

08-831-CB
Richele Esposito vs Comm of PA

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William A. Shaw
Prothonotary/Clerk of Courts
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IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

RICHELE MARIE ESPOSITO,
Petitioner

v.

No. 08 - 831-CD

**COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION,**
Respondent

PETITION FOR APPEAL FROM A SUSPENSION OF OPERATING PRIVILEGE

Petitioner, **RICHELE MARIE ESPOSITO**, by the undersigned counsel, respectfully petitions the Court pursuant to 75 Pa. Cons. Stat. Ann. § 1550 for review of an order of the Department of Transportation suspending Petitioner's operating privilege, and in support thereof represents as follows:

1. The Petitioner, **RICHELE MARIE ESPOSITO**, is an adult individual residing at 169 Hanes Drive, Apt. 47, DuBois, Pennsylvania 15801.
2. The Respondent is the **DEPARTMENT OF TRANSPORTATION** of the Commonwealth of Pennsylvania, having a mailing address of Department of Transportation, Bureau of Driver Licensing, Harrisburg, Pennsylvania 17123.
3. The Petitioner currently possesses a valid driver's license which has not heretofore been suspended, cancelled or revoked.
4. By letter dated April 11, 2008, Petitioner was notified in writing by the Department of Transportation of the entry of an order suspending her driving privilege for the following reasons as set forth in the notice: Diabetic condition which prevents safe operation of a motor vehicle. A copy of the notice is attached as **EXHIBIT "A."**
5. Petitioner is requesting an Order of Supersedeas since the Petitioner needs her license to drive her children to school activities and work.

6. The suspension of Petitioner's operating privileges is improper or unlawful for the following reasons:

- a. The suspension is not required due to Petitioner's health.
- b. Petitioner has Diabetes but she always checks her sugar levels and maintains her insulin medication and insulin pen sticks in case of an emergency with her condition, so that she is safe to drive.

WHEREFORE, Petitioner respectfully requests that the Court set this matter down forthwith for de novo hearing pursuant to 75 Pa. Cons. Stat. Ann. § 1550 and that the order of the Department of Transportation be set aside.

Respectfully submitted,
FERRARO, KRUK & FERRARO, LLP

BY: 

Ross F. Ferraro, Esquire
Attorney for Petitioner

690 Main Street
Brockway, PA 15824
(814) 268-2202

VERIFICATION

I verify that the statements made in this Petition are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unworn falsification to authorities.

Date: 5-1-08

Richele Marie Esposito
Richele Marie Esposito

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Bureau of Driver Licensing
Mail Date: 4/11/2008**

RICHELE MARIE ESPOSITO
169 HANES DRIVE APT 47
DU BOIS PA 15801

Dear Ms. RICHELE MARIE ESPOSITO:

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

As of 05/02/2008, 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.

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.

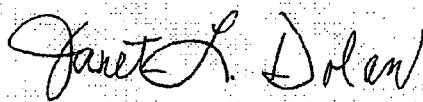
You have the right to appeal to the Court of Common Pleas (Civil Division) within thirty (30) days of the mail date of this notice. If you file an appeal in the County Court, the Court will give you a time-stamped certified copy of the appeal. In order for your appeal to be valid, you must send this time-stamped 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 4:15 p.m.

Sincerely,

A handwritten signature in black ink, appearing to read "Janet L. Dolan".

Janet L Dolan, Director
Bureau of Driver Licensing

Driver License # 20062590

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William A. Shaw
Prothonotary/Clerk of Courts

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TRANSPORTATION

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ATTY. (D)

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

RICHELE MARIE ESPOSITO,
Petitioner

v.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION,
Respondent

No. 08 - 831-CD

ORDER FOR HEARING

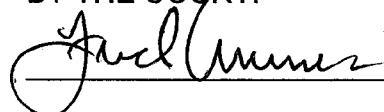
AND NOW, this 8th day of May, 2008, upon consideration of the Petitioner's PETITION FOR APPEAL FROM A SUSPENSION OF OPERATING PRIVILEGE for review of an order of the Department of Transportation suspending Petitioner's operating privilege, a hearing de novo is granted to determine whether the action of the Department of Transportation in suspending Petitioner's operating privilege should be set aside.

