

06-834-CD

Michael Shelow vs Comm of PA

Michael Shelow vs Comm of PA
2006-834-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MICHAEL SHELOW

Plaintiff

Vs.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION
Defendants

CIVIL DIVISION

No. 06 - 834 - CD

PETITION FOR HEARING ON
SUPERCEDES

Filed on Behalf of:

Plaintiff, MICHAEL SHELOW

Counsel of Record for This
Party:

PAUL COLAVECCHI, ESQUIRE
Pa. I.D. #83274

COLAVECCHI & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

FILED
3:50 P.M. 6K
MAY 25 2006
cc TO ATTY
William A. Shaw
Prothonotary/Clerk of Courts

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

MICHAEL SHELOW :
Petitioner :
:
vs. : No. 06 - - CD
:
COMMONWEALTH OF PENNSYLVANIA :
DEPARTMENT OF TRANSPORTATION :
Respondent :

PETITION FOR HEARING ON SUPERCEDES

1. Petitioner is Michael Shelow of 500 Brisbin Street, Houtzdale, Pennsylvania, 16651.

2. Petitioner was notified by the Commonwealth of Pennsylvania, Department of Transportation, by letter dated May 12, 2006 that his driving privilege is being suspended as of June 2, 2006.

3. The Commonwealth cited that medical information had been received which indicated that Petitioner has a seizure disorder condition which prevents him from safely operating a motor vehicle.

4. Petitioner has filed an Appeal on this date, and has alleged that he has not been diagnosed with a seizure disorder condition and has never seen any medical documentation that sets forth any such condition.

Further, Petitioner alleged that he has been treated by Joseph D. Clark, M.D. of Blair Medical Associates, and was advised by Dr. Clark that the episode in question was not a frank epileptic seizure. A copy of said medical report being attached hereto marked Exhibit "A".

Petitioner requests at this time that a supersedes be entered so that he may operate his motor vehicle pending a hearing on the Appeal of his Driver's License Suspension.

6. Petitioner files this Petition for a hearing pursuant to Section 1550 of the Pennsylvania Motor Vehicle Code which sets forth that an Appeal shall not act as a supersedes if the suspension is based on reasons set forth in Section 1519.

7. Section 1550 sets forth that the Appeal shall not act as a supersedes unless Ordered by the Court after hearing attended by Petitioner.

8. Petitioner requests that the Court conduct a hearing and determine whether a supersedes has been entered so that Petitioner can operate a motor vehicle pending the Appeal.



PAUL COLAVECCHI, ESQUIRE
Attorney for Plaintiff
221 East Market Street
Clearfield, PA 16830

LAW OFFICES OF
COLAVECCHI
& COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

MAY 22, 2006

Blair Medical Associates - Medical Records

1414 9th Avenue Altoona, PA 16602

814-946-1655 Fax: 814-949-7616

May 5, 2006

Page 1

Chart Document

MICHAEL SHELOW

Male DOB: 12/29/1983 2331070000 MRN: 2331070000

Home: (814)378-8546

Ins: DEPARTME (MCD)

05/03/2006 - Office Visit: New Patient Visit rm 1**Provider: Joseph D Clark MD****Location of Care: Blair Medical Associates - Neurology****Vital Signs**

Weight: 218 pounds

Pulse rate: 72

Cuff Size: Small Cuff

Blood Pressure: 126/90 mm Hg

Allergies reviewed, no changes

Nursing Comments New pt here for seizure. States he suffers from anxiety attacks. Recovering from marijuana use and heroin use. Now in a methadone clinic daily. >>>Jessica Wisor LPN May 3, 2006 9:07 AM**History of Present Illness**

Chief Complaint: seizures

History of Present Illness: 22 yo male right handed

ex-heroin addict

multiple different med abuses in the past.

currently in a methadone clinic

recently had a seizure.

stood up to quick, sleep deprived.

started to walk then had a "wicked" head rush then fell to the ground.

little brother (10 yo) said that he was on the ground shaking.

also seen by his mother, said he was shaking.

lasted 5-10 minutes, does not remember any of this.

no other passing out spells

EEG normal

mri done and called normal

ct also was normal

Past, Surgical,Social, and Family History

Past History (reviewed - no changes required): drug abuse

Past surg hx: reviewed - no changes required

Review of Systems

Neurologic: Complains of see HPI.

