

05-1648-CD
Tax Sale In Re: Michael McCabe

In Re: Michael McCabe, Dubois City
2005-1648-CD

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

IN RE: PROPERTY OF MICHAEL J. : NO. 05-1648-CD
McCABE, :
TAX MAP NO. 001-000-00179 : Type of Pleading: PETITION FOR
: STAY OF PRIVATE TAX SALE
: Filed on Behalf of:
: MICHAEL J. McCABE
: Counsel of Record:
: CHRISTOPHER E. MOHNEY, ESQUIRE
: Supreme Court No.: 63494
: 90 BEAVER DRIVE
: SUITE 111-B
: DuBOIS, PA 15801
: (814) 375-1044

FILED 3CC
019:32 (61) OCT 25 2006 Atty Mohney
CJM

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISIONIN RE: PROPERTY OF MICHAEL J. : NO. 05-1648-CD
McCABE, :
TAX MAP NO. 001-000-00179 :FILED 3CC
01/4/06 BOL Atty
OCT 25 2005 Mohney
(in)V. William A. Shaw
Prothonotary/Clerk of CourtsORDER

AND NOW, this 25th day of October, 2005, upon consideration of the forgoing Petition, it is hereby ORDERED that:

1. A Rule is issued upon the Respondent to show cause why the Petitioner is not entitled to the relief requested;
2. The private tax sale scheduled for November 15, 2005, at 9:00 o'clock a.m. in the Tax Claim Bureau, 230 E. Market Street, Clearfield, Pennsylvania, 16830, is STAYED until final determination of Petitioner's claims for relief in the foregoing Petition;
3. The Respondent shall file an Answer to the Petition within twenty (20) days of service upon the Respondent;
4. The Petition shall be decided under Pa. R.C.P. 206.7;
5. An evidentiary hearing on disputed issues of material fact shall be held on the 18th day of November, 2005, at 3:00 o'clock P.m., in Courtroom No. 1, of the Clearfield County Courthouse;
6. Notice of the entry of this Order shall be provided to the Tax Claim Bureau by Christopher E. Mohney, Esquire, counsel for Petitioner, Michael J. McCabe, and on the unknown purchaser by the Tax Claim Bureau.

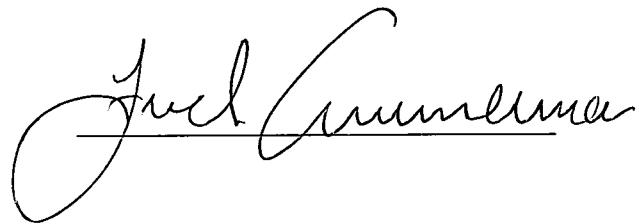
NOTICE

A PETITION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE MATTER SET FORTH IN THE FOLLOWING PETITION, YOU MUST ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE AN ANSWER IN WRITING WITH THE PROTHONOTARY SETTING FORTH YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU AND SERVE A COPY ON THE ATTORNEY OR PERSON FILING THE PETITION. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR THE RELIEF REQUESTED BY THE PETITIONER. YOU MAY LOSE RIGHTS IMPORTANT TO YOU.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator
Clearfield County Courthouse
Second & Market Streets
Clearfield, PA 16830
(814) 765-2641 (Ext. 50-51)

BY THE COURT:

A handwritten signature in black ink, appearing to read "Judge Grumley", is written over a horizontal line.

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

IN RE: PROPERTY OF MICHAEL J. : NO.
McCABE, :
TAX MAP NO. 001-000-00179 :

PETITION FOR STAY OF PRIVATE TAX SALE

AND NOW, comes your Petitioner, MICHAEL J. McCABE, by his attorney, CHRISTOPHER E. MOHNEY, ESQUIRE, and files the following Petition for Stay of Private Tax Sale, and respectfully represents as follows:

1. Michael J. McCabe and Dorothy O. McCabe are the record owners of property identified on the tax rolls as Map No. 7.2-001-000-00179, located in the City of DuBois, Clearfield County, Pennsylvania, and being more commonly known as 36-36½-36¾ E. Long Avenue, DuBois, Pennsylvania, 15801.
2. The real estate taxes for the years 2001 through 2004, inclusive are currently owing.
3. The subject property was previously exposed to public tax sale, with no person bidding the upset price.
4. The amount of back taxes currently owing on the property are Ten Thousand Two Hundred Thirty-Seven Dollars Sixty Cents (\$10,237.60).
5. Your Petitioner has been notified by the Tax Claim Bureau that it has received and accepted a bid of Four Thousand Five Hundred Dollars (\$4,500.00) for the subject property, for which a private sale has been scheduled for November 15, 2005, at 9:00 o'clock a.m., in the Tax Claim Bureau, 230 E. Market Street, Clearfield, Pennsylvania, 16830.