Hearing on the above-captioned matter is set for the 16th day of May, 2008, at 10:00 A.M. in Courtroom 1 of the Clearfield County Courthouse, 230 East Market Street, Clearfield, Pennsylvania.

~~IT IS FURTHER ORDERED that this appeal shall act as a supersedeas of any license suspension. FSA~~

~~The Court Administrator is directed forthwith to notify the Department of Transportation of the appeal and the hearing date.~~

BY THE COURT:


John J. Murray

J.

FILED
MAY 08 2008
William A. Shaw
Prothonotary/Clerk of Courts

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

RICHELE MARIE ESPOSITO,
Petitioner

v. : NO. 08-831-CD

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION,
Respondent

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William A. Shaw
Prothonotary/Clerk of Courts

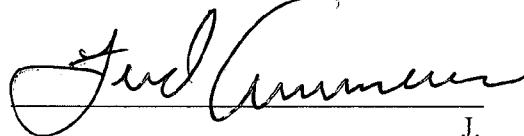
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ORDER

AND NOW, this 16th day of May, 2008, after hearing with the
Petitioner present, the Petitioner's request for supersedeas pending final hearing of this matter is
GRANTED on the following conditions:

- ❖ Petitioner shall comply with all treatment recommendations of her medical provider;
- ❖ Petitioner shall provide bi-weekly results of blood tests to her counsel and, upon request, to the Department's counsel to confirm that she is complying with medication recommendations;
- ❖ Petitioner or his counsel shall promptly notify the Department's counsel in the event she experiences any hypoglycemic or syncopal episode or other loss of consciousness, or requires the assistance of another to manage her diabetic condition, in which case the parties agree that this supersedeas order shall be VACATED until further review by this Court.

BY THE COURT:


J.

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

RICHELE MARIE ESPOSITO

vs.

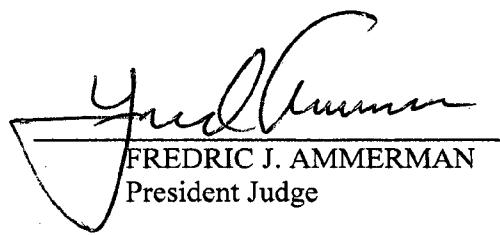
NO. 2008-0831-CD

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

ORDER

AND NOW, this 25th day of August 2010, it is the ORDER of the Court that a hearing on the above captioned case shall be and is hereby scheduled for the 23rd day of September, 2010 at 3:30 o'clock P.M. in Courtroom #1 of the Court of Common Pleas of Clearfield County, Pennsylvania. One half hour has been set aside for this hearing.

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

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William A. Shaw
Prothonotary/Clerk of Courts

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

RICHELE MARIE ESPOSITO :

-vs-

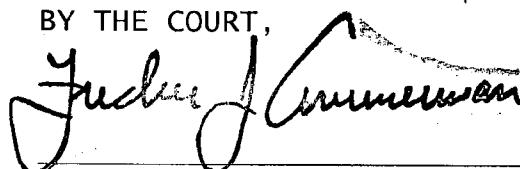
: No. 08-831-CD

COMMONWEALTH OF PENNSYLVANIA, :
DEPARTMENT OF TRANSPORTATION :

O R D E R

AND NOW, this 23rd day of September, 2010, the Petitioner, Richele Marie Esposito, having provided satisfactory medical documentation that meets the Department's medical standards, the Appeal filed in the above-referenced matter is remanded to the Department to update Petitioner's driving record to rescind the recall which is the subject of this appeal.

BY THE COURT,



President Judge

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William A. Shaw
Prothonotary/Clerk of Courts

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William A. Shaw
Prothonotary/Clerk of Courts

DATE: 9/27/10

You are responsible for serving all summons/notice of filing.

The Prothonotary's Office has provided service to the following parties:
Plaintiff(s) Plaintiff(s) Attorney Other
Defendant(s) Defendant(s) Attorney Other

Special Instructions: