

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. SA – 85 – 2009
:
vs. :
:
GERARD AMBO, :
Defendant : Summary Appeal

OPINION AND ORDER

Before the Court is Defendant’s appeal from the fine imposed by the Magisterial District Judge after Defendant was convicted by that judge of a violation of Section 4902 of the Vehicle Code, Restrictions on Use of Highways and Bridges.¹ Defendant’s conviction was based on his tractor trailer weighing 74,700 pounds and being driven on a highway which was restricted to 20,000 pounds. The applicable statute provides for a calculation of the fine by adding to an initial fine of \$150, an additional \$150 for each 500 pounds over the restricted weight (less an allowance of 3000 pounds). Defendant’s argument lies with Section 4981(c) of the Vehicle Code, which governs the measurement of the weight of the truck, as follows: “a 3% tolerance per axle shall be permitted when a vehicle is weighed on stationary or portable scales.” 75 Pa.C.S. Section 4981(c).²

The judge calculated the fine by subtracting from the gross weight, 74,700 pounds, three percent of that, or 2,241 pounds, to arrive at a “fineable” weight of 72,459 pounds. Defendant argues that since there were five axels on the truck, “per axel” means that 15% should be deducted, rather than 3%. The Court does not agree. By deducting three percent of the total weight, the judge was, in effect, deducting three percent per axel, and all were then added together as the violation was for the total weight of the truck, rather than for an overweight axel.³ Further, Defendant’s argument that the judge’s interpretation renders the words “per axel” superfluous, as the percentage could be simply applied to the total weight of

¹ Defendant does not appeal from the conviction; he disputes only the calculation of the fine.

² Counsel stipulated that portable scales were used to weigh the vehicle.

³ See 75 Pa.C.S. Section 4943, which regulates the weight on any given axel, rather than the total weight of the truck.

the truck without regard for the number of axels, is without merit, as the words “per axel” are very necessary to proper calculation of the fine for violation of Section 4943. See 75 Pa.C.S. Section 4945(b).

As the fine was properly calculated, Defendant’s appeal will be denied.

ORDER

AND NOW, this 7th day of January 2010, for the foregoing reasons, the summary appeal is hereby denied. The fines imposed by the magisterial district judge are hereby AFFIRMED, and shall be paid within thirty (30) days of this date.

BY THE COURT,

Dudley N. Anderson, Judge

cc: DA
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Hon. Dudley Anderson