

08-704-CD

Dennis Peck vs Comm of PA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CIVIL DIVISION

Dennis J. Peck

Appellant

vs.

Commonwealth of Pennsylvania
Department of Transportation
Appellee

Case No. 2008-704-CD

Type of Case: Civil

Type of Filing: Appeal from the
Suspension of Safety Inspector's
Certificate

Filed on Behalf of: Appellant

FILED BY:

Patrick Lavelle, Esq.
PA ID No. 85537
25 East Park Ave.
Suite #4
DuBois, PA. 15801
(814) 371-2232
(814) 371-4480 Fax

FILED

M 2:15 P.M. GK

APR 17 2008

ATTY PAID 95.00

ICC ATTY

William A. Shaw
Prothonotary/Clerk of Courts

JA

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

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Dennis J. Peck

Appellant

vs.

Case No. 2008-704-CD

Commonwealth of Pennsylvania
Department of Transportation
Appellee

**APPEAL FROM ORDER SUSPENDING CERTIFICATION AS OFFICIAL
SAFETY INSPECTOR**

1. The Appellant is Dennis J. Peck, having a mailing address of ⁸⁷³837 Rich Highway, DuBois, PA. 15801.
2. Appellant is the holder of the certification as a Safety Inspector, issued by PennDOT and designated as Mechanic No. 16157203.
3. The Appellee is the Department of Transportation of the Commonwealth of Pennsylvania, having a mailing address of PennDOT, Vehicle Inspection Division, P.O. Box 69003, Harrisburg, Pennsylvania 17106-9003.
4. By letter or notice dated March 31, 2008, a copy of which is attached hereto as Exhibit A, the Department of Transportation ordered Appellant to surrender his Certificate as an Official Safety Inspector for a period of two (2) months effective May 9, 2008.

5. The action of PennDOT in suspending the Appellant's Certificate as a Safety Inspector is based upon the allegation of PennDOT that he conducted a faulty inspection of a 1995 Ford Truck.

6. Appellant hereby appeals the foregoing action of the Pennsylvania Department of Transportation pursuant to the provisions of 75 Pa. C.S.A. § 4724(b).

7. The suspension of Appellant's Certificate as an Official Safety Inspector operating privileges is alleged to be improper for the following reasons:

a. Appellant asserts that the inspection of the vehicle listed in the suspension notification was not faulty in any respect, but that the mechanical problems subsequently discovered to exist on the vehicle were caused by the use of the vehicle after the inspection was completed.

WHEREFORE, Appellant respectfully requests that this matter be set down for a hearing and that the action of the Department of Transportation suspending his Certificate as a Safety Inspector be set aside.

MOTION FOR SUPERSEDEAS

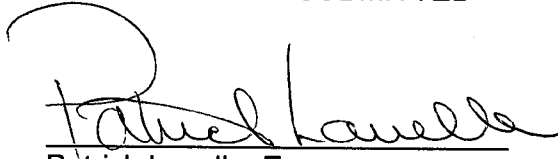
8. Appellant hereby incorporates the averments of paragraphs one (1) through seven (7) same as though set forth fully herein.

9. Appellant asserts that the above action of the Department of Transportation will have an adverse impact on the operation of his business.

10. Appellant further asserts that there is evidence available in this case that, if accepted as true, would support his position that the identified inspection was not faulty in any respect.

WHEREFORE the appellant respectfully requests that this Honorable Court will issue its Order of Supesedeas, staying the suspension of his Certificate as a Safety Inspector until the final disposition of this appeal.

RESPECTFULLY SUBMITTED



Patrick Lavelle
Patrick Lavelle, Esq.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CIVIL DIVISION

Dennis J. Peck

Appellant

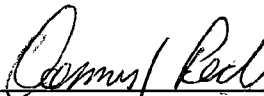
vs.

Case No. _____

Commonwealth of Pennsylvania
Department of Transportation
Appellee

VERIFICATION

I, Dennis J. Peck, the Appellant in this action, do hereby verify that all of the foregoing facts set forth in the forgoing Appeal from the Suspension of my Certificate as a Safety Inspector are true and correct to the best of my knowledge, information and belief. Further, I make this verification with knowledge and understanding of the provisions of 18 Pa. C.S.A. § 4904 (*Unsworn Falsification to Authorities*).



