

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of :
Todd Agosta, Notice of :
Apparent Violation and : Case No. 15-430-TR-CVF
Intent to Assess :
Forfeiture. :

- - -

PROCEEDINGS

before Nicholas Walstra, Hearing Examiner, at the
Public Utilities Commission of Ohio, 180 East Broad
Street, Room 11-C, Columbus, Ohio, called at 10:00
a.m. on Thursday, June 11, 2015.

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1 APPEARANCES:

2 Mike DeWine, Ohio Attorney General
3 By Steven L. Beeler
4 Assistant Attorney General
5 180 East Broad Street, 6th Floor
6 Columbus, Ohio 43215

7 On behalf of the Staff of the
8 Public Utilities Commission of Ohio.

9 Todd Agosta
10 3803 Highland Bluff Drive
11 Groveport, Ohio 43125

12 Pro Se.

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1 Thursday Morning Session,
2 June 11, 2015.

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4 THE EXAMINER: The Public Utilities
5 Commission of Ohio has called for hearing at this
6 time and place Case No. 15-430-TR-CVF, being In the
7 Matter of Todd Agosta, Notice of Apparent Violation
8 and Intent to Assess Forfeiture.

9 My name is Nick Walstra. I'm the
10 Attorney-Examiner assigned by the Commission to hear
11 this case. I'd like to begin by taking appearances
12 of the parties. On behalf of Staff?

13 MR. BEELER: Thank you, your Honor, on
14 behalf of the Staff of the Public Utilities
15 Commission of Ohio, Ohio Attorney General Mike
16 DeWine, Steven Beeler, Assistant Attorney General,
17 180 East Broad Street, Columbus, Ohio, 43215.

18 THE EXAMINER: Thank you. Mr. Agosta, if
19 you could please state your name and address.

20 MR. AGOSTA: My name is Todd Agosta. My
21 address is 3803 Highland Bluff Drive, Groveport,
22 Ohio, 43125.

23 THE EXAMINER: Thank you. Any procedural
24 matters before we get started?

25 MR. BEELER: No, your Honor.

1 MR. AGOSTA: No.

2 THE EXAMINER: Staff, you may call your
3 first witness.

4 MR. BEELER: Thank you, your Honor. The
5 Staff calls Inspector Lee A. Darden to the stand.

6 THE EXAMINER: Raise your right hand.

7 - - -

8 LEE A. DARDEN

9 being first duly sworn, as prescribed by law, was
10 examined and testified as follows:

11 DIRECT EXAMINATION

12 By Mr. Beeler:

13 Q. Good morning. Please state your full
14 name for the record.

15 A. Lee A. Darden.

16 Q. Where are you employed?

17 A. I'm employed for the Ohio State Highway
18 Patrol.

19 Q. What is your position with the Ohio State
20 Highway Patrol?

21 A. I'm a Trooper and a Commercial Vehicle --
22 Motor Vehicle Inspector.

23 Q. How long have you been with the Patrol?

24 A. I've been with the Patrol 25 years.

25 Q. What are your duties in your capacity as

1 a State Trooper?

2 A. Part of my duties are, one, I'm a
3 Trooper, I look for violations, traffic violations,
4 also turn in defects on vehicles. And also I am a
5 Commercial Motor Vehicle Inspector which that
6 encompasses looking for violations on commercial
7 vehicles, defects and subsequently doing inspections
8 on those vehicles once they're stopped.

9 Q. Okay. What sort of training do you have
10 in that area?

11 A. I have certificates from the Federal
12 Motor Vehicle North American Standard Program. I'm
13 certified as an Inspector on commercial vehicles,
14 tanks, and also I'm certified on Haz Mat materials
15 vehicles as well.

16 Q. As far as the inspection process goes,
17 are motor carrier inspections conducted to protect
18 the safety of Ohio's traveling public?

19 A. Yes, they are.

20 Q. How many inspections on average do you
21 perform in a year?

22 A. Approximately 780 inspections a year.

23 Q. Okay.

24 MR. BEELER: May I approach the witness,
25 your Honor?

1 THE EXAMINER: You may.

2 MR. BEELER: I have what has previously
3 been marked as Staff Exhibit 1, The Driver Vehicle
4 Examination Report with an inspection date of
5 12-22-2014. I'd like to have that marked as Staff
6 Exhibit 1.

