

5.) Petitioner alleges that he cannot obtain registration for the Vehicle if the Court does not grant his Petition. (*Id.* ¶ 6.)

Except in circumstances not applicable here, “every owner of a vehicle which is in this Commonwealth and for which no certificate of title has been issued by [PennDOT] shall make application to [PennDOT] for a certificate of title of the vehicle.” 75 Pa.C.S.A. § 1101(a).

Application for a certificate of title shall be made upon a form^[1] prescribed and furnished by [PennDOT] and shall contain a full description of the vehicle, the vehicle identification number, odometer reading, date of purchase, the actual or bona fide name and address of the owner, a statement of the title of applicant, together with any other information or documents [PennDOT] requires to identify the vehicle and to enable [PennDOT] to determine whether the owner is entitled to a certificate of title, and the description of any security interests in the vehicle. . . .

Application for a certificate of title shall be made within 20 days of the sale or transfer of a vehicle or its entry into this Commonwealth from another jurisdiction, whichever is later. . . .

If the application refers to a vehicle last previously titled or registered in another state or country, the following information shall be contained in or accompany the application or be forwarded in support of the application as required by [PennDOT]:

- (1) Any certificate of title issued by the other state or country.
- (2) A tracing of the vehicle identification number taken from the official number plate or, where it is impossible to

¹ This appears to refer to the form MV-1. The form MV-1 is not accessible to the public and must be obtained from and executed through an authorized agent of PennDOT. See *Fact Sheet Instructions for Completing Form MV-1, "Application for Certificate of Title,"* <http://www.dot.state.pa.us/public/dvsubforms/BMV/BMV%20Fact%20Sheets/fs-mv1.pdf> (last visited Apr. 5, 2016).

secure a legible tracing, verification that the vehicle identification number of the vehicle has been inspected and found to conform to the description given in the application. . . .

(3) Any other information and documents [PennDOT] reasonably requires to establish the ownership of the vehicle and the existence or nonexistence of security interests in the vehicle.

Id. § 1103.1(a), (b), (e). The same procedure, i.e., applying to PennDOT for a certificate of title with a form MV-1, must also be utilized following both voluntary and involuntary transfers of vehicle ownership. *See id.* §§ 1111, 1114, 1116. Whether it be following the purchase of a new vehicle, a move into Pennsylvania from another state, or a voluntary or involuntary transfer of a used vehicle, “[f]ailure to obtain a certificate of title as required by law is a summary offense.” *Id.* § 1101(c).

In any of the above scenarios,

[PennDOT] shall file each application received and, when satisfied as to the genuineness and regularity of the application and that the applicant is entitled to the issuance of a certificate of title, shall issue a certificate of title for the vehicle. [PennDOT] shall use reasonable diligence in ascertaining whether or not the facts stated in the application are true.

Id. § 1105(a).

“[C]ertificates of title are issued to owners. . . . Indicia of ownership include use, benefit of ownership, possession, responsibility and control of a vehicle. Title ownership, as well as actual possession, is only one element of ownership.” *Office of Constable v. Dep’t of Transp.*, 112 A.3d 678, 683 (Pa.

Cmwlth. 2015) (citation omitted). The Vehicle Code defines an “owner” as “[a] person, other than a lienholder, having the property right in or title to a vehicle.” 75 Pa.C.S.A. § 102.

Upon receiving an application for a certificate of title,

[i]f [PennDOT] is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in the vehicle, [PennDOT] may register the vehicle^[2] but shall withhold issuance of a certificate of title until the applicant presents documents reasonably sufficient to satisfy [PennDOT] as to the ownership by the applicant of the vehicle and that there are no undisclosed security interests in the vehicle.

Id. § 1108. PennDOT may ultimately refuse to issue a certificate of title when it has reasonable grounds to believe “[t]hat the applicant is not the owner of the vehicle.”³ *Id.* § 1109(3).

The above statutory framework makes clear that title must be applied for within twenty days of purchase and that PennDOT, not this Court, is responsible for granting or denying such applications for a certificate of title. The Vehicle Code itself contains no provision that entitles an individual seeking a certificate of title to first pursue direct relief in the Court of Common Pleas. To the contrary, there *are* several examples of the Vehicle Code specifically authorizing an individual to directly petition the Court of Common Pleas for relief. *See, e.g.,* 75 Pa.C.S.A. § 4108(a) (petition to enjoin sale of vehicle equipment in violation of equipment standards); *id.* §

² Thus, paragraph 6 of Petitioner’s Petition is inaccurate.

³ Such a refusal is appealable. *See* note 4, *infra*.

6122(d) (petition for allocation of costs of traffic-control device); *id.* § 7105(b) (petition to return vehicle seized due to removed VIN); *id.* § 9405(d) (petition for forfeiture of seized fuels). In light of the General Assembly's choice to specifically identify areas where the Court of Common Pleas can be petitioned directly regarding the Vehicle Code, the absence of any provision concerning vehicle ownership/certificate of title suggests that no Court of Common Pleas involvement was intended in this area.

The above notwithstanding, the Court has become aware that, in instances when a prior certificate of title is unavailable and/or ownership is in question, PennDOT is declining to perform its statutory duty to determine ownership and is instead instructing prospective applicants for certificates of title to first petition the Court of Common Pleas for a court order declaring them to be the owner of the vehicle at issue. PennDOT has even proliferated a "Fact-Sheet" to assist applicants in doing so. See App. Hence, Petitioner has filed the instant Petition, purportedly seeking to "quiet title" to the Vehicle.

The Pennsylvania Rules of Civil Procedure limit actions to quiet title to real property. See Pa.R.C.P. Nos. 1061-68. Having searched, there is no law in the Commonwealth of Pennsylvania relating to quieting title to personal property. Therefore, there is no legal basis for the Court to grant the relief requested in the Petition.

Because Petitioner essentially seeks to be “declared” the legal owner of the Vehicle, the Court’s opinion is that if Petitioner chooses not to avail himself of the proper statutory procedure for applying for a certificate of title from PennDOT but, rather, seeks relief from this Court, his requested relief is more properly pursued in an action for declaratory judgment, the purpose of which is “to declare rights, status, and other legal relations whether or not further relief is or could be claimed.” 42 Pa.C.S.A. § 7532. Yet, the Rules of Civil Procedure require such actions, like all actions, to be commenced by the filing of a complaint. Pa.R.C.P. Nos. 1601(a), 1007(2). Generally, when an action can be commenced by a complaint, it is improper to attempt to initiate such a claim by way of a petition, depriving the Court of jurisdiction over the claim. *Hartmann v. Peterson*, 265 A.2d 127, 128 (Pa. 1970) (dismissing, for lack of jurisdiction, action commenced by petition rather than by complaint); *see also Aivazoglou v. Drever Furnaces*, 613 A.2d 595, 598 (Pa. Super. 1992) (“Attempts to commence actions by means other than those allowed by Rule 1007 have consistently been rejected by the courts.”); *In re Montgomery*, 445 A.2d 873, 874 (Pa. Cmwlth. 1982); *but see Petition of Pa. Crime Comm’n*, 285 A.2d 494, 498 (Pa. 1971) (finding proceeding to enforce subpoenas to be of exceptional nature in which rule to show cause could be employed as original process); *In re Approval of Special Counsel*, 840 A.2d 532, 536 (Pa. Cmwlth. 2006) (holding commencement of proceeding by petition is appropriate when proceeding is

non-adversarial and court involvement is required by rule). Therefore, even if the Court treated the Petition as a declaratory judgment action, it is without jurisdiction to grant the Petition.

