

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

COMMONWEALTH OF PENNSYLVANIA	:	
DEPARTMENT OF TRANSPORTATION,	:	
Appellee	:	
	:	
vs.	:	No. 22-0461
	:	
BRYAN BRAKER,	:	
Appellant	:	
	:	

Elizabeth S. Van Wert, Esquire	Counsel for Appellee
Craig A. Sopin, Esquire	Counsel for Appellant

MEMORANDUM OPINION

Matika, J. - July 16, 2026

This Opinion is written in response to the Notice of Appeal filed by the Appellant, Bryan Braker (hereinafter "Braker") from the Order of Court denying his driver's license appeal and directing that the suspension issued by the Commonwealth of Pennsylvania, Department of Transportation (hereinafter "PennDOT"), be reinstated. For the reasons stated herein, due to the untimeliness of said appeal, this Court asks that the appeal be quashed, or in the alternative, that the Order of Court dated April 17, 2026 be affirmed and this appeal denied.

FACTUAL AND PROCEDURAL BACKGROUND

On March 23, 2022, Braker filed a "Petition to Appeal From Order of Department of Transportation Suspending Motor Vehicle Operating Privileges." This petition challenged the suspension of

his driving privileges as set forth in a letter sent to Braker, mailed February 25, 2022, advising him that "as a result of your February 3, 2022 conviction of violating section 3733 of the Vehicle Code LEAVING SCENE OF ACCIDENT on 8/14/21: your driving privilege is SUSPENDED for a period of 1 year(s) effective 04/01/22 at 12:01 A.M."

A hearing was ultimately held on this petition on November 10, 2025¹. At that hearing, counsel for PennDOT offered into evidence a copy of PennDOT's "Certification and Attestation" dated April 27, 2022. Contained in that document, attested to by Yassmin Gramina, P.E. Secretary of the Department of Transportation, were the following documents: 1) a copy of the official Notice of Suspension sent to Braker with a mailing date of February 25, 2022 as a result of his February 3, 2022 conviction for LEAVING THE SCENE OF AN ACCIDENT on August 14, 2021; 2) the "Report of the Clerk of Courts showing the conviction or acquittal of any violation of the Vehicle Code"² (more commonly referred to as a "DL-21 Form"); and 3) a copy of Braker's Certified Driving Record. Thereafter the Commonwealth rested.

As to this appeal, Braker did not present any evidence or

¹ The hearing in this case was delayed as this appeal was filed in conjunction with appeals in 22-0460 and 22-0459, and counsel for Appellant had requested numerous continuances due to a pending appeal before the Commonwealth Court which have a bearing on the appeal in 22-0460.

² This document clearly evidences the conviction of the aforementioned charge which gave rise to the Notice of Suspension set forth in the first document of this exhibit.

testimony.³

Thereafter, in conjunction with the complex legal issues involved in 22-0460, this matter was placed under advisement and decided in conjunction with 22-0461 and 22-0459. In this case, this Court denied Braker's appeal and directed the reinstatement of the suspension of his driving privileges.

On May 21, 2026, Braker filed this appeal, thirty-one (31) days after the Order was docketed on April 20, 2026. Notwithstanding, the untimeliness of that appeal, this Court issued its 1925(b) Order directing Braker to file a Concise Statement of Errors Complained of on Appeal. This Order was issued on May 22, 2026. Thereafter, on July 1, 2026 Braker filed his Concise Statement. In that statement Braker alleged two things, namely that:

1. The trial court erred in denying appellant's appeal where the Department failed to establish with sufficient and competent evidence the requisite conviction where the DL-21 Form and the driving record admitted into evidence reflect a conviction for a major offense which is not supported; and
2. The trial court erred in denying appellant's appeal where the Department failed to establish with sufficient and competent evidence where the driving record admitted into

³ While Braker did testify, it was in relation to 22-0460, a case not involved in this Appeal.

evidence reflects that the penalty for a conviction of violation Section 3743 includes a CDL disqualification where such is not provided for in Section 1532(b).

LEGAL DISCUSSION

I. UNTIMELINESS OF APPEAL

Pursuant to Pa.R.A.P. Rule 903, "Except as otherwise prescribed by this Rule, the Notice of Appeal required by Rule 902 (Manner of Taking Appeal) shall be filed within 30 days after the entry of the order from which the appeal is taken." Rule 903A. "Because the timeliness of an appeal implicates our jurisdiction, we cannot address the merits of an appeal or cross-appeal before determining whether it was timely." *Krankowski v. O'Neil*, 972 A.2d 284, 285 (Pa. Super. 2007) citing, *In Re: Adoption of W.R.*, 823 A.2d 1013, 1015 (Pa. Super. 2003).