7 THE EXAMINER: So marked.

8 (STAFF EXHIBIT 1 MARKED FOR
9 IDENTIFICATION.)

10 Q. (By Mr. Beeler) Do you recognize this
11 document?

12 A. Yes, I do.

13 Q. Is this document a Patrol record?

14 A. Yes, it is.

15 Q. Is it kept in the ordinary course of
16 business? Is it kept in the ordinary course of
17 business?

18 A. Yes, it is.

19 Q. Is it the practice of the Patrol to make
20 this report?

21 A. Yes, it is.

22 Q. Do you report on matters observed
23 pursuant to a duty imposed by law to which there was
24 a duty to report?

25 A. Yes, I do.

1 Q. Is this document in the same condition
2 substantially as when you prepared it?

3 A. It's a -- the PUCO version of the report.
4 It has the same information on it.

5 Q. So the document looks a little different,
6 but --

7 A. Yes.

8 Q. -- the information's the same?

9 A. That's correct.

10 Q. Is the reason for producing this report
11 an inspection of the motor vehicle owned by Crane
12 Cartage, LLC?

13 A. That's correct.

14 Q. Who was the driver listed on the report?

15 A. Mr. Todd Agosta.

16 Q. Is Mr. Agosta here today?

17 A. Yes, he is.

18 Q. Does the driver get a copy of the report
19 at the stop?

20 A. Yes, he does.

21 Q. Okay. Are there any violations noted on
22 this report?

23 A. Yes, there is.

24 Q. What is it?

25 A. There's one violation for failure to use

1 seatbelt while operating a commercial motor vehicle.

2 Q. And that's 49 CFR 392.16; is that
3 correct?

4 A. Yes, that's correct.

5 Q. You observed Mr. Agosta not wearing his
6 seatbelt; is that correct?

7 A. Yes, I did.

8 Q. Do you remember this stop?

9 A. Yes, I do.

10 Q. Okay. How did you observe Mr. Agosta not
11 wearing a seatbelt?

12 A. I was sitting in the crossover on U.S.
13 33. The report says Fairfield County, but it's
14 actually in Franklin County. And I sit there, that's
15 a common spot for me to work, and I watched the
16 vehicle approach me.

17 As the vehicle passed, the driver
18 appeared not to have a seatbelt on. I pulled out and
19 followed the vehicle. And what I do on every stop,
20 there's a series of events. You get behind the
21 vehicle and obtain a license plate number. That
22 number is entered into the computer to initiate a
23 traffic stop.

24 Once that -- Once it's entered, I get --
25 I straddle the lines to make sure that the driver can

1 see me in the side mirror. I activate my lights to
2 initiate a traffic stop. And in this particular
3 area, there's a white berm there at the Mile Post 27,
4 and the driver pulls off to the side in that
5 particular area with my lights behind them.

6 Once I pull behind him, I watch in the
7 side mirrors to make sure that what I seen is
8 actually true. And in this particular stop, the
9 driver, Mr. Agosta, tried to put his seatbelt -- pull
10 his seatbelt up, and there was a little bit of
11 difficulty, pulls it up. And I'm not sure if he had
12 got it fastened or not, but then he takes it and puts
13 it down as if he was taking it off, and I made an
14 approach.

15 Q. Sorry to interrupt. When you say the
16 side mirrors, you mean the side mirrors of his truck?

17 A. Of the truck, of the actual tractor,
18 yeah.

19 Q. So if you'd continue to tell your story.

20 A. Once I approached, I made contact. What
21 I do is I ask for a driver's license, medical card,
22 and then I go and ask them where they're coming from
23 and to.

24 And then I ask him about his nonuse of
25 the seatbelt. And he said, "I had it on." And I

1 said, "No, you didn't have it on." Then there was
2 just a brief disagreement, if you will. And then I
3 said, "Well, I'm going to write it down as a
4 violation," and that's what happened.

5 Q. So just to clear it up, as the reason
6 code on your report, you have it stated as an ISSS.
7 Can you explain what that is?