Dennis J. Peck

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CIVIL DIVISION

Dennis J. Peck

Appellant

vs.

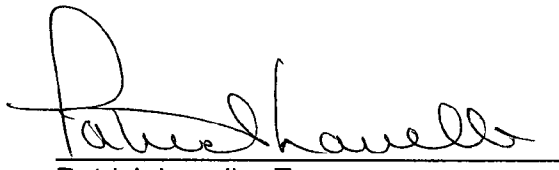
Case No. _____

Commonwealth of Pennsylvania
Department of Transportation
Appellee

CERTIFICATE OF SERVICE

I, PATRICK LAVELLE, ESQ., by my signature appearing below, do hereby
certify that on the _____ day of _____, 2008, I served a copy
of the foregoing Appeal from the Suspension of Certificate as a Safety Inspector
by mailing same via first class mail, postage prepaid to the following:

Pennsylvania Department of Transportation
Office of Chief Counsel
Third Floor, Riverfront Office Center
1101 South Front St.
Harrisburg, PA 17104


Patrick Lavelle, Esq.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CIVIL DIVISION

Dennis J. Peck

Appellant

vs.

Case No. 2008-704-CD

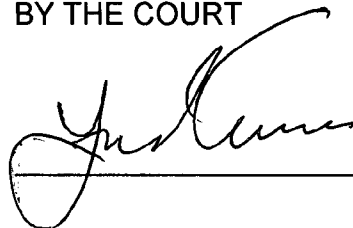
Commonwealth of Pennsylvania
Department of Transportation
Appellee

ORDER

AND NOW this 22 day of April, 2008, it is hereby ORDERED
and DECREED that this matter be set for a hearing to be held in Courtroom No.
1, of the Clearfield County Courthouse on the 5th day of August, 2008 at
10:00 o'clock A.M.

It is the further ORDER of this Court that the Appellant's Motion for
Supersedeas is hereby GRANTED, and the Appellee is hereby Ordered to stay
the imposition of the suspension of Appellant's Certification as a Safety Inspector
until such time as the Court has entered Judgment on the matter.

BY THE COURT

 J.

FILED

APR 29 2008

William A. Shaw
Prothonotary/Clerk of Courts

ICC Atty Lavelle

DATE: 4/29/08

FILED

APR 29 2008

☒ 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:

William A. Shaw
Prothonotary/Clerk of Courts



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
HARRISBURG, PA 17104

Dennis J Peck
873 Rich Hwy
Dubois PA 15801
(Dubois Car Care Center-OIS#X01)

Vehicle Inspection Division
P. O. Box 69003
Harrisburg PA 17106-9003
Phone: (717) 787-2895
MECHANIC #16157203
CERTIFIED MAIL: 7004 2510 0001 4165 9892
MAIL DATE: March 31, 2008

ORDER OF SUSPENSION OF OFFICAL SAFETY INSPECTOR

You are hereby notified that your certification as an Official Safety Inspector is suspended, pursuant to Section 4726 of the Vehicle Code. No vehicle safety inspections may be performed during the suspension. Pursuant to Departmental regulations, your certification as an Official Safety Inspector will be suspended for two (2) months for faulty inspection of equipment or parts (1995 Ford VIN 1FTEF14N2SNB49743, sticker # A17-4603874) by you.

The suspension(s) will run consecutively, for a total suspension of two (2) months. This suspension is to run consecutively with any other suspension(s) imposed by the Department for any violation considered separately. **THE SUSPENSION WILL BE EFFECTIVE May 9, 2008.** At this time, you are ordered to surrender to the Quality Assurance Officer, who is a representative of the Department of Transportation, your Safety Inspector Certification card. Upon completion of your suspension, your inspector certification card will be returned to you.

You have the right to appeal this Departmental Order of Suspension to the Court of Common Pleas of the County in which the above referenced inspection station is located, **WITHIN THIRTY (30) DAYS OF THE MAIL DATE OF THIS ORDER.** If you do file an appeal, a signed and time-stamped copy of the appeal must be served upon the Department at the mailing address listed below. **FILING OF AN APPEAL DOES NOT AUTOMATICALLY STAY THE SUSPENSION.** In order for your privileges to be restored pending appeal, a signed Order of Supersedeas from the Court directing the Department to stay the suspension must be served upon the Department at the mailing address listed below.

