

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Jenna Illing	:	
	:	
	:	No. 232 C.D. 2025
v.	:	
	:	Submitted: July 24, 2026
Commonwealth of Pennsylvania,	:	
Department of Transportation,	:	
Bureau of Driver Licensing,	:	
Appellant	:	

BEFORE: HONORABLE ANNE E. COVEY, Judge
HONORABLE LORI A. DUMAS, Judge
HONORABLE STACY WALLACE, Judge

**OPINION BY
JUDGE DUMAS**

FILED: August 28, 2026

The Commonwealth of Pennsylvania, Department of Transportation, Bureau of Driver Licensing (PennDOT) has appealed an order entered on January 24, 2025, in the Court of Common Pleas of the Forty-Fourth Judicial District, Wyoming County Branch (trial court), which granted the *pro se* appeal filed by Jenna Illing. In this Court, the parties have filed three motions to dismiss the appeal. We deny the motions to dismiss as moot, vacate the orders entered by the trial court on June 7, 2024, and January 24, 2025, and remand with instructions.

I. BACKGROUND¹

In 2022, PennDOT suspended Illing’s license for refusing a blood test.

¹ “Generally, when we state the facts, we view the record in the light most favorable to the prevailing party, including the benefit of all logical and reasonable inferences, unless we determine that material findings of fact are unsupported by substantial evidence of record.” *Four Seasons Logging, LLC v. Dep’t of Lab. & Indus., Off. of Unemployment Comp. Tax Servs.*, 308 A.3d 345, 347 n.2 (Pa. Cmwlth. 2024) (citation omitted); *see Leon E. Wintermyer, Inc. v. Workers’ Comp.*

Illing timely appealed to the trial court, and then PennDOT's counsel entered her appearance. The next docket entry occurred over two years later, when the court dismissed the appeal, as it had been inactive for over two years. *See* Notice of Suspension, 2/9/22; Notice of Appeal, 2/14/22; Order, 6/7/24 (finding that because the case was inactive for more than two years and “no petition for intent to proceed had been filed,” the court dismissed the case (citation modified)).

A few weeks later, PennDOT issued a notice of suspension that, because of the dismissal, Illing's one-year suspension would begin on August 2, 2024. Notice of Suspension, 6/28/24; *see also* Certification Statement, 9/24/24, at 3.²

On July 24, 2024, Illing filed a letter dated the same day and addressed to the trial judge. Illing's letter stated: “A few weeks ago, [she] received a letter from [the judge's] office days after it was due to be signed. [She has] a post office stamp to prove that I did not receive the notice to continue in time.” Letter, 7/24/24, at 1 (unpaginated).³ Per the letter, Illing claimed that she had called the prothonotary “multiple times over the last two years,” and so, she was surprised to receive a “letter” that her “case was closing due to ‘inactivity’” *Id.* The letter requested that the trial court “re-open” her appeal. *Id.* at 2.

The trial court interpreted Illing's letter as a motion for reconsideration, and it eventually held two hearings. Order, 7/29/24. In relevant part, at the first hearing, PennDOT referenced an alleged trial court order. Tr., 9/9/24, at 5. Per PennDOT, the order stated “that either party had to file something” or the case would be dismissed. *Id.* at 5-6. PennDOT's counsel stated her belief that Illing did not

Appeal Bd. (Marlowe), 812 A.2d 478, 486-87 (Pa. 2002) (*Marlowe*).

² PennDOT's Certification Statement corroborates the August 2, 2024 suspension but also states, “Appeal taken – not restored – back in.” Certification Statement, 9/24/24. No one explained this statement.

³ Illing appears to be referencing the June 7, 2024 order. The prothonotary had docketed the letter as correspondence requesting reconsideration of dismissal.

receive the order. *Id.* at 6.⁴ The court continued the hearing so PennDOT’s counsel could retrieve its records and clarify Illing’s suspension history. *Id.* at 27.

At the second hearing, PennDOT explained that Illing had not yet served any license suspension for refusing to take a blood test. Tr., 10/29/24, at 12, 14. Illing had not yet served that suspension because her appeal had operated as a supersedeas. *See id.* Per PennDOT, if it prevailed, Illing would still “be permitted to drive during the” one-year suspension under her extant interlock ignition license. *Id.* at 14. After further discussion, Illing and Officer Blade Bernosky testified about the stop and Illing’s refusal. *See generally id.*⁵ The parties rested.

Following the hearing, the trial court granted Illing’s appeal “in the interest of justice and without the need to address the merits of the actual alleged refusal.” Order, 1/24/25, at 1 (unpaginated). The court stated that “[a]pparently, the filing office misplaced the filed appeal and no scheduling was ever effected.”⁶ *Id.* at 2.

PennDOT timely appealed and filed a court-ordered Pa.R.A.P. 1925(b) statement raising eight issues, none of which challenged the trial court’s jurisdiction. The trial court filed a responsive opinion. Trial Ct. Op., 3/7/25. In this Court, Illing and PennDOT filed three motions to dismiss, which we listed for consideration by

⁴ The record and docket do not corroborate the existence of this order.

⁵ To briefly elaborate, Illing had completed her license suspension for her DUI conviction on November 1, 2023. Tr., 10/29/24, at 10. Illing then successfully applied for an interlock ignition license, which she completed on December 15, 2024. *Id.* at 12. Per PennDOT, “there’s nothing remaining on the criminal DUI but she served no suspension for the refusal.” *Id.* “For the [r]efusal hearing, if the Commonwealth is successful then she’d be suspended for another year. However, she can keep the interlock on her car and then be permitted to drive during the entirety of that suspension. Now if Ms. Illing is successful[,] interlock comes off her car [and] she’s done.” *Id.* at 14; *see also* 75 Pa.C.S. § 1550(b) (providing, subject to two conditions, “filing and service of a petition for appeal from a suspension or revocation shall operate as a supersedeas until final determination of the matter by the court vested with the jurisdiction of such appeals”).

⁶ No record evidence supports this statement.

the merits panel.

II. ISSUES

PennDOT raises several issues, which we reorganize and combine as follows. First, PennDOT asserts the trial court lacked jurisdiction to consider Illing's untimely motion for reconsideration. PennDOT's Br. at 4. Second, PennDOT claims the court erred by equitably granting Illing relief. *Id.* Third, PennDOT contends that because Illing had the burden of moving her appeal forward, PennDOT was not at fault for failing to schedule a hearing. *Id.*

III. DISCUSSION⁷

In support of its first issue, PennDOT argues that the trial court's June 7, 2024 termination order was a final order. *Id.* at 10. PennDOT reasons that Illing had 30 days to appeal to this Court. *Id.* at 10-11. PennDOT stresses that Illing filed only a letter on July 24, 2024. *Id.* at 12. PennDOT contends that the trial court lacked jurisdiction to grant the "motion for reconsideration," *i.e.*, Illing's letter, as more than 30 days had passed from the termination order. *Id.* at 12-13.⁸

Illing counters that the trial court could have reopened her appeal within 60 days. Illing's Br. at 3-4 (unpaginated) (referencing Pa.R.Civ.P. 230.2).⁹ Illing claims that she completed her suspension and maintains she timely appealed. *Id.* at 5-6. Illing also faults PennDOT for not moving the appeal forward. *Id.* at 4.

Our Supreme Court has stated that a licensee-appellant "has the burden

⁷ Our "review in a license suspension case is limited to whether the factual findings of the trial court are supported by substantial evidence and whether the trial court committed an error of law or an abuse of discretion." *Staller v. Dep't of Transp., Bureau of Driver Licensing*, 351 A.3d 374, 378 n.4 (Pa. Cmwlth. 2026).

⁸ PennDOT, in support, cites several cases; we distinguish them below.