8 A. That's where we stop vehicles, if they
9 have -- There's a couple reasons. If you know a
10 company has a high number, if you will, you can stop
11 them to do an inspection there or individual
12 standards of where you can -- you pick certain
13 vehicles that you stop.

14 Q. So the ISSS, that's the safety computer
15 system that you have in all your vehicles?

16 A. Yes, we do.

17 Q. So let's go to your inspection notes.
18 Could you just read those for the record, please?

19 A. My inspection --

20 Q. Your inspection notes on your report,
21 about halfway down.

22 A. I said in my notes the "Driver was
23 stopped for an inspection on U.S. 33, Mile Post 27.
24 When driver came to complete stop, he was not wearing
25 his seatbelt. Driver reached over and placed his

1 seatbelt on and then took it off as if he was already
2 wearing it when he was driving. I questioned him
3 about the nonuse, and he stated he had it on. I
4 witnessed his nonuse. Driver was wearing a brown
5 sweatshirt and the belt was bright orange."

6 Q. Why did you state that, that last
7 statement there that the driver was wearing a brown
8 shirt and the belt was bright orange?

9 A. Well, because, in some cases, when you
10 see somebody not wearing a seatbelt, sometimes the
11 belt may be black and the shirt is black. There was
12 a difference in the color of the belt and the shirt
13 he was wearing which would make it easy for me to see
14 if the person has a seatbelt on.

15 And I even said there's a bright orange
16 seatbelt. Which in most cases, if there's a sharp
17 comparison to the shirt that they're wearing, it's
18 easy to observe a person not wearing their belt.

19 Q. So also in your notes, you stated that
20 you witnessed the driver's nonuse. Was that as the
21 truck was moving?

22 A. That's correct.

23 Q. So you commonly as part of your job look
24 specifically for drivers wearing or not wearing their
25 seatbelts?

1 A. Yes, I do, especially in commercial
2 vehicles, yes.

3 Q. And in the narrative that you described
4 earlier, you said that you witnessed Mr. Agosta
5 without the belt on, and then as you were approaching
6 the truck in the side mirror, you saw him try --

7 A. Verified it.

8 Q. Just to verify, but you witnessed him
9 trying to take it off again or back on?

10 A. Well, he was trying to put it on, but
11 then, you know, he tried to put it on, I'm not sure
12 if he got it clipped but there was a slight, little
13 struggle, then I saw him like he was taking it off.
14 And I had already seen him not wearing it.

15 Q. Is that something you typically see in
16 the field as part of your 780 inspections?

17 A. Yes, a lot of drivers who are not wearing
18 their belt attempt to put it on before we make
19 contact with them. And what I normally say to them
20 is, "It doesn't help you to put it on now once we've
21 already seen the violation."

22 Q. Okay. The stop was at 8:35 in the
23 morning; is that correct?

24 A. That's correct.

25 Q. There's nothing weather related that day

1 that would have impeded your vision?

2 A. No, not that I can recall.

3 Q. And the sun was out?

4 A. Not sure if it was cloudy or anything,
5 but it was daylight.

6 Q. So as a result of all your observations
7 at the end of the day, you cited Mr. Agosta for the
8 violation of 392.16?

9 A. Yes, I did.

10 Q. And so at the end of the day, it is your
11 testimony that you observed Mr. Agosta not wearing
12 his seatbelt, correct?

13 A. Yes, it is.

14 MR. BEELER: One second, your Honor.

15 (Off the record.)

16 Q. (By Mr. Beeler) So back to your reason
17 code, the ISSS, you testified that you observed him,
18 Mr. Agosta, without his seatbelt on. Could you have
19 cited the reason code as an obvious violation?

