

06-604-CD
Comm of PA vs Kenneth J. Baxter

2006-604-CD
Comm of PA vs Kenneth J. Baxter

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

COMMONWEALTH OF PENNSYLVANIA

VS.

KENNETH J. BAXTER

*
*
*
* No. 06 - 604 - CD

*
* PETITION TO RESTORE
* OPERATOR'S LICENSE and
* ORDER

*
* Filed on behalf of:
* Petitioner

*
* Counsel of Record for
* this party:

*
* James A. Naddeo, Esquire
* 207 East Market Street
* PO Box 552
* Clearfield, PA 16830
* (814) 765-1601

FILED, cc Atty. Naddeo
0/10/43
APR 19 2000

William A. Shaw
Prothonotary

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

COMMONWEALTH OF PENNSYLVANIA

*

vs.

*

No. 06 - 604 - CD

*

KENNETH J. BAXTER

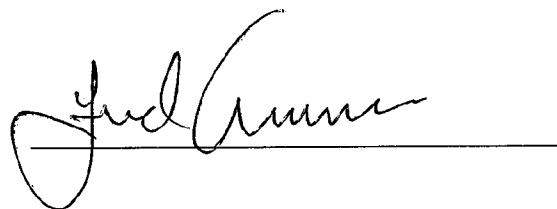
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ORDER

AND NOW, this 19th day of April, 2006, upon consideration of the Petition of Kenneth J. Baxter, it is the ORDER of this Court that the disqualification of Petitioner's commercial driver's license be suspended pending hearing upon Petitioner's appeal filed on the 19th day of April, 2006.

It is the further Order of this Court that Petitioner be permitted to continue to operate a commercial or passenger vehicle until further Order of this Court.

BY THE COURT



FILED

APR 20 2006
8/3/06/wm (60)
William A. Shaw
Prothonotary/Clerk of Courts
1 CEN to ATT

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

COMMONWEALTH OF PENNSYLVANIA

*

vs.

*

* No. 06 - - CD

*

KENNETH J. BAXTER

*

*

PETITION TO RESTORE OPERATOR'S LICENSE

1. The Petitioner is Kenneth J. Baxter who resides at
Henrietta Street, Box 227, Ramey, PA 16671.

2. The Petitioner has been issued Pennsylvania
Driver's License Number 19-207-814.

3. By letter dated March 22, 2006, Petitioner was
advised that his driving privileges were being disqualified for
Driving CMV without CDL. A copy of said letter is attached as
Exhibit "A".

4. Petitioner had a valid CDL license issued by the
Commonwealth of Pennsylvania on the date of his alleged violation.

5. The Notice attached hereto as Exhibit "A" requires
Petitioner to relinquish his CDL license on or before April 21,
2006.

6. Your Petitioner believes that the disqualification
of his operating privileges by the Commonwealth of Pennsylvania is
improper.

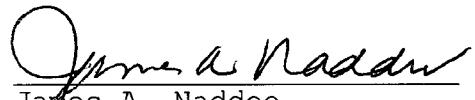
7. Petitioner is a professional driver of a commercial
vehicle.

8. The suspension of Petitioner's license will result in a total loss of income for the period of disqualification.

9. Petitioner has filed an appeal from disqualification contemporaneously with this Petition.

WHEREFORE, Petitioner respectfully requests that your Honorable Court enter an order directing that a supersedes be entered and granting Petitioner the right to operate a commercial vehicle pending a resolution of the appeal filed contemporaneously herewith.

Respectfully submitted,



James A. Naddeo
Attorney for Petitioner

(19-207-814)
DT NO

(2-22-06)
STOPPED IN Bronx

cell

592-6404

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Bureau of Driver Licensing
Harrisburg, PA 17123
MARCH 22, 2006

KENNETH J BAXTER
HENRIETTA STREET
BOX 227
RAMEY PA 16671

WID # 060749253693862 001
PROCESSING DATE 03/15/2006
DRIVER LICENSE # 19207814
DATE OF BIRTH 02/14/1961

1550 P 2

Dear Motorist:

As a result of your conviction, entry into a pre-adjudication program, or administrative adjudication on 03/08/2006 of violating Section 1606A of the Vehicle Code, DRIVING CMV WITHOUT CDL on 12/06/2005, your privilege to drive a commercial motor vehicle is being disqualified for a period of 6 MONTH(S) as mandated by Section 1611F of the Vehicle Code.

The effective date of disqualification is 04/26/2006, 12:01 a.m.

