

Commonwealth Docket Sheet

Commonwealth Court of Pennsylvania

Docket Number: 314 CD 2018

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March 28, 2024



CAPTION

Allan Myers, L.P.,
 Petitioner
 v.
 Department of Transportation,
 Respondent

CASE INFORMATION

Initiating Document: Petition for Review

Case Status: Closed

Case Processing Status: March 17, 2019 Completed

Journal Number: 50-10-2018

Case Category: Administrative Agency Case Type(s): Transportation, Department of

CONSOLIDATED CASES

RELATED CASES

COUNSEL INFORMATION

Petitioner **Allan Myers, L.P.**

Pro Se: No

IFP Status:

Attorney: Ficken, Bruce William
 Law Firm: Cozen O'Connor
 Address: 1 Liberty PI Ste 2800
 1650 Market St
 Philadelphia, PA 19103
 Phone No: (215) 665-6948

Fax No:

Attorney: Kwartnik, James Martin, Jr.
 Law Firm: Cozen O'Connor
 Address: 1 Liberty PI
 1650 Market St Ste 2800
 Philadelphia, PA 19103
 Phone No: (215) 665-6937

Fax No:

Attorney: DeLuca, Raymond
 Law Firm: Cozen O'Connor
 Address: 1 Liberty PI
 1650 Market St Ste 2800
 Philadelphia, PA 19103
 Phone No: (215) 665-6945

Fax No: (215) 665-6948

Attorney: Cushing, Kenneth Andrew
 Law Firm: Cozen O'Connor PC
 Address: One Liberty PI 1650 Market St
 Philadelphia, PA 19103
 Phone No: (215) 665-2000

Fax No:

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COUNSEL INFORMATION

Respondent Department of Transportation

Pro Se: No

IFP Status:

Attorney: Sharp, Jason D.
 Law Firm: Pennsylvania Department of Transportation
 Address: Commonwealth Keystone Building
 400 North Street, 9th Floor
 Harrisburg, PA 17120
 Phone No: (717) 787-5473 Fax No:

Attorney: Davis, Jeffrey W.
 Law Firm: Pennsylvania Department of Transportation
 Address: PA Dept of Transportation
 400 North St Fl 9
 Harrisburg, PA 17101
 Phone No: (717) 787-5804 Fax No: (717) 772-2741

Attorney: Wolgemuth, Jason Michael
 Law Firm: Commonwealth of Pennsylvania
 Address: PA Dept of Transportatio
 400 North St Fl 9
 Harrisburg, PA 17126-0096
 Phone No: (717) 787-5804 Fax No:

FEE INFORMATION

| Fee Dt | Fee Name | Fee Amt | Receipt Dt | Receipt No | Receipt Amt |
|------------|---------------------------------|---------|------------|-------------------|-------------|
| 03/13/2018 | Petition for Review - Appellate | 90.25 | 03/14/2018 | 2018-CMW-H-000605 | 90.25 |
| 10/21/2022 | Copy Work (Per Page) | 43.50 | 10/21/2022 | 2022-CMW-H-001979 | 43.50 |

AGENCY/TRIAL COURT INFORMATION

Order Appealed From: February 26, 2018 Notice of Appeal Filed:
 Order Type: Decision
 Documents Received: March 13, 2018

Court Below:
 County: Division:
 Judge: OTN:
 Docket Number: 082 A.D. 2017 Judicial District:

Court Below:
 County: Division:
 Judge: OTN:
 Docket Number: ECMS NO. 80021 Montgomery County Judicial District:

ORIGINAL RECORD CONTENT

| Original Record Item | Filed Date | Content Description |
|----------------------|----------------|---------------------|
| Agency Record | April 13, 2018 | |

Date of Remand of Record: June 9, 2023

BRIEFING SCHEDULE

Petitioner

Respondent

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BRIEFING SCHEDULE

Petitioner

Allan Myers, L.P.

