

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Ruth Anne Townsend,	:	
	:	
Appellant	:	
	:	
v.	:	
	:	
Commonwealth of Pennsylvania,	:	
Department of Transportation,	:	No. 2059 C.D. 2009
Bureau of Driver Licensing	:	Submitted: February 26, 2010

BEFORE: HONORABLE BERNARD L. McGINLEY, Judge
HONORABLE P. KEVIN BROBSON, Judge
HONORABLE JIM FLAHERTY, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE McGINLEY

FILED: April 30, 2010

Ruth Anne Townsend (Licensee), *pro se*, appeals from the Order of the Court of Common Pleas of Lancaster County (trial court) which dismissed her appeal from the Department of Transportation, Bureau of Driver Licensing’s (DOT) suspension of her license for failure to pay fines and costs in accordance with Section 1533 of the Vehicle Code, 75 Pa.C.S. §1533.

On September 6, 2006, Licensee was issued a citation for operating her vehicle without a valid inspection in violation of Section 4703 of the Vehicle Code, 75 Pa.C.S. §4703(a) (relating to emissions tests and vehicle inspections).

Licensee was convicted by a magisterial judge of violating Section 4701(a) of the Vehicle Code, 75 Pa.C.S. §4701(a). She unsuccessfully appealed this conviction to the trial court, the Superior Court of Pennsylvania, and the Supreme Court of Pennsylvania. When Licensee refused to pay the fines and costs

resulting from her conviction, the Clerk of Courts submitted a request to DOT to impose a suspension of her operating privilege. By official notice dated April 15, 2009, DOT notified Licensee that her operating privilege was suspended indefinitely pursuant to 75 Pa.C.S. §1533(a), effective May 6, 2009, “for failing to make regular payments on fines and costs for citation number (sic) issued on 09/06/2006.” Official Notice of Suspension, April 8, 2009, at 1-3; Supplemental Reproduced Record (S.R.R.) at 2b-4b. Licensee appealed her license suspension to the trial court.

At the hearing *de novo* on August 24, 2009, Licensee acknowledged that she received an Official Notice of Suspension in the mail. Hearing Transcript (H.T.), August 24, 2009, at 14. The trial court asked Licensee if she made contact with the Lancaster County Clerk of Courts Office to arrange a payment schedule. She responded that doing this was “not possible” because “the Commonwealth” and “the District Attorney is stealing my income to pay the fines they seek to impose.” H.T. at 10, 14-15. Licensee testified “this is why in the application for relief I am requesting a court order to obtain the three hundred and some a month that’s being stolen in order to make that payment.” H.T. at 17.

Counsel for DOT offered to delay Licensee’s suspension date so she could make arrangements with the Clerk of Courts to pay the fines and costs. Licensee rejected the offer and asked the trial court to rule on the suspension based on the evidence before it. At the end of the hearing, the trial court dismissed the appeal and reinstated Licensee’s suspension.

In her *pro se* Brief on appeal¹, Licensee raises six issues²; none of which raises a valid defense to the underlying suspension. In effect, she argues that she withheld payment of the fines and costs because she believes the Commonwealth owed her money.

¹ In a driver license suspension appeal, this Court's scope of review is limited to determining whether the trial court's findings are supported by competent evidence, whether errors of law have been committed, and whether the trial court's determination demonstrates an abuse of discretion. Department of Transportation, Bureau of Driver Licensing v. Tarnopolski, 533 Pa. 549, 626 A.2d 138 (1993).