General: Denies fevers, chills, excessive weight gain or loss.

EXHIBIT "A"

MICHAEL SHELOW

Male DOB: 12/29/1983 2331070000 MRN: 2331070000

Home: (814)378-8546

Ins: DEPARTME (MCD)

Ears/Nose/Throat: Denies hearing loss, buzzing in the ear, chronic sore throat, nose bleeds.**Cardiovascular:** Denies chest pain, heart murmur, history of rheumatic fever, palpitations.**Respiratory:** Denies shortness of breath, emphysema, bronchitis, pneumonia, asthma, tuberculosis, persistent cough, coughing up blood.**Gastrointestinal:** Denies abdominal pain, heartburn, indigestion, nausea, vomiting, difficulty swallowing, stomach problem, gallbladder problem, bowel problem, rectal bleeding, hemorrhoids, jaundice, unable to control evacuation.**Genitourinary:** Denies bladder or kidney stones or infection, venereal disease, frequent painful or difficult urination, unable to control urination.**Musculoskeletal:** Denies arthritis, gout, bursitis, circulation problems, varicose veins, blood clots, back pain.**Skin:** Denies skin rash, excessive sweating, breast pain, breast discharge.**Psychiatric:** Denies anxiety, depression, psychosis, nervous breakdowns.**Endocrine:** Denies thyroid disease, diabetes, unusual thirst.**Heme/Lymphatic:** Denies enlarging lumps, excessive bleeding, slow healing.**Physical Exam Neurology****General Exam****Neck** supple**Carotid Bruit:** no bruits**Thyroid:** No thyromegaly**Heart exam:** rate and rhythm is regular; S1 and S2 without murmurs**Lungs:** clear**Extremities:** reveal no clubbing, cyanosis, or edema**General Appearance:** well developed, well nourished, and in no acute distress**Mental Status Exam****Orientation:** oriented to person, place, and time**Language:** fluent, not dysarthric, non-aphasic**Atten/concentrat:** awake and alert**Memory:** remembers 3 of 3**Fund of Knowledge:** normal**Additional Findings:** flat affect, glassy eyed**Cranial Nerves****CN 2:** No papilledema. Visual fields full.**CN 3,4,6 (EOM):** PERRLA. EOMI without nystagmus or double vision on lateral gaze. No ptosis.**Cranial Nerve 5 (Trigeminal):** Facial sensation symmetric to light touch and cold; no extinction to double simultaneous stimulation.**Cranial Nerve 7 (Facial):** Nasolabial folds symmetric to smile**CN 8 (Auditory):** Hearing intact**Cranial Nerve 9 (Glossopharyngeal):** Soft palate elevates in the midline**CN 11 (spinal access):** Shoulder shrug symmetric**Cranial Nerve 12 (Hypoglossal):** Tongue midline without fasciculations**Motor****Motor Right:** no pronator drift**Motor Left:** no pronator drift**Power:** 5/5 proximally and distally bilaterally, symmetric in upper and lower extremities

MICHAEL SHELOW

Male DOB: 12/29/1983 2331070000 MRN: 2331070000

Home: (814)378-8546

Ins: DEPARTME (MCD)

Finger Tapping: Fast finger tapping is rapid and symmetric bilaterally

Gait: normal

Station: normal

Muscle Tone: normal

Sensory

Cold Sensation: symmetric bilaterally in the face, arms, and legs. No extinction to double simultaneous stimulation

Vibration Sensation: Vibration sense is intact distally at the great toes.