6. Dorothy O. McCabe is deceased, vesting title to the subject premises in your Petitioner by operation of Pennsylvania law, as a surviving tenant by the entirety.
7. Your Petitioner is prepared to pay the Tax Claim Bureau Ten Thousand Two Hundred Thirty-Seven Dollars Sixty Cents (\$10,237.60), the amount of back taxes due, an amount more than double the private bid accepted by the Tax Claim Bureau.
8. The assessed value of the property on the tax rolls is Fifteen Thousand Six Hundred Fifty Dollars (\$15,650.00).
9. The current common level ratio for Clearfield County from July 1, 2005, through June 30, 2006, is 5.13.
10. The fair market value, based on tax assessed value is Eighty Thousand Two Hundred Eighty-Four Dollars Fifty Cents (\$80,284.50).
11. The Petitioner is prepared to pay all of the back taxes, and Petitioner further respectfully submits that a bid of Four Thousand Five Hundred Dollars (\$4,500.00) on a property with a fair market value, by tax assessment calculations, of Eighty Thousand Two Hundred Eighty-Four Dollars Fifty Cents (\$80,284.50) is grossly inadequate and is insufficient as a matter of law.
12. Your Petitioner presently resides in Derry, Pennsylvania, and therefore, has not gotten all necessary notices from the Tax Claim Bureau, or has been unable to pay the tax notices for the reason that your Petitioner is a dentist, but had to prematurely retire from the practice of dentistry by virtue of an arthritic condition in his hands, and your Petitioner has been unable to generate sufficient income to pay the taxes as they become due.

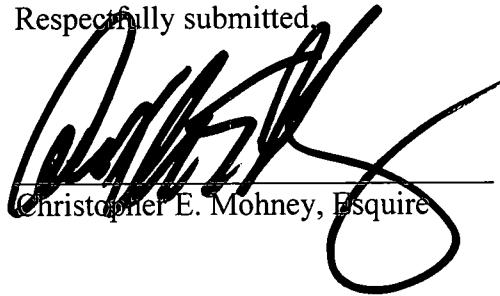
13. Retaining ownership of the subject property at this time is exceedingly important to Petitioner, insofar that Petitioner may be able to utilize the subject property for rental income.

WHEREFORE, your Petitioner respectfully requests that this Honorable Court enter an Order as follows:

1. Staying the private sale proceeding schedule to occur on November 15, 2005, at 9:00 o'clock a.m. in the Tax Claim Bureau, 230 E. Market Street, Clearfield, Pennsylvania, 16830;
2. Schedule an Evidentiary Hearing at which time the Court may accept evidence from the parties in interests; and such other information as the Court may require;
3. Such other relief as this Court deems appropriate.

Respectfully submitted,

By:

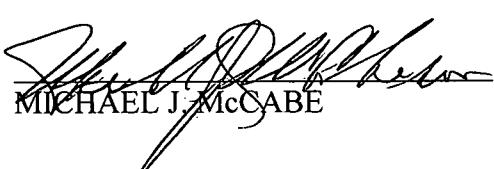

Christopher E. Mohney, Esquire

VERIFICATION

I, MICHAEL J. McCABE, being duly authorized to make this Verification, have read the foregoing Petition for Stay of Private Tax Sale. The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn fabrication to authorities, which provides if I make knowingly false averments I may be subject to criminal penalties.

Date: Oct. 18, 2005



MICHAEL J. McCABE

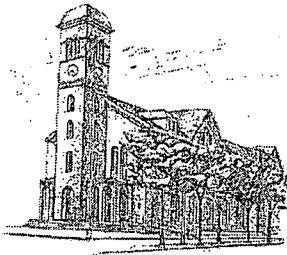
FILED

OCT 25 2005

William A. Shaw
Notary/Clerk of Courts

LAW OFFICES
CHRISTOPHER E. MOHNEY

90 BEAVER DRIVE - SUITE 111B
DUBOIS, PA 15801
(814) 375-1044



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw

Prothonotary/Clerk of Courts

David S. Ammerman

Solicitor

Jacki Kendrick

Deputy Prothonotary

Bonnie Hudson

Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

You are responsible for serving all appropriate parties.