Because the Court believes the requested relief is more properly pursued in an action for declaratory judgment, and because Petitioner has not properly initiated such an action herein, leaving the Court without proper jurisdiction, the Petition will be denied without prejudice to Petitioner initiating an action for declaratory judgment pursuant to the Declaratory Judgments Act, 42 Pa.C.S.A. §§ 7531-7541, and Pennsylvania Rule of Civil Procedure 1061(a) or, more appropriately, applying to PennDOT for a certificate of title pursuant to the proper statutory scheme outlined above.⁴

⁴ The Petition suggests that Petitioner has yet to apply to PennDOT for a certificate of title, as required by applicable law. In any event, the Court notes that if such an application for a certificate of title is submitted to and denied by PennDOT, a clearly defined administrative remedy exists that does not involve this Court. To perfect such an appeal, the applicant must first file a request for an administrative hearing before a PennDOT administrative hearing officer, pursuant to 67 PA. CODE § 491.3. If the request for a hearing is granted, the hearing is instituted and docketed pursuant to 67 PA. CODE § 491.4(d)(2)(xi), which pertains to “[a]ppeals from [PennDOT]’s refusal to issue a certificate of title for reasons other than failure to pay a required fee or tax in connection with or resulting from the acquisition or use of a vehicle.” Following such an administrative hearing, the hearing officer issues a proposed report, which may be appealed to the Secretary of Transportation by way of exceptions to the proposed report. See *id.* §§ 491.11-491.12. If the Secretary denies the applicant’s appeal, the applicant can then appeal the Secretary’s decision pursuant to 2 Pa.C.S.A. § 702, which provides that “[a]ny person aggrieved by an adjudication of a Commonwealth agency who has a direct interest in such adjudication shall have the right to appeal therefrom to the court vested with jurisdiction of such appeals by or pursuant to Title 42 (relating to judiciary and judicial procedure).” In this particular instance, the Commonwealth Court is vested with exclusive jurisdiction of such appeals, not the Court of Common Pleas. See 42 Pa.C.S.A. § 763(a), (c); *id.* § 933(a)(1)(ii) (omitting denial of issuance of certificate of title from list of PennDOT determinations appealable to Court of Common Pleas).

Although traditionally the law would prefer those in Petitioner’s position to utilize this statutory and administrative remedy, the Declaratory Judgments Act specifically pronounces

WHEREFORE, the Court enters the following:

that “[t]he availability of declaratory relief shall not be limited by the provisions of 1 Pa.C.S.[A.] § 1504 (relating to statutory remedy preferred over common law) and the remedy provided [by the Declaratory Judgments Act] shall be additional and cumulative to all other available remedies.” *Id.* § 7541(b). This suggests that the General Assembly felt it important to preserve access to the Declaratory Judgments Act for those, like Petitioner, who decide, for whatever reason, to circumvent the meticulously-crafted framework found in the Vehicle Code and the Pennsylvania Administrative Code for obtaining a certificate of title for a vehicle. Still, notwithstanding that an action for declaratory judgment appears to be within this Court’s jurisdiction in this situation, this Court acting in such an action for the sole purpose of producing a court order that PennDOT will accept as proof of ownership allowing it to issue a certificate of title, especially when PennDOT is already empowered by statute to perform this task independent of the judiciary, appears to violate separation of powers. *Cf. McCann v. Unemployment Comp. Bd. of Review*, 756 A.2d 1, 4 (Pa. Cmwlth. 2000) (“Quasi-judicial agencies should be afforded the ability to perform their administrative and adjudicative functions as part of the executive branch of government free from excessive interference by the judiciary.”).

APPENDIX

FACT SHEET

Involuntary Transfer of Ownership of a Vehicle by Court Order

PURPOSE

This Fact Sheet outlines the procedures that must be followed when applying for a Certificate of Title involving the involuntary transfer of a vehicle's ownership. This procedure involves obtaining a court order and should be used only in those circumstances where it is impossible to transfer ownership of a vehicle by the use of a Certificate of Title or Vehicle Manufacturer's Certificate of Origin. Since every set of facts and surrounding circumstances will be unique, a person attempting to be declared owner of a vehicle where proper ownership documents are not available should seek the advice of a private attorney. **PennDOT WILL NOT OFFER LEGAL ADVICE REGARDING THE INVOLUNTARY TRANSFER OF OWNERSHIP OF A VEHICLE.**