Deep Tendon Reflexes

Deep Tendon Reflexes: 2+ bilaterally, symmetric in upper and lower extremities

Plantar responses: downgoing bilaterally to Babinski

Cerebellar

Cerebellar exam: No finger to nose or heel to shin dysmetria

Romberg: Negative

Assessment

New Problems:

CONVULSIONS, OTHER (ICD-780.39)

Impression: convulsive syncope

mri and EEG both normal

think this was a convulsive syncope episode due to orthostasis and not a frank epileptic seizure

Plan

Plan: continue current care

Repeat eeg to increase sensitivity, if normal, will observe.
if has other spell would do TTT

New Medications:

METHADONE HCL 10 MG/5ML ORAL SOLN (METHADONE HCL) 150 mg q day

PAXIL 20 MG TABS (PAROXETINE HCL) q d

NIRAVAM 0.5 MG TBDP (ALPRAZOLAM) 1-3 x daily prn

Updated Medication List:

METHADONE HCL 10 MG/5ML ORAL SOLN (METHADONE HCL) 150 mg q day

PAXIL 20 MG TABS (PAROXETINE HCL) q d

NIRAVAM 0.5 MG TBDP (ALPRAZOLAM) 1-3 x daily prn

New Orders:

99244 CONSULT EXT [CPT-99244]

EEG [NEUEEG]

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MICHAEL SHELOW

Plaintiff

Vs.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION
Defendants

CIVIL DIVISION

No. 06 - 834 - CD

ORDER AND NOTICE

Filed on Behalf of:

Plaintiff, MICHAEL SHELOW

Counsel of Record for This
Party:

PAUL COLAVECCHI, ESQUIRE
Pa. I.D. #83274

COLAVECCHI & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

LAW OFFICES OF
COLAVECCHI
& COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

FILED 3cc
0/2/50 BY Amy P. Colavecchi
MAY 31 2006 GK

William A. Shaw
Prothonotary/Clerk of Courts

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

MICHAEL SHELOW, :
Plaintiff :
vs. : No. 06 - 834 - CD
: COMMONWEALTH OF PENNSYLVANIA :
DEPARTMENT OF TRANSPORTATION :
Defendant :

O R D E R

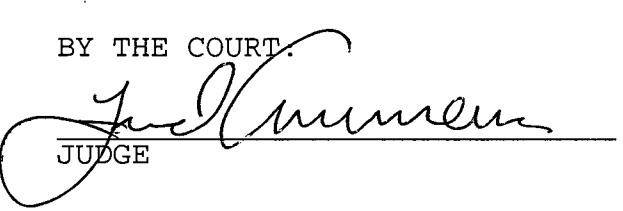
AND NOW, this 31 day of May, 2006, upon
consideration of the foregoing Petition for Hearing on Supercedes,
a Rule is hereby issued upon the Commonwealth of Pennsylvania,
Department of Transportation, to Show Cause why the Petition should
not be granted. Rule Returnable the 19th day of
June, 2006, at 11:30 o'clock
A.M. at the Clearfield County Courthouse, Courtroom No. 1.

A PETITION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO
DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PETITION BY
ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING
IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER
SET FORTH AGAINST YOU. 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 RELIEF REQUESTED BY THE
PLAINTIFF. 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 AND MARKET STREETS
CLEARFIELD, PA 16830
814/765-2641 EXT. 5982

BY THE COURT:

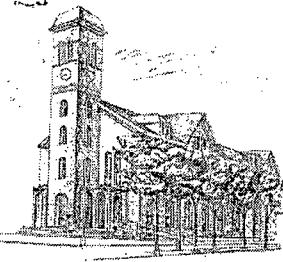

JUDGE

AMERICAN WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Clearfield County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the Court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the Court. You must attend the scheduled conference or hearing.

