IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Karen L. Leonardi and Karen L. Lanczak A/K/A Karen L. Leonardi, Executrix of the Estate of Regina Lanczak	:	
v.	:	
Commonwealth of Pennsylvania, Department of Transportation, Bureau of Motor Vehicles, Appellant	:	No. 1492 C.D. 2010 Submitted: February 4, 2011

BEFORE: HONORABLE BONNIE BRIGANCE LEADBETTER, President Judge
HONORABLE PATRICIA A. McCULLOUGH, Judge
HONORABLE JOHNNY J. BUTLER, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION BY
JUDGE BUTLER FILED: March 7, 2011

The Department of Transportation, Bureau of Motor Vehicles (PennDOT) appeals the June 30, 2010 order of the Court of Common Pleas of Luzerne County (trial court) sustaining the appeal of Karen L. Leonardi (Owner) of the suspension of her vehicle registration for failing to maintain the required financial responsibility.[1] The issue before this Court is whether the trial court erred as a matter of law and exceeded its scope of review in sustaining Owner's appeal on the basis that Owner did not receive advance notice from PennDOT that she could prevent the suspension of her vehicle registration. For the reasons that follow, we reverse the order of the trial court.

[1] On January 26, 2011 this Court ordered that Owner was precluded from filing a brief or participating in oral argument for failing to comply with this Court's December 29, 2010 order that she submit her brief within 14 days.

PennDOT received notification from Victoria Fire & Casualty Insurance Co. that Owner's insurance coverage on her 2001 Chrysler station wagon was cancelled as of October 20, 2009. On November 4, 2009, PennDOT mailed a "warning letter" to Owner advising her that her registration would be suspended unless she exercised one of several options listed in the letter. Owner did not respond to PennDOT's November 4, 2009 letter. PennDOT then sent out a suspension notice on December 21, 2009.

Owner filed a timely appeal with the trial court, and a hearing was held on March 22, 2010. At the hearing, PennDOT offered into evidence a packet of certified documents including: a copy of the official notice of suspension dated and mailed on December 21, 2009; a copy of the electronic transmission from Victoria Fire & Casualty Insurance Co. certifying the termination of Owner's vehicle insurance on October 20, 2009; a computer printout of PennDOT's vehicle title records for Owner's Chrysler station wagon; a copy of the warning letter dated November 4, 2009, notifying Owner of the new insurance cancellation; and, a copy of PennDOT's registration record for Owner's vehicle. Owner testified that she did not receive the November 4, 2009 "warning letter," but did receive the December 21, 2009 notice of suspension. Owner also testified that she had let her insurance lapse because she could not afford the premiums for a period of time in 2009, but that she had her coverage reinstated as of December 11, 2009.[2] Owner did not have insurance coverage for her vehicle for approximately 52 days. The trial court issued an order

[2] Owner testified that her husband worked for the Commonwealth and was not receiving paychecks due to the 2009 budget impasse, and that her mother had recently passed away and she was taking care of bills related to her mother's death.

on June 30, 2010 sustaining Owner's appeal on the basis that Owner had not received PennDOT's November 4, 2009 "warning letter." PennDOT appealed to this Court.[3]

PennDOT argues that it proved its prima facie case, and that Owner did not rebut PennDOT's evidence, nor did she satisfy any of the statutory exceptions. Accordingly, PennDOT contends that the trial court erred in holding that Owner's testimony that she did not receive advance notice of the impending vehicle registration suspension was sufficient to rebut PennDOT's evidence. We agree.

Section 1786(d)(1) of the Motor Vehicle Financial Responsibility Law (MVFRL) provides: "The Department of Transportation shall suspend the registration of a vehicle for a period of three months if it determines the required financial responsibility was not secured . . . ." 75 Pa.C.S. § 1786(d)(1).