MAILING ADDRESS:
Department of Transportation
Chief Counsel's Office
Riverfront Office Center
1101 S. Front Street, 3rd Floor
Harrisburg, PA 17104-2416

Sincerely,

Anita M. Wasko, Director
Bureau of Motor Vehicles

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA :

VS.

: NO. 08-704-CD

DENNIS J. PECK

: License Suspension Appeal

O R D E R

NOW, this 5th day of August, ~~2004~~²⁰⁰⁸, following the Commonwealth having rested its case in the above-described matter; upon the request of counsel for Dennis J. Peck, the Court hereby continues the hearing. Counsel for Petitioner shall have no more than ten (10) days from this date to notify the Court and the Commonwealth, in writing, if he desires that additional hearing time be scheduled for Petitioner's testimony. In the event additional time is requested, the Court will reschedule the matter. In the event that no additional time is requested, the Court will issue an Order formally closing the record and requiring briefs on the part of both parties.

BY THE COURT,



President Judge

FILED
01:59 PM
AUG 06 2008

William A. Shaw
Prothonotary/Clerk of Courts

2cc Attys:
Lavelle
Kuhar
GP

FILED

AUG 06 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 8/6/08

____ 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

DENNIS J. PECK,
Plaintiff

vs.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION,
Defendant

*
*
*
*
*

No. 08-704-CD
No. 08-705-CD

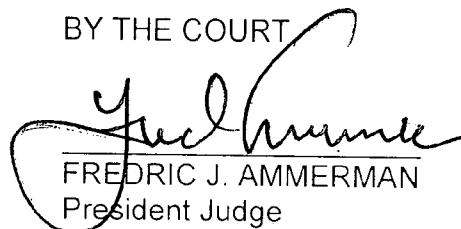
License Suspension Appeal

ORDER

AND NOW, this 21st day of November, 2008, upon request of Plaintiff's counsel, Patrick Lavelle, Esquire, it is the ORDER of this Court that an additional hearing in the above-captioned cases be and is hereby scheduled for the 19th day of December, 2008 at 11:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.


One-half hour has been allotted for this proceeding.

BY THE COURT


FREDRIC J. AMMERMAN
President Judge

FILED
012:00/01
NOV 24 2008

Argys: Lavelle
Kuhar


William A. Shaw
Prothonotary/Clerk of Courts

FILED

NOV 24 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 11/24/08

____ 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:

9

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

DENNIS J. PECK }
VS } NO. 08-704-CD & 08-705-CD
COMMONWEALTH OF PENNSYLVANIA }
DEPARTMENT OF TRANSPORTATION }

O R D E R

NOW, this 19th day of December, 2008, following conclusion of taking of testimony on the above-captioned License Suspension Appeal, it is the ORDER of this Court that counsel for both parties have no more than Forty-five (45) Days from this date to submit appropriate brief.

BY THE COURT,



President Judge

FILED
DEC 23 2008

icc Atty's:
Lavelle
Kuhar

William A. Shaw
Prothonotary/Clerk of Courts

(611)

DATE: 12/23/08

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

☐ Plaintiff(s) ☒ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☒ Defendant(s) Attorney

☐ Special Instructions:

William A. Shaw
Prothonotary/Clerk of Courts

DEC 23 2008

FILED

UA

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

DENNIS J. PECK
Appellant

vs

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Appellee


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NO. 08-704-CD
NO. 08-705-CD

ORDER

AND NOW, this 13th day of February, 2009, following completion of evidentiary hearing and the receipt of the parties' briefs; it is the ORDER of this Court that the Appeal of Dennis J. Peck from the suspension of certificate of appointment as official inspection station and certification as an official safety inspector be and is hereby DISMISSED.

BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

FILED
02:10:51
FEB 13 2009

William A. Shaw
Prothonotary/Clerk of Courts

2cc Amy:
Lavelle
Krek

(64)

FILED

FEB 13 2009

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 8/13/09

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

☐ Plaintiff(s) ☒ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☒ Defendant(s) Attorney

☐ Special Instructions: