

08-628-CD
James Redmond vs Comm of PA

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

JAMES DOUGLAS REDMOND,
Petitioner

vs.

No. 08-628

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION,
Respondent

PETITION FOR REVIEW

Filed on behalf of:
James Douglas Redmond

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

pa \$95.00 Atty
FILED 9/3/40cm 4cc Atty
APR 4 2008 Collins
WM
William A. Shaw
Prothonotary/Clerk of Courts

Up to Ronde
See review

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CIVIL DIVISION

JAMES DOUGLAS REDMOND,
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vs.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION,
Respondent

: No. 08-628

: **PETITION FOR REVIEW**

: Filed on behalf of:
James Douglas Redmond

: Counsel for this party:
Ronald L. Collins, Esquire

: Supreme Court No. 36744

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William A. Shaw
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JAMES DOUGLAS REDMOND,
Petitioner

vs.

: No. 08-628-CD

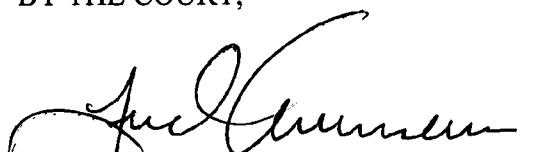
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION,
Respondent

ORDER

AND NOW this 4th day of April, 2008,

Petitioner having filed a Petition for Review with regards to that portion of the suspension issued by Respondent imposing an Ignition Interlock requirement prior to restoration and not to the suspension itself, it is the ORDER of this Court that the filing of the Petition shall NOT act as a supersedesas of the suspension.

BY THE COURT,



JUDGE

FILED 4CC
03:40am APR 4 2008
ATTY Collins

William A. Shaw
Prothonotary/Clerk of Courts

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

JAMES DOUGLAS REDMOND,
Petitioner

vs. : No.

COMMONWEALTH OF PENNSYLVANIA :
DEPARTMENT OF TRANSPORTATION,
Respondent

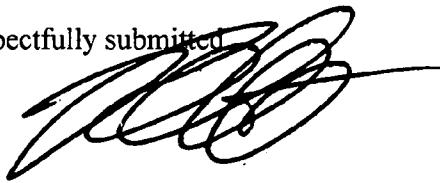
PETITION FOR REVIEW

AND NOW comes Petitioner, James Douglas Redmond, by and through Ronald L. Collins, Esquire, who Petitions your Honorable Court as follows:

1. That Petitioner is James Douglas Redmond, of 239 Tony Hill Road, PO Box, 155, Winburne, Pennsylvania, 16879.
2. That Petitioner's Driver License No. 20741631.
3. That Respondent is the Commonwealth of Pennsylvania, Department of Transportation.
4. That by Official Notice dated March 7, 2008, a copy of which is hereinafter attached as Exhibit "A", Petitioner was notified by Respondent that his driving privileges were suspended for a period of One (1) Year as result of a conviction on February 12, 2008 for a violation of Section 3802(b) of the Vehicle Code (75 Pa C.S.A. §3802 (b) occurring on October 22, 2006.
5. That in addition to said suspension, Petitioner was also notified that before his license could be restored, he would be subject to the Ignition Interlock Requirement, which requirement is set forth at 75 Pa. C.S.A. §3805.
6. That Petitioner is not subject to the Ignition Interlock requirement because he was sentenced on the current 3802 offense after June 30, 2007 and does not have a prior DUI offense within the preceding ten (10) years.

WHEREFORE, Petitioner respectfully requests your Honorable Court to review the part of the suspension notice issued by the Respondent imposing the Ignition Interlock requirement for restoration.

Respectfully submitted,



Ronald L. Collins, Esquire

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Bureau of Driver Licensing
Mail Date: MARCH 07, 2008

JAMES DOUGLAS REDMOND
239 TONY HILL ROAD
P O BOX 155
WINBURNE PA 16879

WID # 080606664531396 001
PROCESSING DATE 02/29/2008
DRIVER LICENSE # 20741631
DATE OF BIRTH 06/17/1965

LICENSE IN BUREAU

Dear MR. REDMOND:

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 02/12/2008 conviction of violating Section 3802B of the Vehicle Code DUI BAC .10-<.16 on 10/22/2006:

- Your driving privilege is SUSPENDED for a period of 1 YEAR(S) effective 02/12/2008 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.

PRISON RELEASE REQUIREMENT

The Court of CLEARFIELD CTY, Court Number 1211, Court Term 2006 has sentenced you to serve a prison term for this violation. Pursuant to Section 1541(a.1) of the Vehicle Code, you will not receive credit for this suspension/revocation or any additional suspension/revocation until you complete your prison term. The Court must certify your completion to PennDOT. You may wish to contact your probation officer and/or the Court after your release to make sure that PennDOT is properly notified.

