

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Larry Hackney, :
Appellant :
: Nos. 2155-2159 C.D. 2013
v. : Submitted: May 23, 2014
: Commonwealth of Pennsylvania, :
: Department of Transportation, :
: Bureau of Driver Licensing :
:

BEFORE: HONORABLE BERNARD L. McGINLEY, Judge
HONORABLE PATRICIA A. McCULLOUGH, Judge
HONORABLE ROCHELLE S. FRIEDMAN, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE McCULLOUGH

FILED: July 17, 2014

In these five consolidated appeals, Larry Hackney (Licensee) appeals, *pro se*, from the September 13, 2013 orders of the Court of Common Pleas of Philadelphia County (trial court), denying his statutory appeals from five separate suspensions of his driving privileges imposed by the Department of Transportation (Department) pursuant to section 1533 of the Vehicle Code, 75 Pa.C.S. §1533, for failing to pay citations.¹ We affirm.

¹ In pertinent part, section 1533 of the Vehicle Code provides:

§1533. Suspension of operating privilege for failure to respond to citation.

(a) Violations within Commonwealth. --The department shall suspend the operating privilege of any person who has failed to
(Footnote continued on next page...)

By five distinct notices dated May 21, 2013, the Department informed Licensee that his driving privileges were being suspended under section 1533(d) of the Vehicle Code, effective June 11, 2013, for failing to make regular payments on fines he received in connection with five separate citations. The notices describe the basis for the suspension, instruct Licensee to return any current Pennsylvania driver's license to the Department, and inform Licensee that he must pay the citations in full to the Philadelphia Traffic Court, or make installment payment plan arrangements, before his driving privileges are restored. The notices also reference and discuss the nature of the citations, the amount owed for the citations,

(continued...)

respond to a citation or summons to appear before an issuing authority or a court of competent jurisdiction of this Commonwealth for any violation of this title, other than parking, or who has failed to pay any fine, costs or restitution imposed by an issuing authority or such courts for violation of this title, other than parking, upon being duly notified by an issuing authority or a court of this Commonwealth.

* * *

(d) Period of suspension. --The suspension shall continue until such person shall respond to the citation, summons or writ, as the case may be, and pay all fines, restitution and penalties imposed or enter into an agreement to make installment payments for the fines, restitution and penalties imposed provided that the suspension may be reimposed by the department if the defendant fails to make regular installment payments and, if applicable, pay the fee prescribed in section 1960 (relating to reinstatement of operating privilege or vehicle registration).

75 Pa.C.S. §1533(a), (d).

and the provision of the Vehicle Code that Licensee violated.² (Supplemental Reproduced Record (S.R.R.) at 2b-5b, 18b-21b, 34b-36b, 49b-52b, 65b-68b.)

On May 21, 2013, Licensee filed a *pro se* appeal from all five suspensions to the trial court. On September 13, 2013, the trial court conducted a *de novo* hearing.

At the hearing, the Department introduced a packet of certified documents into evidence, without objection by Licensee. These documents contained the Department's official records reflecting Licensee's underlying convictions and citations for violating provisions of the Vehicle Code. Also included within these documents were five "Request for Suspension of Operating Privileges for Default" (Requests), signed by the trial court's administrative law judge. The Requests detailed Licensee's failure to make payments and listed the balance owed on the citations. (S.R.R. at 5b-17b, 21b-33b, 36b-48b, 52b-64b, 68b-78b.) After submitting these documents, the Department rested its case-in-chief.

² The first citation, number S095806955, was issued on June 2, 1986, for failing to apply for certification in violation of section 1111 of the Pennsylvania Vehicle Code, 75 Pa.C.S. §1111; the amount owed for this citation is \$136.50. The second citation, number S001498066, was issued on September 6, 1986, for failing to renew registration in violation of section 1309 of the Pennsylvania Vehicle Code, 75 Pa.C.S. §1309; the amount owed for this citation is \$136.50. The third citation, number S005467512, was issued on August 6, 1987, for failing to carry registration in violation of section 1311 of the Pennsylvania Vehicle Code, 75 Pa.C.S. §1311; the amount owed for this citation is \$136.50. The fourth citation, number T06676143, was issued on August 27, 1991, for disregarding a stop sign in violation of section 3323 of the Pennsylvania Vehicle Code, 75 Pa.C.S. §3323; the amount owed for this citation is \$176.50. Finally, the fifth citation, number M01534116, was issued on September 30, 1993, for not having insurance in violation of section 1311 of the Pennsylvania Vehicle Code; the amount owed for this citation is \$456.50. (S.R.R. at 2b-5b, 18b-21b, 34b-36b, 49b-52b, 65b-68b.)

