

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION**

No. SA-23-552

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION

vs.

PENNSYLVANIA STATE CONSTABULARY

**MOTION FOR
RECONSIDERATION**

Filed on Behalf of:
Commonwealth of Pennsylvania
Department of Transportation

Counsel for this Party:

Meron Eshete Murphy, Esquire
Pa. ID No. 326870

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MOTION FOR RECONSIDERATION

AND NOW, comes the Department of Transportation and requests the Court reconsider its May 9, 2024 Order requiring the Pennsylvania State Police and/or Castle Shannon police to return registration plate number MG3590N to Pennsylvania State Constabulary (“Registrant”). In support thereof, the Department avers the following:

1. By Official Notice dated September 11, 2023, the Department notified Registrant that his registration plate MG3590N was issued in error, and accordingly, will be suspended indefinitely pursuant to Section 1373 (b)(2) of the Vehicle Code. 75 Pa.C.S. § 1373(b)(2).
2. The Registrant filed an appeal of the Department’s September 11, 2023 Notice on October 6, 2023.
3. The aforementioned Notice references a suspension; however, the action taken by the Department is in fact a revocation of the registration plate MG3590N. “Revoke” is defined by the Vehicle Code as follows: “To terminate by formal action of the department any license, registration or privilege issued or granted by the department.” *See* 75 Pa.C.S. § 102.
4. The Department avers that the only avenue for relief for an improper grant of a registration plate is an indefinite revocation given that the Registrant was issued a government

municipal plate only upon his misrepresentation, to the Department, that he is a “political subdivision” of the Commonwealth.

5. Except for this misrepresentation, the Department would not have issued the municipal plate. Once the error was determined, the Department sent the September 11, 2023 Notice to the Registrant.
6. The Registrant requested an automatic *supersedeas* upon filing the initial appeal on October 6, 2023, pursuant to Section 1550 of the Vehicle Code, 75 Pa.C.S. § 1550. *See Exhibit 1* attached hereto (the Registrant’s initial appeal). Although this Honorable Court granted the automatic *supersedeas*, Section 1550 does not apply to the within appeal nor did the Department have the subject registration plate to return.
7. On May 9, 2024, upon the Registrant’s “Motion to Enforce the Automatic Supersedeas and for Sanctions,” this Honorable Court opined that an automatic *supersedeas* is warranted pursuant to Section 1377 of the Vehicle Code, 75 Pa.C.S. § 1550; and as such, required the Pennsylvania State Police and/or Castle Shannon Police Department to return the relevant vehicle registration plate to the Registrant.
8. The Department has now been informed by the Castle Shannon Police Department that the subject vehicle registration plate was returned to the Department in April 2024.
9. Upon further investigation, the subject plate has since been marked “dead” and has been destroyed; or is otherwise removed from registration on the subject vehicle.
10. Nevertheless, given the Registrant’s material misrepresentation which caused the Department to issue the municipal plate in the first instance and ultimately the revocation of the same, it is respectfully submitted that Section 1377 of the Vehicle Code is not the applicable section for the determination of a *supersedeas*, despite the boilerplate notice of

suspension dated September 11, 2023. 75 Pa.C.S. § 1377.

11. Section 1377, in relevant part, states that:

Any person who has been sanctioned by the department under this chapter or whose registration or authority to issue registration cards or plates has been denied, suspended or otherwise sanctioned by the department shall have the right to appeal to the court vested with jurisdiction of such appeals by or pursuant to Title 42 (relating to judiciary and judicial procedure). **The filing of the appeal shall act as a supersedeas, except for a warning or a revocation**, and the suspension or monetary penalty shall not be imposed until determination of the matter as provided in this section. Upon application of the registrant and prior notice to the department, the court may grant a supersedeas from a revocation of registration or authority to issue registration.