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:

EXHIBIT

4 A 11

080606664531396

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.

IGNITION INTERLOCK

Before your driving privilege can be restored you are required by law to have all vehicle(s) owned by you to be equipped with an Ignition Interlock System. This is a result of your conviction for Driving Under the Influence. You will receive more information regarding this requirement approximately 30 days before your eligibility date.

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, MARCH 07, 2008, 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**.

080606664531396

Sincerely,



Janet L. Dolan, Director
Bureau of Driver Licensing

INFORMATION 8:00 a.m. to 6:00 p.m.

IN STATE	1-800-932-4600	TDD IN STATE	1-800-228-0676
OUT-OF-STATE	717-412-5300	TDD OUT-OF-STATE	717-412-5380
WEB SITE ADDRESS	<u>www.dmv.state.pa.us</u>		

3
No.

James Douglas Redmond,

vs.

Commonwealth of PA
Department of Transportation

Petition for Review

Ronald L. Collins, Esquire

Sobat & Collins
ATTORNEYS & COUNSELORS AT LAW
218 SOUTH SECOND STREET
CLEARFIELD, PENNSYLVANIA 16830
(814) 765-5552
sobatcollins@atlanticbbo.net

FILED

APR 4 2008

William A. Shaw
Prothonotary/Clerk of Courts

UM

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

James Douglas Redmond, : No. 08-628-CD
Petitioner, :
vs. :
Commonwealth of Pennsylvania, : Petition to Quash Appeal
Department of Transportation, : for Lack of Subject Matter
Respondent. : Jurisdiction
: Filed on Behalf of:
: Commonwealth of Pennsylvania
: Department of Transportation
: Counsel for this Party:
: William A. Kuhar, Jr., Esquire
: Pa. ID #38885
: Office of Chief Counsel
: Firm #052
: 1209 State Office Building
: 300 Liberty Avenue
: Pittsburgh, PA 15222
: (412) 565-7555

FILED ^{no cc}
MAY 12 2008
MAY 12 2008
60

William A. Shaw
Prothonotary/Clerk of Courts

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

James Douglas Redmond	:	
Petitioner,	:	
	:	
vs.	:	No. 08-628-CD
	:	
Commonwealth of Pennsylvania,	:	
Department of Transportation,	:	
Defendant	:	

PETITION TO QUASH APPEAL FOR LACK OF SUBJECT MATTER JURISDICTION

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation, Bureau of Driver Licensing (Bureau), by its attorney, William A. Kuhar, Jr., Esquire, Assistant Counsel, and requests this Honorable Court to quash for lack of subject matter jurisdiction the above-captioned appeal by the petitioner, James Douglas Redmond, from the Bureau's determination that he is subject to the driving privilege restoration requirement of installation of an ignition interlock system in each of his vehicles, and, in support thereof, avers the follows:

1. On March 7, 2008, the Bureau mailed to the petitioner, James Douglas Redmond, an official notice of a one (1) year suspension of his driving privilege pursuant to 75 Pa.C.S. §3804(e)(2)(i), as the result of his reported February 12, 2008 conviction in Clearfield County Common Pleas Court for an ungraded misdemeanor violation of 75 Pa.C.S. §3802(b) on October 22, 2006. A copy of that suspension notice is attached hereto as Exhibit A.
2. By the March 7, 2008 suspension notice referred to in Paragraph 1 of this Motion, the Bureau further informed the petitioner that, pursuant to 75 Pa.C.S. §3805, he was required to have each motor vehicle that he owned equipped with an ignition interlock system before his driving privilege would be restored from the one year driving privilege suspension referred to in Paragraph 1 of this Motion.
3. On April 4, 2008, the petitioner filed this appeal from the Bureau's requirement that he have each vehicle that he owns equipped with an ignition interlock system before his driving privilege was restored from the one year suspension referred to in Paragraph 1 of this Motion.
4. The Bureau's requirement under 75 Pa.C.S. §3805(a) that the petitioner have all vehicles that are owned by him and/or registered to him equipped with an ignition interlock system upon his completion of the one year driving privilege suspension referred to in Paragraph 1 of this Motion constitutes a driving privilege restoration requirement.

