

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA

BRIAN KEITH JACKSON,	:	
Plaintiff	:	
	:	
v.	:	No. 99-01,240
	:	
COMMONWEALTH OF	:	
PENNSYLVANIA, DEPARTMENT OF	:	
TRANSPORTATION, BUREAU OF	:	
DRIVER LICENSING,	:	
Defendant	:	

OPINION and ORDER

The plaintiff, Brian Jackson, has appealed the suspension of his driver’s license due to a conviction of Driving While Impaired in New York. His sole complaint is that this conviction should not be admitted into evidence because although the report of the conviction states it is from the New York Department of Motor Vehicles and although the Department certified that it received the report of the conviction from the New York Department of Motor Vehicles, the report itself is not certified by the New York Department of Motor Vehicles.

We reject Mr. Jackson’s argument, based primarily on the cogent and compelling arguments of the Department in its brief, which we adopt and have attached to this opinion as Exhibit A. A summary of the reasons for our holding follows.

Discussion

Mr. Jackson bases his argument largely on 75 Pa.C.S.A. §1532(b)(3), which states,

The department shall suspend the operating privilege of any driver for 12 months upon receiving a certified record of the driver's conviction of section 3731 (relating to driving under influence of alcohol or controlled substance) or 3733 (relating to fleeing or attempting to elude police officer), *or substantially similar offenses reported to the department under Article III of section 1581 (relating to Driver's License Compact)*

(Emphasis added.) This statute appears to require reports received from other states to be certified by those states. However, when considered in light of the other applicable portions of Title 75, it is clear the legislature did not actually intend to impose this requirement.

As the Department points out, the highlighted phrase was inserted into the sentence in 1998, specifically in order to allow for the admission of documents received by other states under the Driver's License Compact, 75 Pa.C.S. §1581, and certification by the reporting state is not required anywhere within the Driver's License Compact.

Article III of the Compact, which sets forth the requirements of conviction reports, mentions nothing about certification. Moreover, §1550, which governs documentation, states,

In any proceeding under this section, documents received by the department from the courts or administrative bodies of other states or the Federal Government shall be admissible into evidence to support the department's case. In addition, the department may treat the received documents as documents of the department and use any of the methods of storage permitted In addition, if the department receives information from courts or administrative bodies of other states or the Federal Government by means of electronic transmission, it may certify that it has received the information by means of electronic transmission and that certification shall be prima facie proof of the adjudication and facts contained in such an electronic transmission.

This section is important not only because it does not require such documents to be

certified by the reporting states, but also because it clearly permits documents received by electronic transmission to be introduced into evidence and such documents, of course, cannot be certified. We also note that in In Koterba v. Department of Transportation, Bureau of Driver Licensing, 736 A.2d 761 (Pa. Commw. 1999), *appeal denied*, 751 A.2d 195 (Pa. 2000), a faxed report certified by the Department was properly introduced into evidence.

Moreover, it would make little sense for Pennsylvania to impose a certification requirement not agreed to by other states in the Compact. The whole purpose of the Compact is to make it *easier* to punish drivers for out-of-state convictions by establishing a uniform procedure for reporting such violations to the home state of errant drivers. If each member state adds on its own requirements, there would no longer be uniformity. Before reporting convictions, each state would need to research the particular requirements of the driver's home state. That would clearly violate 1 Pa.C.S. §1927, which states that uniform laws should be interpreted and construed to effect their general purpose of making the laws of the enacting states uniform.

Additionally, as the Department points out, even if the Pennsylvania legislature intended to impose a certification requirement, this would probably constitute an improper, unilateral amendment of an interstate compact. See cases cited in the Department's Brief, pp. 9-10.

If the report submitted by the Department did not indicate its origin, the report would be inadmissible. This was precisely the problem with the document in Tripson v. Department of Transportation, Bureau of Driver Licensing, 773 A.2d 196 (Pa. Commw.

2001), which Mr. Jackson relies upon. In Tripson, the court held the Department may not certify that documents are reports of convictions from other jurisdictions unless the documents themselves indicate their origin.¹ Similarly, in Boots v. Commonwealth of Pennsylvania, Department of Transportation, Bureau of Driver Licensing, 736 A.2d 64 (Pa. Commw. 1999), the documents received from Indiana were not admissible because they apparently originated from sources other than the “licensing authority” of Indiana. Here, however, the letterhead on the document at issue reads, “State of New York Department of Motor Vehicles.”

If Mr. Jackson contested the truth of the reported conviction, he was free to challenge it by presenting any evidence he saw fit. After all, the admitted report creates only a rebuttable presumption of its validity. It is, we suppose, conceivable that one of Mr. Jackson’s enemies snuck into the office of the New York Department of Motor Vehicles and used its fax machine to frame him. If the report is correct, however, Mr. Jackson will simply have to accept the consequences of his actions.

¹ It is true that Tripson contains the unfortunately worded sentence, “The Department may not certify that the documents are reports from other jurisdictions’ licensing authorities if the documents themselves contain no such certification from the reporting jurisdiction.” However, the court obviously meant to use the word “certification” in the non-technical sense, because the next sentence states the documents at issue could not be admitted “if the Department cannot *demonstrate* that the documents were received from the licensing authority of West Virginia.” (Emphasis added.) Therefore, official certification is not necessary if there is other evidence of the document’s origin, such as the letterhead appearing on the document at issue in this case.

ORDER

AND NOW, this _____ day of September, 2001, for the reasons stated in the foregoing opinion, the appeal to the driver's license suspension filed by Brian Jackson is dismissed.

BY THE COURT,

Clinton W. Smith, P.J.

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