Brief

Due: May 21, 2018

Filed: May 21, 2018

Respondent

Department of Transportation

Brief

Due: June 20, 2018

Filed: June 20, 2018

Reply Brief

Due: July 20, 2018

Filed: July 20, 2018

Reproduced Record

Due: May 21, 2018

Filed: May 21, 2018

DOCKET ENTRY

| Filed Date | Docket Entry / Filer | Representing | Participant Type | Exit Date |
|-----------------------|---|--|--|------------|
| March 13, 2018 | Petition for Review Filed Allan Myers, L.P. | | Petitioner | |
| March 15, 2018 | Entry of Appearance Davis, Jeffrey W. | Department of Transportation | Respondent | |
| March 15, 2018 | Entry of Appearance Wolgemuth, Jason Michael | Department of Transportation | Respondent | |
| March 15, 2018 | Application for Stay Ficken, Bruce William DeLuca, Raymond Kwartnik, James Martin, Jr. | Allan Myers, L.P. Allan Myers, L.P. Allan Myers, L.P. | Petitioner Petitioner Petitioner | |
| | Document Name: Application for Stay of Procurement Pending Appeal | | | |
| March 16, 2018 | Notice Exited Commonwealth Court of Pennsylvania | | | 03/16/2018 |
| March 16, 2018 | Notice Exited Commonwealth Court Filing Office | | | 03/16/2018 |
| | Document Name: Corrected | | | |
| March 19, 2018 | Hearing Scheduled Pellegrini, Dan | | | 03/20/2018 |
| | Document Name: Upon consideration of petitioner's application for stay of procurement pending appeal, hearing is | | | |
| | Comment: scheduled for April 16, 2018 at 1:30 p.m., in Courtroom 3001, Third Floor, Pennsylvania Judicial Center, 601 Commonwealth Avenue, Harrisburg, Pennsylvania. Respondent's answer shall be filed and served on or before April 2, 2018. This matter will be heard seriatim with J.D. Eckman, Inc., v. Department of Transportation, Docket No. 313 CD. 2018. | | | |
| March 23, 2018 | Answer to Application for Stay Davis, Jeffrey W. Wolgemuth, Jason Michael | Department of Transportation Department of Transportation | Respondent Respondent | |
| | Document Name: Respondent's Answer to Petitioner's "Application for Stay of Procurement Pending Appeal" | | | |