² The six issues are:

1. Whether (sic) the "un-precedented" order for the Plaintiff/Appellant to; "pay her murderous thief" sets a precedence (sic) for homonymial (sic) law on appeal? (Emphasis in original)
2. Whether (sic) the Commonwealth of Pennsylvania can "steal \$45,762.00 2001 to date, and rob this Plaintiff of her car inspection ... while "homeless" by fire 2006 insodants (sic), qualified for Welfare; homeless? (theft (sic) denial!) (Emphasis in original)
3. Whether (sic) the Commonwealth can "steal" income's (sic), social security and welfare, to "deprive" this Plaintiff of income's, and "blame" the victim of non-payment to also "rob" her of her driving privileges (sic) by theft (sic) in the first instance?!? (Emphasis in original)
4. Whether (sic) any fines are owed from the "50% un-heard (sic)" traffic case, no auxillary (sic) aids "compliance", no A.D.A. accommodation compliance, Federal Crimes, Damages Due? Mistrial? (Emphasis in original)
5. Whether (sic) Plaintiff's; short-term memory loss (age 66) "inability" to question or cross-examine in the traffic case "owes any fines", no defence (sic) "plausable" (sic), disabled pro se, and no due process to date; appeal quashed?! (un-constitutional (sic) case) (Emphasis in original)
6. Whether (sic) this Plaintiff should be "robbed" of income's (sic), robbed of car inspection, robbed of an attorney, robbed of payment of fines, money taken; fines paid by theft (sic), to also be robbed of her license?!? (theft (sic) in denial!) (Emphasis in original)

First, Licensee argues that the Commonwealth rendered her financially incapable of having her car inspected. She claims that from 2001 to 2009, the Commonwealth “stole” her Medicare, “a widow’s check in the amount of \$2,000” and “food stamps.” Licensee’s Brief at 52-53. Licensee contends that the Commonwealth stole \$45,672 and “robbed her of her car inspection.” Id.

Licensee claims that because of the Commonwealth’s theft, “no fines are owed ... plaintiff is the party owed, not the Commonwealth, the thief, killing me.” Licensee’s Brief at 15 (Emphasis added). She claims that DOT’s attempt to recover the fines and costs was the equivalent of “attempted murder.” Licensee’s Brief, at 4-5, 14-18.

Courts of this Commonwealth have repeatedly held that the only issues in a civil license suspension appeal are (1) whether the motorist was, in fact, convicted, and (2) whether DOT acted in accordance with applicable law. Orndoff v. Department of Transportation, Bureau of Driver Licensing, 654 A.2d 1 (Pa. Cmwlth. 1994). It is also well settled that a motorist may not attack the validity of the underlying conviction in an appeal from a license suspension. Id.

Here, Licensee does not dispute that she was convicted for failure to have her car legally inspected. Rather, she argues that she could not afford to pay for an inspection because the Commonwealth owed her money. She also contends that it was not fair to make her pay the fines and costs associated with her conviction because it was the Commonwealth’s fault she could not afford to have her car inspected.

Initially, this Court must agree with the trial court that Licensee's appeal is an improper collateral attack on the underlying conviction. Licensee's allegations concerning the Commonwealth's failure to pay her Medicare clearly go to *why* she was unable to get her car inspected. These same arguments were made in the underlying prosecution and were rejected by the trial court. Licensee did not successfully appeal the conviction. This Court will not revisit a conviction that was adjudicated to finality. Orndoff.

Moreover, Licensee's contention that it was not fair to assess her fines and costs associated with the conviction is not a recognized defense. No case law supports the proposition advanced by Licensee to excuse a motorist from paying fines and costs.

At the hearing, Licensee admitted she received the underlying citation and failed to pay or schedule payments for the related fines and costs. It is clear from the record that Licensee was given numerous opportunities to make arrangements with the Clerk of Court's Office, any of which would have resolved the license suspension issue. Despite the attempts to assist her with her problem, Licensee made it clear that she was unwilling to set up a payment plan because she believed that the Commonwealth owed her additional Medicare and other sums.

Because the trial court properly reinstated DOT's license suspension, this Court affirms.

BERNARD L. MCGINLEY, Judge

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ORDER

AND NOW, this 30th day of April, 2010, the order of the Court of Common Pleas of Lancaster County in the above-captioned case is hereby affirmed.

BERNARD L. McGINLEY, Judge