5. Under 42 Pa.C.S. §933(a)(1), a common pleas court has subject matter to hear the appeals from the following types of actions of the Department of Transportation: (1) the imposition of sanctions under Chapter 13 of the Vehicle Code, 75 Pa.C.S §§1301-1377, and the denial or suspension of a person's registration or authority to issue registration cards or plates (75 Pa.C.S. §1377); (2) denial of a driver's license to a person, the cancellation of a person's driver's license, the recall, suspension or revocation of a person's operating privilege or the disqualification of a person's privilege to operate commercial motor vehicles (75 Pa.C.S. §1550); (3) the denial of a certificate of appointment as an official inspection station to a person or the suspension of a person's certificate of appointment as an official inspection station (75 Pa.C.S. §4724(b)); (4) the denial of a certificate of authorization as a salvor to a person or the suspension of a person's certificate of authorization as a salvor (75 Pa.C.S. §7303(b)); and (5) the denial of a certificate of authorization as a messenger service to a person or for the suspension of a person's certificate of authorization as a messenger service (75 Pa.C.S. §7503(b)). However, a common pleas court does not have subject matter jurisdiction under 42 Pa.C.S. §933(a)(1) to hear an appeal by a licensee from a determination by the Bureau that he is subject to a driving privilege restoration requirement established by statute and/or that he has not satisfied such a requirement. See, e.g., *Department of Transportation v. Cunningham*, 604 A.2d 1212 (Pa. Cmwlth. 1992) (*en banc*); *Department of Transportation, Bureau of Traffic Safety v. Yarbinitz*, 508 A.2d 641 (Pa. Cmwlth. 1986).

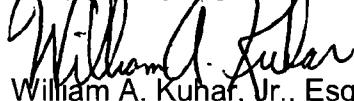
6. Section 3805 of the Vehicle Code, 75 Pa.C.S. §3805, does **not** provide for an additional one year suspension of a licensee's driving privilege if the licensee fails to have each vehicle equipped with an ignition interlock system upon his completion of the driving privilege suspension that was imposed due to his conviction for violating 75 Pa.C.S. §3802. Therefore, a common pleas court would not, under 42 Pa.C.S. §933(a)(1) and 75 Pa.C.S. §1550(a), have subject matter jurisdiction over a licensee's appeal from the Bureau's determination that, under 75 Pa.C.S. §3805(a), he must have all vehicles owned by him and/or registered to him equipped with an ignition interlock system before his driving privilege is restored from the driving privilege suspension that was imposed due to his conviction for violating 75 Pa.C.S. §3802. Cf. *Probst v. Department of Transportation, Bureau of Driver Licensing*, 849 A.2d 1135, 1140-1141 (Pa. 2004)(Common pleas court, under 42 Pa.C.S. §933(a)(1) and 75 Pa.C. §1550(a), had subject matter jurisdiction over licensee's appeal from the Bureau's determination that, under the version of former 42 Pa.C.S. §7002(b) that was in effect from September 30, 2000 until September 30, 2003, he must have all vehicles that are owned by him equipped with an ignition interlock system because failure to comply with that driving privilege restoration requirement would, under former 42 Pa.C.S. §7003(5), which was in effect from September 30, 2000 until September 30, 2003, result in an additional one year suspension of the licensee's driving privilege); *Schneider v. Department of Transportation, Bureau of Driver Licensing*, 790 A.2d 363, 366 n. 7 (Pa. Cmwlth. 2002)(same).

7. There is no statute providing a licensee whose driving privilege has been suspended or revoked due to a conviction for a violation of 75 Pa.C.S. §3802 with a right of appeal to a common pleas court from a determination by the Bureau that he is subject to the driving privilege restoration requirement established by 75 Pa.C.S. §3805(a) – *i.e.*, installation of an ignition interlock system in each vehicle owned by him and/or registered to him. Consequently, such a licensee has no right to appeal to a common pleas court from such a determination. Cf. *Brennan's Case*, 25 A.2d 155 (Pa. 1942).