DATE: 5-31-06


D. Hause
DISTRICT COURT ADMINISTRATOR



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

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

DATE: 5/31/06

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

MICHAEL SHELOW

Plaintiff

Vs.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION
Defendants

CIVIL DIVISION

No. 06 - 834 - CD

AFFIDAVIT OF SERVICE

Filed on Behalf of:

Plaintiff, MICHAEL SHELOW

Counsel of Record for This
Party:

PAUL COLAVECCHI, ESQUIRE
Pa. I.D. #83274

COLAVECCHI & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

FILED

JUN 19 2006

6/8:150/4
William A. Shaw
Prothonotary/Clerk of Courts
L CEN to Atty

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

MICHAEL SHELOW, :
Plaintiff :
: vs. : No. 06 - 834 - CD
: :
COMMONWEALTH OF PENNSYLVANIA :
DEPARTMENT OF TRANSPORTATION :

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF CLEARFIELD :

Before me, the undersigned officer, personally appeared JOSEPH COLAVECCHI, Esquire, who, being duly sworn according to law, deposes and says that a copy of the Petition to Appeal Suspension of Driver's License was mailed to the Pennsylvania Department of transportation at Office of Chief Counsel, Third Floor, River Front Office Center, Harrisburg, Pennsylvania, 17104, on May 31, 2006 as shown on the certified mail receipt attached below:

7818
6099 7 0007 2510 2004 7 0007 2510 2004

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$
Sent To PA Dept. of Transportation Street, Apt. No. Office of Chief Counsel or PO Box No. 3rd Fl., Riverfront Office Center City, State, ZIP+4 Harrisburg, PA 17104	
PS Form 3800, June 2002	
See Reverse for Instructions	

CLF
Postmark
Here

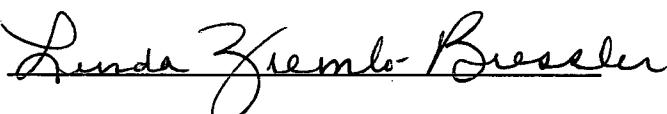
Further, this Petition to Appeal Suspension of Driver's License was received by the Office of Chief Counsel on June 5, 2006 as shown on the receipt and attached below:

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 X</p> <p><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) Commonwealth of Pennsylvania Department of Transportation JUN 05 2006 Date of Delivery</p> <p><input type="checkbox"/> Delivery address same as item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>JUN 05 2006</p> <p>OFFICE OF CHIEF COUNSEL Vehicle & Traffic Law Division</p> <p>C. 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. </p> <p>D. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>1. Article Addressed to: PA DEPT. OF TRANSPORTATION OFFICE OF CHIEF COUNSEL THIRD FLOOR, RIVERFRONT OFFICE CENTER HARRISBURG, PA 17105 </p>		<p>7004 2510 0007 6099 7795</p>	
<p>2. Article Number (Transfer from service label)</p>		<p>Domestic Return Receipt SHALLOW</p>	
<p>PS Form 3811, February 2004</p>		<p>102595-02-M-1540</p>	

The above statements are true and correct to the best of affiant's knowledge, information and belief.


JOSEPH COLAVECCHI, ESQUIRE
 Attorney for Plaintiff

Sworn to and subscribed before me
 this 19 day of May, 2006.



NOTARIAL SEAL LINDA ZIEMBO-BRESSLER, Notary Public Clearfield Boro, Clearfield County, PA My Commission Expires December 17, 2009
--

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

MICHAEL SHELOW :
VS. : NO. 06-834-CD
COMMONWEALTH OF PENNSYLVANIA, :
DEPARTMENT OF TRANSPORTATION :
:

O R D E R

AND NOW, this 19th day of June, 2006, this being the date set for rule returnable relative the Petition for Supersedeas; the Court noting that the Commonwealth, despite proof of service, has not appeared and that the Court has no medical information that was apparently submitted to the Commonwealth which resulted in the Petitioner's license being suspended for medical reasons; the Court not being willing to grant a supersedeas based solely upon the medical report attached to the Petition for Hearing on the Supersedeas, it is the ORDER of this Court that the Court Administrator schedule a one-hour evidentiary hearing on the merits, at which time a representative of the Commonwealth shall be present and shall be prepared to litigate the appeal of the driver's license suspension.