In the case *sub judice*, the order being appealed was dated April 17, 2026, but not docketed until April 20, 2026, thus Braker's right to file an appeal commenced on April 20, 2026. As noted, the Notice of Appeal was not docketed in this case until Thursday, May 21, 2026, the thirty-first (31st) day after the Order was entered on the dockets.⁴

"Pennsylvania Rule of Appellate Procedure 903(a) mandates that "the notice of appeal . . . shall be filed within 30 days after the entry of the order from which

⁴ It should also be noted no petition to allow an appeal nunc pro tunc was ever filed in this case.

the appeal is taken.” This Court “is without jurisdiction to excuse failure to file a timely notice of appeal, as [the] 30-day period for appeal must be strictly construed; [an] untimely appeal divests the Superior Court of jurisdiction. *Young v. S.B. Conrad, Inc.*, 216 A.3d 267, 271 (Pa. Super. 2019) (internal citations omitted).

“In order to preserve the right to appeal from a final order of the Court of Common Pleas, a notice of appeal must be filed within 30 days after the date of the entry of that order. This Court is without jurisdiction to excuse a failure to file a timely notice, as the 30-day period must be strictly construed. Further, we note that an untimely appeal divests this Court of jurisdiction. *Valley Forge Center Associates v. RIB-IT/K.P., Inc.*, 693 A.2d 242, 245 (Pa. Super. 1997) (internal citations omitted).

Thus, as a result of the late and untimely filing of this appeal, the Commonwealth Court is divested of jurisdiction over this matter and the appeal should be quashed.

II. MERITS OF THE APPEAL

Assuming arguendo, that the Appellate Court allows the appeal to be maintained, our decision to deny Baker’s underlying appeal of his operating privileges should be affirmed.

a. Sufficiency of Evidence Claim

In his first perceived error, Braker argues that the evidence to sustain the burden of PennDOT is insufficient. However, he does not suggest what it is that PennDOT lacked in that regard.

PennDOT presented a certified record, Exhibit 1 to support its burden. In that record were the following documents: 1) the official Notice of Suspension sent to Braker on February 25, 2022 informing him of its authority under 75 Pa.C.S.A. §1532B to suspend his driving privileges for one (1) year as a result of a February 3, 2022 conviction for violating §3743 of the Vehicle Code, to wit, "LEAVING SCENE OF ACCIDENT"; 2) The DL-21 form submitted by the Carbon County Clerk of Courts Office which set forth thereon all necessary identifying information for Braker, the date of violation (August 14, 2021), the date of conviction (February 3, 2022), the charge (ACCIDENT INVOLVING DAMAGE TO ATTENDED VEHICLE/PROP), and the grading of the offense (M3); and 3) a certified driving history for Braker dated April 27, 2022 on page 5 thereof, and this same relevant and pertinent information.

Upon offering this record into evidence, and without objection from Braker, the certified record was admitted.⁵ PennDOT then rested and no defense nor argument was presented by Braker.

Hearings on appeal to the Court of Common Pleas from a Notice of Suspension of Operating Privileges is *de novo*. In such hearings,

⁵ See 75 Pa.C.S.A. §1550(d) (1) .

PennDOT has the burden to show by a preponderance of the evidence that there was a basis for the suspension. *Comm. of PA, Dept of Transportation, Bureau of Traffic Safety v. Critchfield*, 305 A.2d 748 (Pa. Cmwlth. 1973). "An essential part of satisfying this burden in the production of an official record of the conviction supporting the suspension." *Spagnoletti v. Comm. of PA, Dept. Of Transportation, Bureau of Driver Licensing*, 90 A.3d 759, 766 (Pa. Cmwlth. 2013). In the case *sub judice*, included in the official record, Exhibit 1, is Braker's driving record which notes this conviction for an accident involving damages to attended vehicle or property, a violation of 75 Pa.C.S.A. §3743 as well as the DL-21 which also reflects that conviction. These documents satisfy PennDOT's burden here. Thus, PennDOT was correct in suspending Brake's driving privileges for a period of six (6) months pursuant to 75 Pa.C.S.A. §1532(b) (1).

b. CDL Disqualification Penalty

Next Braker seems to claim that the evidence presented was insufficient to establish that a penalty for a §3743 conviction also included a CDL disqualification when §1532(b) does not provide for such. At the onset, we are unclear as to what Braker is claiming here, unless he is referring to the verbiage on page 5 of the certified driving record, part of Exhibit 1, which does state "Disqualification for 1 Lifetime effective April 1, 2022." In that respect, Braker is conflating the penalty of a six (6) month

suspension for the §3743 conviction under §1532(b)(1) with the CDL Lifetime Disqualification, which Braker is also subject to as a result of the accumulation of requisite convictions pursuant to §1611.⁶ This Court can only surmise that this appears on his driving record in this manner as once Braker was convicted of this requisite offense, it kicked in this CDL Lifetime Disqualification and PennDOT simply noted it in this manner on the driving record.

CONCLUSION

Based on the foregoing, this Court would request that this appeal be quashed for want of appellate jurisdiction based upon an untimely appeal or in the alternative, for an affirmance of our decision to deny Braker's License Suspension Appeal and accordingly allow for the reinstatement of his suspension.

BY THE COURT:

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

⁶ It should be noted that Braker had appealed that suspension to the Court of Common Pleas as well, which was denied (22-0460). Braker did not appeal that case to Commonwealth Court.