

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. 99-10,481

VS. :

DENNIS A. ROACH :

OPINION AND ORDER

On June 29, 2999, the Defendant, Dennis A. Roach, pled guilty to two counts of Driving Under the Influence of Alcohol (DUI) while operating a motor vehicle on December 14, 1998. At the time of his plea, the Defendant requested that the charge of driving under suspension DUI related 75 Pa. C.S.A. §1543(b) be severed, so he could challenge the facts at a summary trial. The summary trial was scheduled for March 13, 2000 before this Court. At the time of the hearing, the Defendant, through counsel, agreed to submit his case on the certified copy of the driving record and allowed the Court time to make its decision. After review of the facts, the Court makes the following findings:

The Defendant, at the time of this incident, was driving on a suspended license. According to the driving record, he had received a suspension for driving under the influence of alcohol effective June 15, 1994. However, due to his past driving record, Pennsylvania Department of Transportation (Penn Dot) also assessed him a five (5) year habitual offender suspension, effective the same date. The two suspensions would run concurrently for a period of one year according to his driving record. The Defendant does not dispute he was operating a motor vehicle on this evening. The issue then becomes whether the suspension the Defendant was serving at the time that he was stopped was a DUI related one.

While it is clear that the Defendant's license was suspended for one year as a result of a DUI conviction for the offenses committed on September 29, 1993, Penn Dot added an additional suspension. Under the Motor Vehicle Code, Penn Dot may enhance a suspension of an operator's privilege for repeated violations of the Motor Vehicle Code. 75 Pa. C.S.A. Section 1542. Here, the Defendant had been convicted of operating without a license twice

(1976, 1978) and driving under suspension four (4) times (1978, 1981, 1982, 1991). Therefore, upon closer review of the record, it would appear that the suspension of the Defendant's license due to his chronic violations of the Vehicle Code was appropriate. The Court now must consider the effect of that suspension on an DUI related suspension.

Under Section 1543(b), the Defendant's suspension still retains the character of a DUI related suspension until the Defendant's operator's privilege is restored. (See 75 Pa. C.S.A. Section 1543(b)(2). Since the Defendant's privilege had not yet been restored as of December 14, 1998 because of the habitual offender suspension, the Defendant was properly cited with a violation of Section 1543(b). We would find that his license was still suspended, DUI related.

### ORDER

AND NOW, this 30<sup>th</sup> day of March, 2000, after review of the certified driving record of the Defendant and applicable law, the Court is satisfied beyond a reasonable doubt the Defendant was operating a motor vehicle under suspension, DUI related.

Sentencing is scheduled for May 4th, 2000, at 9:00 a.m. in Court Room #4.

BY THE COURT,

Nancy L. Butts, Judge

xc: D.A.  
Scott Gardner, Esquire  
Law Clerk  
Honorable Nancy L. Butts  
Gary Weber, Esquire  
C.A.