

June 27, 2025

IN RE: LaMonte Owens

Docket#-12OV-INP-8M3PJG

Statement of Record:

- 1) Mr. LaMonte Owens (hereafter "Petitioner") requested an administrative hearing at the Office of Administrative Review (hereafter "OAR") seeking return of his All-Terrain Vehicle ("ATV") which was seized by the Philadelphia Police Department on September 22, 2024.
- 2) A hearing before the OAR Hearing Officer was held on November 14, 2024. After hearing the evidence, the Hearing Officer granted the Petitioner's request for release contingent on the payment of \$2000. A determination letter, memorializing the decision was forwarded to the Petitioner on November 14, 2024.
- 3) Petitioner filed an appeal to the Court of Common Pleas.

Findings of Fact:

- 1) Petitioner is the owner of a yellow 2024 Can-Am Side by Side, Vin number ending in -001607.
- 2) The Philadelphia Police Department seized the ATV on September 22, 2024. According to PVR 931116149, Lt. T. Peszko, Badge #0078 confiscated this off- road vehicle after "being observed riding in the street... 1700 Belmont Mansion Drive". (Property Receipt# 3680473).
- 3) The ATV was placed Property Receipt# 3680473 and then transported and stored at the Philadelphia Police Department impound lot.
- 4) Petitioner testified that he was participating in a "police-escorted ride...peace on the street, basically encouraging good relations between police, Philadelphia Police and citizens. And I normally participate every year". (Notes of Testimony, Pg. 13, Ln.7-11).
- 5) The Petitioner also testified that he specifically asked the organizer of the event, if he was allowed to drive it in the City. The organizer, Ms. Michelle Jackson relayed to the Petitioner that he could participate and there would be no issues. (Exhibit 4).
- 6) The Petitioner also explained, "I guess you can kind of blame it on ignorance but I did try to do my due diligence to make sure that it was not going to be a problem...I didn't want the hassle." (Notes of Testimony, Pg. 16, Ln.12-16).
- 7) Lt. Peszko testified, Can-Ams are "classified as an ATV according to the state of Pennsylvania Title 75. It's an ATV Class 2 because it does exceed the weight limit of a normal class 1 ATV...this vehicle is an off-road vehicle use only and...not permitted for any highway use". (Notes of Testimony, Pg.19- 20, Ln.23-11).
- 8) OAR's Hearing Officer determined that while it is clear that the Petitioner took efforts to ensure that his off-road vehicle was permitted during this event in the City; the Petitioner still violated section 12-1133 and operated his off-road vehicle in prohibited area.

Conclusions of Law:

As provided for in the *Philadelphia City Ordinance* governing Off- Road Vehicles, 12-1133

(1) *All-Terrain Vehicle (ATV) shall have the same meaning as used in Section 7702 of the Vehicle Code, 75 Pa. C.S. § 7702.*

...

(4) Off-Road Vehicle shall be defined as an ATV, Dune Buggy, or Dirt Bike as defined herein.

(5) No person shall operate, park, stop, stand, place or maintain any all-terrain vehicle on any public sidewalk or any public property, including without limitation any park or recreation facility, except where expressly authorized by law; provided that the owner or a person with lawful permission of the owner may temporarily place an all-terrain vehicle on the sidewalk abutting his or her house or abutting any premises where the vehicle is lawfully stored, for purposes of lawfully transporting the vehicle to a location outside the City. Nothing in this Section prohibits the lawful transport of an all-terrain vehicle on a licensed trailer or other safe carrier, or the manual transport of a vehicle onto or off of such carrier, so long as the motor or engine of the all-terrain vehicle remains off at all times.

...

(7) The penalty for a violation of this Section, or for violation of any regulation of the Department of Parks and Recreation relating to operating, parking, stopping, standing, placing or maintaining any Off-Road Vehicle, shall be forfeiture of the Off-Road Vehicle; provided that, if the value of the Off-Road Vehicle, in its current condition, is in excess of two thousand dollars (\$2,000), or if the defendant does not own the Off-Road Vehicle and the owner did not know and could not reasonably have known that the Off-Road Vehicle would be used in violation of this Section, a civil penalty of two thousand dollars (\$2,000) shall be imposed.

Under the City Ordinance, off- road vehicles are prohibited from being operated on any public sidewalk or public property in the City of Philadelphia. When applied in the Petitioner's case- in light of the police paperwork, noting that the police confiscated it in Fairmount Park and the Petitioner's own admission explaining why he rode it, the Hearing Officer the Petitioner still violated section 12-1133 and operated his off-road vehicle in prohibited area.

Additionally, the Ordinance is very specific regarding the civil penalty for violating 12-1133, \$2,000.