> In a suspension of registration case . . . [PennDOT] has the initial burden of showing that a registrant's vehicle is registered or is a type of vehicle that must be registered and that [PennDOT] received notice that the registrant's financial responsibility coverage was terminated. Statutory authority provides that [PennDOT's] ***certification*** *of its receipt* of documents or electronic transmission from an insurance company informing the department that the person's coverage has lapsed, been canceled or terminated *shall also constitute prima facie proof* of such termination. If [PennDOT] meets its burden, a presumption arises that the registrant lacked the necessary financial responsibility coverage. The registrant may rebut this presumption by presenting clear and convincing evidence of record that financial responsibility was continuously maintained on the vehicle as required by Section 1786(a) of the [Vehicle Code], 75 Pa.C.S. § 1786(a), or that the vehicle owner fits within one of the three statutorily defined defenses outlined in Section 1786(d)(2)(i-iii) . . . .

[3] This Court's scope of review of a trial court's order sustaining a statutory appeal from a suspension of a vehicle registration is limited to determining whether the trial court committed an error of law or abused its discretion and whether the necessary findings of fact are supported by substantial evidence. *Deklinski v. Dep't of Transp., Bureau of Motor Vehicles*, 938 A.2d 1191 (Pa. Cmwlth. 2007).

Deklinski v. Dep't of Transp., Bureau of Motor Vehicles, 938 A.2d 1191, 1194 (Pa. Cmwlth. 2007) (citations and quotation marks omitted). The statutory exceptions include: 1) if the owner proves that the lapse in insurance coverage was less than 31 days and that the vehicle was not operated during the lapse; 2) if the owner is a member of the armed services and was on temporary, emergency duty, and the vehicle was not operated during the lapse; and 3) the insurance was terminated or lapsed subsequent to the expiration of a seasonal registration. 75 Pa.C.S. § 1786(d)(2). Here, there is no dispute that Owner did not qualify for any of these exceptions.

According to Section 1786(d)(3) of the MVFRL:

> The [trial] court's scope of review in an appeal from a vehicle registration suspension shall be limited to determining whether:
>
> (i) the vehicle is registered or of a type that is required to be registered under this title; and
>
> (ii) there has been either notice to the department of a lapse, termination or cancellation in the financial responsibility coverage as required by law for that vehicle or that the owner, registrant or driver was requested to provide proof of financial responsibility to the department, a police officer or another driver and failed to do so. Notice to the department of the lapse, termination or cancellation or the failure to provide the requested proof of financial responsibility shall create a presumption that the vehicle lacked the requisite financial responsibility. This presumption may be overcome by producing clear and convincing evidence that the vehicle was insured at all relevant times.

Thus, according to the clear language of the MVFRL, PennDOT is not required to prove that it sent out advanced warning that an owner's vehicle registration is about to be suspended due to a lapse in insurance coverage. In fact, PennDOT is not required to send out *any* notice of impending vehicle registration

suspension. Therefore, the trial court's reliance on such advance notice as a basis for its ruling is outside its scope of review as established under Section 1786(d)(3) of the MVFRL.

PennDOT's certified documents were admitted into evidence with no objection, and provided proof that: 1) Owner's vehicle was registered, and 2) it received notice that Owner's insurance coverage was cancelled as of October 20, 2009. Reproduced Record (R.R.) at 11a, 18a, 19a. When the burden shifted to Owner to prove by clear and convincing evidence that insurance coverage was continuously maintained on the vehicle, she admitted that she received notice from the insurance company that her coverage had expired, and she was not able to renew it until December 11, 2009. R.R. at 12a. Because the trial court's review is limited, and the uncontested evidence before it was that PennDOT met its burden and Owner did not, the trial court erred as a matter of law in sustaining Owner's appeal on the basis that she did not receive advance notice that her vehicle registration would be suspended.

For the reasons above, we reverse the order of the trial court.

____

JOHNNY J. BUTLER, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Karen L. Leonardi and	:	
Karen L. Lanczak A/K/A	:	
Karen L. Leonardi, Executrix	:	
of the Estate of Regina Lanczak	:	
	:	
v.	:	
	:	
Commonwealth of Pennsylvania,	:	
Department of Transportation,	:	
Bureau of Motor Vehicles,	:	No. 1492 C.D. 2010
Appellant	:	

O R D E R

AND NOW, this 7th day of March, 2011, the June 30, 2010 order of the Court of Common Pleas of Luzerne County is reversed.

____

JOHNNY J. BUTLER, Judge