20 A. Yes, I could have.

21 Q. And you did not because you also ran a --

22 A. Ran his --

23 Q. -- DOT number?

24 A. DOT number, and he was within the range
25 of the ISSS selection, if you will.

1 Q. And you didn't cite the reason as obvious
2 just because you had a choice of two and that was --

3 A. That's correct.

4 Q. -- the one you chose? Okay.

5 Is there anything else that you can think
6 of that would be important to note for the
7 Commission?

8 A. Well, I stop a lot of vehicles, a lot of
9 vehicles for inspections and subsequently see people
10 without their seatbelts on, and my model in that is
11 giving the driver the benefit of the doubt when there
12 is something in question. And if there's a
13 questionable circumstance where belts maybe -- may
14 have been worn and I may have missed seeing it, if
15 you will, the benefit of the doubt goes to the
16 driver. That's just how I operate. In this
17 particular case, with the disparity of the color of
18 the belt and the shirt, it was no doubt that what I
19 seen was the belt was not worn.

20 Q. Okay.

21 MR. BEELER: No further questions, your
22 Honor. At this time, I'd ask or request to move
23 Staff Exhibit 1 into the record subject to
24 cross-examination, and I would also like to reserve
25 this witness for possible rebuttal if it's needed at

1 this time.

2 THE EXAMINER: Okay. I have a couple
3 questions first.

4 - - -

5 EXAMINATION

6 By The Examiner:

7 Q. When you first spotted him, how were you
8 situated on the road?

9 A. There's a crossover sitting -- I'm
10 sitting in this direction (indicating), the vehicles
11 are coming in this direction (indicating), and I can
12 see them traveling, if you will, east to -- west to
13 east.

14 Q. What kind of vehicle are you in?

15 A. I'm in a gray Tahoe, Chevy Tahoe.

16 Q. And when you witnessed him in the mirror,
17 how much of a view do you have of him in the mirror?

18 A. Depending on the actual truck size
19 mirror, you can see the entire upper body of the
20 drivers, their head. If you go out far enough, if
21 you straddle the lanes like I do -- I do that for a
22 couple reasons. One, I can see the people in the
23 mirror. Two, to keep traffic from coming around me,
24 you can see really well. You can see if the person
25 has the belt across.

1 If you go out a little bit more, because
2 some belts are made where they come straight down,
3 you can possibly see those. But what I do in those
4 cases is if they come up and they don't have it on, I
5 ask them to put it on right now. They put it on. If
6 it comes straight down, there will be no violation.

7 Q. What about in this particular case?

8 A. In this particular case, the belt comes
9 straight across, and there's no view obstruction. I
10 can see the whole -- his whole upper body.

11 Q. You could see his whole upper body?

12 A. I could see his whole upper body.

13 THE EXAMINER: Mr. Agosta, do you have
14 questions?

15 MR. AGOSTA: He'll be called back as a
16 rebuttal witness?

17 THE EXAMINER: That would just be if they
18 have more questions based on your questions, they can
19 call him back, but this is your time to ask him any
20 questions. He may not have anymore questions for
21 him.

22 MR. AGOSTA: Okay.

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25

CROSS-EXAMINATION

By Mr. Agosta:

Q. Trooper Darden, you stated that you were a Trooper for 25 years?

A. Yes, sir.

Q. What has your positions or jobs been with the Patrol?

A. For the whole 25 years?

Q. Yes, sir.

A. I've been a Trooper. I've been a Sergeant. I've been a Post Commander. I've been in Investigations, and I've had training in Executive Protection. I've had a wide range of positions.

Q. With your being a Lieutenant, you say a Commander?

A. Yes, I was.

Q. Why is it now that you're a Trooper now instead of a Lieutenant?

A. Because I had an affair with my secretary.

Q. Okay. And in that report, from the internal investigation -- and I'm determining credibility is the reason for these questions -- what was the outcome of the internal investigation? Do you remember what they said? I didn't provide -- I

1 have documentation, but I didn't provide it as
2 exhibits. Can I still produce it as an Exhibit?

3 THE EXAMINER: Produce what?

4 MR. AGOSTA: Documentation.

5 THE EXAMINER: You don't have it now?

6 MR. AGOSTA: I have a copy, but I didn't
7 make copies for everybody. When he gave me an
8 Exhibit, Staff Exhibit 1, I wasn't prepared to make
9 copies for everybody.

10 THE EXAMINER: I'll definitely need to
11 look over anything you want to present.

12 MR. AGOSTA: Okay. In that
13 investigation, it said that Trooper Darden was
14 promoted to Trooper, reassigned, and the internal
15 investigation determined that he lied about an affair
16 with an insubordinate and he was untruthful. So when
17 some of these things that he was saying about my
18 seatbelt are not true, and I'm just trying to show
19 credibility.

20 MR. BEELER: Your Honor, I'll object.
21 These aren't questions. He's testifying. He'll have
22 an opportunity to testify when he's on the stand.

23 MR. AGOSTA: Okay, okay.

24 THE EXAMINER: Yeah, you need to be
25 asking questions.

1 MR. AGOSTA: Okay. All right. I'm just
2 trying to establish credibility.

3 Q. (By Mr. Agosta) When it says you
4 appeared -- in your statement, you said that when I
5 had -- when you pulled me over, it appeared I had not
6 had my seatbelt, so you can't say for sure; you're
7 just saying that it appeared?

8 A. When I first saw you, it appeared that
9 you didn't have your seatbelt on.

10 Q. I tried to get a copy of the dash cam,
11 and it was unavailable at that time, so I don't have
12 any other documentation to -- because I didn't have a
13 brown sweatshirt on. It was charcoal gray.

14 THE EXAMINER: If you have any specific
15 questions, you can testify when you're on the stand,
16 but if you have any specific questions for him....

17 MR. AGOSTA: No, no further questions.

18 THE EXAMINER: Do you have any further
19 questions?

20 MR. BEELER: Can I have two minutes with
21 my witness?

22 THE EXAMINER: Sure.

23 (Off the record.)

24 MR. BEELER: Thank you, your Honor.

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REDIRECT EXAMINATION

By Mr. Beeler:

Q. Trooper Darden, you were just asked a question from Mr. Agosta about whether it appeared whether he had his seatbelt on. Could you just elaborate a little further on that?

A. There's no doubt that Mr. Agosta did not have his seatbelt on. There's a sharp contrast between his belt and his shirt. And I viewed him trying to put it on.

And then in the interview, I'm watching him try to put it on. The belt was bright orange. He said he had a gray shirt on; I remember brown. He did not have it on when I was behind him following him for the distance before the stop, and he tried to put it on, and he did not have it on.

Q. So what you viewed as you approached the truck confirmed your suspicion that he was not wearing his seatbelt when you observed him?

A. I observed him, that's correct, and he just didn't have it on.

MR. BEELER: All right. Nothing further, your Honor.

THE EXAMINER: Regarding just these specific answers, do you have any questions?

1 MR. AGOSTA: No, your Honor.

2 THE EXAMINER: Thank you. You may
3 step-down.

4 MR. BEELER: At this time, I'd move for
5 the admission of Staff Exhibit 1, or do you want to
6 do that at the end?

7 THE EXAMINER: You can do it now.

8 MR. BEELER: Your Honor, at this time,
9 I'd move for admission of Staff Exhibit 1 into the
10 record.

11 THE EXAMINER: Okay. You've received a
12 copy of this?

13 MR. AGOSTA: Yes, sir.

14 THE EXAMINER: Do you have any problem
15 with that being admitted?

16 MR. AGOSTA: No, not at all, sir.

17 THE EXAMINER: It will be admitted.

18 MR. BEELER: Thank you.

19 (STAFF EXHIBIT 1 ADMITTED INTO EVIDENCE.)

20 MR. BEELER: At this time, the Staff
21 would call Jonathan Frye to the stand.

22 THE EXAMINER: Raise your right hand.

23 (Witness placed under oath.)

24 THE EXAMINER: You may be seated

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JONATHAN FRYE

being first duly sworn, as prescribed by law, was
examined and testified as follows:

DIRECT EXAMINATION

By Mr. Beeler:

Q. Good morning, Mr. Frye.

A. Good morning.

Q. Could you please state your full name for
the record.

A. Jonathan Frye, F-R-Y-E.

Q. Where are you employed?

A. Public Utility Commission of Ohio, 180
East Broad Street, Columbus, Ohio, 43215.

Q. What is your position?

A. I'm the Chief of the Compliance Division.

Q. How long have you been in that position?

A. Approximately 11 years.

Q. What are your duties in that position?

A. To review the fine assessments of the
compliance officers.

Q. What are your expert qualifications,
training, certification that you received?

A. I've had the North American Out Of
Service training, Hazardous Materials Inspection
training, Compliance Review training.

