

COMMONWEALTH COURT OF PENNSYLVANIA

MP Notary & Tags, Inc. v. Department of Transportation

No. 992 C.D. 2024 (Commonwealth Court of Pennsylvania 2026) · No. No. 992 C.D. 2024 · Decided May 7, 2026

SUMMARY

The Commonwealth Court of Pennsylvania affirmed the Department of Transportation’s dismissal of MP Notary & Tags, Inc.’s untimely appeal from termination of its agent services contract. The court held that the petitioner failed to establish non-negligent circumstances warranting nunc pro tunc relief because it did not arrange to monitor or forward mail after its business was shuttered. The court therefore did not reach the petitioner’s due process challenges to the termination and hearing procedures.

CASE DETAILS

COURT	Commonwealth Court of Pennsylvania
WRITING FOR THE COURT	Christine Fizzano Cannon; Michael H. Wojcik; Stacy Wallace
JURISDICTION	Commonwealth Court of Pennsylvania
DECIDED	May 7, 2026
DOCKET	No. 992 C.D. 2024
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for review of a July 1, 2024 order of the Executive Deputy Secretary for the Pennsylvania Department of Transportation, Bureau of Motor Vehicles, affirming a hearing officer's dismissal of Petitioner's petition to appeal nunc pro tunc from termination of its agent services contract.
STANDARD OF REVIEW	Review of the Department's decision is limited to determining whether necessary findings of fact are supported by substantial evidence and whether there was a constitutional violation or error of law.
PRECEDENTIAL VALUE	Published opinion of the Commonwealth Court of Pennsylvania
PARTIES	MP Notary & Tags, Inc. v. Department of Transportation

TOPICS

- appellate procedure
- administrative procedure act
- agency adjudication
- standard of review
- contracts

PRACTICE AREAS

administrative law

appellate procedure

constitutional law

contracts

QUESTIONS PRESENTED

1. Whether Petitioner established grounds for permission to file a late appeal nunc pro tunc.
2. Whether Petitioner was entitled to an evidentiary hearing on its petition to appeal nunc pro tunc before the petition was denied.
3. Whether the Department's termination process violated due process.

HOLDINGS

1. An evidentiary hearing is required only when a petition to appeal nunc pro tunc alleges facts sufficient to warrant nunc pro tunc relief; where the allegations, even if true, do not establish fraud, a breakdown in the administrative process, or non-negligent circumstances causing the delay, the petition may be denied without a hearing.
2. Petitioner failed to satisfy the requirements for a nunc pro tunc appeal because its untimeliness resulted from its failure to monitor or forward mail and not from non-negligent circumstances, fraud, or a breakdown in the administrative process.
3. The court did not reach the merits of Petitioner's due process challenges because the untimely appeal could not proceed and no basis for nunc pro tunc relief was established.

KEY QUOTATIONS

“Pennsylvania courts have consistently held that a party seeking leave to file an appeal nunc pro tunc must show 1) that extraordinary circumstances, involving fraud or breakdown in the administrative process or non-negligent circumstances related to the party, its counsel, or a third party, caused the untimeliness; 2) that it filed the document within a short time period after the deadline or date that it learned of the untimeliness; and 3) that the respondent will not suffer prejudice due to the delay.” (5-6)

“Only when a petition to appeal nunc pro tunc sets forth allegations sufficient to warrant such an appeal must a hearing be held to determine the validity of those allegations.” (6-7)

FACTUAL BACKGROUND

Petitioner was authorized to process vehicle titles and issue tags under an Agent Services Contract with the Department. After state police raided Petitioner's offices and seized business materials, Petitioner closed its office; the Department later mailed a notice terminating the contract to that business address. Although Petitioner had received an email indicating that an official termination notice would be mailed, it made no arrangements to monitor or forward its mail and filed its appeal 153 days after the 30-day deadline.

PROCEDURAL HISTORY

The Department terminated Petitioner's Agent Services Contract by notice mailed February 23, 2023. Petitioner did not appeal within the 30-day appeal period and later filed a petition to appeal nunc pro tunc. The hearing

officer denied nunc pro tunc relief and dismissed the appeal; the Executive Deputy Secretary affirmed, and the Commonwealth Court affirmed that order.

DISPOSITION

affirmed

CASES CITED

- Balfour Beatty Construction v. Department of Transportation, 783 A.2d 901, 905 (Pa. Cmwlth. 2001)
- City of Philadelphia v. Tirrill, 906 A.2d 663, 665, 667 (Pa. Cmwlth. 2006)
- Gomory v. Commonwealth, 704 A.2d 202, 204 (Pa. Cmwlth. 1998)
- Tessitor v. Town of McCandless, No. 162 C.D. 2024 (Pa. Cmwlth. filed Apr. 7, 2025)
- Harris v. Unemployment Compensation Board of Review, 247 A.3d 1223, 1229 (Pa. Cmwlth. 2021)
- Bureau Veritas North America, Inc. v. Department of Transportation, 127 A.3d 871, 879 (Pa. Cmwlth. 2015)
- Cook v. Unemployment Compensation Board of Review, 671 A.2d 1130, 1131 (Pa. 1996)
- Amicone v. Rok, 839 A.2d 1109, 1115-16 (Pa. Super. 2003)
- Smith v. Department of Transportation, Bureau of Driver Licensing, 749 A.2d 1065, 1067 (Pa. Cmwlth. 2000)
- Marconi v. Insurance Department, 641 A.2d 1240, 1241-42 (Pa. Cmwlth. 1994)
- Connor v. Westmoreland County Board of Assessment Appeal, 598 A.2d 610, 613 (Pa. Cmwlth. 1991)
- Best Courier v. Department of Labor & Industry, 220 A.3d 696, 698 n.3, 701-02 (Pa. Cmwlth. 2019)
- Douglas v. Unemployment Compensation Board of Review, No. 1903 C.D. 2013 (Pa. Cmwlth. filed July 16, 2014)
- Plut v. Unemployment Compensation Board of Review, No. 2283 C.D. 2007 (Pa. Cmwlth. filed Oct. 14, 2008)
- King v. Workers' Compensation Appeal Board (Pep Boys), No. 1796 C.D. 2007 (Pa. Cmwlth. filed Feb. 25, 2008)
- Lerch v. Unemployment Compensation Board of Review, 180 A.3d 545, 550 (Pa. Cmwlth. 2018)