

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL
No. 776

Session of
1979

INTRODUCED BY FUMO, SMITH, LYNCH AND HANKINS, MAY 22, 1979

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, SEPTEMBER 16, 1980

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, ~~authorizing the striking~~ <—
3 ~~of a judgment based on false testimony.~~ FURTHER PROVIDING FOR <—
4 JURISDICTION OF COURTS AND THE APPLICATION OF THE STATUTE OF
5 LIMITATIONS TO ACTIONS ON CERTAIN INSTRUMENTS.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. SECTIONS 761(A)(1) AND 762(A)(1) OF Title 42, act <—
9 of November 25, 1970 (P.L.707, No.230), known as the
10 Pennsylvania Consolidated Statutes, ~~is~~ AS AMENDED _____, <—
11 NO. _____ (HOUSE BILL 1873), ARE amended ~~by adding a section to~~ <—
12 read:

13 ~~§ 8105. Striking judgment against State or local~~ <—
14 ~~government based on false testimony.~~

15 ~~(a) General rule. A judgment entered against any State or~~
16 ~~local governmental entity, which is based on false testimony~~
17 ~~shall not be enforced and shall be stricken from the record AND~~ <—
18 ~~A NEW TRIAL GRANTED if:~~

~~(1) the testimony was material to the issue or point of inquiry;~~

~~(2) the witness who gave the testimony has been convicted of the crime of perjury or false swearing on account of having given said testimony;~~

~~(3) the fact of the falsity of the testimony could not have been discovered by reasonable diligence at or before the trial; and~~

~~(4) the remedy of this section was sought within a reasonable time after said conviction.~~

~~(b) Stay of enforcement in certain cases. If, prior to the enforcement or execution of any judgment AGAINST ANY STATE OR LOCAL GOVERNMENTAL ENTITY, it is established:~~

~~(1) that a witness, who gave testimony material to the determination of that judgment, is the subject of a criminal prosecution for perjury or false swearing; and~~

~~(2) that said prosecution is premised wholly or in part upon said testimony;~~
~~then the enforcement, execution or satisfaction of said judgment shall be stayed pending a final determination of said criminal prosecution.~~

~~Section 2. This act shall apply to all judgments not satisfied at the time of the effective date of this act.~~

~~Section 3. This act shall take effect immediately.~~

~~§ 761. ORIGINAL JURISDICTION.~~

~~(A) GENERAL RULE.--THE COMMONWEALTH COURT SHALL HAVE ORIGINAL JURISDICTION OF ALL CIVIL ACTIONS OR PROCEEDINGS:~~

~~(1) AGAINST THE COMMONWEALTH GOVERNMENT, INCLUDING ANY OFFICER THEREOF, ACTING IN HIS OFFICIAL CAPACITY, EXCEPT:~~

~~(I) ACTIONS OR PROCEEDINGS IN THE NATURE OF~~

1 APPLICATIONS FOR A WRIT OF HABEAS CORPUS OR POST-
2 CONVICTION RELIEF NOT ANCILLARY TO PROCEEDINGS WITHIN THE
3 APPELLATE JURISDICTION OF THE COURT;

4 (II) EMINENT DOMAIN PROCEEDINGS; [AND]

5 (III) ACTIONS ON CLAIMS IN WHICH IMMUNITY HAS BEEN
6 WAIVED PURSUANT TO CHAPTER 85 (RELATING TO MATTERS
7 AFFECTING GOVERNMENT UNITS) OR THE ACT OF MAY 20, 1937
8 (P.L.728, NO.193), REFERRED TO AS THE BOARD OF CLAIMS
9 ACT[.]; AND

10 (IV) ACTIONS OR PROCEEDINGS IN TRESPASS AS TO WHICH
11 THE COMMONWEALTH GOVERNMENT FORMERLY ENJOYED SOVEREIGN OR
12 OTHER IMMUNITY.

13 * * *

14 § 762. APPEALS FROM COURTS OF COMMON PLEAS.