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

Plaintiff(s)/Attorney(s)

Defendant(s)/Attorney(s)

Other

Special Instructions:

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

IN RE: PROPERTY OF MICHAEL J.
McCABE,
TAX MAP NO. 001-000-00179

NO. 05-1648-CD

Type of Pleading: PETITION FOR
STAY OF PRIVATE TAX SALE

Filed on Behalf of:
MICHAEL J. McCABE

Counsel of Record:
CHRISTOPHER E. MOHNEY, ESQUIRE

Supreme Court No.: 63494

90 BEAVER DRIVE
SUITE 111-B
DuBOIS, PA 15801
(814) 375-1044

orig to CJA
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OCT 25 2005 Atty Mohney
William A. Shaw
Prothonotary/Clerk of Courts

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

IN RE: PROPERTY OF MICHAEL J. : NO. 05-1648-C.D.
McCABE, :
TAX MAP NO. 001-000-00179 : Type of Pleading:
: CERTIFICATE OF SERVICE
: Filed on Behalf of:
: MICHAEL J. McCABE
: Counsel of Record:
: CHRISTOPHER E. MOHNEY, ESQUIRE
: Supreme Court No.: 63494
: 90 BEAVER DRIVE
: SUITE 111-B
: DuBOIS, PA 15801
: (814) 375-1044

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William A. Shaw
Prothonotary/Clerk of Courts

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

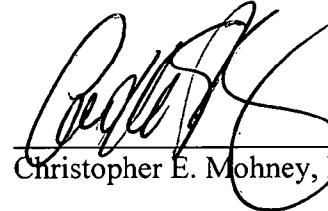
IN RE: PROPERTY OF MICHAEL J. : NO. 05-1648-C.D.
McCABE, :
TAX MAP NO. 001-000-00179 :

CERTIFICATE OF SERVICE

I, Christopher E. Mohney, Esquire, do hereby certify that on this 31st day of ~~November~~^{October}, 2005, I caused to be served by First Class United States Mail, postage prepaid, certified copy of the Petition for Stay of Private Tax Sale and Order on the following:

Mary Anne Wesdock, Director
Clearfield County Tax Claim Bureau
230 E. Market Street
Suite 121
Clearfield, PA 16830

By:


Christopher E. Mohney, Esquire

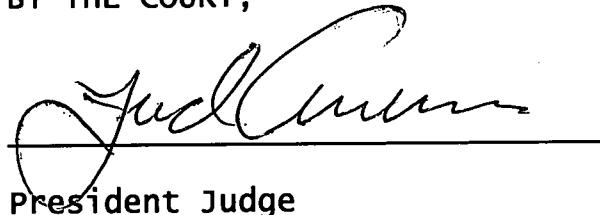
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

IN RE: :
PROPERTY OF MICHAEL J. :
MCCABE, TAX MAP NO. :
001-000-00179 : No. 05-1648-CD

O R D E R

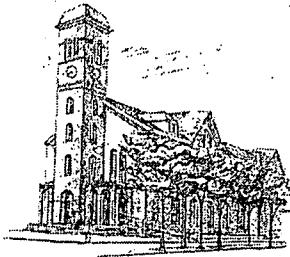
NOW, this 18th day of November, 2005, this being the date set for argument relative the Petition for Stay of Private Tax Sale, it is the ORDER of this Court that counsel supply the Court with appropriate brief within no more than six (6) days from this date.

BY THE COURT,



President Judge

FILED 2005 *Atty Mohney*
of 4:00PM NOV 21 2005 *Courtesy CCs:*
NOV 21 2005 *WAS* *K. Kneser*
William A. Shaw
Prothonotary/Clerk of Courts
Tax Claim



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

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Sincerely,

William A. Shaw
Prothonotary

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Plaintiff(s)/Attorney(s)

Defendant(s)/Attorney(s)

Other

Special Instructions:

CA

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

IN RE: PROPERTY OF *
MICHAEL J. MC CABE * NO. 05-1648-CD
TAX MAP NO. 001-000-00179 *

O R D E R

NOW, this 23rd day of November, 2005, after hearing held on November 18, 2005, with the Petitioner, the Clearfield County Tax Claim Bureau and Julie Stewart appearing, it is hereby ORDERED and DECREED, in accordance with 72 P.S. 5860.613 that the proposed private sale to David and Julie Stewart be and is hereby disapproved and the assessed property shall be sold by the Clearfield County Tax Claim Bureau at an auction sale among the parties at a date and time scheduled by the Clearfield County Tax Claim Bureau. The minimum bid at such sale shall be Ten Thousand Five Hundred Forty Seven Dollars and Seven Cents (\$10, 547.07).

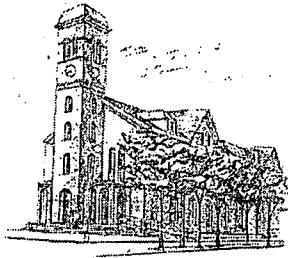
BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED
01/23/2006
NOV 29 2005
William A. Shaw
Prothonotary/Clerk of Courts
ICC Clfd Co. Tax
Claim
Atty Mohrley
Atty Kesner
Atty Wimer
ICC

(GK)



Clearfield County Office of the Prothonotary and Clerk of Courts

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Defendant(s)/Attorney(s)

Other

Special Instructions:

Prothonotary served Attorney Mohney, Attorney Kesner,
and Clfd. Co. Tax Claim