

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA	:	
DEPARTMENT OF TRANSPORTATION,	:	
Respondent	:	
	:	
vs.	:	No. 22-0460
	:	
BRYAN BRAKER,	:	
Petitioner	:	
	:	

Robert J. Kopacz, Esquire	Counsel for Respondent
Craig Sopin, Esquire	Counsel for Petitioner

MEMORANDUM OPINION

Matika, J. - April 17, 2026

Rarely in license suspension appeal cases does a party invoke the protections of the Eighth Amendment of the Pennsylvania Constitution to argue that the penalty for violating a section of the vehicle code is tantamount to cruel and unusual punishment. This, however, is one of those cases. This Court must now decide if the lifetime disqualification of a commercial driver's license (CDL) pursuant to 75 Pa. C.S.A. §1611(c) is cruel and unusual punishment or whether that punishment "fits the crime."

FACTUAL AND PROCEDURAL BACKGROUND

On or about February 25, 2022, the Commonwealth of Pennsylvania, Department of Transportation, Bureau of Licensing (hereinafter "the Bureau") sent official notice to Bryan Braker

(hereinafter "Braker") that as the result of a "second adjudication of an offense in §1611A of Pennsylvania Vehicle Code" his commercial driving privileges would be disqualified for life effective April 1, 2022 at 12:01 A.M. On March 25, 2022, Braker filed a petition appealing that disqualification. By agreement, the hearing on that appeal was continued multiple times to allow an appellate court case to be decided which may have some bearing on the outcome of this case. Ultimately, on November 10, 2025, the hearing was held. At that time, the Bureau presented a certified copy of the records of the Bureau which included: 1)an official notice of disqualification effective April 1, 2022, said notice being mailed to Braker on February 25, 2022; 2) a report from the Carbon County Clerk of Courts showing the conviction of Braker for a violation of 75 Pa. C.S.A. § 3743A, Accidents Involving Damage to Attended Vehicles or Property, said conviction occurring on February 3, 2022 for the violation that transpired on August 14, 2021; 3) a restoration letter sent to Braker with an effective date of July 18, 2018; 4) an official notice of disqualification effective July 20, 2017, said notice being mailed to Braker on June 15, 2017; 5) a report from the Carbon County Clerk of Courts showing Braker's placement in an Accelerated Rehabilitative Disposition (ARD) Program on a charge of violating 75 Pa. C.S.A. §3802(a)(1), said placement occurring on January 30, 2017 for the incident which occurred on March 22, 2015; and 6) a notice sent to

Braker for a violation of 75 Pa. C.S.A. §3362, exceeding maximum speed which occurred on November 20, 2013. Upon admission of this certified record¹ the Commonwealth rested.

Braker then testified. Braker stated that he has been an over the road truck driver since obtaining his CDL when he was nineteen years old² and has since been driving trucks for 13 years. He currently works for a company called Lanita Enterprises and travels all throughout the 48 contiguous states.

When questioned about his income, Braker stated that he recently received a check worth approximately \$3,250.00³. He claimed that he assists his mother and grandmother financially and had begun the process of buying his own truck but has not done so yet.

At the end of the hearing, this Court asked counsel to brief this unique issue. Both sides having done so, this matter is ripe for a decision on Braker's appeal.

LEGAL DISCUSSION

Pursuant to 75 Pa. C.S.A. §1611(c)

"Except as set forth in subsection (c.1), the department shall disqualify for life any person convicted of two or more violations of any of the offenses specified in subsection (a), or the subject of two or more reports of

¹ Commonwealth Exhibit 1.

² Braker went to CDL training school right out of high school which cost him between \$4,000.00 - \$4,500.00 to complete.

³ Value of the load. In this instance, he received a commission of 25 percent of a load worth \$13,000.00.

test refusal as specified in section 1613, or any combination of those offenses and/or refusals, arising from two or more separate and distinct incidents. Only offenses committed after the effective date of this chapter may be considered in applying this subsection."

The violations specified in subsection (a) are:

- (1) Section 3802 (relating to driving under influence of alcohol or controlled substance) or former section 3731, where the person was a commercial driver at the time the violation occurred;
- (2) Section 3742 (relating to accidents involving death or personal injury), where the person was a commercial driver at the time the violation occurred;
- (3) Section 3743 (relating to accidents involving damage to attended vehicle or property), where the person was a commercial driver at the time the violation occurred;
- (4) Section 3745 (relating to accidents involving damage to unattended vehicle or property), where the person was a commercial driver at the time the violation occurred;
- (5) Any felony in the commission of which a court determines a motor vehicle was essentially involved and where the person was a commercial driver at the time the violation occurred, except as described in subsection (e);
- (6) Section 1606(c) (relating to requirement for commercial driver's license); or
- (7) Any offense wherein the person caused the death of a person as a result of a motor vehicle accident through the negligent operation of a commercial motor vehicle, including, but not limited to, a violation of 18Pa.C.S. §2504 (relating to involuntary manslaughter) or a violation of section 3732 (relating to homicide by vehicle). §1611(a)

The record presented by the Bureau establishes that Braker does in fact have the requisite number of violations required that allowed for the Bureau to issue notice of a lifetime disqualification of Braker's CDL privileges, those being 1) his

acceptance into ARD for a §3802 violation⁴; and 2) his conviction for a §3743 violation⁵.

Braker also argues as well that the holding in *Chappell v. Comm of PA, Dept of Transportation*, 326 A.3d 160 (Pa. Cmwlth. Ct. 2004) would suggest that the violations committed by Braker were not as "serious" as those which were present in *Chappell* and thus, he should not have his CDL disqualified for life. In *Chappell* that driver was convicted on two separate DUI convictions, accumulatively disqualifying him from possessing a CDL license for life. Braker argues that his violations were not as grave as *Chappell's* and therefore, the disqualification should not apply. This argument is a bit disingenuous as the statute, §1611 makes no distinction as to the level of severity to be imputed to the violations. All that is required is that there are two violations as enumerated in that section. Further, as the Commonwealth suggests in its brief, had the legislature intended for "levels of severity", it would have provided for it in the statute or at a minimum qualified the length of disqualification. This it did not do. Simply put, all that is required is the existence of two enumerated violations.

⁴ Under 75 Pa. C.S.A. §1603, the term conviction includes the acceptance into ARD or any other pre-adjudication disposition. See also, *Kerr v. Commonwealth*, 201 A.3d 297, 300-301 (Pa. Cmwlth Ct. 2019); *Ferguson v. Comm of PA, Department of Transportation*, 340 A.3d 278 (2025).

⁵ Braker argued that the two violations could not result in a lifetime disqualification because they occurred from the same criminal episode. This is simply not true.

Next, Braker argues that a CDL disqualification for life, such as the one he is facing, is a violation of the Eighth Amendment in that it is "cruel and unusual" punishment. In *Chappell*, the Court held that two DUI convictions were serious offenses carrying with them a high degree of gravity warranting a lifetime disqualification and was not a violation of the cruel and unusual punishment provisions of the Eighth Amendment. Braker argues that this Court should find that his violations were less grave than those in *Chappell* and therefore the lifetime CDL disqualification was tantamount to cruel and unusual punishment.

"Concerning the gravity of the offense, the Department is correct. Section 1611 does not exist in a vacuum. Section 1602(a)(2) of the CDL Act states that it implements the Federal Commercial Motor Vehicle Safety Act of 1986. 49 U.S.C. §§ 31301-31317, with the express goal of improving road safety by '[d]isqualifying commercial drivers who have committed certain serious traffic violations or other specified offenses.' 75 Pa.C.S. §1602(a)(2). Section 1602(b) of the CDL Act adds that it is a remedial law "and shall be liberally construed to promote the public health, safety and welfare." 75 Pa.C.S. §1602(b). Federal regulations recommend lifetime CDL disqualification for a second DUI conviction, and failure to substantially comply with the relevant federal laws can result in a state losing its federal highway funding. See 49 C.F.R. § 383.51 (2021), Table 1." *Id.* at 168 (emphasis ours).

In *Chappell*, the court found that a second DUI is a "grave offense, given public safety concerns that are patently reasonable, as described by the FMCSA. The penalty here is harsh, but commensurate with the gravity of the offense" *Id.* at 170.

Inasmuch as the goal of the statute is to keep CDL drivers off of the road in the name of public safety, the goal was realized in *Chappell* as noted by the Commonwealth Court. It is no different here where Braker had, albeit one DUI, he also has a violation of §3743, that being one resulting in an accident resulting in damage to an attended vehicle or property. (emphasis ours). While DUIs do not always involve an accident and thus a more egregious violation of public safety, they are inherently dangerous in and of themselves as espoused in *Chappell*. A conviction for leaving the scene of an accident where Braker struck an attended vehicle or property can be and should be considered an even more egregious violation of the Vehicle Code than just a DUI conviction as it involves the public as an occupant of that vehicle or property. To suggest this second violation is not as serious as a DUI that does not involve an accident with another attended vehicle is equally disingenuous.

Braker also argues that a lifetime CDL disqualification is cruel and unusual punishment due to the financial burden it will have on him. This same issue was discussed in *Chappell* where the court there stated:

"Chappell testified at the February 2020 hearing as to the financial hardships he suffered since his CDL was revoked. Nor is Chappell alone; even without his testimony, the penalty is severe. In the absence of Department regulations or an amendment to the CDL Act allowing for mitigation reducing a lifetime disqualification to a ten-year suspension, as authorized

by Section 1611(d) of the CDL Act, we recognize that application of Section 1611(c) "results in the imposition of a severe sanction in every case." However, the legislature has not granted our courts the "authority or discretion to modify the mandatory penalty imposed by the Department under section 1611(c)," regardless of its severity.

Although lifetime CDL disqualification is a severe penalty, Chappell is not in prison, nor is he unable to work or even drive a personal vehicle for work purposes. The right to practice one's chosen profession is not absolute; it is "subject to the lawful exercise of the Commonwealth's power to protect the health, safety, welfare, and morals of the public by regulating the profession." Accordingly, the penalty here, while serious, is not so harsh as to outweigh the gravity of the offense at issue. It certainly does not rise to the level of life imprisonment without the possibility of parole for passing a bad check, as in *Solem*." *Chappell* at 170. (internal citations omitted).

Braker likewise testified as to the financial burdens that will be forthcoming should his CDL privilege be disqualified for life. However, Braker is not alone either as the legislature's intended consequences bears with it the possibility of their financial burdens should §1611 be violated.

Given the public safety concerns, like *Chappell* and applying *Chappell* to the case at bar, this Court concludes that 1611(c) does not amount to cruel and unusual punishment nor create an inference of gross disproportionality such that the statute, as applied to Braker, violates the Eighth Amendment.

Lastly, Braker argues, for the first time in his post-hearing brief, that the notice sent to him dated February 25, 2022 referencing that the violation of §3743 triggered the lifetime

disqualification because it was a second violation of §1611, was defective because it did not mention the first violation. He further argues that it violates his due process rights because it does not spell out that first offense. In support thereof, Braker cites to *Commonwealth of Pennsylvania, Department of Transportation v. Sutton*, 66 A.2d 46 (1995). However, he does not explain its applicability to the case *sub judice*. In *Sutton*, the court found that an error in listing the date of a blood test refusal that was "off by one day" was not so erroneous as to justify sustaining the appeal. There the court stated, "due process is afforded in administrative proceedings when the accused is informed with reasonable certainty of the substance of the charges against him so that he may adequately prepare a defense". at 48-49, citing *Commonwealth of Pennsylvania, Department of Transportation, Bureau of Licensing, v. Balloch*, 598 A.2d 110, 112 (Pa. Cmwlth. Ct. 1991). Informing Braker that this is his second violation is sufficient and adequate notice to prepare a defense. Further, this Court knows of no case requiring that all violations of the vehicle code which could enhance penalties or elevate consequences must be specifically enumerated on the official notice other than the one which creates that penalty or consequences and Braker does not cite to any either.

CONCLUSION

For the reasons stated herein, this Court enters the following
Order:

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ORDER OF COURT

AND NOW, this 17th day of April, 2026, upon consideration of the "Petition to Appeal from Order of Department of Transportation Disqualifying Commercial Motor Vehicle Operating Privileges", filed by the Appellant, Bryan Braker, and after hearing thereon along with the briefs lodged by the Parties, it is hereby **ORDERED and DECREED** that said Appeal is **DENIED**.

It is further **ORDERED and DECREED** that the Commonwealth of Pennsylvania, Department of Transportation shall reinstate the lifetime disqualification of the Petitioner's commercial operating privileges.

BY THE COURT:

/s/ Judge Joseph J. Matika
Joseph J. Matika, J.