15 (A) GENERAL RULE.--EXCEPT AS PROVIDED IN SUBSECTION (B), THE
16 COMMONWEALTH COURT SHALL HAVE EXCLUSIVE JURISDICTION OF APPEALS
17 FROM FINAL ORDERS OF THE COURTS OF COMMON PLEAS IN THE FOLLOWING
18 CASES:

19 (1) COMMONWEALTH CIVIL CASES.--ALL CIVIL ACTIONS OR
20 PROCEEDINGS [TO WHICH THE COMMONWEALTH GOVERNMENT, INCLUDING
21 ANY OFFICER OR EMPLOYEE THEREOF, ACTING IN HIS OFFICIAL
22 CAPACITY OR WITHIN THE SCOPE OF HIS DUTIES, IS A PARTY,
23 INCLUDING ACTIONS OR CLAIMS IN WHICH IMMUNITY HAS BEEN WAIVED
24 PURSUANT TO SUBCHAPTER B OF CHAPTER 85 (RELATING TO ACTIONS
25 AGAINST COMMONWEALTH PARTIES)] ORIGINAL JURISDICTION OF WHICH
26 IS VESTED IN ANOTHER TRIBUNAL BY VIRTUE OF ANY OF THE
27 EXCEPTIONS TO SECTION 761(A)(1) (RELATING TO ORIGINAL
28 JURISDICTION), EXCEPT ACTIONS OR PROCEEDINGS IN THE NATURE OF
29 APPLICATIONS FOR A WRIT OF HABEAS CORPUS OR POST-CONVICTION
30 RELIEF NOT ANCILLARY TO PROCEEDINGS WITHIN THE APPELLATE

JURISDICTION OF THE COURT.

* * *

SECTION 2. SECTIONS 933(A)(1)(V) AND 5527(2) OF TITLE 42 ARE
AMENDED TO READ:

§ 933. APPEALS FROM GOVERNMENT AGENCIES.

(A) GENERAL RULE.--EXCEPT AS OTHERWISE PRESCRIBED BY ANY
GENERAL RULE ADOPTED PURSUANT TO SECTION 503 (RELATING TO
REASSIGNMENT OF MATTERS), EACH COURT OF COMMON PLEAS SHALL HAVE
JURISDICTION OF APPEALS FROM FINAL ORDERS OF GOVERNMENT AGENCIES
IN THE FOLLOWING CASES:

(1) APPEALS FROM COMMONWEALTH AGENCIES IN THE FOLLOWING
CASES:

* * *

(V) DETERMINATIONS OF THE PENNSYLVANIA LIQUOR
CONTROL BOARD APPEALABLE UNDER [SECTION 515 OF] THE ACT
OF APRIL 12, 1951 (P.L.90, NO.21), KNOWN AS THE "LIQUOR
CODE," EXCEPT MATTERS APPEALABLE UNDER SECTIONS 433, 444
OR 710 OF THE ACT. EXCEPT AS OTHERWISE PRESCRIBED BY
GENERAL RULES, THE VENUE OF SUCH MATTERS SHALL BE AS
PROVIDED IN [SECTION 515 OF] THE ACT.

* * *

§ 5527. SIX YEAR LIMITATION.

THE FOLLOWING ACTIONS AND PROCEEDINGS MUST BE COMMENCED
WITHIN SIX YEARS:

* * *

(2) AN ACTION UPON A CONTRACT, OBLIGATION OR LIABILITY
FOUNDED UPON A BOND, NOTE OR OTHER INSTRUMENT IN WRITING,
EXCEPT AN ACTION SUBJECT TO ANOTHER LIMITATION SPECIFIED IN
THIS SUBCHAPTER. WHERE AN INSTRUMENT IS PAYABLE UPON DEMAND,
THE TIME WITHIN WHICH AN ACTION OR PROCEEDING ON IT MUST BE

1 COMMENCED SHALL BE COMPUTED FROM THE LATER OF EITHER DEMAND
2 OR ANY PAYMENT OF PRINCIPAL OF OR INTEREST ON THE INSTRUMENT.

3 * * *

4 SECTION 3. THE PROTHONOTARY OF THE COMMONWEALTH COURT SHALL,
5 EXCEPT AS OTHERWISE ORDERED BY THE COURT IN THE INTEREST OF
6 JUSTICE, TRANSFER TO THE APPROPRIATE OFFICE OF THE CLERK OF THE
7 COURT OF COMMON PLEAS ALL DOCKETS, RECORDS, PLEADINGS AND OTHER
8 PAPERS, OR CERTIFIED COPIES THEREOF, RELATING TO ALL PENDING
9 MATTERS JURISDICTION OF WHICH IS VESTED IN ANOTHER TRIBUNAL BY
10 REASON OF 42 PA.C.S. § 761(A)(1)(IV) OR 933(A)(1)(V), AS ADDED OR
11 AMENDED BY THIS ACT.

12 SECTION 4. THIS ACT SHALL TAKE EFFECT IMMEDIATELY AND THE
13 AMENDMENTS TO 42 PA.C.S. §§ 761(A)(1)(IV), 933(A)(1)(V), AND
14 5527(2) (AS TO INSTRUMENTS UNDER SEAL) EFFECTED BY THIS ACT
15 SHALL BE RETROACTIVE TO JUNE 27, 1978.