

06-1704-CD
Megan R. Smith vs Comm ofPA

2006-1704-CD
Megan Smith vs Comm ofPa Dept of Trans

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

MEGAN RENE SMITH,
Petitioner

vs. : No. 2006 - 1704-CD

COMMONWEALTH OF PENNSYLVANIA :
DEPARTMENT OF TRANSPORTATION,
Respondent

: **PETITION FOR REVIEW**

: Filed on behalf of:
Megan Rene Smith

: 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
C 3:30P.M. 6K
OCT 17 2006

Plff paid 85.00
4cc to Atty
GR
William A. Shaw
Prothonotary/Clerk of Courts

Original
Upstairs

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No Order- 10/23/06
SP to Amy
No hearing does
not need scheduled
soon R.J.W.

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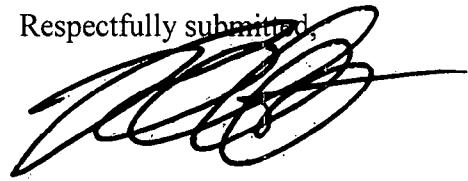
PETITION FOR REVIEW

AND NOW comes Petitioner, Henry Eugene Lutchko, by and through Ronald L. Collins, Esquire, who Petitions your Honorable Court as follows:

1. That Petitioner is Megan Rene Smith, of 1442 River Road, Clearfield, Pennsylvania, 16830.
2. That Petitioner's Driver License No. 27661150.
3. That Respondent is the Commonwealth of Pennsylvania, Department of Transportation.
4. That by Official Notice dated September 19, 2006 and attached hereto as Exhibit "A", Respondent did issue a suspension of Petitioner's driving privilege for a period of one (1) year.
5. That the purported basis for the suspension was that petitioner was convicted of the offense of Driving Under the Influence, 75 Pa. C.S.A. §3802 (a)(2) on June 27, 2006.
6. That Respondent did not have the authority to issue said suspension in that Petitioner's conviction was for a Tier I violation under 75 Pa. C.S.A. §3802 (a) (2) and Petitioner had no prior offense.
7. That pursuant to 75 Pa. C.S.A. §3804 (e)(2) (iii), no suspension should have been issued.

WHEREFORE, Petitioner respectfully requests your Honorable Court to review the actions of Respondent and issue an Order directing it to rescind the suspension issued in this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ronald L. Collins, Esquire".

Ronald L. Collins, Esquire

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Bureau of Driver Licensing
Mail Date: SEPTEMBER 19, 2006

MEGAN RENE SMITH
1442 RIVER ROAD
CLEARFIELD PA 16830

WID # 062556122161042 001
PROCESSING DATE 09/12/2006
DRIVER LICENSE # 27661150
DATE OF BIRTH 11/23/1983

Dear MS. SMITH:

This is an Official Notice of the Suspension of your Driving Privilege as authorized by Section 3804E2I of the Pennsylvania Vehicle Code. As a result of your 06/27/2006 conviction of violating Section 3802A2 of the Vehicle Code DUI BAC .08-<.10 on 02/10/2006:

- Your driving privilege is SUSPENDED for a period of 1 YEAR(S) effective 10/24/2006 at 12:01 a.m.

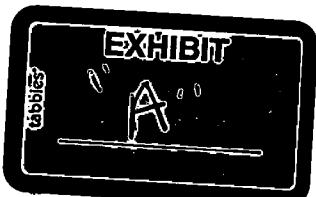
Before PennDOT can restore your driving privilege, you must follow the instructions in this letter for COMPLYING WITH THIS SUSPENSION, PAYING THE RESTORATION FEE and PROVIDING PROOF OF INSURANCE. You should follow ALL instructions very carefully. Even if you have served all the time on the suspension/revocation, we cannot restore your driving privilege until all the requirements are satisfied.

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 10/24/2006. You may surrender these items before, 10/24/2006, 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.



062556122161042

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
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.

062556122161042

PROVIDING PROOF OF INSURANCE

Within the last 30 days of your suspension/revocation, 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.

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 19, 2006, 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 10/24/2006.

Sincerely,



Janet L. Dolan, Director
Bureau of Driver Licensing

SEND FEE/LICENSE/DL-16LC/T0:
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

No.

Megan Rene Smith,
Petitioner

vs.

Commonwealth of Pennsylvania,
Department of Transportation,
Respondent

Petition for Review

Ronald L. Collins, Esquire
Attorney for Petitioner

Sobel & Collins
ATTORNEYS & COUNSELORS AT LAW
218 SOUTH SECOND STREET
CLEARFIELD, PENNSYLVANIA 16830
(814) 765-5552
sobelcollins@atlanticbbn.net

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FILED

02:54p.m GK 2cc Atty's
MAY 05 2008 Collins, Kuhar

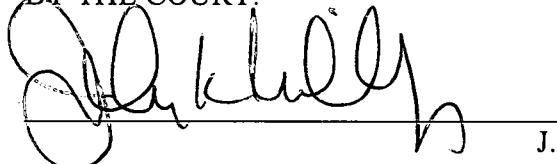
William A. Shaw
Prothonotary/Clerk of Courts

(GK)

ORDER

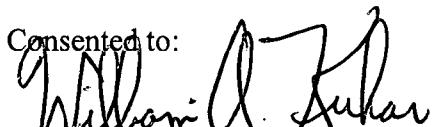
AND NOW, to wit: this 5 day of May, 2008, this appeal by the petitioner, Megan Renee Smith, from a September 19, 2006 order of the Department of Transportation's Bureau of Driver Licensing for the suspension of her driving privilege for a period of one (1) year pursuant to 75 Pa.C.S. §3804(e)(2)(i), is, with the consent of the Bureau, remanded to the Bureau for rescission of the appealed one year suspension, if such action has not already been taken. Pursuant to 75 Pa.C.S. §3804(e)(2)(iii), the petitioner's vehicle operating privilege is not to be suspended because of her June 27, 2006 conviction for violating 75 Pa.C.S. §3802(a)(2) on February 10, 2006 because she has no prior offenses and was sentenced pursuant to 75 Pa.C.S. §3804(a)(1) for her February 10, 2006 violation of 75 Pa.C.S. §3802(a)(2).

BY THE COURT:



J.

Consented to:



William A. Kuhar, Jr., Esquire
Attorney for the Bureau of Driver Licensing

FILED

MAY 05 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 5-5-08

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: