

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Coty A. Cramer :
 :
 v. : No. 2101 C.D. 2012
 :
 Commonwealth of Pennsylvania, :
 Department of Transportation, :
 Bureau of Motor Vehicles, :
 Appellant :

 Samantha Cramer and Coty Cramer :
 :
 v. : No. 2102 C.D. 2012
 : Submitted: May 24, 2013
 Commonwealth of Pennsylvania, :
 Department of Transportation, :
 Bureau of Motor Vehicles, :
 Appellant :

BEFORE: HONORABLE DAN PELLEGRINI, President Judge
 HONORABLE MARY HANNAH LEAVITT, Judge
 HONORABLE ROCHELLE S. FRIEDMAN, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION BY
 PRESIDENT JUDGE PELLEGRINI FILED: June 19, 2013

The Commonwealth of Pennsylvania, Department of Transportation, Bureau of Motor Vehicles (PennDOT), appeals from the two orders of the Court of Common Pleas of Clarion County (trial court) sustaining the appeals of Coty Cramer and Samantha Cramer (collectively, Appellees) from a three-month suspension of their vehicles' registrations for failure to maintain the required

financial responsibility under the Motor Vehicle Financial Responsibility Law (MVFRL).¹ For the reasons that follow, we reverse the trial court.

On May 18, 2012, Progressive Specialty Company (Progressive) terminated a policy of motor vehicle liability insurance issued to Appellees that covered their 2000 Jeep station wagon, and a policy of motor vehicle liability insurance issued to Coty Cramer that covered his 2004 Jeep station wagon. After Progressive reported the termination of the policies to PennDOT, PennDOT informed Appellees by notice dated July 8, 2012, that the vehicles' registrations were being suspended for a period of three months, effective August 12, 2012, pursuant to 75 Pa. C.S. §1786(d).² Appellees filed statutory appeals of the registration suspensions in the trial court on August 8, 2012. PennDOT then filed motions to quash the appeals because they had been filed one day after the expiration of the 30-day appeal period.

¹ 75 Pa. C.S. §§1701-1799.7.

² 75 Pa. C.S. §1786(d)(1) provides:

The Department of Transportation shall suspend the registration of a vehicle for a period of three months if it determines the required financial responsibility was not secured as required by this chapter and shall suspend the operating privilege of the owner or registrant for a period of three months if the department determines that the owner or registrant has operated or permitted the operation of the vehicle without the required financial responsibility. The operating privilege shall not be restored until the restoration fee for operating privilege provided by section 1960 (relating to reinstatement of operating privilege or vehicle registration) is paid.

Before the trial court,³ Samantha Cramer testified that after she received the registration suspension notices on July 12, 2012, she called PennDOT and was told that she could appeal the suspensions within one month of receiving the suspension notices. Accepting that testimony, the trial court judge denied PennDOT's motions to quash and permitted the appeal to proceed. PennDOT then offered into evidence certified documents demonstrating that it had received notice of Progressive's termination of Appellees' insurance policies as of May 18, 2012. Samantha Cramer, testifying on behalf of Appellees, admitted that Appellees allowed insurance coverage on both vehicles to lapse as of May 18, 2012, because the 2000 Jeep broke down and they could not afford to pay for both the repairs to that vehicle and insurance. She explained that neither she nor her husband drove the two vehicles during the period when they were uninsured and that both obtained rides to their jobs during that period. She further testified that after they repaired the older vehicle, Appellees purchased a new insurance policy covering both vehicles from State Farm Fire and Casualty Company (State Farm), effective August 21, 2012. She also admitted that Progressive provided notice of termination of the policies, and that when the policies lapsed, Appellees did not remove the license plates from the vehicles and send them to PennDOT because they were unaware of that requirement.⁴

³ The trial court consolidated the two appeals for the purpose of hearing. (October 19, 2012 Hearing Transcript at 4).

⁴ 75 Pa. C.S. §1786(g)(2) provides, in relevant part:

No person shall be penalized for maintaining a registered motor vehicle without financial responsibility under subsection (d) if, at the time insurance coverage terminated or financial responsibility lapsed, the registration plate and card were voluntarily surrendered

(Footnote continued on next page...)

The trial court found credible Cramer's testimony that neither she nor her husband had driven either vehicle without insurance and that they were unaware of the requirement to relinquish their license plates and registration cards to PennDOT. The trial court also noted the hardship Appellees would suffer if the registration suspensions went into effect, explaining:

We live in a very rural area of Pennsylvania. While doing so has many advantages there are some difficulties which at times make life quite hard. There is no mass transportation available. It is extremely difficult to hold a job without having the ability to license and drive a car. It is extremely difficult to acquire groceries to feed the family; to get the family to health care; to have the children participate in extracurricular activities at school; etc., if one has no car.

[Appellees] unquestioningly violated the statute by not returning their license plates to the Department until they had acquired the necessary insurance. As a consequence the statute states that their registrations must be suspended for 3 months. To someone with the financial resources to trade the vehicles the statute imposes no penalty whatsoever, but to a young family without money, trying to support themselves it could mean the loss of all income, their home and way of life.

(continued...)

to the department, a full agent designated by the department to accept voluntarily surrendered registration plates and cards pursuant to regulations promulgated by the department or a decentralized service agent appointed by the Department.

(Trial court’s January 25, 2013 Opinion at 3). Concluding that the underlying purpose of the MVFRL – ensuring that citizens do not operate their vehicles without having obtained liability insurance – was not violated here, and that Appellees’ failure to return their license plates and registration cards to PennDOT was a *de minimis* violation of the statute, the trial court sustained Appellees’ appeals. This appeal⁵ by PennDOT followed.⁶

On appeal, PennDOT contends that the trial court erred as a matter of law in sustaining Appellees’ appeals because their failure to surrender their vehicles’ license plates and registration cards to PennDOT was not a *de minimis* violation of 75 Pa. C.S. §1786. PennDOT argues that accepting the trial court’s rationale would invite abuse because vehicle owners who knowingly allow their liability insurance to lapse could escape the MVFRL’s financial responsibility requirements by simply claiming that they were unaware of the requirement to relinquish their license plates and registration cards. Moreover, PennDOT argues that the trial court was not free to “forgive” the lapse because of its concern about the possible economic hardship to Appellees or the belief that imposing a suspension would be inequitable.

In order to sustain its burden of proof in an appeal of a registration suspension, PennDOT must prove that (1) the vehicle is registered or is of a type

⁵ This Court consolidated the appeals by order dated February 5, 2013.

⁶ Our 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. *Roscioli v. Department of Transportation, Bureau of Motor Vehicles*, 37 A.3d 1278, 1279 n.3 (Pa. Cmwlth. 2012).

required to be registered; and (2) it received notice that financial responsibility on the vehicle had been terminated or that proof of financial responsibility was not provided when requested. 75 Pa. C.S. §1786(d)(3)(i), (ii). PennDOT may satisfy its burden by certifying that it received documents or electronic transmissions from the insurance company informing PennDOT that the insurance coverage has been terminated. *McGonigle v. Department of Transportation, Bureau of Motor Vehicles*, 37 A.3d 1273, 1274 (Pa. Cmwlth. 2012). Once PennDOT satisfies its burden of proving a *prima facie* violation, the burden shifts to the registrant to prove, by clear and convincing evidence, that the vehicle was insured at all relevant times. 75 Pa. C.S. §1786(d)(3)(ii).

Here, it is undisputed that Appellees allowed the insurance coverage on both of their vehicles to lapse for a period of 94 days,⁷ and Appellees failed to establish a defense to the registration suspensions. The trial court's conclusion that suspensions were not warranted because Appellees' failure to relinquish their license plates and registration cards was *de minimis* is contrary to case law. For example, in *Jones v. Department of Transportation, Bureau of Motor Vehicles*, 723 A.2d 1090, 1091 (Pa. Cmwlth. 1999), a trial court accepted a registrant's testimony that he did not operate his vehicle during a 93-day lapse in insurance coverage and

⁷ 75 Pa. C.S. §1786(d)(2)(i) provides that there will not be a suspension where “[t]he owner or registrant proves to the satisfaction of the department 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.” Because the lapse in coverage here was for 94 days, the fact that Appellees did not operate the vehicle during that time is irrelevant. *See Burton v. Department of Transportation, Bureau of Motor Vehicles*, 973 A.2d 473, 475 (Pa. Cmwlth. 2009) (suspension warranted where insurance coverage lapsed for 31 days, despite credible testimony establishing that registrant did not operate vehicle during that period).

sustained his appeal of a registration suspension because “the registrant’s failure to surrender his registration plate to [PennDOT] ‘was of no consequence to [PennDOT] under the circumstances.’” We reversed the trial court’s order, specifically noting the registrant’s failure to comply with the requirements of 75 Pa. C.S. §1786(g)(2). *See also Koller v. Department of Transportation, Bureau of Driver Licensing*, 670 A.2d 215, 216 (Pa. Cmwlth. 1996) (suspension warranted where coverage lapsed for 176 days and registrant failed to relinquish registration plate to PennDOT, despite fact that vehicle was inoperable during lapse period). Moreover, the fact that Appellees were not aware of the requirements of 75 Pa. C.S. §1786(g)(2) is irrelevant. *See generally, Jones; Koller.*

Because PennDOT met its initial burden and Appellees failed to rebut the presumption that their vehicles lacked the requisite financial responsibility or establish a defense, PennDOT was required to issue the registration suspensions under 75 Pa. C.S. §1786(d)(1). We agree with PennDOT that the trial court abused its discretion in sustaining Appellees’ appeal on the basis that a suspension might result in economic hardship. It is well-established that trial courts do not have the discretion to consider hardship or other equitable factors when deciding whether a suspension is mandated under Section 1786(d) of the MVFRL. *McGonigle*, 37 A.3d at 1275; *Banks v. Department of Transportation, Bureau of Motor Vehicles*, 856 A.2d 294, 297 (Pa. Cmwlth. 2004); *Erimias v. Department of Transportation, Bureau of Driver Licensing*, 671 A.2d 788, 789 (Pa. Cmwlth. 1996).

Accordingly, the order of the trial court is reversed and the registration suspensions are reinstated.

DAN PELLEGRINI, President Judge

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v.	: No. 2101 C.D. 2012
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Commonwealth of Pennsylvania,	:
Department of Transportation,	:
Bureau of Motor Vehicles,	:
Appellant	:
Samantha Cramer and Coty Cramer	:
	:
v.	: No. 2102 C.D. 2012
	:
Commonwealth of Pennsylvania,	:
Department of Transportation,	:
Bureau of Motor Vehicles,	:
Appellant	:

ORDER

AND NOW, this 19th day of June, 2013, the orders of the Court of Common Pleas of Clarion County, dated October 19, 2012, at Nos. 783 and 784 C.D. 2012, are reversed and the registration suspensions are reinstated.

DAN PELLEGRINI, President Judge