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Pennsylvania Supreme Court case provides pathway to challenge untimely driver's license suspension



By Lyle Dresbold and David Shrager

Due to failures at the Allegheny County Department of Court Records, at least 1,500 people received unexpected notices suspending their driver's licenses, years after the suspension was meant to take effect. A recent Pennsylvania Supreme Court case provides a pathway to challenge the untimely suspension, but drivers must act quickly or risk losing their opportunity.

Within 10 days of a conviction for DUI and other enumerated offenses, the court is required to send a notice to the Department of Transportation. Only once they receive this notice can PennDOT suspend an operator's license. An audit of the Allegheny County Department of Court Records found a flaw in the reporting practices. The notices for convictions dating back as far as 2013, were never forwarded to PennDOT. As the county worked through the backlog, PennDOT began suspending licenses regardless of how much time had passed since the conviction. Drivers receiving suspension letters have only 30 days to appeal the suspension and challenge its legitimacy.

Fortunately, there are legal grounds in many of these cases to fight the suspension. In 2021 the Pennsylvania Supreme Court decided the case of *Department of Transportation v. Middaugh*. Prior to Middaugh, the Commonwealth Court had ruled that a suspension may only be invalidated where PennDOT is at fault for the delay. In the Middaugh case, the driver was convicted of DUI in March of 2014, but the court did not forward notice of the conviction until August of 2016, 28 months later.

At the time of the conviction, when he expected to be suspended, Middaugh was employed as an information technology professional. His car was totaled but he waited two years to purchase a new one believing it pointless if he was suspended. He was also married at the time, and his wife was available to drive him to work and appointments. Twenty-eight months later when he received his suspension letter, Middaugh was unemployed, divorced, and receiving social security for a disability due to a neurological disorder. He made regular visits to five doctors and to the store where he had to purchase groceries and medicine, on his own, with his reduced income. Middaugh incurred no new traffic violations since his prior DUI.

As they found no statutory relief for Middaugh, the majority undertook a due process analysis to determine whether the Constitution compelled relief. In situations that depart substantially from the ordinary and expected application of a law, due process norms can be invoked to restrain enforcement of a law under circumstances where it appears that the targeting of the particular person or entity in question will do little to achieve the evident legislative objective. The purpose of the license suspension is to protect the public from unsafe drivers, but where the staleness of the predicate conviction tends to diminish the connection between the suspension and the statute's objectives, particularly where there have been no vehicle code violation in the interim, the delay could result in the denial of due process.

The Court then determined that because the driver is suffering a due process violation, he stands on the same footing regardless of whether the delay is chargeable to PennDOT or the clerk of the common pleas court. Because Middaugh was able to establish that there was an unreasonable delay attributed to the clerk of courts and that the delay itself caused prejudice, the Pennsylvania Supreme Court affirmed the reinstatement of his license.

A driver who receives one of these delayed suspension notices must appeal the suspension within 30 days from the date the letter is issued. At the hearing the burden is on the driver to establish that there was an unreasonable delay in the suspension which was attributable either to PennDOT or the clerk of courts. Once that is established, or stipulated, the driver must then present evidence as to the prejudice that they would suffer if suspended now, that they would not have suffered had the suspension been timely. Lastly, because the due process interest is founded on the disconnect between the untimely suspension and its purpose of roadway safety, the court will also analyze whether there have been any additional driving offenses since the original conviction. Although a new offense is not necessarily dispositive, it should weigh in the court's analysis. ■

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