

P R O C E E D I N G S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE CLERK: Pennsylvania State Constabulary,
SA23-552. Did you get the e-mail I sent you?

THE COURT: I did. Wait. I forget what the
e-mail said. I read this. Did the e-mail say read this?

THE MINUTE CLERK: I just want to make sure you
had it already.

THE COURT: I did.

All right. Hello.

ATTORNEY BECK: Good morning, Your Honor.

THE COURT: Good morning. I have your motion
to enforce the automatic supersedeas and for sanctions which
I have reviewed prior to today's hearing.

ATTORNEY BECK: Thank you, Your Honor. Since
you reviewed it, I won't go line by line at all through that
motion, but I will kind of hit some high points, if that's
all right.

THE COURT: Sure.

ATTORNEY BECK: As you know this is an appeal
for a police inspector vehicle owned by the constabulary.
The constabulary is a Pennsylvania nonprofit incorporation,
and it employs constable, Jason Napp, who is with me here
today sitting behind me.

So Constable Napp is employed by the nonprofit
and the nonprofit owns the car. PennDOT issued this

1 registration plate number back in August of 2022. It was
2 over a little year late in 2023.

3 THE COURT: That it was suspended.

4 ATTORNEY BECK: As we understand that plate.
5 In the letter it says, for failure to pay certain fees at the
6 time the issuance. Now the constabulary at the time of the
7 appeal -- that will be done in a separate hearing before the
8 Court. But we're here today because on March 5th of this
9 year --

10 THE COURT: They took the plate.

11 ATTORNEY BECK: They took the plate. Constable
12 Napp was pulled over, and the plates were seized. The
13 constable indicated that at the time he was acting on behalf
14 of the Pennsylvania State Police.

15 The problem, Your Honor, under the vehicle --

16 THE COURT: You were you were saying how the
17 appeal is an automatic supersedeas.

18 ATTORNEY BECK: It is. That is specifically in
19 Section 1377 of the Vehicle Code. I will paraphrase that.
20 This is under Subsection A of 1377. This says, any person
21 whose registration or plates have been suspended shall have
22 the right to appeal and shall act as a supersedeas and shall
23 not be imposed until the determination of the matter.
24 Suspended, it's not that it's not enforced. It's as if no
25 suspension exists at all during the pendency of the appeal.

1 So when the police seized the inspection -- excuse me, when
2 the police seized the police inspector's plates, we contacted
3 PennDOT, and we advised of this statute. And they needed to
4 be returned immediately. And PennDOT just filed this motion,
5 if we believe that to be the case.

6 So we see this is very straightforward, Your
7 Honor. Our appeal means that the department can't enforce
8 the suspension so long as this appeal is pending.

9 So you'll see in our prepared order what we are
10 requesting is that the registration plates be returned
11 immediately to the constabulary.

12 The second component is a request for
13 sanctions. These are very limited sanctions, and I will
14 explain the reason for them. The constabulary is enforced to
15 issue towing fees. We have the amounts in the papers. Of
16 course, attorney's fees have now also been incurred and we
17 think improperly. We don't believe this motion is necessary
18 in the first place.

19 A third bucket of damages here would be the
20 lost business income of the constabulary. He has been unable
21 to perform this work without police inspector vehicle. All
22 of this comes about to about \$900 or so. We are asking this
23 Court to both compel or mandate that PennDOT return these
24 plates immediately and award sanctions to the constable for
25 his troubles, essentially.

1 THE COURT: Thank you. Ms. Murphy?

2 ATTORNEY MURPHY: PennDOT can't return
3 something that has not seized it. This is a third party that
4 seized it, Castle Shannon Police. At this point, the
5 supersedeas is moot because the constable no longer has the
6 plate. So I don't know how supersedeas is enforced if the
7 plate has been taken by a third party. I believe sanctions
8 in this case is highly inappropriate. PennDOT is not a foul
9 of a court order granting a supersedeas.

10 THE COURT: Okay. So who directed them to
11 seize this? Castle Shannon didn't just come up with this on
12 their own.

13 ATTORNEY MURPHY: It was not PennDOT.

14 THE COURT: And you're saying the Pennsylvania
15 State Police directed -- at least your motion implies the PSP
16 directed them to --

17 ATTORNEY BECK: That's correct.

18 THE COURT: Why did they do that?

19 ATTORNEY BECK: PSP is operating under the
20 auspice of PennDOT. The Vehicle Code, I suppose, enforcement
21 would be through the Pennsylvania State Police but the
22 imposition of the suspension is essentially PennDOT. They
23 are the entity who issues the notice of suspension. I
24 certainly wouldn't have any qualms with Your Honor entering
25 an order compelling any party who holds the license plates at

1 this time to return them. But, of course, I think that the
2 order has to still be clear that PennDOT shall not enforce
3 the suspension during the period of the appeal based on the
4 statutory language.

5 THE COURT: I mean, you agree that the appeal
6 triggers an automatic supersedeas.

7 ATTORNEY MURPHY: So I believe on the statute
8 that it does but PennDOT's position is that the constable
9 should not have a supersedeas. It was improperly granted.
10 Constables are not allowed to have municipal plates.

11 THE COURT: Okay. That said -- I'm not of the
12 opinion it was improperly granted because essentially what
13 the Statute says, the appeal triggers the automatic
14 supersedeas, then PennDOT it's figured out -- it doesn't say
15 unless improperly -- do you know what I mean?

16 ATTORNEY MURPHY: Understood.

17 THE COURT: Okay. So with relation to
18 sanctions -- okay. So I'm going to order -- I'm just going
19 to mark this up, if you don't mind. Where is it? Okay. So
20 you, in your proposed order, you want the Commonwealth to
21 return the vehicle. So I believe Ms. Murphy's position, they
22 are not ordering the people. We need more information,
23 especially if we are going to the sanctions route. I don't
24 know whose authority was seized.

