

08-705-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. 2008-705-CD

Type of Case: Civil

Type of Filing: Appeal from the
Suspension of Certificate of
Appointment as Official
Inspection Station

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

APR 17 2008

William A. Shaw
Prothonotary/Clerk of Courts

ATTY PAID 95.00

1 CL ATTY

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

Dennis J. Peck

Appellant

vs.

Case No. 2008-705-CD

Commonwealth of Pennsylvania
Department of Transportation
Appellee

**APPEAL FROM ORDER SUSPENDING CERTIFICATE OF
APPOINTMENT AS OFFICIAL INSPECTION STATION**

1. The Appellant is Dennis J. Peck, having a mailing address of 873 Rich Highway, DuBois, PA. 15801.

2. Appellant is the owner and operator of "DuBois Care Care", located at 873 Rich Highway, DuBois, PA. 15801.

3. "DuBois Care Car" has been certified as an Official Inspection Station by the Pennsylvania Department of Transportation and designated as Station No. X01.

4. 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.

5. By letter or notice dated March 31, 2008, a copy of which is attached hereto as Exhibit A, the Department of Transportation suspended the Certificate of Appointment as an Official Inspection Station issued to "DuBois Car Care",

for a period of two (2) months effective May 9, 2008, and ordered Appellant to surrender the Certificate of Appointment.

6. The action of PennDOT is suspending the Certificate of Appointment is based upon the allegation of PennDOT that the station conducted a faulty inspection of a 1995 Ford Truck.

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

8. The suspension of Appellant's Certificate of Appointment as an Official Inspection Station 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 the Certificate of Appointment as an Official Inspection Station be set aside.

MOTION FOR SUPERSEDEAS

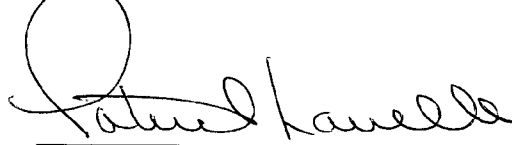
9. Appellant hereby incorporates the averments of paragraphs one (1) through eight (8) same as though set forth fully herein.

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

11. 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

A handwritten signature in cursive script, appearing to read "Patrick Lavelle", written over a horizontal line.

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 of Appointment as an Official Inspection Station 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.

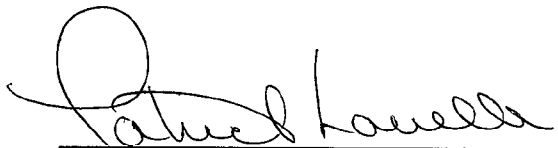
Case No. _____

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 of Appointment as an
Official Inspection Station 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. 2008-705-CD

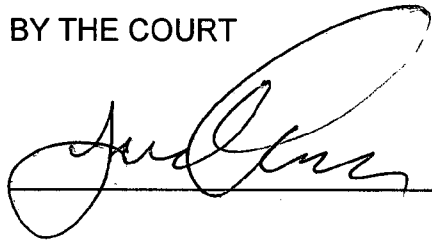
Commonwealth of Pennsylvania
Department of Transportation
Appellee

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
imposition of the suspension of the appellant's Certificate of Appointment until
such time as the Court has entered Judgment on the matter.

BY THE COURT

 J.

FILED

01914861
APR 29 2008

William A. Shaw
Prothonotary/Clerk of Courts
ICC Atty Lavelle

FILED

APR 29 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 4/29/08

☒ 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:



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
HARRISBURG, PA 17104

Dennis J Peck
Dubois Car Care Center
873 Rich Highway
Dubois PA 15801

Vehicle Inspection Division
Post Office Box 69003
Harrisburg, PA 17106-9003
Phone: (717) 787-2895
STATION: X01
CERTIFIED MAIL: 7004 2510 0001 4165 9885
MAIL DATE: March 31, 2008

ORDER OF SUSPENSION OF OFFICIAL INSPECTION STATION

You are hereby notified that your Certificate of Appointment as an Official Safety Inspection Station is suspended, pursuant to Section 4724 of the Vehicle Code. No vehicle safety inspections may be performed at your station during the suspension. Pursuant to Departmental regulations, your Certificate of Appointment 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 Certificate(s) of Appointment, and all safety inspection stickers. Two (2) weeks prior to the expiration of your suspension, you may contact your Quality Assurance Officer for reappointment. A complete and thorough investigation may be conducted to determine if you are qualified for reappointment.

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 :

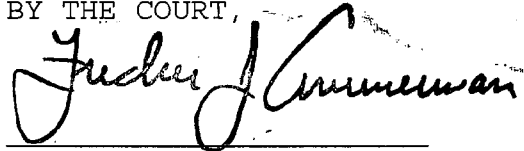
VS. : NO. 08-705-CD

DENNIS J. PECK : License Suspension Appeal

O R D E R

NOW, this 5th day of August, ²⁰⁰⁸~~2004~~, 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

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01:56 PM
AUG 06 2008

William A. Shaw
Prothonotary/Clerk of Courts

Atty's: Lavelle
Kuhar

GP

FILED

AUG 06 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 8/6/08

X 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,

/S/ Fredric J Ammerman

FREDRIC J. AMMERMAN
President Judge

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

NOV 24 2008

Attest.

William A. Shaw
Prothonotary/
Clerk of Courts

FILED

NOV 24 2008

William A. Shaw
Prothonotary/Clerk of Courts

Orig. filed to
08-704-CD

2cc
Amy S. Lavelle
Kuhar

FILED

NOV 24 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 11/24/08
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:

\\s1\legal\7\Amuram

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,

/S/ Fredric J Ammerman

President Judge

FILED
DEC 23 2008

ICC Atty's:
Lavelle
Kuhar

William A. Shaw
Prothonotary/Clerk of Courts

orig-40
08-704-CD

(610)

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

DEC 23 2008

Attest.

William A. Shaw
Prothonotary/
Clerk of Courts

DATE: 12/23/08

____ 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:

William A. Shaw
Prothonotary/Clerk of Courts

DEC 23 2008

FILED

ORIGINAL

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

DENNIS J. PECK

VS.

COMMONWEALTH OF PENNSYLVANIA,

DEPARTMENT OF TRANSPORTATION

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)

NO. 08-704-CD

(NO. 08-705-CD) x

TRANSCRIPT OF PROCEEDINGS

APPEAL FROM SUSPENSIONS

FREDRIC J. AMMERMAN, PRESIDENT JUDGE

on Tuesday, August 5, 2008

A P P E A R A N C E S:

FOR THE COMMONWEALTH:

WILLIAM KUCHAR, ESQUIRE

FOR THE DEFENDANT:

PATRICK LAVELLE, ESQUIRE

FILED

08-46301
JAN 12 2009

William A. Shaw
Prothonotary/Clerk of Courts

eng. to 08-704-CD

Reported by: Cathy Warrick Provost, RMR
Official Court Reporter.

CP

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

DENNIS J. PECK
Appellant

vs

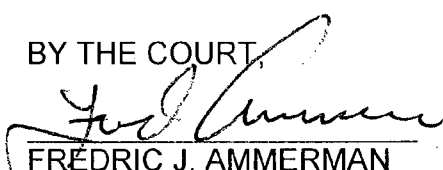
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Appellee

* 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

COPY
FILED
02:10:01
FEB 13 2009

S
William A. Shaw
Prothonotary/Clerk of Courts

Orig. to 08-704-CD

2cc Atty's:
Lavelle
Kraus
GP