In order to comply with this sanction you are required to return any current driver's license, learner's permit and/or temporary driver's license (camera card) in your possession no later than the effective date listed. If you cannot comply with the requirements stated above, you are required to submit a DL16LC Form or a sworn affidavit stating that you are aware of the sanction against your driving privilege. Failure to comply with this notice shall result in this Bureau referring this matter to the Pennsylvania State Police for prosecution under SECTION 1571(a)(4) of the Vehicle Code.

Although the law mandates that your driving privilege is under suspension even if you do not surrender your license, credit will not begin until all current driver's license product(s), the DL16LC Form, or a letter acknowledging your sanction is received in this Bureau.

WHEN THE DEPARTMENT RECEIVES YOUR LICENSE OR ACKNOWLEDGEMENT, WE WILL SEND YOU A RECEIPT. IF YOU DO NOT RECEIVE THIS RECEIPT WITHIN 15 DAYS CONTACT THE DEPARTMENT IMMEDIATELY. OTHERWISE, YOU WILL NOT BE GIVEN CREDIT TOWARD SERVING THIS SANCTION.

Exhibit "A"

060749253693862

Please see the enclosed application for restoration fee information.

While your commercial driving privilege is disqualified, the Vehicle Code permits a driver to obtain a noncommercial Class C or M license, if the driver possesses the motorcycle qualification, to drive noncommercial motor vehicles. If you wish to obtain this license, please complete the enclosed application as instructed and return it to the Department.

Please be aware that if you elect to obtain this noncommercial Class C or M license, you are still prohibited from operating a commercial motor vehicle. If you do so, you are subject to additional penalties, including possible lifetime disqualification of your commercial driving privilege.

You have the right to appeal the Department's action to the Court of Common Pleas (Civil Division) within 30 days of the mail date (MARCH 22, 2006) of this notice. You must still send in your license before the effective date of disqualification unless you appear in person before a Judge and receive an order permitting you to continue to drive. **PLEASE NOTE** that this Civil Appeal is in addition to any appeal you have to file from the criminal conviction.

AFTER THE APPEAL HAS BEEN FILED IN THE COUNTY COURT, A TIME-STAMPED CERTIFIED COPY OF THE APPEAL MUST BE SENT BY CERTIFIED MAIL TO:

PENNSYLVANIA DEPARTMENT OF TRANSPORTATION
OFFICE OF CHIEF COUNSEL
THIRD FLOOR, RIVERFRONT OFFICE CENTER
HARRISBURG, PA. 17104

Sincerely,



Janet L. Dolan, Acting Director
Bureau of Driver Licensing

060749253693862

SEND FEE/LICENSE/DL-16LC/TO:
Department of Transportation
Bureau of Driver Licensing
P.O. Box 68693
Harrisburg, PA 17106-8693

INFORMATION (8:00 AM TO 6:00 PM)
IN STATE 1-800-932-4600
OUT-OF-STATE 717-412-5300
TDD IN STATE 1-800-228-0676
TDD OUT-OF-STATE 717-412-5380

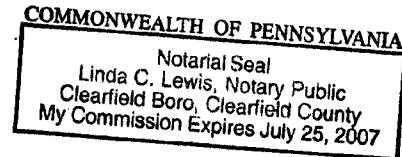
COMMONWEALTH OF PENNSYLVANIA)
ss.
COUNTY OF CLEARFIELD)

Before me, the undersigned officer, personally appeared KENNETH J. BAXTER, who being duly sworn according to law, depose and state that the facts set forth in the foregoing Appeal are true and correct to the best of his knowledge, information and belief.

Kenneth J. Baxter
Kenneth J. Baxter

SWORN and SUBSCRIBED before me this 3rd day of April, 2006.

Linda C. Lewis



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

COMMONWEALTH OF PENNSYLVANIA

vs.

KENNETH J. BAXTER

*
*
*
* No. 06 - 604 - CD

* **AFFIDAVIT OF SERVICE**

*
* Filed on behalf of:
* Petitioner

*
* Counsel of Record for
* this party:

*
* James A. Naddeo, Esquire
* 207 East Market Street
* PO Box 552
* Clearfield, PA 16830
* (814) 765-1601
*

FILED

APR 28 2006

0/3/06 (WAF)
William A. Shaw
Prothonotary/Clerk of Courts

W/C

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

COMMONWEALTH OF PENNSYLVANIA, *

2

v.

NO. 06 - 604 - CD

2

KENNETH J. BAXTER,

2

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA)
)
 COUNTY OF CLEARFIELD)
)

James A. Naddeo, Esquire, being duly sworn according to law, deposes and states that a certified copy of the Appeal from Suspension of Operator's License and Petition to Restore Operator's License and Order filed in the above-captioned action was served upon the Commonwealth of Pennsylvania, by first-class mail, return receipt requested on April 21, 2006, at the address of PA Department of Transportation, Office of Chief Counsel, Third Floor, Riverfront Office, Harrisburg, Pennsylvania 17104 as appears from the receipt of Certified Mail attached hereto.

James A. Naddeo
Attorney for Kenneth J. Baxter

James A. Naddeo

Attorney for Kenneth J. Baxter

SWORN and SUBSCRIBED before me this 28th day of April, 2006.

Linda C. Lewis

SENDER: COMPLETE THIS SECTION

- 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.

1. Article Addressed to:

PA Dept of Transportation
Office of Chief Counsel
Third Floor, Riverfront Office
Harrisburg, PA 17104

COMPLETE THIS SECTION ON DELIVERY

A. Signature

**Commonwealth of Pennsylvania
Department of Transportation** Agent
 Addressee

B. Received by (Printed Name)

APR 21 2006 APR 21 2006

C. Date of Delivery

D. Is delivery address different from item 1? Yes**OFFICE OF CHIEF COUNSEL**

If yes, enter delivery address below:

Vehicle & Traffic Law Division**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.

4. Restricted Delivery? (Extra Fee) Yes**2. Article Number**

(Transfer from service label)

7003 1680 0005 6736 6598

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

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

COMMONWEALTH OF PENNSYLVANIA :
DEPARTMENT OF TRANSPORTATION :
vs. : No. 06-604-CD
KENNETH J. BAXTER :
:

ORDER

AND NOW, this 7 day of August, 2006, it is the ORDER of the Court that hearing on Defendant's License Suspension Appeal in the above matter has been scheduled for Tuesday, September 26, 2006 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 this hearing will be heard.

FILED

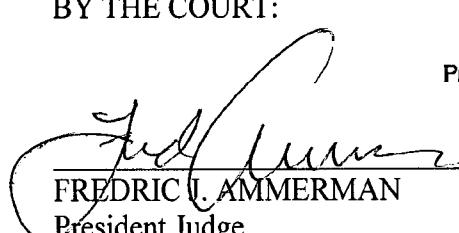
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William A. Shaw
Prothonotary/Clerk of Courts

2 cent to

Commonwealth
Atty Nancso


FREDRIC L. AMMERMAN
President Judge

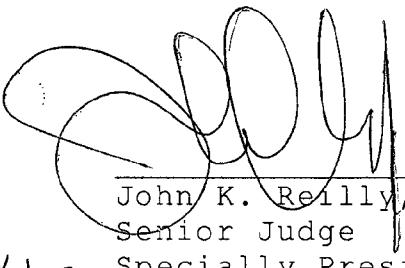
IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA *
DEPARTMENT OF TRANSPORTATION *
vs. *
KENNETH J. BAXTER * NO. 06-~~156~~¹⁶⁰⁴-CD

ORDER OF COURT

NOW, this 26th day of September, 2006, this
being the day and date set for hearing into the above-
captioned appeal from license suspension, upon agreement
of the parties IT IS THE ORDER OF THIS COURT that said
appeal be and is hereby dismissed, and it is recommended
that said suspension take place six months from date
hereof.

BY THE COURT:



John K. Reilly, Jr.
Senior Judge
Specially Presiding

FILED

09/28/2006 1cc Atty Kuhar
SEP 28 2006 2cc Atty Nadeo

William A. Shaw
Prothonotary/Clerk of Courts

FILED

SEP 28 2006

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 9/28/06

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 Other
 Special Instructions:

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

COMMONWEALTH OF PENNSYLVANIA

vs.

KENNETH J. BAXTER

No. 06 - 604 - CD

**APPEAL FROM SUSPENSION OF
OPERATOR'S LICENSE**

Filed on behalf of:
Petitioner

Counsel of Record for
this party:

James A. Naddeo, Esquire
207 East Market Street
PO Box 552
Clearfield, PA 16830
(814) 765-1601

FILED

0/10-43 Cr ICC Atty Nadded
pd \$85.00 Atty
APR 19 2008 (S)

William A. Shaw
Prothonotary

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

COMMONWEALTH OF PENNSYLVANIA

*

vs.

*

No. 06 - - CD

*

KENNETH J. BAXTER

*

APPEAL FROM SUSPENSION OF OPERATOR'S LICENSE

1. The Petitioner is Kenneth J. Baxter who resides at
Henrietta Street, Box 227, Ramey, PA 16671.

2. The Petitioner has been issued Pennsylvania
Driver's License Number 19-207-814.

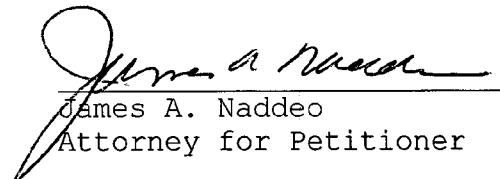
3. By letter dated March 22, 2006, Petitioner was
advised that his driving privileges were being disqualified for
Driving CMV without CDL. A copy of said letter is attached as
Exhibit "A".

4. That Petitioner had a valid CDL license issued by
the Commonwealth of Pennsylvania on the date of his alleged
violation.

5. The suspension of Petitioner's driving privilege
by the Commonwealth of Pennsylvania is improper.

WHEREFORE, Petitioner requests Your Honorable Court to
enter an Order setting aside the suspension.

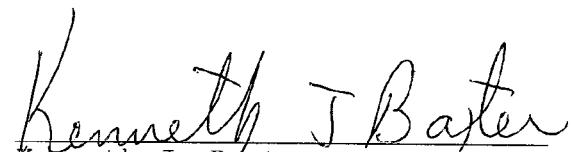
Respectfully submitted,



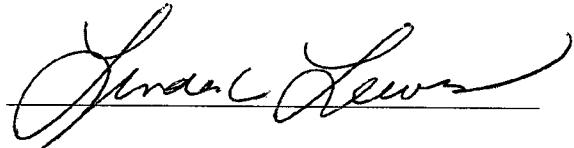
James A. Naddeo
Attorney for Petitioner

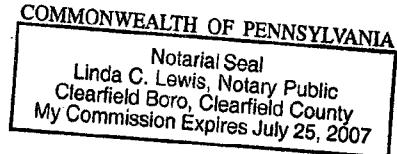
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 ss.
COUNTY OF CLEARFIELD)

Before me, the undersigned officer, personally appeared KENNETH J. BAXTER, who being duly sworn according to law, depose and state that the facts set forth in the foregoing Appeal are true and correct to the best of his knowledge, information and belief.


Kenneth J. Baxter

SWORN and SUBSCRIBED before me this 3rd day of April, 2006.





(19-207-814)
DT NO

(2-22-06)
Stopped in Bronx

cell

592-6406

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Bureau of Driver Licensing
Harrisburg, PA 17123
MARCH 22, 2006

KENNETH J BAXTER
HENRIETTA STREET
BOX 227
RAMEY PA 16671

WID # 060749253693862 001
PROCESSING DATE 03/15/2006
DRIVER LICENSE # 19207814
DATE OF BIRTH 02/14/1961

1550 b 2

Dear Motorist:

As a result of your conviction, entry into a pre-adjudication program, or administrative adjudication on 03/08/2006 of violating Section 1606A of the Vehicle Code, DRIVING CMV WITHOUT CDL on 12/06/2005, your privilege to drive a commercial motor vehicle is being disqualified for a period of 6 MONTH(S) as mandated by Section 1611F of the Vehicle Code.

The effective date of disqualification is 04/26/2006, 12:01 a.m.

In order to comply with this sanction you are required to return any current driver's license, learner's permit and/or temporary driver's license (camera card) in your possession no later than the effective date listed. If you cannot comply with the requirements stated above, you are required to submit a DL16LC Form or a sworn affidavit stating that you are aware of the sanction against your driving privilege. Failure to comply with this notice shall result in this Bureau referring this matter to the Pennsylvania State Police for prosecution under SECTION 1571(a)(4) of the Vehicle Code.

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PENNSYLVANIA DEPARTMENT OF TRANSPORTATION
OFFICE OF CHIEF COUNSEL
THIRD FLOOR, RIVERFRONT OFFICE CENTER
HARRISBURG, PA. 17104

Sincerely,



Janet L. Dolan, Acting Director
Bureau of Driver Licensing

060749253693862

SEND FEE/LICENSE/DL-16LC/TO:
Department of Transportation
Bureau of Driver Licensing
P.O. Box 68693
Harrisburg, PA 17106-8693

INFORMATION (8:00 AM TO 6:00 PM)
IN STATE 1-800-932-4600
OUT-OF-STATE 717-412-5300
TDD IN STATE 1-800-228-0676
TDD OUT-OF-STATE 717-412-5380