8. Since an appeal from a determination by the Bureau that a licensee is subject to a driving privilege restoration requirement established by statute, such as the driving privilege restoration requirement established by 75 Pa.C.S. §3805(a), is not one of the types of appeals over which a common pleas court is given subject matter jurisdiction by 42 Pa.C.S. §933(a)(1), and no other statute provides for the right to appeal such a determination by the Bureau, the recourse for a licensee who believes that the Bureau has improperly determined that he is subject to the driving privilege restoration requirement of installation of an ignition interlock device in each of the vehicles owned by him and/or registered to him is to apply for an administrative hearing before a Bureau hearing officer. *Cf. Commonwealth v. Mockaitis*, 834 A.2d 488, 503 (Pa. 2003) ("Should appellee or any other serial DUI offender be aggrieved by an actual determination made by the Department in enforcing the remaining provisions of the Act, the administrative setting is the appropriate forum to raise such a challenge."); *Department of Transportation, Bureau of Driver Licensing v. Cardell*, 568 A.2d 999 (Pa. Cmwlth. 1990)(*en banc*). The licensee can apply to the hearing officer for a supersedeas from the driving privilege restoration requirement while the Bureau adjudicates his claim that it is improper to subject him to that requirement. *Cf. Department of Transportation; Bureau of Driver Licensing v. Iacono*, 578 A.2d 1005, 1008, n. 8 (Pa. Cmwlth. 1990), *appeal denied*, (Pa. 1991). If not satisfied with the hearing officer's proposed report, the licensee may file exceptions to that report by the Secretary of Transportation. *Cf. Cardell; Niles v. Department of Transportation*, 674 A.2d 739 (Pa. Cmwlth. 1995). Finally, if the licensee is not satisfied with the decision of the Secretary of Transportation, he has a right under 2 Pa.C.S. §702 to obtain judicial review by filing a petition for review with the Commonwealth Court of Pennsylvania, which would have subject matter jurisdiction over that appeal pursuant to 42 Pa.C.S. §763. *Cf. Cardell*.

WHEREFORE, the Bureau respectfully requests that this Honorable Court quash this appeal by the petitioner from the Bureau's determination that he is subject to the driving privilege restoration requirement under 75 Pa.C.S. §3805(a) that he equip each vehicle owned by him and/or registered to him with an ignition interlock system because this Court lacks subject matter jurisdiction to adjudicate this appeal.

Respectfully submitted,



William A. Kuhar, Jr., Esquire

Assistant Counsel

Attorney for the Bureau of Driver Licensing

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Bureau of Driver Licensing
Mail Date: MARCH 07, 2008

JAMES DOUGLAS REDMOND
239 TONY HILL ROAD
P O BOX 155
WINBURNE PA 16879

WID # 080606664531396 001
PROCESSING DATE 02/29/2008
DRIVER LICENSE # 20741631
DATE OF BIRTH 06/17/1965

LICENSE IN BUREAU

Dear MR. REDMOND:

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 02/12/2008 conviction of violating Section 3802B of the Vehicle Code DUI BAC .10-<.16 on 10/22/2006:

Your driving privilege is **SUSPENDED** for a period of 1 YEAR(S) effective 02/12/2008 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.

PRISON RELEASE REQUIREMENT

The Court of CLEARFIELD CTY, Court Number 1211, Court Term 2006 has sentenced you to serve a prison term for this violation. Pursuant to Section 1541(a.1) of the Vehicle Code, you will not receive credit for this suspension/revocation or any additional suspension/revocation until you complete your prison term. The Court must certify your completion to PennDOT. You may wish to contact your probation officer and/or the Court after your release to make sure that PennDOT is properly notified.

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:

Exhibit A

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.

IGNITION INTERLOCK

Before your driving privilege can be restored you are required by law to have all vehicle(s) owned by you to be equipped with an Ignition Interlock System. This is a result of your conviction for Driving Under the Influence. You will receive more information regarding this requirement approximately 30 days before your eligibility date.

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, MARCH 07, 2008, 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**.

080606664531396

Sincerely,



Janet L. Dolan, Director
Bureau of Driver Licensing

INFORMATION 8:00 a.m. to 6:00 p.m.

IN STATE	1-800-932-4600	TDD IN STATE	1-800-228-0676
OUT-OF-STATE	717-412-5300	TDD OUT-OF-STATE	717-412-5380
WEB SITE ADDRESS	www.dmv.state.pa.us		

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

James Douglas Redmond	:	
Petitioner,	:	
vs.	:	No. 08-628-CD
Commonwealth of Pennsylvania,	:	
Department of Transportation,	:	
Defendant	:	

ORDER OF COURT

AND NOW, this _____ day of _____, 200____.

upon consideration of the foregoing Petition to Quash Appeal for Lack of Subject Matter Jurisdiction filed on behalf of the Pennsylvania Department of Transportation's Bureau of Driver Licensing, it is hereby ORDERED, ADJUDGED and DECREED that a Rule be issued against the petitioner, James Douglas Redmond, to show cause, if any, as to why this appeal by him from the Bureau's determination that he is subject to the driving privilege restoration requirement under 75 Pa.C.S. §3805(a) of having each vehicle owned by him and/or registered to him equipped with an ignition interlock system should not be quashed because this Court lacks subject matter jurisdiction to adjudicate this appeal.

