

SUPREME COURT OF PENNSYLVANIA

Scott v. Commonwealth of Pennsylvania, Department of Transportation, Bureau of Driver Licensing; Liero v. Commonwealth of Pennsylvania, Department of Transportation, Bureau of Driver Licensing; Neenan v. Commonwealth of Pennsylvania, Department of Transportation, Bureau of Driver Licensing

567 Pa. 631 (2002) (Pa. 2002) · Decided February 20, 2002

SUMMARY

The Pennsylvania Supreme Court affirmed one-year driver’s license suspensions imposed on three Pennsylvania licensees following their New Jersey convictions under N.J.S.A. § 39:4-50(a). The Court held that the New Jersey conviction reports, describing the offenses as operating under the influence of liquor or drugs, established conduct substantially similar to Article IV(a)(2) of the Driver’s License Compact. The electronically transmitted conviction reports constituted prima facie proof of the reported facts and supported PennDOT’s suspensions.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Nigro; Chief Justice Zappala; Justice Cappy; Justice Castille; Justice Newman; Justice Saylor; Justice Eakin
JURISDICTION	Pennsylvania
DECIDED	February 20, 2002
DISPOSITION	affirmed
PROCEDURAL POSTURE	Consolidated appeals from orders of the Commonwealth Court affirming the dismissal of statutory appeals from one-year driver's-license suspensions imposed by PennDOT based on New Jersey DWI convictions.
STANDARD OF REVIEW	The Supreme Court reviewed whether the record contained sufficient evidence to support PennDOT's suspension under the Driver's License Compact and applicable Pennsylvania law.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Pennsylvania

PARTIES

Jarrett Carl Scott, Mathew S. Liero, Robert P. Neenan v.
Commonwealth of Pennsylvania, Department of Transportation,
Bureau of Driver Licensing

TOPICS

administrative law judicial review of agency action statutory interpretation evidence

PRACTICE AREAS

administrative law motor vehicle licensing statutory interpretation evidence

QUESTIONS PRESENTED

1. Whether PennDOT met its burden of proving that the appellants' New Jersey DWI convictions were based on conduct substantially similar to conduct covered by Article IV(a)(2) of the Driver's License Compact.
2. Whether a New Jersey conviction report identifying N.J.S.A. § 39:4-50(a) and describing the offense as operating under the influence of liquor or drugs constitutes sufficient prima facie evidence that the conviction involved an operating offense rather than a permitting offense.
3. Whether the operating-under-the-influence and per se operating provisions of N.J.S.A. § 39:4-50(a) are substantially similar to Article IV(a)(2) of the Compact.

HOLDINGS

1. The Compact requires comparison of the conduct proscribed by the out-of-state provision with Article IV(a)(2) of the Compact, not a direct comparison between the Pennsylvania and New Jersey statutes.
2. The first two operating provisions of N.J.S.A. § 39:4-50(a)—operating under the influence and operating with a blood-alcohol concentration of .10 percent or greater—are substantially similar to Article IV(a)(2) of the Compact.
3. A certified electronically transmitted New Jersey conviction report describing an offense as "operate under influence liq/drugs" constitutes prima facie evidence that the licensee was convicted of an operating offense under N.J.S.A. § 39:4-50(a), sufficient to support a one-year suspension absent contrary evidence.

KEY QUOTATIONS

"The Compact does not require a comparison of different states' drunk driving statutes. Rather, the relevant inquiry is whether each state's drunk driving provisions are "of a substantially similar nature" to Article IV(a)(2) of the Compact." (at 295)

"When comparing New Jersey's interpretation of "under the influence" with Article IV(a)(2) of the Compact, it is readily apparent that the first operating provision of N.J.S.A. § 39:4-50(a), which proscribes operating a vehicle while under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug, is substantially similar to the Compact." (at 299)

“If a New Jersey conviction report describes an offense under N.J.S.A. § 39:4-50(a) as "operate under influence liq/drugs," that description is prima facie evidence that the licensee was convicted under one of the operating provisions of the statute and therefore, PennDOT is required to suspend the driver's license pursuant to the Compact and 75 Pa.C.S. § 1532(b)(3).” (at 300)

FACTUAL BACKGROUND

The appellants were Pennsylvania-licensed drivers who were arrested and convicted in New Jersey under N.J.S.A. § 39:4-50(a). New Jersey electronically transmitted conviction reports to PennDOT describing the offenses as "operate under influence of liq/drugs." PennDOT treated the convictions as substantially similar to Pennsylvania DUI offenses and imposed one-year license suspensions. At de novo hearings, PennDOT introduced the certified conviction reports without objection, and the appellants did not testify or present contrary evidence.

PROCEDURAL HISTORY

Each appellant was convicted in New Jersey under N.J.S.A. § 39:4-50(a), and PennDOT suspended each appellant's Pennsylvania operating privilege for one year under the Driver's License Compact and 75 Pa.C.S. § 1532(b)(3). The Courts of Common Pleas conducted de novo hearings and dismissed the statutory appeals. The Commonwealth Court affirmed, and the Pennsylvania Supreme Court granted allocatur and affirmed.

DISPOSITION

affirmed

CASES CITED

- Commonwealth, Department of Transportation v. McCafferty, 563 Pa. 146, 758 A.2d 1155 (2000)
- Commonwealth v. Zimmick, 539 Pa. 548, 653 A.2d 1217 (1995)
- Petrovick v. Commonwealth, Department of Transportation, Bureau of Driver Licensing, 559 Pa. 614, 741 A.2d 1264 (1999)
- Hoenisch v. Commonwealth, Department of Transportation, Bureau of Driver Licensing, 785 A.2d 969 (Pa. 2001)
- State v. Hessen, 145 N.J. 441, 678 A.2d 1082 (1996) (per curiam)
- State v. Tischio, 107 N.J. 504, 527 A.2d 388 (1987)
- State v. Tamburro, 68 N.J. 414, 346 A.2d 401 (1975)
- State v. Hammond, 118 N.J. 306, 571 A.2d 942 (1990)
- Commonwealth, Department of Transportation, Bureau of Driver Licensing v. Tarnopolski, 533 Pa. 549, 626 A.2d 138 (1993)
- Pfeiffer v. Commonwealth, Department of Transportation, 114 Pa. Cmwlth. 390, 539 A.2d 4 (1988)
- Harmon v. Mifflin County School District, 552 Pa. 92, 713 A.2d 620 (1998)
- Beers v. Muth, 395 Pa. 624, 151 A.2d 465 (1959)

- Sullivan v. Commonwealth, Department of Transportation, Bureau of Driver Licensing, 550 Pa. 639, 708 A.2d 481 (1998)
- Harrington v. Commonwealth, Department of Transportation, Bureau of Driver Licensing, 563 Pa. 565, 763 A.2d 386 (2000)
- Crooks v. Commonwealth, Department of Transportation, Bureau of Driver Licensing, 564 Pa. 436, 768 A.2d 1106 (2001)
- Commonwealth v. Crooks, No. 00-00577 (C.P. Chester County Apr. 13, 2000) (memorandum)
- State v. Mulcahy, 107 N.J. 467, 527 A.2d 368 (1987)
- Scott v. Commonwealth, Department of Transportation, Bureau of Driver Licensing, 730 A.2d 539 (Pa. Commw. 1999)
- Neenan v. Commonwealth, Department of Transportation, Bureau of Driver Licensing, 738 A.2d 83 (Pa. Commw. 1999) (table)