BY THE COURT,

Frederick C. Nease

President Judge

FILED

13:38 07/11/2006
IN 21

William A. Shaw
Prothonotary/Clerk of Courts

JUN 21 2006

FILED

DATE: 6/21/06

 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
 Special Instructions:

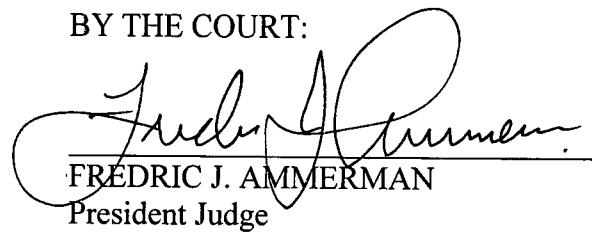
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

MICHAEL SHELOW :
vs. : No. 06-834-CD
COMMONWEALTH OF :
PENNSYLVANIA DEPARTMENT OF :
TRANSPORTATION :
:

ORDER

AND NOW, this 23rd day of June, 2006, it is the ORDER of the Court that hearing on the Petitioner's Petition filed in the above captioned license suspension appeal be and is hereby scheduled for Friday, July 21, 2006 at 10:00 A.M. in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA. One (1) hour has been allotted for this matter.

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

FILED 1CC Atlys:
01/10/04/04 J. Colabecchi
JUN 26 2006 W. Kuhar
6P
William A. Shaw
Prothonotary/Clerk of Courts

FILED

JUN 26 2006

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 10/26/06

 You are responsible for serving all appropriate parties.

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

 Plaintiff(s) X Plaintiff(s) Attorney Other

 Defendant(s) X Defendant(s) Attorney

 Special Instructions:

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

MICHAEL SHELOW,
Plaintiff

vs.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION,
Defendant

:
: No. 2006-834-CD
:
: License Recall Appeal
:
: ORDER OF COURT
:
:
: Filed on Behalf of:
:
: COMMONWEALTH OF PENNSYLVANIA
: DEPARTMENT OF TRANSPORTATION
:
: Counsel of Record:
:
: William A. Kuhar, Jr., Esquire
: Assistant Counsel
: Pa.I.D. No. 38885
:
: Department of Transportation
: Office of Chief Counsel
: Firm No. 052
:
: 1209 State Office Building
: 300 Liberty Avenue
: Pittsburgh, PA 15222
: (412) 565-7555

FILED

AUG 03 2006

William A. Shaw
Prothonotary/Clerk of Courts

Cent to Kuhar
&

J. Colmar

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

MICHAEL SHELOW, :
Plaintiff :
vs. : No. 2006-834-CD
COMMONWEALTH OF PENNSYLVANIA, :
DEPARTMENT OF TRANSPORTATION, :
Defendant :
:

ORDER OF COURT

AND NOW, to wit: this 31 day of *July*, 2006, this appeal
by the plaintiff, Michael Shelow, from a recall of his driving privilege for a reported seizure
disorder, pursuant to 75 Pa.C.S. §1519(c) and 67 Pa. Code §83.4, is, with the consent of the
Department of Transportation's Bureau of Driver Licensing, remanded to the Bureau in order to
restore the plaintiff's driving privilege from the appealed recall, which had went into effect on June
2, 2006.

By the Court:

Shelow _____ J.

Consented to

William A. Kuhar

William A. Kuhar, Jr., Esquire
Attorney for the Bureau

FILED
AUG 03 2006

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 8-3-06

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
 Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MICHAEL SHELOW

Plaintiff

Vs.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION
Defendants

CIVIL DIVISION

No. 06 - 834 - CD

PETITION TO APPEAL SUSPENSION
OF DRIVER'S LICENSE

Filed on Behalf of:

Plaintiff, MICHAEL SHELOW

Counsel of Record for This
Party:

PAUL COLAVECCHI, ESQUIRE
Pa. I.D. #83274

COLAVECCHI & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

LAW OFFICES OF
COLAVECCHI
& COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

FILED
0 3:50 P.M. 6K
MAY 25 2006 *2cc to Atty*
William A. Shaw
Prothonotary/Clerk of Courts