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| DOCKET ENTRY | | | | |
|-----------------------|--|------------------------------|------------------|------------|
| Filed Date | Docket Entry / Filer | Representing | Participant Type | Exit Date |
| April 2, 2018 | Application for Relief | | | |
| | Ficken, Bruce William | Allan Myers, L.P. | Petitioner | |
| | DeLuca, Raymond | Allan Myers, L.P. | Petitioner | |
| | Kwartnik, James Martin, Jr. | Allan Myers, L.P. | Petitioner | |
| | Document Name: Petitioner's Motion to Attach Verification to Application to Stay | | | |
| April 11, 2018 | Order Filed | | | 04/11/2018 |
| | Per Curiam | | | |
| | Document Name: The hearings scheduled for April 16, 2018, are changed to oral argument on the respective | | | |
| | Comment: applications. In all other respects, the separate orders of March 19, 2018, in these matters remain in full force and effect. | | | |
| April 13, 2018 | Agency Record Received | | | |
| | Department of Transportation | | | |
| April 19, 2018 | Memorandum and Order | | | 04/19/2018 |
| | Brobson, P. Kevin | | | |
| | Document Name: Memorandum and Order (5 pages) : Following a hearing on separate applications for special relief in | | | |
| | Comment: the nature of a request for a stay and a request for expedited consideration filed by petitioner J.D. Eckman, Inc. (Eckman) and Allan Myers, L.P. ., and respondent Department of Transportation's (Department) answers thereto, it is hereby ordered that the applications are GRANTED, in part, and DENIED, in part. The applications are GRANTED to the extent that they request the Court to expedite the disposition of the above-captioned appeals. Petitioners each shall file a reproduced record (4 copies) and briefs in support of their appeals (4 copies) on or before May 21, 2018. Respondents shall file its briefs in opposition (4 copies) on or before June 20, 2018. Petitioners shall file reply briefs (4 copies), if any, on or before July 5, 2018. The Chief Clerk is directed to list this matter for the September 2018 oral argument in Harrisburg. | | | |
| May 21, 2018 | Tentative Session Date | | | |
| | Krimmel, Michael | | | |
| | Document Name: September 2018 (Harrisburg) | | | |
| May 21, 2018 | Petitioner's Reproduced Record Filed | | | |
| | Ficken, Bruce William | Allan Myers, L.P. | Petitioner | |
| May 21, 2018 | Petitioner's Brief Filed | | | |
| | Ficken, Bruce William | Allan Myers, L.P. | Petitioner | |
| June 20, 2018 | Respondent's Brief Filed | | | |
| | Davis, Jeffrey W. | Department of Transportation | Respondent | |
| June 27, 2018 | Application for Extension of Time to File Reply Brief | | | |
| | Ficken, Bruce William | Allan Myers, L.P. | Petitioner | |
| June 28, 2018 | Order Granting Application for Extension of Time to File Petitioner Paperbook | | | 06/29/2018 |
| | Simpson, Robert E. | | | |
| | Document Name: Petitioner's reply brief shall be filed and served by 7/20/18. | | | |
| July 20, 2018 | Petitioner's Reply Brief Filed | | | |
| | Ficken, Bruce William | Allan Myers, L.P. | Petitioner | |

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DOCKET ENTRY

| Filed Date | Docket Entry / Filer | Representing | Participant Type | Exit Date |
|--------------------------|--|--|--|------------|
| July 31, 2018 | Argument Scheduled Krimmel, Michael | | | 07/31/2018 |
| | Document Name: WEDNESDAY, September 12, 2018 at 1:00 P.M. Before a Panel of Judges sitting in Courtroom 5001 Comment: PA Judicial Center, 601 Commonwealth Avenue, Harrisburg, Pennsylvania. No. 2 ON THE LIST. | | | |
| August 6, 2018 | Order Filed Per Curiam | | | 08/06/2018 |
| | Document Name: Argument in the above-captioned matter, currently scheduled for Wednesday, September 12, 2018, Comment: at 1:00 p.m. in Harrisburg is CANCELLED. The Chief Clerk is directed to list this matter for oral argument before the court en banc on the October 2018 Argument List in Pittsburgh. | | | |
| August 7, 2018 | Tentative Session Date Krimmel, Michael | | | |
| | Document Name: October 2018 (Pittsburgh) | | | |
| September 6, 2018 | Argument Scheduled Krimmel, Michael | | | 09/06/2018 |
| | Document Name: WEDNESDAY, October 17, 2018 at 9:30 A.M., Before the Court En Banc sitting in the Comment: Supreme Court Room Eighth Floor, City-County Building, Pittsburgh, Pennsylvania. No. 50 ON THE LIST. | | | |
| September 6, 2018 | Order Filed Per Curiam | | | 09/07/2018 |
| | Document Name: The above-captioned matters (313 and 314 CD 2018) are listed seriatim for oral argument before Comment: the Court sitting en banc on October 17, 2018. Forty minutes total argument time has been set aside for these matters. Each Petitioner shall have ten minutes to argue its respective appeal, and Respondent shall have twenty minutes to argue both appeals. | | | |
| October 8, 2018 | Entry of Appearance Ficken, Bruce William Cushing, Kenneth Andrew | Allan Myers, L.P. Allan Myers, L.P. | Petitioner Petitioner | |
| October 23, 2018 | Entry of Appearance Cushing, Kenneth Andrew | Allan Myers, L.P. | Petitioner | |
| January 11, 2019 | Reversed Leavitt, Mary Hannah | | | 01/11/2019 |
| | Document Name: Opinion (19 pages) Comment: The order of the Secretary of Transportation is REVERSED and the DOT's bid solicitation of 12-20-17 is cancelled. Judge Fizzano Cannon did not participate in the decision. | | | |
| February 11, 2019 | Application for Stay Davis, Jeffrey W. Sharp, Jason D. Wolgemuth, Jason Michael | Department of Transportation Department of Transportation Department of Transportation | Respondent Respondent Respondent | |
| | Document Name: Respondent's Verified Application for Stay Pending Disposition of Petition for Allowance of Appeal | | | |
| February 11, 2019 | Petition for Allowance of Appeal to PA Supreme Court Filed Department of Transportation | | Respondent | |
| | Document Name: 95 MAL 2019 Comment: 95 MAL 2019 | | | |

