

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

<b>JERINA ANDREA DAVIS,</b>	)	
<b>Petitioner</b>	)	
	)	
<b>v.</b>	)	<b>C.A. No. 07-10-525</b>
	)	
<b>STATE OF DELAWARE</b>	)	

Submitted: March 15, 2013  
Decided: April 5, 2013

On Defendant's Petition for Restoration of  
Driving Privileges  
**GRANTED**

Jerina Andrea Davis, College Park, Georgia.  
Karin Volker, Esquire, Deputy Attorney General, Department of Justice, Wilmington, Delaware.

Petitioner Jerina Andrea Davis was declared an habitual offender by a Court Order dated August 22, 2008. Ms. Davis had accumulated three or more serious driving convictions within a five-year period. 21 *Del. C.* § 2802(1). Specifically, Ms. Davis had three No Valid License convictions. The dates of the convictions were: (1) November 12, 2004; (2) May 30, 2006; and (3) June 20, 2007. Ms. Davis' driving privileges were revoked for five years pursuant to 21 *Del C.* § 2807.

On March 4, 2013, Ms. Davis filed a Petition for Restoration of Driving Privileges ("Restoration Petition") pursuant to 21 *Del. C.* § 2809. The Delaware Department of Justice approved the Restoration Petition, as long as all fines have been paid. Ms. Davis subsequently requested that the Court consider the Petition without requiring a hearing because she resides in Georgia and traveling to Delaware would cause hardship for her

and her family. 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.<sup>1</sup> The Court may restore an habitual offender's driving privileges under 21 *Del. C.* § 2809 if certain requirements are satisfied.<sup>2</sup>

The Court may entertain a petition to restore driving privileges when a person has been declared an habitual offender under § 2802(1), three years have elapsed since the Court Order finding the petitioner an habitual offender, and the Delaware Department of Justice makes a motion to restore the driving privileges.<sup>3</sup> In practice, the Delaware Department of Justice usually does not move to restore an habitual offender's driving privileges after three years but either approves or disapproves a petition filed by the person declared an habitual offender for restoration of driving privileges. If the Delaware Department of Justice makes a motion to restore or approves the petition, then the Court

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<sup>1</sup> 21 *Del. C.* § 2801.

<sup>2</sup> 21 *Del. C.* § 2809.

<sup>3</sup> 21 *Del. C.* §§ 2809 (1), (4).

may, in its discretion, restore driving privileges only if “financial responsibility requirements are met” and there is “petition and . . . good cause shown.”<sup>4</sup>

Here, the Court will consider Ms. Davis’ Restoration Petition because more than three years have elapsed since the Court Order declaring her an habitual offender,<sup>5</sup> and the Delaware Department of Justice approved of the Petition, on the condition that all fines have been paid. The Court has confirmed that all fines have been paid. Accordingly, “financial responsibility requirements have been met” under 21 *Del. C.* § 2809(2).

Next, the Court must determine whether there has been good cause shown to grant the Petition.<sup>6</sup> Ms. Davis recently relocated to Georgia and desires for her license to be restored. Additionally, there are merely five months until the completion of the original five-year revocation of Ms. Davis’ license. Furthermore, Ms. Davis’ driving record shows that there have been no subsequent traffic violations after the revocation. The Court finds that there is good cause to restore Ms. Davis’ license.

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<sup>4</sup> 21 *Del. C.* § 2809(4) states, in pertinent part that , “No license to operate a motor vehicle in this State shall be issued to an habitual offender nor shall a nonresident habitual offender operate a motor vehicle in this State . . . (4)[u]nless the Attorney General moves the Court for restoration of the privilege to operate a motor vehicle in this State of any person declared to be an habitual offender as defined in § 2802(1) of this title after 3 years from the date of the order of the Court declaring the person to be an habitual offender. In the event of such a motion by the Attorney General, the Court may in its discretion restore the driving privileges of the person in whole or in part only if the person also meets the obligations set forth in paragraphs (2) and (3) of this section.”.

<sup>5</sup> The Court Order was dated August 22, 2008.

<sup>6</sup> 21 *Del. C.* § 2809(3).

Therefore, Ms. Davis has met all the statutory requirements of 21 *Del. C.* § 2809 because more than three years has elapsed since the Court Order declaring Ms. Davis an habitual offender, the Delaware Department of Justice approved the Restoration Petition, Ms. Davis 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.

### CONCLUSION

Based on the findings and reasons stated herein, **the Petition for Restoration of Driving Privileges filed by Jerina Andrea Davis is hereby GRANTED.**

**IT IS SO ORDERED.**

*Andrea L. Rocanelli*

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The Honorable Andrea L. Rocanelli