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

MICHAEL SHELOW :
Petitioner :
:
vs. : No. 06 - - CD
:
COMMONWEALTH OF PENNSYLVANIA :
DEPARTMENT OF TRANSPORTATION :
Respondent :
:

PETITION TO APPEAL SUSPENSION OF DRIVER'S LICENSE

NOW COMES, Petitioner, Michael Shelow, by and through his Attorney, Paul Colavecchi, Esquire, files this Petition to Appeal Suspension of Driver's License and respectfully avers as follows:

1. Petitioner, Michael Shelow, by letter dated May 12, 2006, received notice that his privilege to operate a motor vehicle is being suspended as of June 2, 2006, a copy of said letter being attached hereto marked Exhibit "A".

2. The reason given for the suspension of driving privileges is that the Commonwealth of Pennsylvania, Department of Transportation, had received medical information indicating that Petitioner has a seizure disorder condition which prevents him from safely operating a motor vehicle.

3. Pursuant to said letter, Petitioner's driving privileges have been recalled indefinitely as mandated by Section 1519(c) of the Pennsylvania Vehicle Code, said Section titled, Termination of Competency.

4. Petitioner contends that although he was examined by Dr. DeSantis on April 17, 2004, he was not made aware that he has a seizure disorder condition, nor to his knowledge was he diagnosed with a seizure disorder condition.

5. Further, Petitioner was examined at Blair Medical Associates by Joseph D. Clark, M.D. on May 5, 2006 and was advised by Dr. Clark that the episode in question was not an epileptic seizure. Petitioner was advised that the episode in question was severe light-headedness caused due to loss of blood to the brain brought on by extreme fatigue. Dr. Clark advised Petitioner that the episode in question was a convulsive syncope episode due to orthostasis and not a frank epileptic seizure, a copy of said medical report being attached hereto marked Exhibit "B".

6. Petitioner is aggrieved at this time by the suspension of his driver's privileges because it is his only means of getting to his employment.

7. Petitioner contends that the Commonwealth has not met its burden of proof in making a determination of incompetence so that his driving privilege should be suspended indefinitely.

WHEREFORE, Petitioner prays that your Honorable Court grant this Appeal and after hearing on the merits, reverse said suspension.


PAUL COLAVECCHI
PAUL COLAVECCHI, ESQUIRE
Attorney for Michael Shelow, Petitioner

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Bureau of Driver Licensing
Mail Date: May 12, 2006**

MICHAEL SHELOW
500 BRISBIN ST
HOUTZDALE PA 16651

Dear Mr. MICHAEL SHELOW:

We have received medical information indicating that you have a Seizure Disorder condition which prevents you from safely operating a motor vehicle.

As of 06/02/2006, you may no longer drive. Your driving privilege is hereby recalled indefinitely as mandated by Section 1519(c) of the Vehicle Code.

This decision has been made by comparing your medical condition with the standards recommended by our Medical Advisory Board and adopted by this Department. This action will remain in effect until we receive medical information that your condition has improved and you are able to safely operate a motor vehicle.

Since you have a seizure disorder, you must remain seizure free for a six month period, with or without medication, before you will be eligible for reinstatement of your driving privilege. Our records indicate that your seizure occurred on 4/17/2006.

In order to comply with this action, you must return all current Pennsylvania driver's licenses, learner's permits, temporary driver's licenses (camera cards) in your possession, on or before the effective date listed above. If you cannot comply with the requirements stated above, a sworn affidavit stating that you are aware of the sanction against your driving privilege must be submitted. When the Department receives your license or affidavit, we will send you a receipt.

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.

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. 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 have the right to appeal to the Court of Common Pleas (Civil Division) within thirty (30) days of the mail date of this notice. 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

You still must send in your license before the effective date of recall unless you appear in person before a judge and receive an order permitting you to continue driving.

If you have any questions or need further information, please contact the Medical Unit, P.O. Box 68682, Harrisburg, PA 17106-8682 or call (717) 787-9662 between the hours of 8:00 a.m. and 4:30 p.m.