⁹ Illing actually cited Wyoming County Local Rule 230.2, which we were unable to locate. Because we liberally construe *pro se* pleadings, Illing apparently intended Pa.R.Civ.P. 230.2. *See Martinez v. City of Reading Police Dep't*, 289 A.3d 1136, 1139 n.13 (Pa. Cmwlth. 2023).

to move the case forward.” *Dep’t of Transp., Bureau of Driver Licensing v. Gombocz*, 909 A.2d 798, 801 (Pa. 2006) (rejecting this Court’s reasoning that PennDOT had the burden “to move the case forward to hearing” (citation modified)); *cf.* 75 Pa.C.S. § 1550(c) (requiring the court to schedule a hearing after 60 days’ notice). In any event, the trial court determines the merits of the appeal and issues a final order. *See* 75 Pa.C.S. § 1550(c).

But sometimes, because of inactivity, the trial court never issues a final order on the merits. In such a case, Pennsylvania Rule of Civil Procedure 230.2 provides for termination of an inactive case. Pa.R.Civ.P. 230.2. Every year, the trial court must “initiate proceedings to terminate [a case] in which there has been no activity of record for two years or more” Pa.R.Civ.P. 230.2(a); *see* Pa.R.J.A. 1901(c).

Before terminating a case, the court must serve notice on the parties “30 days prior to the date of the proposed termination.”¹⁰ Pa.R.Civ.P. 230.2(b)(1). The notice “shall contain the date of the proposed termination and the procedure to avoid termination,” which typically requires a party to file a “statement of intention to proceed.” Pa.R.Civ.P. 230.2(b)(1), (c). “If no statement of intention to proceed has been filed on or before the date of the proposed termination, the prothonotary shall enter an order as of course terminating the matter for failure to prosecute.” Pa.R.Civ.P. 230.2(c).

Following termination, if an aggrieved party files a petition to reinstate within 60 days of the order, then the court “shall grant the petition and reinstate” the case. If an aggrieved party files a petition after 60 days, then the party must show

¹⁰ Rule 230.2 omits the qualifying phrase “at least” that is present in Pa.R.J.A. 1901(c). *See* Pa.R.J.A. 1901(c) (“Before any order terminating a matter on the ground of unreasonable inactivity is entered, the parties shall be given *at least* 30 days’ written notice of opportunity for hearing on such proposed termination” (emphasis added)).

two grounds before the court grants the petition. Pa.R.Civ.P. 230.2(d)(2)-(3).¹¹ Because Rule 230.2 provides for automatic reinstatement within 60 days, an order terminating a matter for inactivity is not a final order subject to the 30-day window to timely appeal. *See id.*; Pa.R.A.P. 301, 903.¹²

The Superior Court examined the validity of a Rule 230.2 termination in resolving its appellate jurisdiction. *Bank of New York Mellon Tr. Co. v. Limberis* (Pa. Super., No. 1538 EDA 2022, filed June 13, 2023), 2023 WL 3966560, 2023 Pa. Super. Unpub. LEXIS 1473.¹³ In March 2021, the *Limberis* trial court issued a notice of intent to terminate on the plaintiff. *Id.* at *1, 2023 Pa. Super. Unpub. LEXIS 1473, *1-2. Instead of filing an order terminating the case, the court marked the case as terminated on the docket. *Id.* In January 2022, the plaintiff unsuccessfully petitioned to reinstate the case, reasoning that the court's marking on the docket did not strictly comply with Rule 230.2. *Id.*

On appeal, *Limberis* considered whether the court had appellate jurisdiction by examining whether a valid final order existed. *Id.* at *1, 2023 Pa.

¹¹ Rule 230.2(d)(2) states, "If the petition is filed within 60 days after the entry of the order of termination on the docket, the court shall grant the petition and reinstate the action." Rule 230.2(d)(3) states "If the petition is filed more than 60 days after the entry of the order of termination on the docket, the court shall grant the petition and reinstate the action upon a showing that: (i) the petition was timely filed following the entry of the order for termination; and (ii) there is a reasonable explanation or a legitimate excuse for the failure to" comply with Rule 230.2(b) and 230.2(d)(2).