In rebuttal, Licensee testified that he had been placed on multiple payment plans and that the five citations at issue were eventually lumped into one single payment plan. Licensee testified that he paid the five citations and introduced unauthenticated documents as evidence of the payments. (Notes of Testimony (N.T.), 9/13/2013, at 3-7, 29-30.)

On September 13, 2013, the trial court entered five orders denying Licensee's appeals. The trial court concluded that the Department's certified documents established that Licensee failed to make payments on the defaulted citations. The trial court then concluded that because the Department met its initial burden of proof, the burden shifted to Licensee to demonstrate that he paid the citations in full or entered into an agreement to make installment payments. In assessing Licensee's documentary evidence, the trial court noted that Licensee's documents predated the default notices of the administrative law judge, were in his own handwriting, and referred to citations that did not serve as the basis for his suspension; the trial court further noted that Licensee did not present any receipts indicating that he paid the citations. (Trial court op. at 2-3.)

Recounting its role as fact-finder, the trial court found that Licensee failed to introduce "competent, authentic and timely evidence that the items had been paid and failed to provide proof that he was participating in an installment payment plan agreement pursuant to [section] 1533(d) [of the Vehicle Code]." *Id.* at 3. The trial court also found that Licensee "presented no credible evidence" and that his testimony and "representations were not credible." *Id.* at 3-4. Accordingly, the trial court concluded that Licensee failed to carry his rebuttal burden and upheld Licensee's license suspensions.

On appeal,³ Licensee argues that the trial court erred in upholding his license suspensions because the fines at issue were paid. We disagree.

Under section 1533(a) and (d) of the Vehicle Code, an individual's driving privileges shall be suspended when the individual fails to pay fines associated with violations of the Vehicle Code; the suspension shall continue until the individual either pays the fines in full or enters into an agreement to make installment payments and makes regular payments under that plan. 75 Pa.C.S. §1533(a), (d).

In license suspension cases, the burden of proof is initially on the Department to establish a *prima facie* case that the suspension is warranted. *See Zawacki v. Department of Transportation, Bureau of Driver Licensing*, 745 A.2d 701, 703 (Pa. Cmwlth. 2000). The Department may satisfy its burden by submitting certified records necessary to justify the suspension. *See Schaeffer v. Department of Transportation*, 548 A.2d 714, 715 (Pa. Cmwlth. 1988). If the Department satisfies its burden, the burden then shifts to the licensee to demonstrate by clear and convincing evidence that the Department's records are erroneous or that suspension is not merited under the applicable statute. *See Dick v. Department of Transportation, Bureau of Driver Licensing*, 3 A.3d 703, 707 (Pa. Cmwlth. 2010).

Further, the trial court is the fact-finder in license suspension cases. *McCloskey v. Department of Transportation, Bureau of Driver Licensing*, 722 A.2d 1159, 1161-62 (Pa. Cmwlth. 1999). As finder of fact, it is the trial court's

³ Our scope of review is limited to determining whether the findings of fact are supported by competent evidence or whether the trial court committed an error of law or an abuse of discretion in reaching its decision. *Piasecki v. Department of Transportation, Bureau of Driver Licensing*, 6 A.3d 1067, 1070 (Pa. Cmwlth. 2010).

responsibility to resolve conflicts in the evidence. *Reinhart v. Department of Transportation, Bureau of Driver Licensing*, 954 A.2d 761, 765-66 (Pa. Cmwlth. 2008). The trial court is also the sole arbiter of questions concerning the weight and credibility of the evidence, and the trial court may accept or reject the testimony of any witness in whole or in part. *Id.* If there is sufficient evidence in the record to support the findings of the trial court, those findings are binding on appeal. *McCloskey*, 722 A.2d 1159, 1161-62.

Here, the trial court's conclusion that Licensee failed to pay his fines in full is supported by the Department's certified documents. Consequently, the Department satisfied its burden of establishing a *prima facie* case and the burden shifted to Licensee to demonstrate otherwise. Finding Licensee's evidence to be not credible, the trial court determined that Licensee failed to establish that he paid the fines or entered into an installment plan. As previously noted, credibility determinations are within the exclusive province of the trial court. *Reinhart*, 954 A.2d at 765-66; see *Department of Transportation, Bureau of Traffic Safety v. O'Connell*, 555 A.2d 873, 876 (Pa. 1989) ("Questions of credibility . . . are for the trial court to resolve, not our appellate courts."). Therefore, we discern no abuse of discretion or error of law on the part of the trial court in upholding the suspensions of Licensee's driving privileges pursuant to section 1533 of the Vehicle Code.

Accordingly, we affirm.

PATRICIA A. McCULLOUGH, Judge

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Department of Transportation,	:	
Bureau of Driver Licensing	:	

ORDER

AND NOW, this 17th day of July, 2014, the September 13, 2013 orders of the Court of Common Pleas of Philadelphia County are affirmed.

PATRICIA A. McCULLOUGH, Judge