PROCEDURES

1. A person attempting to obtain ownership of a vehicle must commence a proceeding with a court of competent jurisdiction setting forth the facts and circumstances of the case. The ownership of the vehicle will be determined by the court. Please note that a sample court order is provided on the reverse side of this fact sheet. **UNLESS THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION IS THE OWNER OF THE VEHICLE IN QUESTION, THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION IS NOT AN INTERESTED PARTY TO THIS COURT PROCEEDING. THEREFORE, THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION SHOULD NOT BE A NAMED PARTY IN THE PROCEEDING.**
2. A person attempting to be declared owner of a vehicle by court order must notify all persons with an interest in the vehicle of the pendency of the court proceeding. The notification must be sent by certified mail, return receipt requested, and must include the following:
 - (1) A specific description of the vehicle (i.e., year, make, model and VIN);
 - (2) The court of competent jurisdiction where an action will be or has been filed; and
 - (3) The time, date and place of any court proceeding.

AT A MINIMUM, THE NOTICE MUST BE SENT TO THE PERSON(S) TO WHOM THE VEHICLE IS PRESENTLY TITLED AND REGISTERED AND EVERY LIENHOLDER THAT IS LISTED ON THE TITLE RECORD. PLEASE NOTE THAT IF A PERSON ATTEMPTING TO BE DECLARED OWNER OF A VEHICLE IS UNAWARE OF ANY PERSON WITH AN INTEREST IN THE VEHICLE, THE PERSON ATTEMPTING TO OBTAIN OWNERSHIP OF THE VEHICLE MAY OBTAIN A CERTIFIED COPY OF THE VEHICLE'S COMPUTER RECORD BY COMPLETING FORM DL-135 (REQUEST FOR VEHICLE INFORMATION), AND SUBMITTING TO PENNDOT ALONG WITH THE APPROPRIATE FEES.

3. In the event the notice sent to a person with an interest in the vehicle is returned as "Unclaimed," the person attempting to be declared owner of the vehicle must advertise a legal notice at least once in the county legal journal(s) and at least once per week for three consecutive weeks in the newspaper(s) of general circulation where any person known to claim an interest in the vehicle may be located and where the vehicle is located, if these two locations are different. Please refer to the *Pennsylvania Bar*

Association Lawyers Directory & Product Guide to determine the appropriate legal journal. The advertisement should include the following:

- (1) A specific description of the vehicle (i.e., year, make, model and VIN);
 - (2) The court of competent jurisdiction where an action will be or has been filed; and
 - (3) The time, date and place of any court proceeding.
4. When the above procedure is followed and the court of competent jurisdiction enters an order declaring an individual the rightful owner of the vehicle, PennDOT may issue a Certificate of Title to the person named in the court order upon receipt of the following:
- (1) A certified copy of the court order entered declaring the individual owner of the vehicle;
 - (2) Form MV-1, "Application for Certificate of Title," and check or money order payable to the Commonwealth of Pennsylvania.
 - (3) Appropriate sales tax, title and registration fees.

Unless the petitioner is eligible to claim a Sales Tax Exemption, sales tax must be paid on the Fair Market Value of the vehicle as listed in a current edition of a PennDOT-approved publication. Approved PennDOT publications include the following: *N.A.D.A.*, *The Automobile Red Book*, *The Black Book Official Used Car Guide*, *American Used Car Guide*, and *The Kelley Blue Book Used Car Guide*.

SAMPLE COURT ORDER

AND NOW, this ____ day of _____, 20 ____, after reasonable notice and an opportunity for hearing having been provided to all interested parties, the Court hereby awards ownership of one [year], [make], [model], bearing vehicle identification number _____ to [name of applicant], and the right, title and interest of any other person to said vehicle is hereby extinguished. The Commonwealth of Pennsylvania, Department of Transportation may accept this order as evidence of ownership in lieu of a Certificate of Title. The Petitioner shall submit the appropriate forms, taxes and fees and comply with any other procedures of the Commonwealth of Pennsylvania, Department of Transportation in order to receive the appropriate Certificate of Title for said vehicle.

BY THE COURT:

Judge