

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Richard H. Peters	:	
	:	
v.	:	
	:	
Commonwealth of Pennsylvania,	:	
Department of Transportation,	:	
Bureau of Driver Licensing,	:	No. 1418 C.D. 2009
Appellant	:	Submitted: December 31, 2009

BEFORE: HONORABLE BERNARD L. MCGINLEY, Judge  
HONORABLE JOHNNY J. BUTLER, Judge  
HONORABLE JIM FLAHERTY, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION BY  
JUDGE BUTLER

FILED: January 29, 2010

The Commonwealth of Pennsylvania, Department of Transportation, Bureau of Driver Licensing (PennDOT) appeals from the June 23, 2009 order of the Court of Common Pleas for the 26<sup>th</sup> Judicial District, Columbia County Branch (trial court), granting the appeal of Richard H. Peters (Peters) and reversing the suspension of his driver's license. The sole issue before this Court is whether the trial erred as a matter of law by reinstating Peters' license based upon a plea agreement between Peters and the District Attorney. For the reasons that follow, we reverse the decision of the trial court.

The facts of this case are not in dispute. On March 17, 2008, Peters was arrested and charged with, *inter alia*, driving under the influence of alcohol (DUI), pursuant to Section 3802(b) of the Vehicle Code, 75 Pa.C.S. § 3802(b) (high rate of

alcohol, blood alcohol content (BAC)  $.10 < .16$ ).<sup>1</sup> Before he was convicted of that charge, however, on May 3, 2008, he was arrested and again charged with DUI, this time pursuant to Section 3802(a)(1) of the Vehicle Code, 75 Pa.C.S. § 3802(a)(1) (general impairment, BAC  $.08 < .10$ ), which is an ungraded misdemeanor.

As for the May 3, 2008 charge, Peters and the Commonwealth, through the District Attorney, entered into a plea agreement whereby, on December 18, 2008, Peters pled guilty to DUI on the condition that it would be treated as his first offense. The trial court accepted Peters' guilty plea, and he was sentenced as if it were his first DUI offense. By letter to Peters on January 20, 2009, PennDOT notified Peters that his driver's license was being suspended for a period of one year, as a consequence of his conviction for the May 3, 2008 DUI. Peters appealed the suspension to the trial court which, after a *de novo* hearing, sustained Peters' appeal and rescinded his license suspension on the basis that, pursuant to the plea agreement, the May 3, 2008 incident was treated as a first offense, thus Peters' license should not have been suspended by PennDOT for that conviction. PennDOT filed an appeal with this Court.<sup>2</sup>

PennDOT argues that it properly treated Peters' May 3, 2008 DUI as a second offense and suspended his driver's license for one year, since it was not a party bound by the plea agreement between Peters and the District Attorney. PennDOT contends that the fact that the District Attorney deemed Peters' second

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<sup>1</sup> Peters pled guilty and was convicted of this charge, an ungraded misdemeanor, on September 8, 2008. By letter to Peters on December 8, 2008, PennDOT notified Peters that his driver's license was being suspended for a period of one year for that offense.

<sup>2</sup> This Court's scope of review in a license suspension case is limited to determining whether the trial court's findings of facts are supported by competent evidence and whether the trial court committed an error of law or an abuse of discretion. *Orloff v. Dept. of Transp., Bureau of Driver Licensing*, 912 A.2d 918 (Pa. Cmwlth. 2006).

DUI his first offense does not abrogate PennDOT's responsibility to follow the mandates set forth by the General Assembly in the Vehicle Code. We agree.

According to PennDOT's suspension letter, the suspension of Peters' driver's license for the May 3, 2008 DUI was made pursuant to Section 3804(e)(2)(i) of the Vehicle Code.<sup>3</sup> Reproduced Record (R.R.) at 12a-13a. Section 3804(e) of the Vehicle Code, 75 Pa.C.S. § 3804(e), states, in pertinent part:

(1) [PennDOT] shall suspend the operating privilege of an individual . . . for:

(i) an offense under section 3802;

....

(2) Suspension . . . shall be in accordance with the following:

(i) Except as provided for in subparagraph (iii), 12 months for an ungraded misdemeanor or misdemeanor of the second degree under this chapter.

....

(iii) There shall be no suspension for an ungraded misdemeanor under section 3802(a) where the person is subject to the penalties provided in subsection (a) and the person has no prior offense.

Since, in this case, there is no dispute that Peters pled guilty to DUI under Section 3802(a) on May 3, 2008, and it was not his first offense, PennDOT is mandated to suspend Peters' driver's license for a period of 12 months for that offense.

The trial court stated at the hearing, and again in its opinion, that since it approved the plea agreement, and Peters gave his plea only on the condition that this DUI offense would be treated as his first, it would be unfair for PennDOT to impose

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<sup>3</sup> 75 Pa.C.S. § 3804(e)(2)(i).

the subject license suspension. R.R. at 23a-25a, 61a-62a. We have found nothing in either the Vehicle Code or the Crimes Code that supports the trial court's position. In fact, the case law demonstrates that the Pennsylvania Supreme Court, and this Court have had longstanding positions to the contrary.

License suspensions are collateral civil consequences of criminal convictions. *Commonwealth v. Duffey*, 536 Pa. 436, 639 A.2d 1174 (1994). Accordingly, it has been well-settled that PennDOT's mandated license suspensions are independent civil proceedings that are separate from criminal DUI matters. *Commonwealth v. Wolf*, 534 Pa. 283, 632 A.2d 864 (1993); *Thorek v. Dept. of Transp., Bureau of Driver Licensing*, 938 A.2d 505 (Pa. Cmwlth. 2007). "Therefore, regardless of whether a plea agreement existed in the underlying criminal proceedings, it has no effect on [PennDOT's] duty under the relevant provisions of the Vehicle Code to impose [a] license suspension . . . ." *Stair v. Dept. of Transp., Bureau of Driver Licensing*, 911 A.2d 1014, 1018 (Pa. Cmwlth. 2006). This Court further stated, in *Stair*, that:

neither the district attorney in plea bargaining, nor the court of common pleas when deciding a criminal matter, has jurisdiction to bind [PennDOT] to withdraw a civil license suspension. The statutory suspensions following . . . a conviction for driving under the influence are not bargaining chips to be traded in exchange for criminal convictions; rather, they are mandatory civil penalties, imposed not for penal purposes, but 'to protect the public by providing an effective means of denying an intoxicated motorist the privilege of using our roads.'

*Id.* (citation omitted) (quoting *Dept. of Transp., Bureau of Driver Licensing v. Lefever*, 533 A.2d 501, 503 (Pa. Cmwlth. 1987)).

Since PennDOT cannot be bound by a plea agreement between Peters and the District Attorney in the instant case, the trial erred in failing to follow long-

standing precedent and reinstating Peters' license on that basis. Accordingly, the order of the trial court is reversed.

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JOHNNY J. BUTLER, Judge

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ORDER

AND NOW, this 29<sup>th</sup> day of January, 2010, the June 23, 2009 order of the Court of Common Pleas for the 26<sup>th</sup> Judicial District, Columbia County Branch is reversed, and the one-year suspension of Richard H. Peters' operating privileges is reinstated.

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JOHNNY J. BUTLER, Judge