

**IN THE SUPREME COURT OF PENNSYLVANIA  
MIDDLE DISTRICT**

COMMONWEALTH OF PENNSYLVANIA,	:	No. 574 MAL 2008
	:	
Respondent	:	
	:	Petition for Allowance of Appeal from the
v.	:	Order of the Superior Court at 2105 MDA
	:	2007, dated August 13, 2008, affirming the
	:	Judgment of Sentence of the Court of
DUSTY ANDREW GAUMER,	:	Common Pleas of York County at CP-67-
	:	CR-0004924-2007, dated December 3,
	:	2007
Petitioner	:	

**ORDER**

**PER CURIAM**

**DECIDED: March 10, 2010**

**AND NOW**, this 10<sup>th</sup> day of March, 2010, the Petition for Allowance of Appeal is hereby **GRANTED**. The order of the Superior Court is **VACATED**, and the matter **REMANDED** to the trial court for resentencing pursuant to Commonwealth v. Haag, 981 A.2d 902, at 907 (Pa. 2009) (if no conviction on previous § 3802 violation occurred before commission of subsequent violation, offender cannot be sentenced as recidivist on subsequent violation). Jurisdiction relinquished.