25 ATTORNEY BECK: Understood, Your Honor.

1 THE COURT: So what I will write is
2 Pennsylvania State Police or Castle Shannon Police shall --
3 basically, I will grant your Paragraph 1 but say Pennsylvania
4 State Police or Castle Shannon Police.

5 So with regard to the tow fee and whatever
6 other, damages, you know, have been incurred, we would need
7 to have representatives of the Pennsylvania State Police or
8 Castle Shannon to say, by whose tort they seized this. I
9 understand that's not your position. I do believe it was
10 improperly seized. So let me see here. Let me see if what
11 I'm going to write makes sense.

12 But then the other issue is, like, you have
13 filed this motion. You know, I think Ms. Murphy is right in
14 that the relief you want needs to be requested of an
15 organization which is not a party to this action. That's the
16 issue too.

17 ATTORNEY MURPHY: Yes, Your Honor.

18 THE COURT: But I will order them to return
19 this. And then, we can go the route of figuring it out.

20 ATTORNEY BECK: Sure. And Your Honor, what
21 about that effect to language in perhaps this would help any
22 entity that receives our order that the department shall not
23 impose the suspension unless and until this matter is
24 disposed of?

25 THE COURT: Okay. Hold on.

1 ATTORNEY MURPHY: And, Your Honor --

2 THE COURT: Yes?

3 ATTORNEY MURPHY: I do believe that the
4 Pennsylvania State Police or a representative from Castle
5 Shannon should be here, provided notice so they can provide
6 their opinion on why they took it.

7 THE COURT: Okay. Let's pretend we did that
8 and say, "Let's delay this to have a hearing." Now I'm going
9 to order two parties who are not litigants --

10 ATTORNEY MURPHY: An actual hearing is
11 scheduled for May 30th. I'm prepared to argue it right now.
12 PennDOT's position was that it was improperly granted, the
13 actual plate in the beginning and there's case law.

14 ATTORNEY BECK: Your Honor, I don't want to
15 reach the motions today.

16 THE COURT: The issue today is the motion. I
17 understand your position, Ms. Murphy. I disagree at this
18 stage.

19 Okay. Paragraph 2, I will strike and write,
20 "Fees deferred pending additional" --

21 ATTORNEY BECK: Yes. And to this point, Your
22 Honor, I was going to leave this for the end. We have an
23 issue of availability for Mr. Leonard who is of record. He
24 is unavailable on that date unfortunately. So we are looking
25 for a postponement. That might help us then figure out the

1 damages on this motion in the meantime.

2 THE COURT: Okay. Okay. Do you have an
3 objection?

4 ATTORNEY MURPHY: I do have an objection, yes.
5 We already consented to one prior continuance.

6 THE COURT: Okay.

7 ATTORNEY MURPHY: For Roy Leonard being
8 originally obtained. So you are seeking a second
9 postponement. I would vehemently object to that, Your Honor,
10 because of the supersedeas issue at hand.

11 ATTORNEY BECK: And, Your Honor, the
12 supersedeas issue is part of why we are asking for the
13 continuance. This has been a distraction. We still have
14 discovery to complete.

15 THE COURT: What's the discovery issue?

16 ATTORNEY BECK: Mr. Leonard intends to serve
17 discovery on PennDOT. This has obviously taken a lot of
18 time. This has been a bit of a sideshow here, so we needed
19 to get this resolved. We needed to get some discovery out.
20 That's why we need some additional time before the merits
21 hearing. Of course, it also dovetails --

22 ATTORNEY MURPHY: I have provided Attorney Roy
23 Leonard with the certified documents in this case previously.

24 THE COURT: What about that?

25 ATTORNEY BECK: I don't know that facts. I

1 will take that representation as true. I do know Mr. Leonard
2 intends to provide additional discovery.

3 THE COURT: So what I will do is grant a short
4 request for a continuance for this hearing. I granted
5 Paragraph 1, as amended of your motion. Paragraph 2, I wrote
6 "Fees pending hearing." I will tell you, the more I think
7 about it, you're going to have to get these representatives
8 here if you want me to hear from them.

9 ATTORNEY BECK: Sure.

10 THE COURT: Obviously these might not be these
11 damages with PennDOT. This might be a separate litigation.

12 ATTORNEY MURPHY: PennDOT is not responsible
13 for any sanctions or seized --

14 THE COURT: I think maybe you are right on that
15 issue, if PennDOT had nothing to do with seizing the plate.
16 That is part of the ongoing saga.

17 ATTORNEY BECK: Yes.

18 THE COURT: Okay. Thanks so much.

19 Here is what I signed. What do I do with this?
20 This is a copy they gave me to take home and read.

21 THE MINUTE CLERK: You can just pitch that.

22 THE COURT: All right.

23 ATTORNEY BECK: Your Honor, just the
24 continuance, how long should we expect that to be for?

25 THE CLERK: June 27th.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: Pretty short. We will get it out
to you.

(Whereupon, proceedings concluded.)

C E R T I F I C A T E

I, Sara Necciai, Official Court Reporter for the Court of Common Pleas of Allegheny County, Pennsylvania, do hereby certify that the foregoing is a true and correct transcript of the proceedings in the within-entitled cause, and I do further certify that the foregoing transcript has been prepared by me.

The foregoing certification does not apply to any reproduction of this transcript in any respect unless under the direct control and/or supervision of the certifying reporter.

/s/ Sara Necciai
Sara Necciai,
Official Court Reporter