75 Pa.C.S. § 1377(a) (emphasis added).

12. Whereas the Registrant is not legally entitled to a *supersedeas* as a matter of simply filing their appeal, the relevant standard, as to determination of whether a *supersedeas* should be granted is found in *Pennsylvania Public Utility Com'n v. Process Gas Consumers Group*, 467 A.2d 805 (Pa. 1983) *overturned on other grounds by* 511 A.2d 1315 (Pa. 1986).
13. Accordingly, the *supersedeas* in this case should be granted only if: 1) the appeal is meritorious; 2) any detriment to interested parties resulting from a stay would be less than the harm resulting from a denial of it; 3) the petitioner makes a strong showing that he is likely to prevail on the merits, **and**; 4) the public interest would not be adversely affected by a stay. *See Id.*
14. Instantly, the Registrant has not made a strong showing that he is likely to prevail on the merits. To the contrary, the Department's decision to revoke the subject vehicle registration is well supported by case law.

15. This very issue was previously addressed by the Commonwealth Court in *Ward v. Commonwealth*, in which it was held that “a constable is not a governmental or quasi-governmental entity under the Vehicle Code and, consequently, that a constable is not exempt from paying the \$36.00 vehicle registration fee” nor is he entitled to a municipal government registration plate. 65 A.3d 1078, 1081 (Pa. Cmwlth. 2013).
16. Moreover, a constable’s circumscribed authority was discussed by the Commonwealth Court in *The Office of Constable v. Department of Transportation*, in which it concluded that a constable’s authority is limited to specific statutory grants of power. *See Office of Constable v. Department of Transportation*, 112 A.3d 678 (Pa. Cmwlth. 2015). *See also* 44 Pa.C.S. 7101-7178.
17. The Registrant is not entitled to equitable relief based upon the Department’s error in initially granting the request for a municipal government registration plate. *Id.*
18. The Pennsylvania Superior Court has also arrived at a similar conclusion that a constable is a member of the Commonwealth government or any sub-division thereof, more specifically the Court has noted that:
- Although constables are elected officers in the Commonwealth, it is well-settled that constables are not government employees. The Supreme Court of Pennsylvania has held that a constable is a peace officer and belongs "analytically to the executive branch of the government." However, the Court has also held that a constable does not act for or under the control of the Commonwealth or a political subdivision. **A constable is not an employee of the State, judiciary, county, or municipality in which he or she works.**
- Commonwealth v. Rodriguez*, 81 A.3d 102, 107 (Pa. Super. 2013) *quoting Ward v. Commonwealth*, 65 A.3d at 1081 (emphasis added).
19. As such, the Registrant is unlikely to prevail on the merits because it is clear that constables are not members of any political subdivision nor any municipal authority.

20. The Department's actions were warranted by Chapter 13 of the Vehicle Code given that the initial application—in which a registrant must attest that the vehicle belongs to a political subdivision nor any municipal authority—contained false information. *See* 75 Pa.C.S. § 1306. *See also* **Exhibit 2** attached hereto (the Registrant's MV-14MG Application for Municipal Government Registration Plate).
21. Furthermore and most importantly, a *supersedeas* would present significant public safety issues where a constable attempts to overreach his statutorily granted authority and take actions akin to those reserved for highly trained police officers. *See Ward*, 65 A.3d at 1083 *citing Commonwealth v. Roose*, 690 A.2d 268, 271 (discussing public safety concern of allocating to constables police powers that are reserved for "highly trained" police officers and sheriffs).
22. As such, the Department respectfully requests that this Honorable Court reconsider its May 9, 2024 ruling and deny the requested *supersedeas* pending appeal.
23. In the alternative, for the aforementioned reasons, if the Court is inclined to deny this Motion for Reconsideration, the Department requests the hearing date set for July 11, 2024 be advanced to a sooner date (counsel for the department objected to a second continuance request by the Registrant on May 9, 2024). If a sooner date is unavailable and/or unfeasible, the Department alternatively requests the merits of this case be decided on briefs alone.
24. Additionally, because Castle Shannon Borough police turned over the registration plate that they seized from the Registrant to the Department as a "dead" registration plate, the Department believes and therefore avers that per its internal procedures, the original registration plate has been destroyed; and as such, it cannot be returned to the Petitioner.

