing in accordance therewith.
5. Appellant further requests that the Court grant an Order of Supersedeas to stay the above referenced suspension pending the outcome of this appeal for the following reasons:
  - a. Appellant believes that no faulty inspection took place as alleged, and that the evidence will show that the suspension was improper;
  - b. Appellant's business will be irretrievably harmed should his Certificate of Appointment as an Official Safety Inspection Station be suspended for two (2) months as a substantial portion of his business is the inspection of vehicles;
  - c. If any violation did occur, such violation was of a *de minimis* nature and does not warrant the sanction imposed by the Department.

WHEREFORE, Appellant requests that his Appeal be heard in accordance with the applicable statutes, and that the Court grant an Order of Supersedeas to stay the suspension at issue pending the outcome of this Appeal.

BELIN & KUBISTA



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John R. Ryan  
Attorney for Appellant



**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION  
HARRISBURG, PA 17104**

Perry Irwin  
Irwin Citgo-OIS#D-229  
104 Nichols Street  
Clearfield, PA 16830

Vehicle Inspection Division  
Post Office Box 69003  
Harrisburg, PA 17106-9003  
Phone: (717) 787-2895  
STATION: D-229  
CERTIFIED MAIL: 7099 3400 0001 3558 0767  
**MAIL DATE: 02-17-05**

**ORDER OF SUSPENSION OF OFFICIAL INSPECTION STATION**

You are hereby notified that your Certificate of Appointment as an Official Safety Inspection Station is suspended, pursuant to Section 4724 of the Vehicle Code. No vehicle safety inspections may be performed at your station during the suspension. Pursuant to Departmental regulations, your Certificate of Appointment will be suspended for two (2) months for faulty inspection of equipment or parts (on a 1990 Pontiac Transport Van, Vin-1GMCU06D7LT211982) by you.

The suspension(s) will run consecutively, for a total suspension of two (2) months. This suspension is to run consecutively with any other suspension(s) imposed by the Department for any violation considered separately. **THE SUSPENSION WILL BE EFFECTIVE 40 DAYS FROM THE MAIL DATE OF THIS ORDER.** At the end of the 40 days, you are ordered to surrender to the Quality Assurance Officer, who is a representative of the Department of Transportation, your Certificate(s) of Appointment, and all safety inspection stickers. Two (2) weeks prior to the expiration of your suspension, you may contact your Quality Assurance Officer for reappointment. A complete and thorough investigation may be conducted to determine if you are qualified for reappointment.

You have the right to appeal this Departmental Order of Suspension to the Court of Common Pleas of the County in which the above referenced inspection station is located, **WITHIN THIRTY (30) DAYS OF THE MAIL DATE OF THIS ORDER.** If you do file an appeal, a signed and time-stamped copy of the appeal must be served upon the Department at the mailing address listed below. **FILING OF AN APPEAL DOES NOT AUTOMATICALLY STAY THE SUSPENSION.** In order for your privileges to be restored pending appeal, a signed Order of Supersedeas from the Court directing the Department to stay the suspension must be served upon the Department at the mailing address listed below.

**MAILING ADDRESS:**

Department of Transportation  
Chief Counsel's Office  
Riverfront Office Center  
1101 S Front Street, 3<sup>rd</sup> Floor  
Harrisburg, PA 17104-2416

Sincerely,

A handwritten signature in black ink, appearing to read "Kurt J. Myers".

Kurt J. Myers, Director  
Bureau of Motor Vehicles

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

COMMONWEALTH OF PENNSYLVANIA : NO. 2005 - 379 - C.D.  
DEPARTMENT OF TRANSPORTATION, :  
Appellee : PRAECIPE TO WITHDRAW  
VS. : APPEAL  
PERRY L. IRWIN, t/d/b/a IRWIN CITGO, : Filed on Behalf of:  
Appellant : Appellant, PERRY L. IRWIN,  
 : t/d/b/a IRWIN CITGO  
: Counsel or Record for  
This Party:  
: JOHN R. RYAN, ESQUIRE  
: PA I.D. #38739  
: BELIN & KUBISTA  
: 15 North Front Street  
: P.O. Box 1  
: Clearfield, PA 16830  
: (814) 765-8972

FILED

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William A. Shaw  
Prothonotary/Clerk of Courts  
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA	:	
DEPARTMENT OF TRANSPORTATION,	:	
Appellee	:	
vs.	:	NO. 2005-379-C.D.
PERRY L. IRWIN, t/d/b/a IRWIN CITGO,	:	
Appellant	:	

**PRAECIPE TO WITHDRAW APPEAL**

TO WILLIAM A. SHAW, PROTHONOTARY:

Please withdraw the appeal filed to the above-captioned matter on behalf of PERRY L. IRWIN, t/d/b/a IRWIN CITGO.

BELIN & KUBISTA



John R. Ryan

Attorney for Appellant, PERRY L. IRWIN  
t/d/b/a IRWIN CITGO