1 Q. Explain how -- just in general how you
2 determine amounts of forfeitures.

3 A. Yes. The violations are broken up into
4 four groupings based upon the types of violations
5 that can be discovered out on the roadway. Based
6 upon the severity of the violations, a monetary
7 amount is assigned to the violations.

8 Q. Does the Commission apply that process
9 uniformly to everyone?

10 A. Yes.

11 MR. BEELER: May I approach the witness?

12 THE EXAMINER: You may.

13 MR. BEELER: Thank you. I have what has
14 previously been marked as Staff Exhibit 2. This is
15 the Notice of Preliminary Determination dated
16 January 28th, 2015. Ask that it be marked Staff
17 Exhibit 2.

18 THE EXAMINER: So marked.

19 MR. BEELER: Thank you.

20 (STAFF EXHIBIT 2 MARKED FOR
21 IDENTIFICATION.)

22 Q. (By Mr. Beeler) Do you recognize this
23 document?

24 A. Yes.

25 Q. What is it?

1 A. It's the Notice of Preliminary
2 Determination letter. It's a letter that's sent to
3 the Respondent in the event that we're unable to come
4 to a resolution of their case. It provides them with
5 notice on how to pay the fine, as well as notice on
6 how to request an administrative hearing to contest
7 the violations further.

8 Q. Was it prepared by you or under your
9 direction?

10 A. Yes.

11 Q. The date on it is January 28th, 2015,
12 correct?

13 A. That's correct.

14 Q. Is this a Commission record?

15 A. Yes.

16 Q. Is it kept in the ordinary course of
17 business?

18 A. Yes.

19 Q. Is it the practice of the Commission to
20 generate this report?

21 A. Yes.

22 Q. Is this document that you're seeing
23 today, is it in the same condition substantially as
24 when you prepared it?

25 A. Yes.

1 Q. Explain how the civil forfeiture in this
2 case was derived.

3 A. For this particular violation, it's a
4 Group 4 violation. And, again, the violations are
5 broken up into four groups based upon the types of
6 violations. Based upon the severity of the
7 violation, for seatbelt violations, we assign a
8 \$100 fine to that particular violation.

9 Q. Is the penalty or forfeiture consistent
10 with the recommended fine schedule and recommended
11 civil penalty procedure adopted by the Commercial
12 Motor Vehicle Alliance?

13 A. Yes.

14 Q. Again, what is the forfeiture amount?

15 A. \$100.

16 Q. Is that a correct forfeiture amount for
17 this case?

18 A. Yes.

19 Q. Would you recommend this amount to the
20 Commission?

21 A. Yes.

22 Q. Anything else that you can think of would
23 be important to note for the Commission?

24 A. No.

25 MR. BEELER: No further questions, your

1 Honor. At this time, I'd move for admission of Staff
2 Exhibit 2 subject to cross-examination.

3 THE EXAMINER: Do you have any questions
4 for him?

5 MR. AGOSTA: No, your Honor.

6 THE EXAMINER: Thank you. You may
7 step-down.

8 MR. BEELER: At this time, I'd move for
9 the admission of Staff Exhibit 2 into the record.

10 THE EXAMINER: Do you have any objection
11 to that?

12 MR. AGOSTA: No, your Honor.

13 THE EXAMINER: It will be admitted.

14 MR. BEELER: Thank you.

15 (STAFF EXHIBIT 2 ADMITTED INTO EVIDENCE.)

16 THE EXAMINER: Do you have any other
17 witnesses?

18 MR. BEELER: No, your Honor.

19 THE EXAMINER: Thank you. At this point,
20 Mr. Agosta, you can take the stand. I'll swear you
21 in, and you can kind of basically give your
22 understanding of how things occurred.

23 MR. AGOSTA: Okay.

24 (Witness placed under oath.)

25 THE EXAMINER: Thank you. You may be

1 seated. Go ahead.

