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DRIVER'S LICENSE COMPACT

Appellee, a driver licensed by the Commonwealth, was charged with driving while ability-impaired in New York. At the time of the incident she was in the process of moving to New York. She entered a guilty plea to the charge approximately one month later, but was not sentenced at that time. She subsequently obtained a New York license after surrendering her Pennsylvania license to the New York Department of Motor Vehicles. After her sentencing in New

York, the State notified Pennsylvania of the conviction pursuant to the Driver's License Compact (75 Pa.C.S. §§ 1581-1586). The Commonwealth of Pennsylvania, Department of Transportation, Bureau of Driver Licensing ("Bureau") then notified appellee that it was suspending her license for one year. The court of common pleas rejected appellee's appeal, but the Commonwealth Court reversed, agreeing with appellee that she was not a licensed Pennsylvania driver at the time of her "conviction," because the conviction did not occur until the date of her sentencing. The current appeal then followed.

The Supreme Court reversed, finding that in order to determine the date of the conviction, New York law had to be analyzed. The Court conducted the analysis and concluded that the date of the conviction was the date of the entrance of the guilty plea by appellee. As she was still a licensed Pennsylvania driver at that time, Pennsylvania could suspend her license for the offense.

The order of the Commonwealth Court was reversed.

Guzman v. Commonwealth of Pennsylvania, Department of Transportation, Bureau of Driver Licensing, (Pa. 2005) No. 42 WAP2003 (March 29, 2005).



DRIVING UNDER THE INFLUENCE

Appellant was arrested for driving under the influence of alcohol after he was found asleep in the driver's position of a running vehicle. Upon being convicted, the trial court imposed separate sentences pursuant to 75 Pa.C.S. §3731(a)(1) and (a)(4)(i). The instant appeal then followed.

The Superior Court noted that a number of changes were made to the driving under the influence statute over the course of time but determined that subsections (a)(1) and (a)(4)(i) have always been interpreted to comprise a single injury to the Commonwealth. The Court then concluded that the trial court erred by imposing separate sentences on appellant.

The judgment of sentence was vacated and the matter remanded for resentencing.



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Commonwealth v. Williams, (Pa. Super. 2005) No. 1641 WDA 2003 (March 18, 2005).



GUILTY PLEA

Appellee was sentenced to three *concurrent* terms of imprisonment of twenty-one to forty-two months and probation after he entered a negotiated guilty plea to possession of a controlled substance with intent to deliver. He was subsequently arrested for another offense while on probation, resulting in the court's resentencing him on the original crimes to three *consecutive* terms of from five to ten years of imprisonment, which represented the maximum sentence.

An appeal was taken to the Superior Court on the basis that the sentence violated *Commonwealth v. Anderson*, 643 A.2d 109 (Pa. Super. 1994) ("*Anderson*") which held that a trial court could not alter a sentencing scheme from concurrent to consecutive sentences if the negotiated plea did not contemplate that. The Superior Court subsequently agreed and vacated the sentence.

The trial court, on remand, sentenced appellee to three concurrent terms of five to ten years of imprisonment and noted that the Superior Court failed to consider *Commonwealth v. Smith*, 69 A.2d 7008 (Pa. Super. 1996), which notes that a trial court possesses the same sentencing options at a probation revocation that it did at the initial sentencing. The Superior Court again reversed the judgment of sentencing, leading to the instant appeal by the Commonwealth.

The Supreme Court rejected the interpretation of law found in *Anderson*. It found that, upon resentencing after probation was revoked, a trial court could impose a longer sentence than it could under the plea agreement reached at original sentencing.

The order of the Superior Court was reversed.

Commonwealth v. Wallace, (Pa. 2005) No. 7 EAP 2004 (March 29, 2005).



INEFFECTIVE ASSISTANCE OF COUNSEL

Appellant was convicted of first-degree murder and other crimes. On appeal, his counsel failed to file a statement of matters complained of pursuant to Pa.R.A.P. 1925(b). Despite this, the trial court issued an opinion finding that the verdict was supported by sufficient evidence. Appellant's counsel filed a brief with the Superior Court, which found that the lack of the Rule 1925(b) statement barred it from considering appellant's position. Appellant ultimately filed a motion pursuant to the Post Conviction Relief Act, 42 Pa.C.S. §9541 et seq. ("PCRA") to restate his appellate rights, which was rejected by the PCRA court. The Superior Court affirmed, rejecting appellant's argument that he was entitled to a presumption of prejudice because his attorney's failure to protect his appellate rights was a constitutional denial of counsel. The instant appeal followed.

The Supreme Court rejected the position of the Commonwealth that appellant had waived his argument because it was not raised before the PCRA court and determined that the reasoning in *Commonwealth v. Lantzy*, 736 A.2d 564 (1994) should be extended to these situations. As such, the Court found this appellant had been actually or constitutionally denied his appellate rights by his attorney's failure to file the Rule 1925(b) statement.

The order of the Superior Court was reversed and the matter remanded.