¹² At least one treatise implicitly recognized that a Rule 230.2 order was not immediately appealable as a final order. 20 G. Ronald Darlington et al., West's Pa. Practice, Appellate Practice § 301:24 (2025-2026 ed.) ("An order terminating a matter for inactivity pursuant to Pennsylvania Rule of Judicial Administration 1901(a) and Pa.R.Civ.P. 230.2 is subject to the procedures in Pa.R.Civ.P. 230.2 providing for a petition for reinstatement. Where reinstatement is denied or, following reinstatement it is terminated with prejudice pursuant to Pa.R.Civ.P. 230.2(e), the need for entry of judgment prior to appeal is unclear. The cautious practice, if the trial court does not formally enter a judgment of dismissal, is to promptly praecipe for entry of judgment and file a timely notice of appeal measured from the date of the order of dismissal." (footnotes omitted)).

¹³ We may cite to unreported opinions for their persuasive authority. *See* Pa.R.A.P. 126(b).

Super. Unpub. LEXIS 1473, at *3. *Limberis* reasoned that no final order existed: because the trial court had “failed to enter an order terminating” the case, the matter was still active and the plaintiff’s petition to reinstate the case and trial court’s denial of the petition were “legal nullities.” *Id.* at *2, 2023 Pa. Super. Unpub. LEXIS 1473, at *4. Because of the missing termination order, the Superior Court quashed the appeal, essentially letting the case proceed. *See id.* at *2, 2023 Pa. Super. Unpub. LEXIS 1473, at *5.

The Superior Court relatedly addressed an improperly served notice of intent to terminate. *Eisenhart v. Wellspan Health*, 346 A.3d 779 (Pa. Super. 2025).¹⁴ In *Eisenhart*, the trial court had purportedly served a Rule 230.2(b) notice of intent to terminate, the parties did not file a statement of intention to proceed, and the court terminated the case. *Id.* at 780-81. Several months later, the plaintiff filed a “‘petition to open judgment of non-pros,’ which the trial court treated as a petition to reinstate” under Rule 230.2(d). *Id.* at 781. The plaintiff unsuccessfully argued, *inter alia*, that the “docket included no entry showing that a notice of proposed termination, or the order of termination with prejudice, was ever sent in the manner required by the rules of procedure.” *Id.*

Eisenhart thoroughly discussed the termination procedure and agreed with the plaintiff: the record did not establish that the trial court properly served the notice of intent to terminate on the plaintiff. *Id.* at 783-84 (“Liberally construing the rules of procedure, we must conclude that Rule 230.2 is not satisfied where the prothonotary has failed to indicate anywhere in the record that the notice [of intent to terminate] was sent in a manner required by that rule.”). Thus, *Eisenhart* held that

¹⁴ Superior Court decisions “are not binding on this Court, but they offer persuasive precedent where they address analogous issues.” *Lerch v. Unemployment Comp. Bd. of Rev.*, 180 A.3d 545, 550 (Pa. Cmwlth. 2018).

the 60-day time period for filing a statement of intent to proceed never commenced. *Id.* at 784, 786 (voiding, as a legal nullity, the trial court’s order denying the plaintiff’s petition to reinstate).

Instantly, like *Limberis*, we begin by examining whether we have a valid order triggering our appellate jurisdiction. *See Limberis*, 2023 WL 3966560, at *1, 2023 Pa. Super. Unpub. LEXIS 1473, at *3. The record reflects an order terminating the case. Order, 6/7/24. But the docket and record reflect no notice of intent to terminate, unlike *Eisenhart*, which resolved an improperly served notice. *Cf. Eisenhart*, 346 A.3d at 783-84. Absent any notice of intent to terminate, the trial court’s subsequent termination order is void. *Cf. id.* at 786.

