

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Ciro DeLucia	:	
	:	
v.	:	
	:	
Commonwealth of Pennsylvania,	:	
Department of Transportation,	:	
Bureau of Motor Vehicles,	:	No. 1007 C.D. 2014
Appellant	:	Submitted: January 16, 2015

BEFORE: HONORABLE BONNIE BRIGANCE LEADBETTER, Judge
HONORABLE P. KEVIN BROBSON, Judge
HONORABLE ANNE E. COVEY, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION BY
JUDGE COVEY

FILED: April 8, 2015

The Commonwealth of Pennsylvania, Department of Transportation, Bureau of Motor Vehicles (DOT) appeals from the Lackawanna County Common Pleas Court's (trial court) May 28, 2014 order reversing DOT's order suspending *Ciro DeLucia's* (DeLucia) registration privilege for three months. The sole issue before the Court is whether the trial court erred in sustaining DeLucia's appeal on the basis that the registration suspension would cause DeLucia financial hardship. After review, we reverse.

On January 4, 2014, GEICO Casualty Company (GEICO) cancelled a car insurance policy issued to DeLucia that covered his 2005 Ford sedan. GEICO reported the policy cancellation to DOT. On March 2, 2014, DOT mailed a notification to DeLucia advising him that the Ford sedan's registration was being suspended for three months effective April 6, 2014. DeLucia appealed the suspension to the trial court. On May 21, 2014, the trial court held a hearing. On

May 28, 2014, the trial court reversed DOT's order suspending DeLucia's vehicle registration. DOT appealed to this Court.¹

DOT argues that the trial court lacks discretion to sustain a vehicle registration suspension appeal based upon a registrant's current insurance and/or economic hardship. We agree.

Section 1786(d)(1) of the Motor Vehicle Financial Responsibility Law (MVFRL)² requires DOT to "suspend the registration of a vehicle for a period of three months if it determines the required financial responsibility was not secured" 75 Pa.C.S. § 1786(d)(1). In order to uphold a suspension on these grounds, DOT must prove that "the vehicle is registered or of a type that is required to be registered under this title; and . . . there has been either notice to [DOT] of a lapse, termination or cancellation in the financial responsibility coverage as required by law for that vehicle" 75 Pa.C.S. § 1786(d)(3)(i), (ii). This Court has held:

DOT may satisfy its burden by certifying that it received documents or electronic transmissions from the insurance company informing DOT that the insurance coverage has been terminated. Once DOT meets that burden, two presumptions arise: (1) that the cancellation was effective under 75 Pa.C.S. § 1377(b)(2)[;] and (2) that the vehicle in question lacks the requisite financial responsibility under 75 Pa.C.S. § 1786(d)(3)(ii).

Choff v. Dep't of Transp., Bureau of Motor Vehicles, 861 A.2d 442, 446-47 (Pa. Cmwlth. 2004) (citations and footnote omitted).

In this case, DOT met its burden by admitting into evidence "the certified registration record for [] DeLucia's motor vehicle[.]" Reproduced Record

¹ "This Court's scope of review is limited to determining whether the trial court committed an error of law or manifestly abused its discretion in reaching its decision." *Dinsmore v. Dep't of Transp., Bureau of Driver Licensing*, 932 A.2d 350, 353 n.6 (Pa. Cmwlth. 2007).

² 75 Pa.C.S. §§ 1701–1799.7.

(R.R.) at 9a. The certification gave rise to the presumptions that DeLucia's cancellation was effective, and that he was at least temporarily uninsured.

Once DOT establishes its prima facie burden of proof, a vehicle owner must prove that financial responsibility was continuously maintained on the vehicle as required by Section 1786(a) of the MVFRL, 75 Pa.C.S. § 1786(a), or that the vehicle owner fits within one of the three statutorily defined defenses outlined in Section 1786(d)(2)(i-iii) of the MVFRL, 75 Pa.C.S. § 1786(d)(2)(i-iii).^{FN10}

FN10. The three statutorily[-]defined defenses set forth in Section 1786(d)(2)(i-iii) of the MVFRL . . . are:

(i) The owner or registrant proves to the satisfaction of [DOT] that the lapse in financial responsibility coverage was for a period of less than 31 days and that the owner or registrant did not operate or permit the operation of the vehicle during the period of lapse in financial responsibility.

(ii) The owner or registrant is a member of the armed services of the United States,

(iii) The insurance coverage has terminated or financial responsibility has lapsed simultaneously with or subsequent to expiration of a seasonal registration, as provided in [S]ection 1307(a.1) [of the Vehicle Code, 75 Pa.C.S. § 1307(a.1)] (relating to period of registration).

Fell v. Dep't of Transp., Bureau of Motor Vehicles, 925 A.2d 232, 237-38 (Pa. Cmwlth. 2007) (footnote omitted).

At the trial court hearing, DeLucia testified: "I've gone 8 days over the 30-day limit, and I just got a brand new job in Binghamton so I'm trying not to lose this brand new job." R.R. at 10a. Clearly, DeLucia did not prove that "financial responsibility was continuously maintained" or that he "fits within one of the [above-listed] . . . defenses." *Fell*, 925 A.2d at 237-38. Indeed, it is uncontested that

DeLucia's insurance lapsed on January 4, 2014 and was not reinstated until February 11, 2014. *See* R.R. at 20a, 24a.

The trial court opined: “[DOT’s] arbitrary enforcement of the thirty (30)[-]day limit imposes a devastating financial impact on [DeLucia]. This [c]ourt’s grant of his appeal is consistent with the best traditions of American jurisprudence. Temper Justice with Mercy!” R.R. at 31a. While we sympathize with DeLucia’s plight and understand the basis for the trial court’s ruling, it is not in accordance with the law.

The [C]ourt’s scope of review in an appeal from a vehicle registration suspension *shall be limited to determining whether:*

- (i) the vehicle is registered or of a type that is required to be registered under this title; and
- (ii) there has been either notice to [DOT] of a lapse, termination or cancellation in the financial responsibility coverage as required by law for that vehicle or that the owner, registrant or driver was requested to provide proof of financial responsibility to [DOT], a police office[r] or another driver and failed to do so. . . .

75 Pa.C.S. § 1786(d)(3) (emphasis added).

While we acknowledge that strict application of the mandatory registration suspension provisions of [S]ection 1786 [of the MVFRL] will inevitably create hardship, **it is now well-settled that courts have no discretion to decide such matters based on equitable considerations.** Instead, our decisions, like those of the courts of common pleas, ‘must be founded on firm jurisprudence.’ *Banks v. Dep’t of Transp., Bureau of Motor Vehicles*, 856 A.2d [294,] 297 [(Pa. Cmwlth. 2004)] (quoting [*Commonwealth v. Moogerman*, . . . 122 A.2d [804,] 806 [(Pa. 1956)]).

Greenfield v. Dep’t of Transp., Bureau of Motor Vehicles, 67 A.3d 198, 202 (Pa. Cmwlth. 2013) (bold emphasis added). Thus, in accordance with well-established

precedent, we must reverse the trial court's order and reinstate DeLucia's three-month registration suspension.

For all of the above reasons, the trial court's order is reversed.

ANNE E. COVEY, Judge

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ORDER

AND NOW, this 8th day of April, 2015, the Lackawanna County Common Pleas Court's May 28, 2014 order is reversed.

ANNE E. COVEY, Judge