Commonwealth v. Halley, (Pa. 2005) No. 26 EAP 2004 (March 29, 2005).



JUVENILE ACT

Appellee, a juvenile, was charged with eight separate delinquent petitions based on his involvement with numerous car thefts. He later admitted to sixteen felony counts. The court of common pleas found that appellee was in need of supervision, treatment and rehabilitation on certain cases and found him delinquent on two of the petitions. The court



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deferred adjudicating the remaining petitions. The Commonwealth appealed and the court placed appellee on probation and dismissed the remaining six adjudications on the basis that it did not find the appellee needed supervision on these. The instant appeal followed.

The Superior Court considered the purpose of the Juvenile Act, 42 Pa.C.S. §§6301-6365 and found the act required that appellee be adjudicated delinquent on all of the petitions as he had admitted to committing the acts set forth in all of them.

The order was vacated and the matter remanded for further proceedings.

In the Interest of D.M., (Pa. Super. 2005) No. 88 EDA 2004 (March 7, 2005).



LICENSE SUSPENSION

Appellant's license was suspended after he was convicted for driving under the influence. He was later cited for running a stop sign, which led to his conviction for driving while his license was suspended. Appellant claimed that he had taken all of the necessary steps to restore his license at the time of the subsequent offense, and that the only thing lacking was the official restoration by the Commonwealth of Pennsylvania, Department of Transportation, Bureau of Driver Licensing. The trial court sentenced him and the instant appeal followed.

The Superior Court acknowledged the recent decision of the Supreme Court in *Rossi v. Commonwealth of Pennsylvania, Department of Transportation, Bureau of Driver Licensing*, 860 A.2d 64 (Pa. 2004), but noted that the issue presented by the appellant in this matter, that a license should be considered restored even if a driver has not received a letter from the Bureau stating so, was not considered in that case. The Court found that notwithstanding the steps taken by the appellant, his driving privileges had not actually been restored at the time of his subsequent citation.

The order of the trial court was affirmed.

Commonwealth v. Williams, (Pa. Super. 2005) No. 1118 WDA 2003 (March 22, 2005).



MUNICIPAL POLICE JURISDICTION ACT

An officer of the New Wilmington Police Department was informed of a driver slumped over the steering wheel of a vehicle parked on a highway close by. The officer drove to

the scene, which was outside of the border of New Wilmington and across county lines, and discovered the appellant asleep in his vehicle with the lights and engine running, the radio on and the window down. Upon awakening appellant, the officer noted he smelled of alcohol, so he radioed State Police, who requested that he remain on the scene until a trooper arrived. The officer complied and while waiting performed a field sobriety test and talked with the appellant. The State Police also administered a field sobriety test upon their arrival, which appellant failed, resulting in his arrest for driving under the influence.

Appellant filed a pretrial motion to suppress evidence on the basis that the officer left his jurisdiction and detained appellant, in violation of the Municipal Police Jurisdiction Act, 42 Pa.C.S. §8953 ("MPJA"). The court denied the motion and appellant was convicted. On appeal the Superior Court affirmed the decision although it found that the officer's measures were not supported by the MPJA. The instant appeal followed.

The Supreme Court noted that the MPJA should be given a liberal construction and determined that section 8953 (a)(5) of the act permits an officer to detain someone outside of their jurisdiction when the officer is on duty, has a routine or customary reason for being in the other jurisdiction, develops probable cause that an offense was committed and limits his activity to maintaining the status quo.

The judgment of the Superior Court was affirmed.

Commonwealth v. Lehman, (Pa. 2005) No. 43 WAP 2003 (March 29, 2005).



PROMPT TRIAL

A criminal complaint charging forgery and insurance fraud was filed on January 16, 2001 against appellant. After the preliminary hearing was postponed numerous times on behalf of the Commonwealth, the district justice threatened to dismiss the case unless the charges were withdrawn, which the Commonwealth did. It subsequently refiled the charges on March 27, 2001 and a trial was scheduled for February 4, 2002. Appellant then filed a motion arguing that his right to a prompt trial under Pa.R.Crim.P. 600 was violated because the Commonwealth failed to bring him to trial within one year of the filing of the initial complaint. The lower court agreed, choosing not to accept the Commonwealth's argument that the time period should have been calculated from the date of filing of the second criminal complaint, pursuant to *Commonwealth v. Whiting*, 500 A.2d 806 (1985). The Superior Court overturned the decision and the instant appeal followed.

The Supreme Court reviewed the rule and concluded that the

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Commonwealth could not benefit from the time of filing of the second complaint when it does not act with due diligence in a case. The Court found that the trial court had specifically found that the Commonwealth failed to act with due diligence in the instant matter and that was the cause of the delay in bringing the appellant to trial within the prescribed time period. As such, the Court found the trial court's granting of appellant's motion was not an abuse of discretion.

The order of the Superior Court was reversed and the order of the trial court was affirmed.

Commonwealth v. Meadius, (Pa. 2005) No. 35 WAP 2003 (March 29, 2005).