Sincerely,



Janet L. Dolan, Director
Bureau of Driver Licensing

Driver License #: 27029162

Blair Medical Associates - Medical Records
1414 9th Avenue Altoona, PA 16602
814-946-1655 Fax: 814-949-7616

May 5, 2006
Page 1
Chart Document

MICHAEL SHELOW
Male DOB: 12/29/1983 2331070000 MRN: 2331070000

Home: (814)378-8546
Ins: DEPARTME (MCD)

05/03/2006 - Office Visit: New Patient Visit rm 1
Provider: Joseph D Clark MD
Location of Care: Blair Medical Associates - Neurology

Vital Signs

Weight: 218 pounds

Pulse rate: 72

Cuff Size: Small Cuff

Blood Pressure: 126/90 mm Hg

Allergies reviewed, no changes

Nursing Comments New pt here for seizure. States he suffers from anxiety attacks. Recovering from marijuana use and heroin use. Now in a methadone clinic daily. >>>Jessica Wisor LPN May 3, 2006 9:07 AM

History of Present Illness

Chief Complaint: seizures

History of Present Illness: 22 yo male right handed

ex-heroin addict

multiple different med abuses in the past.

currently in a methadone clinic

recently had a seizure.

stood up to quick, sleep deprived.

started to walk then had a "wicked" head rush then fell to the ground.

little brother (10 yo) said that he was on the ground shaking.

also seen by his mother, said he was shaking.

lasted 5-10 minutes, does not remember any of this.

no other passing out spells

EEG normal

mri done and called normal

ct also was normal

Past, Surgical,Social, and Family History

Past History (reviewed - no changes required): drug abuse

Past surg hx: reviewed - no changes required

EXHIBIT "B"

Review of Systems

MICHAEL SHELOW

Male DOB: 12/29/1983 2331070000 MRN: 2331070000

Home: (814)378-8546

Ins: DEPARTME (MCD)

Ears/Nose/Throat: Denies hearing loss, buzzing in the ear, chronic sore throat, nose bleeds.**Cardiovascular:** Denies chest pain, heart murmur, history of rheumatic fever, palpitations.**Respiratory:** Denies shortness of breath, emphysema, bronchitis, pneumonia, asthma, tuberculosis, persistent cough, coughing up blood.**Gastrointestinal:** Denies abdominal pain, heartburn, indigestion, nausea, vomiting, difficulty swallowing, stomach problem, gallbladder problem, bowel problem, rectal bleeding, hemorrhoids, jaundice, unable to control evacuation.**Genitourinary:** Denies bladder or kidney stones or infection, venereal disease, frequent painful or difficult urination, unable to control urination.**Musculoskeletal:** Denies arthritis, gout, bursitis, circulation problems, varicose veins, blood clots, back pain.**Skin:** Denies skin rash, excessive sweating, breast pain, breast discharge.**Psychiatric:** Denies anxiety, depression, psychosis, nervous breakdowns.**Endocrine:** Denies thyroid disease, diabetes, unusual thirst.**Heme/Lymphatic:** Denies enlarging lumps, excessive bleeding, slow healing.**Physical Exam Neurology****General Exam****Neck** supple**Carotid Bruit:** no bruits**Thyroid:** No thyromegaly**Heart exam:** rate and rhythm is regular; S1 and S2 without murmurs**Lungs:** clear**Extremities:** reveal no clubbing, cyanosis, or edema**General Appearance:** well developed, well nourished, and in no acute distress**Mental Status Exam****Orientation:** oriented to person, place, and time**Language:** fluent, not dysarthric, non-aphasic**Atten/concentrat:** awake and alert**Memory:** remembers 3 of 3**Fund of Knowledge:** normal**Additional Findings:** flat affect, glassy eyed**Cranial Nerves****CN 2:** No papilledema. Visual fields full.**CN 3,4,6 (EOM):** PERRLA. EOMI without nystagmus or double vision on lateral gaze. No ptosis.**Cranial Nerve 5 (Trigeminal):** Facial sensation symmetric to light touch and cold; no extinction to double simultaneous stimulation.**Cranial Nerve 7 (Facial):** Nasolabial fold is symmetric to smile**CN 8 (Auditory):** Hearing intact**Cranial Nerve 9 (Glossopharyngeal):** Soft palate elevates in the midline**CN 11 (spinal access):** Shoulder shrug symmetric**Cranial Nerve 12 (Hypoglossal):** Tongue midline without fasciculations**Motor****Motor Right:** no pronator drift**Motor Left:** no pronator drift**Power:** 5/5 proximally and distally bilaterally, symmetric in upper and lower extremities