25. Consequently, the Department additionally requests that if the Court is inclined to deny this Motion for Reconsideration, the order dated May 9, 2024 is revised to allow the Department to issue a registration plate, upon proper application by the Registrant, pending the outcome of the appeal on the merits.

WHEREFORE, the Department of Transportation requests the Court to reconsider its May 9, 2024 Order requiring the Pennsylvania State Police and/or Castle Shannon police to return registration plate number MG3590N to the Registrant.

Respectfully submitted,



Meron Eshete Murphy
Assistant Counsel

CERTIFICATE OF SERVICE

The undersigned does hereby certify that, on the date set forth below, a true and correct copy of the foregoing Motion for Reconsideration was served upon the Appellant by over-night UPS mail, postage prepaid, addressed as follows:

Roy Leonard, Esq.
105 Market Street, Suite 300
Pittsburgh, PA 15222
rleonard@leonardfirm.com

Date: 5/17/24



Meron Eshete Murphy
Assistant Counsel

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
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COMMONWEALTH OF PENNSYLVANIA,
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No. SA-23-552

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ORDER OF COURT

AND NOW, this _____ day of _____, 2024, it is

ORDERED, ADJUDGED and DECREED that the Motion for Reconsideration filed on behalf
of the Department of Transportation is GRANTED / DENIED. It is further ORDERED and
DIRECTED as follows: _____

_____.

BY THE COURT:

_____ J.

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA

CIVIL DIVISION, ARBITRATION AND STATUTORY APPEALS ONLY

vs.

CASE NUMBER: SA-23-552

Pennsylvania State Constabulary

TYPE OF PLEADING: OPERATOR'S LICENSE SUSPENSION REGISTRATION PLATE SUSPENSION

Defendants,

CODE AND CLASSIFICATION: 306

FILED ON BEHALF OF: Pennsylvania State Constabulary (Name of party - indicate Plaintiff or Defendant)

NAME, ADDRESS AND TELEPHONE OF:

- Council of Record Individual, if Pro Se

Vertical stamp: 11/18/22 6 OCTOBER 2022 12:14:30 SA-23-09088Z

Pennsylvania State Constabulary 320 Fort Duquesne Blvd Ste 235 Pittsburgh PA 15222-1107 (412) 930-0370 agency@stateconstablepa.us

Attorney's State ID # Attorney's Firm ID #

THIS CASE WILL BE HEARD HEARING DATE 1.4.24 TIME: 8:15 A.M. PLACE: CITY-COUNTY BLDG. 8TH FLOOR, ROOM 21 414 GRANT STREET (412) 350-6823

Exhibit #1



pennsylvania
DEPARTMENT OF TRANSPORTATION

September 11, 2023

PENNSYLVANIA STATE
CONSTABULARY
320 FORT DUQUESNE BLVD
STE 235 PO BOX 22070
PITTSBURGH PA 15222

To Whom it May Concern:

This letter is regarding your Pennsylvania registration plate number MG3590N, which was issued in error as registration covering your 2018 Ford, title number 78865259.

Section 1373(b) of the Vehicle Code provides that:

The department may suspend a registration without providing an opportunity for a hearing in any of the following cases:

- (1) Upon the request or order of any court of record.
- (2) The required fees have not been paid.
- (3) An out-of-service order has been issued for the vehicle, the owner or the operator by the department or by the United States Department of Transportation.
- (4) The vehicle is being operated in violation of section 4704(b)(1) (relating to inspection by police or Commonwealth personnel).

More specifically, the above referenced registration was issued to your vehicle without payment of the required fees because Pennsylvania State Constabulary is not a government or quasi-government entity (i.e., political subdivision or municipal authority) and is not eligible for the exemption information that was claimed. You are not eligible for the Municipal Government (MG) registration plate.