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DOCKET ENTRY

| Filed Date | Docket Entry / Filer | Representing | Participant Type | Exit Date |
|--------------------------|---|------------------------------|------------------|-----------|
| February 25, 2019 | Answer to Application for Stay | | | |
| | Ficken, Bruce William | Allan Myers, L.P. | Petitioner | |
| | Cushing, Kenneth Andrew | Allan Myers, L.P. | Petitioner | |
| | DeLuca, Raymond | Allan Myers, L.P. | Petitioner | |
| | Kwartnik, James Martin, Jr. | Allan Myers, L.P. | Petitioner | |
| | Document Name: Petitioner's Answer to Respondent's February 11, 2019 Application for Stay | | | |
| March 7, 2019 | Praecipe to Withdraw | | | |
| | Sharp, Jason D. | Department of Transportation | Respondent | |
| | Davis, Jeffrey W. | Department of Transportation | Respondent | |
| | Wolgemuth, Jason Michael | Department of Transportation | Respondent | |
| | Document Name: Praecipe to Withdraw Application for Stay | | | |
| March 7, 2019 | Petition for Allowance of Appeal to PA Supreme Court Discontinued | | | |
| | Department of Transportation | | Respondent | |
| | Document Name: 95 MAL 2019 | | | |
| | Comment: 95 MAL 2019 | | | |
| March 7, 2019 | Petition for Allowance of Appeal to PA Supreme Court Discontinued | | | |
| | Supreme Court of Pennsylvania | | | |
| | Document Name: 95 MAL 2019 | | | |
| June 9, 2023 | Remitted | | | |
| | Commonwealth Court Filing | | | |
| | Office | | | |
| June 15, 2023 | Acknowledgement of Record Remittal | | | |
| | Department of Transportation | | | |

SESSION INFORMATION

Journal Number: 50-10-2018
 Consideration Type: En Banc Argument
 Listed/Submitted Date: October 17, 2018

Panel Composition:

| | |
|--------------------------------------|-----------------|
| The Honorable Mary Hannah Leavitt | President Judge |
| The Honorable Renee Cohn Jubelirer | Judge |
| The Honorable Robert E. Simpson | Judge |
| The Honorable P. Kevin Brobson | Judge |
| The Honorable Patricia A. McCullough | Judge |
| The Honorable Michael H. Wojcik | Judge |
| The Honorable Ellen Ceisler | Judge |

DISPOSITION INFORMATION

| | | | |
|---------------------|----------|---------------------|----------------------|
| Final Disposition: | Yes | Judgment Date: | |
| Related Journal No: | | Disposition Author: | Leavitt, Mary Hannah |
| Category: | Decided | Disposition Date: | January 11, 2019 |
| Disposition: | Reversed | | |

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DISPOSITION INFORMATION

Disposition Comment: The order of the Secretary of Transportation is REVERSED and the DOT's bid solicitation of 12-20-17 is cancelled. Judge Fizzano Cannon did not participate in the decision.

Dispositional Filing: **Opinion** Filing Author: Leavitt, Mary Hannah

Filed Date: 1/11/2019 12:00:00AM