MICHAEL SHELOW Home: (814)378-8546
Male DOB: 12/29/1983 2331070000 MRN: 2331070000 Ins: DEPARTME (MCD)

Finger Tapping: Fast finger tapping is rapid and symmetric bilaterally
Gait: normal
Station: normal
Muscle Tone: normal

Sensory

Cold Sensation: symmetric bilaterally in the face, arms, and legs. No extinction to double simultaneous stimulation
Vibration Sensation: Vibration sense is intact distally at the great toes.

Deep Tendon Reflexes

Deep Tendon Reflexes: 2+ bilaterally, symmetric in upper and lower extremities
Plantar responses: downgoing bilaterally to Babinski

Cerebellar

Cerebellar exam: No finger to nose or heel to shin dysmetria
Romberg: Negative

Assessment

New Problems:
CONVULSIONS, OTHER (ICD-780.39)

Impression: convulsive syncope

mri and EEG both normal

think this was a convulsive syncope episode due to orthostasis and not a frank epileptic seizure

Plan

Plan: continue current care
Repeat eeg to increase sensitivity, if normal, will observe.
if has other spell would do TTT

New Medications:

METHADONE HCL 10 MG/5ML ORAL SOLN (METHADONE HCL) 150 mg q day
PAXIL 20 MG TABS (PAROXETINE HCL) q d
NIRAVAM 0.5 MG TBDP (ALPRAZOLAM) 1-3 x daily prn

Updated Medication List:

METHADONE HCL 10 MG/5ML ORAL SOLN (METHADONE HCL) 150 mg q day
PAXIL 20 MG TABS (PAROXETINE HCL) q d
NIRAVAM 0.5 MG TBDP (ALPRAZOLAM) 1-3 x daily prn

New Orders:

99244 CONSULT EXT [CPT-99244]
EEG [NEUEEG]

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MICHAEL SHELOW

Plaintiff

Vs.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION
Defendants

CIVIL DIVISION

No. 06 - 834 - CD

ORDER AND NOTICE

Filed on Behalf of:

Plaintiff, MICHAEL SHELOW

Counsel of Record for This
Party:

PAUL COLAVECCHI, ESQUIRE
Pa. I.D. #83274

COLAVECCHI & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

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

MICHAEL SHELOW, :
Plaintiff :
vs. : No. 06 - 834 - CD
: :
COMMONWEALTH OF PENNSYLVANIA :
DEPARTMENT OF TRANSPORTATION :
Defendant :
:

O R D E R

AND NOW, this _____ day of _____, 2006, upon consideration of the foregoing Petition to Appeal Suspension of Driver's License, a Rule is hereby issued upon the Commonwealth of Pennsylvania, Department of Transportation, to Show Cause why the Petition should not be granted. Rule Returnable the _____ day of _____, 2006, at _____ o'clock _____ M. at the Clearfield County Courthouse, Courtroom No. _____.

A PETITION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PETITION BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU. 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 RELIEF REQUESTED BY THE PLAINTIFF. 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 AND MARKET STREETS
CLEARFIELD, PA 16830
814/765-2641 EXT. 5982

BY THE COURT:

JUDGE

AMERICAN WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Clearfield County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the Court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the Court. You must attend the scheduled conference or hearing.

DATE: _____

DISTRICT COURT ADMINISTRATOR