2 - - -

3 TODD AGOSTA

4 being first duly sworn, as prescribed by law, was
5 examined and testified as follows:

6 DIRECT TESTIMONY

7 THE WITNESS: As the Trooper said, he
8 stopped me on State Route 33. He did initiate the
9 traffic stop. And what he -- the motions that he is
10 suggesting that I didn't have my seatbelt on, I did
11 have my seatbelt on. I reached up -- and I have a
12 little clip that I keep on the seatbelt to keep it
13 from not choking it but giving you chafe.

14 So I pulled that down, pulled my clip
15 off, let it back up, then let my seatbelt... So the
16 actions that he saw, he saw, but I had my seatbelt
17 on. I even explained that to him, showed him the
18 clip. And he -- he didn't want to hear anything
19 about that, but....

20 And I explained to him because I am a
21 Reserve Deputy Sheriff for the Fairfield County
22 Sheriff's Office, and explained to him that I was in
23 law enforcement, that I wore the seatbelt before it
24 was law, but his mind was made up. He didn't -- he
25 didn't want to hear it.

1 Then he -- He did his paperwork. He did
2 everything. He was polite. He was cordial. I mean,
3 he wasn't offensive or -- but then he let me on my
4 way.

5 THE EXAMINER: Okay. Is the clip
6 attached to anything? You said you were removing the
7 clip.

8 THE WITNESS: Yeah, then I clip it to a
9 CB mike on the dash. So like if I'm out of the
10 truck, then when I get back in, I'll grab my clip,
11 put it on, and it's only three or four inches that it
12 dangles, just enough to keep it off my neck.

13 THE EXAMINER: Okay. Anything else you
14 want to share?

15 THE WITNESS: No, your Honor.

16 THE EXAMINER: Cross-examination?

17 MR. BEELER: No, your Honor.

18 THE EXAMINER: Thank you. You may
19 step-down.

20 THE WITNESS: Thank you.

21 THE EXAMINER: Anything else?

22 MR. BEELER: One second, your Honor.
23 We're going to chat a little bit whether I want to
24 re-call him.

25 (Off the record.)

1 MR. BEELER: I think we are going to call
2 him for rebuttal just for a few questions, your
3 Honor.

4 THE EXAMINER: Okay. As a reminder, you
5 still are under oath.

6 THE WITNESS: Yes, sir.

7 - - -

8 LEE A. DARDEN
9 having previously been sworn, as prescribed by law,
10 was examined and testified as follows:

11 DIRECT REBUTTAL EXAMINATION

12 By Mr. Beeler:

13 Q. Inspector Darden, you just heard
14 Mr. Agosta make some statements in his -- about the
15 stop, and he mentioned some discussion about a clip.
16 Do you remember discussing with Mr. Agosta any -- a
17 clip?

18 A. I don't remember. I don't recall that at
19 all. I don't even recall him saying he was in law
20 enforcement. That's the first time I've heard it,
21 today.

22 Q. And, again, you observed -- you observed
23 as the vehicle was moving past you, you observed that
24 the seatbelt was not on, that you did not see any
25 orange seatbelt that was imposed on a dark -- or

1 superimposed on a dark surface, you did not see that?

2 A. I did not see that.

3 MR. BEELER: Okay. No further questions,
4 your Honor.

5 THE EXAMINER: Thank you. Regarding
6 these answers, do you have any questions?

7 MR. AGOSTA: No, your Honor.

8 THE EXAMINER: Thank you. You may
9 step-down.

10 THE WITNESS: Thank you.

11 THE EXAMINER: Anything further?

12 MR. BEELER: I believe I moved for the
13 admission of both of my exhibits.

14 THE EXAMINER: Yes, and they were
15 admitted.

16 MR. BEELER: Okay. Nothing further.

17 THE EXAMINER: Mr. Agosta?

18 MR. AGOSTA: Nothing further, your Honor.

19 THE EXAMINER: Thank you. The Commission
20 will take into consideration all the evidence and
21 issue an Opinion and Order. Thank you.

22 MR. BEELER: Thank you.

23 (The hearing was concluded at 10:36 a.m.)

24 - - -

25

CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Thursday, June 11,
2015, and carefully compared with my original
stenographic notes.

Cynthia L. Cunningham

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Summary: Transcript in the matter of the Todd Agosta hearing held on 06/11/15 electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Cunningham, Cindy