Accordingly, the registration plate referenced above is suspended indefinitely as authorized by Section 1373(b)(2) of the Vehicle Code. The suspension is effective 15 days from the date of this letter.

This is an Official Notice of Suspension. You have a right to appeal this action to the Court of Common Pleas (Civil Division) within 30 days of the date of this letter. If you file an appeal in the Court of Common Pleas, the Court will give you a time stamped certified copy of the appeal. In order for your appeal to be valid, you must send the time stamped certified copy of the appeal by certified mail to:

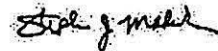
Insert Name
Page 2
Insert Date

Pennsylvania Department of Transportation
Office of Chief Counsel
1101 South Front Street, Third Floor
Harrisburg, PA 17104-2516

You are required to return registration plate number MG3590N to the Department. A self-addressed envelope is enclosed to assist you with the return of the registration plate. In addition, you must submit a new application using form MV-140, request for registration, and submit with the applicable fees. When the MG3590N registration plate and request for registration application with fees is received by the Department, you will receive a new standard issue registration for your vehicle.

For additional information, you must contact Joshua Kline of the Research and Support Operations Section at 717-705-0796.

Sincerely,



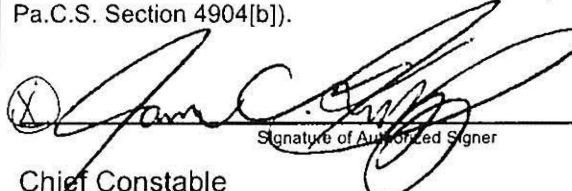
Stephen J. Madrak,
Director of Motor Vehicles



**APPLICATION FOR MUNICIPAL
GOVERNMENT REGISTRATION PLATE**

For Department Use Only
Bureau of Motor Vehicles • P.O. Box 68593 • Harrisburg, PA 17106-8593

When applying for issuance or transfer of a Municipal Government registration plate, complete this supplemental application in its entirety and attach to either Form MV-1, MV-4ST, MV-120, MV-140, or Summary Applicant Statement.

A Vehicle and Applicant Information				
Title Number 78865259001	Vehicle Identification Number 1FM5K8AR4JGB33960	Telephone Number () 412 930 0370		
Owner Name PENNSYLVANIA STATE CONSTABULARY				Bus. ID#
Street Address 320 Fort Duquesne Blvd, Suite 235		City Pittsburgh	State PA	Zip Code 15222
B Vehicle Use				
This vehicle will be registered to a governmental or quasi-governmental entity as listed below:				
<input checked="" type="checkbox"/> Political Subdivisions - Any county, city, borough, incorporated town, township, school district, vocational school district and county institution district.				
<input type="checkbox"/> Municipal Authorities (i.e. municipal water authority) - A municipal authority that was created by one or more political subdivisions.				
C Certification				
I certify under penalty of law that information contained herein is TRUE and CORRECT. WARNING: Falsification to authorities is a misdemeanor of the third degree punishable by a fine of up to \$2,500 and/or imprisonment up to 1 year (18 Pa.C.S. Section 4904[b]).				
 Signature of Authorized Signer		Jason Christopher Knapp Printed Name of Authorized Signer		
Chief Constable Title of Authorized Signer		July 23, 2022 Date		

INSTRUCTIONS

Section A

Complete all owner and vehicle information as it appears on the title application or the certificate of title if the vehicle is already titled in the owner's name. **NOTE:** Businesses should list their Business ID# (Bus. ID#) where indicated (i.e. E.I.N.).

Section B

Please indicate the type of authority that the Municipal Government registration plate is being requested for by checking the Political Subdivisions or Municipal Authorities block.

Section C

The application must be signed and dated by an authorized individual. Please include the authorized individual's title.

NOTE: The Municipal Government registration plate must be returned to PennDOT upon completion of use.

Return the registration plate to: Bureau of Motor Vehicles
Return Tag Unit
P.O. Box 68597
Harrisburg, PA 17106-8597

334001
JUL 26 2022

#2g
Exhibit #2