IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE IN AND FOR NEW CASTLE COUNTY

ARIEL MALPICA,)
Petitioner)
)
v.) C.A. No. U406-01-652
)
STATE OF DELAWARE)

Submitted: March 15, 2013 Decided: April 9, 2013

On Petition for Restoration of Driving Privileges GRANTED

Ariel Malpica, Apopka, Florida.

Karin Volker, Esquire, Deputy Attorney General, Department of Justice, Wilmington, Delaware.

Petitioner Ariel Malpica was declared an habitual offender by a Court Order dated September 22, 2006. Malpica had accumulated three or more serious driving convictions within a five-year period. 21 *Del. C.* § 2802(1). Specifically, Malpica had three No Valid License convictions. The dates of the convictions were: (1) July 17, 2004; (2) August 21, 2004; and (3) November 14, 2005. Malpica's driving privileges were revoked for five years pursuant to 21 *Del C.* § 2807.

Three years after being declared an habitual offender, Malpica filed a Petition for Restoration of Driving Privileges ("Restoration Petition I") on October 26, 2009. The Court denied Restoration Petition I because the Department of Justice disapproved of Petition I.

On March 12, 2013, Malpica filed a subsequent Petition for Restoration of Driving Privileges ("Restoration Petition II") pursuant to 21 *Del. C.* § 2809. Five years have elapsed since Malpica was declared an habitual offender. Malpica subsequently requested that the Court consider the Petition without requiring a hearing because he resides in Florida and traveling to Delaware would cause hardship. The Court notes that the Delaware Department of Justice generally does not appear at hearings at which the Court considers petitions to restore driving privileges.

DISCUSSION

The purpose of the Habitual Offender Statute is to maximize safety for drivers on Delaware roads, to deny driving privileges to those who jeopardize the safety of others by disobeying traffic laws, and to deter criminal acts by others and impose increased deprivation of privileges for repeat offenders.¹ The Court may restore an habitual offender's driving privileges under 21 *Del. C.* § 2809 if certain requirements are satisfied.²

There is a mandatory threshold of five years that must elapse for an habitual offender convicted under § 2802(1) to have standing to pursue a petition for restoration.³

Over five years has elapsed since Malpica was declared an habitual offender on September 22, 2006. Accordingly, Malpica has standing and the Court will determine

¹ 21 *Del. C.* § 2801.

² 21 Del. C. § 2809.

³ Valerius v. State, 574 A.2d 855, 856 (Del. 1990).

whether Restoration Petition II satisfies the remaining requirements provided by 21 *Del*. *C.* § 2809.

First, Malpica is required to show that financial obligations have been satisfied.⁴ The Court has confirmed that all fines have been paid. Accordingly, "financial responsibility requirements have been met" under 21 *Del. C.* § 2809(2).

Second, the Court must determine whether there has been good cause shown to grant the Petition.⁵ Malpica resides in Florida and desires for his license to be restored to facilitate securing employment. Additionally, the mandatory five-year revocation period has expired. Furthermore, Malpica's driving record shows that there have been no subsequent traffic violations after the revocation. The Court finds good cause to restore Malpica's license.

Therefore, Malpica has met all the statutory requirements of 21 *Del. C.* § 2809 because the five-year revocation has elapsed, Malpica has paid all fines, and the Court finds there is good cause. The Court finds that it is not necessary to conduct a hearing under these circumstances.

⁴ 21 *Del. C.* § 2809(2)

⁵ 21 *Del. C.* § 2809(3).

CONCLUSION

Based on the findings and reasons stated herein, the Petition for Restoration of Driving Privileges filed by Ariel Malpica is hereby GRANTED.

IT IS SO ORDERED this 9th day of April 2013.

Andrea L. Rocanelli

The Honorable Andrea L. Rocanelli