Because the June 7, 2024 termination order is void, we reject PennDOT’s threshold argument that Illing’s July 24, 2024 letter was an untimely motion for reconsideration. *See id.*¹⁵ Illing cannot request reconsideration of a void order.¹⁶

Because the termination order is void, we turn to the remedy. We are not inclined to rewind the clock to June 7, 2024 for two reasons. First, the trial court

¹⁵ None of the cases PennDOT cites in its appellate brief involve an appeal from an order terminating a case for inactivity. *See, e.g., Probst v. Dep’t of Transp., Bureau of Driver Licensing*, 849 A.2d 1135, 1137 (Pa. 2004) (resolving appeal from trial court’s order sustaining appeal on the merits); *Dep’t of Transp. v. Grassi*, 565 A.2d 865, 866 (Pa. Cmwlth. 1989) (reversing trial court’s grant of reconsideration to an order that resolved the merits of licensee’s appeal); *Boglin v. Dep’t of Transp., Bureau of Driver Licensing*, 1 A.3d 997 (Pa. Cmwlth. 2010) (reversing trial court’s untimely rescission of its prior order sustaining the licensee’s appeal); *Hamilton v. Dep’t of Transp., Bureau of Driver Licensing* (Pa. Cmwlth., No. 647 C.D. 2014, filed July 24, 2015), 2015 WL 5504307, 2017 Pa. Commw. Unpub. LEXIS 345 (holding trial court lacked jurisdiction to reconsider its prior order dismissing licensee’s appeal for lack of service on PennDOT and his failure to appear at a hearing).

¹⁶ Moreover, even if the trial court’s June 7, 2024 termination order was valid, Rule 230.2(d)(1) mandates reinstatement if Illing filed a petition to reinstate within 60 days. *See* Pa.R.Civ.P. 230.2(d)(2). Here, Illing’s July 24, 2024 letter, which requested the trial court to “re-open” her appeal, was filed within 60 days. *See* Letter, 7/24/24.

heard testimony from Illing and Officer Bernosky. *See* Tr., 10/29/24. Second, the trial court had declined to address the merits of Illing’s appeal. Order, 1/24/25, at 1 (granting equitable relief and declining “to address the merits of the actual alleged refusal”). Under the unique circumstances of this case, we vacate the trial court’s January 24, 2025 order. To be clear, the court erred in granting equitable relief “in the interests of justice.” *Id.* However, because the court declined to address the merits, we remand to have the trial court file an order within 30 days resolving whether Illing is entitled to relief on the merits. An aggrieved party may appeal from the order, and as appropriate, the trial court may file a decision explaining its reasoning.¹⁷

IV. CONCLUSION

Accordingly, we vacate the orders entered by the trial court on June 7, 2024, and January 24, 2025, and remand for further proceedings. We deny the motions to dismiss as moot.

LORI A. DUMAS, Judge

¹⁷ Our intent is to unravel the procedural snarl without requiring a new evidentiary hearing. Because of our disposition, we need not address PennDOT’s remaining issues. PennDOT may prevail below, and we decline to assume Illing would succeed on the merits.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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	:	
	:	No. 232 C.D. 2025
v.	:	
	:	
Commonwealth of Pennsylvania,	:	
Department of Transportation,	:	
Bureau of Driver Licensing,	:	
Appellant	:	

ORDER

AND NOW, this 28th day of August, 2026, we DENY as moot the three motions to dismiss filed by Jenna Illing and Commonwealth of Pennsylvania, Department of Transportation, Bureau of Driver Licensing. We VACATE the orders entered June 7, 2024, and January 24, 2025, in the Court of Common Pleas of the Forty-Fourth Judicial District, Wyoming County Branch (trial court). We REMAND to have the trial court resolve Illing’s appeal on the merits within 30 days and issue a new order from which any aggrieved party may appeal.

Jurisdiction relinquished.

LORI A. DUMAS, Judge