Said rule is returnable on the _____ day of _____, 200____, at _____
.m. in Courtroom No. _____ of the Clearfield County Courthouse.

BY THE COURT:

1

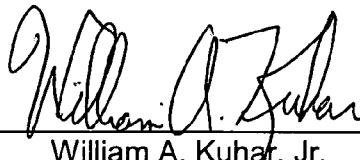
CERTIFICATE OF SERVICE

The undersigned does hereby certify that, on the date set forth below, he served a true and correct copy of the foregoing Petition to Quash Appeal for Lack of Subject Matter Jurisdiction upon counsel for the petitioner by regular United States first class mail, postage pre-paid, addressed as follows:

Ronald L. Collins, Esquire
218 South Second Street
Clearfield, PA 16830

Date:

5/9/2008



William A. Kuhar, Jr.

FILED

MAY 12 2008

William A. Shaw
Prothonotary/Clark of Courts

LA

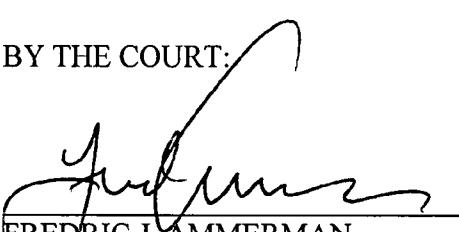
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

JAMES DOUGLAS REDMOND :
vs. : No. 08-628-CD
COMMONWEALTH OF PENNSYLVANIA :
DEPARTMENT OF TRANSPORTATION :
:

ORDER

AND NOW, this 25 day of February, 2009, it is the ORDER of the Court that hearing on Plaintiff's Petition for Review in the above captioned matter shall be and is hereby scheduled for **Friday, March 27, 2009 at 2:00 P.M.** before the Fredric J. Ammerman in Courtroom No. 1., in the Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

FILED *ICC Atlys.*
01/10/40 2009
FEB 25 2009
William A. Shaw
Prothonotary/Clerk of Courts
Collins
Kuhar
610

FILED

FEB 25 2009

DATE: 2/25/09

 You are responsible for serving all appropriate parties.

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

 Plaintiff(s) Plaintiff(s) Attorney Other

 Defendant(s) Defendant(s) Attorney

 Special Instructions:

 Probationary/Clerk of Courts

William A. Shaw

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

JAMES DOUGLAS REDMOND)
)
)
 VS.) NO. 08-628-CD
)
)
 COMMONWEALTH OF PENNSYLVANIA)
)
 DEPARTMENT OF TRANSPORTATION)

ORDER

NOW this 26th day of March, 2009, following argument on Plaintiff's Petition for Review, it is the ORDER of this Court that counsel provide the Court with letter briefs within ten (10) days from date hereof.

BY THE COURT,

Y THE COURT,
Frederick L. Greenman

President Judge

FILED 2cc
04/30/2009 Attns:
MAR 30 2009 Collins
S William A. Shaw
Prothonotary/Clerk of Courts Kuhar

611

FILED

MAR 30 2009

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 3/30/09

 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

JAMES DOUGLAS REDMOND :
:
vs. : No. 08-628-CD
:
COMMONWEALTH OF :
PENNSYLVANIA DEPARTMENT :
OF TRANSPORTATION :
:

O R D E R

NOW, this 23rd day of April, 2009, following argument on the Petition for Review filed on behalf of James D. Redmond and the Petition to Quash Appeal for Lack of Subject Matter Jurisdiction filed on behalf of the Department of Transportation, it is the order of this Court as follows:

1. The Petition to Quash Appeal is hereby denied. This Court finds that a statute which denies restoration of driving privileges on an indefinite basis if the interlock requirement is not met is, in substance, mandating a continuing suspension;
2. The Petition for Review (i.e. Appeal) is hereby dismissed. For purposes of the interlock requirement, the date of the violation was October 22, 2006 and the statute in effect at that time applies. The Petitioner's conviction on February 12, 2008 empowered the Department of Transportation to impose the interlock requirement for the violation which occurred on October 22, 2006.

BY THE COURT:


HONORABLE FREDRIC J. AMMERMAN
President Judge

5/14/09
APR 23 2009
FILED

William A. Shaw

Prothonotary/Clerk of Courts

cc: Atlys: Collins
Kuhar

FILED

APR 23 2009

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 4/23/09

____ You are responsible for serving all appropriate parties.

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

____ Plaintiff(s) X Plaintiff(s) Attorney ____ Other

____ Defendant(s) X Defendant(s) Attorney ____ Other

____ Special Instructions: