

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of John Coy, :
 Notice of Apparent :
 Violation and Intent to : Case No. 16-11-TR-CVF
 Assess Forfeiture. :

- - -

PROCEEDINGS

before Mr. James Lynn, Attorney Examiner, at the
 Public Utilities Commission of Ohio, 180 East Broad
 Street, Room 11-D, Columbus, Ohio, called at 10 a.m.
 on Thursday, March 31, 2016.

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ARMSTRONG & OKEY, INC.
 222 East Town Street, Second Floor
 Columbus, Ohio 43215-5201
 (614) 224-9481 - (800) 223-9481
 Fax - (614) 224-5724

- - -

1 APPEARANCES:

2 Mike DeWine, Ohio Attorney General
3 By Mr. William L. Wright, Section Chief
4 Public Utilities Section
5 Mr. Robert Eubanks,
6 Assistant Attorney General
7 180 East Broad Street, 6th Floor
8 Columbus, Ohio 43215

9 On behalf of the Staff of the PUCO.

10 Mr. John Coy

11 On his own behalf.

12 - - -

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1 Thursday Morning Session,
2 March 31, 2016.

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4 EXAMINER LYNN: Let's go on the record at
5 this time.

6 The Public Utilities Commission of Ohio
7 has assigned for hearing at this time and place Case
8 No. 16-11-TR-CVF, in the Matter of John Coy, Notice
9 of Apparent Violation and Intent to Assess
10 Forfeiture. I am Jim Lynn, the Attorney Examiner
11 assigned to hear this case.

12 At this time we will hear the appearances
13 of the parties. We will begin with the Ohio Attorney
14 General's Office.

15 MR. EUBANKS: Robert Eubanks, Ohio
16 Attorney General's Office, here on behalf of the
17 staff.

18 EXAMINER LYNN: Thank you, Mr. Eubanks.

19 And I'll mention for the record at this
20 point in time Mr. Coy, the driver, is not here. And
21 we'll go off the record for about 15 minutes or so to
22 see if he makes an appearance.

23 So with that at this point we will pause
24 for a little while and resume shortly. Thank you.

25 (Recess taken.)

1 EXAMINER LYNN: Back on the record.

2 Mr. Coy has made his appearance here.

3 Mr. Coy, if you could indicate your name and address,
4 please, just for the record.

5 MR. COY: John Coy, 59 West Columbus
6 Street, Mount Sterling, Ohio 43143.

7 EXAMINER LYNN: Thank you very much.

8 All right. At this point we'll have
9 staff go first. Mr. Eubanks, would you like to call
10 your first witness.

11 MR. EUBANKS: Yes. I would like to call
12 Officer Wilcox to the stand.

13 EXAMINER LYNN: Okay. Officer Wilcox,
14 please come up here.

15 (Witness sworn.)

16 EXAMINER LYNN: Thank you. Have a seat,
17 please.

18 And, Mr. Eubanks, you can continue.

19 - - -

20 TROOPER DENNIS WILCOX

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

23 DIRECT EXAMINATION

24 By Mr. Eubanks:

25 Q. Could you state your full name for the

1 record, please.

2 A. Dennis Wilcox.

3 Q. And could you spell your last name.

4 A. W-I-L-C-O-X.

5 Q. Your occupation?

6 A. Trooper with the State of Ohio.

7 Q. Your duties?

8 A. Enforce traffic laws, work out of the St.
9 Clairsville patrol post.

10 Q. Are part of your duties to inspect for
11 logbooks and seat belt violations?

12 A. Yes.

13 Q. Okay. How long have you been in your
14 current position?

15 A. 18 years.

16 Q. And have you -- for how long have you
17 been citing seat belt violations?

18 A. 18 years.

19 Q. And what do you generally look for when
20 you are performing seat belt violations?

21 A. Look to see if you can see the buckle
22 hanging, color of shirt, how it corresponds with the
23 color of the seat belt, if you can see anything come
24 across the shoulder, anything like that.

25 Q. As well as logbook violations, could you

1 explain your duties when it comes to that.

2 A. As far as whether or not they have a
3 logbook?

4 Q. Yes.

5 A. They have to have a logbook if they are
6 traveling -- driving a commercial vehicle over
7 100 miles. They are required to have a logbook with
8 the last seven days.

9 Q. Okay. On October -- on October 23, 2015,
10 did you perform an inspection with a vehicle operated
11 by Jart XPress?

12 A. Yes, sir.

13 Q. Okay. Who was the driver of that
14 vehicle?

15 A. John Coy.

16 Q. And did you cite any violations?

17 A. Yes.

18 Q. And what were those violations?

19 A. The -- had a marked lane violation which
20 he was given a citation for, then there was two other
21 violations, no logbook violation and no seat belt,
22 which was on the inspection report.

23 MR. EUBANKS: I would like to
24 introduce -- well, hand the witness our first
25 exhibit, Driver Examination Report.

1 EXAMINER LYNN: All right. Please
2 continue.

3 (EXHIBIT MARKED FOR IDENTIFICATION.)

4 MR. EUBANKS: I have got a copy.

5 Q. If you could take a look at that document
6 and identify it, if you can.

7 A. It is the vehicle inspection report that
8 was done on October 23.

9 Q. The violations, are they consistent with
10 the violations you cited on October 23, 2015?

11 A. Yes.

12 Q. Okay. If we could first talk about the
13 seat belt violation, 392.16. How did you identify
14 the seat belt violation in this case?

15 A. I was sitting stationary in the crossover
16 on Interstate 70. The vehicle in question was coming
17 westbound. As he went by me, the driver was leaning
18 over forward and towards the right. No seat belt was
19 observed. Upon inspection the seat belt was orange,
20 and the driver was wearing a red sweatshirt.

21 Q. Okay. How close -- how close would the
22 truck have passed you at its closest point?

23 A. 20 to 25 feet.

24 Q. And how much time would you have had from
25 the time the driver became visible to you to the time

1 he passed you?

2 A. Let's see, 55 miles an hour, he travels
3 88 feet a second, I would have probably had 2
4 seconds.

5 Q. Okay. What was the weather like that
6 day?

7 A. Clear.

8 Q. Was there anything --

9 A. No adverse weather.

10 Q. Was there anything that would have
11 obstructed your view of the driver?

12 A. No, sir.

13 Q. You said upon inspection -- was the seat
14 belt still off when the inspection occurred?

15 A. I don't recall seeing the seat belt when
16 I walked up to the truck. That I can't answer.

17 Q. Okay. At the time you walked up to the
18 vehicle, is that when you performed the logbook
19 inspection?

20 A. Yes, sir. I went up and spoke to the
21 driver, advised him the reason for the stop, and that
22 I was going to perform a level III inspection --

23 Q. Okay.

24 A. -- and asked for all the necessary --
25 necessary paperwork at that time.

1 Q. And so at some point you asked for the
2 logbook.

3 A. Yes, sir.

4 Q. And how did he respond?

5 A. He said he didn't have it with him. He
6 had forgot it at the shop or the office, something
7 along that line.

8 Q. Did you find out from where he had
9 traveled from?

10 A. Yes. Looked at the -- well, I asked him
11 and then looked at the bill of ladings. He was going
12 from Pennsylvania to Grove City.

13 Q. You said the bill ladings. Could you
14 explain that?

15 A. It's the bills of whatever he would have
16 been hauling. It would be a bill of lading with bill
17 of lading number and actually what he is hauling at
18 that time, where it's coming from, where it's going
19 to, who the shipper would be.

20 Q. So he picked up something in Pittsburgh,
21 and then he eventually drove to -- where were you at
22 at the time?

23 A. St. Clairsville.

24 Q. Okay.

25 A. This is about the halfway point.

1 Q. Okay. And where was he driving to?

2 A. Grove City.

3 Q. Do you know if the distance between
4 Pittsburgh and Grove City is more than 100 miles?

5 A. It's 192 miles.

6 MR. EUBANKS: One moment, please.

7 Q. And just real quickly could you explain
8 the importance of the logbook.

9 A. The logbook is the -- what the driver
10 keeps so they don't drive over their hours in any
11 given day. It's a safety -- safety factor that that
12 way we know they are not tired or sleepy on the road
13 and also assures they get their 34-hour break every
14 seven days.

15 Q. What did you do after -- I imagine you
16 cited him for the seat belt violation and the logbook
17 after that?

18 A. Yes. That was just noted on the
19 inspection report. I didn't physically hand him a
20 citation. That was just noted on the inspection.

21 Q. Okay. Did you do anything after that?

22 A. He was placed out of service for 10 hours
23 at the rest area then just a couple hundred yards
24 from where we stopped him. He was placed into the
25 rest area out of service so he would be safe.

1 Q. Okay. How long was he placed in the rest
2 area?

3 A. He was placed out of service for 10
4 hours.

5 Q. Do you know if he got another logbook?

6 A. I don't know what he done. I know I came
7 back through there about four hours later, and him
8 and the truck was not there. I don't know what he
9 done or where he went from that point.

10 Q. Do you have to have any qualifications in
11 order to -- in order to do motor inspections?

12 A. Yes.

13 Q. Do you have those?

14 A. Yes.

15 Q. What qualifications do you have to have?

16 A. The qualifications, we went to a training
17 class, a week long training class, at the Academy,
18 and then I had to be with a -- another Commercial
19 Motor Vehicle Trooper and get 32 level III
20 inspections and that, of course, is why the --
21 Trooper McDonald is with me today. He was the
22 co-inspector who was training me at the time this all
23 took place.

24 Q. Would he have also observed the
25 violations?

1 A. He wouldn't have observed the violations,
2 but he would have been the one with me during the
3 inspection.

4 Q. Okay.

5 A. He wouldn't have necessarily seen the
6 marked lane violation or the seat belt violation.

7 Q. But the logbook violation?

8 A. The logbook violation, yes, he would have
9 seen all that.

10 MR. EUBANKS: Okay. I have no further
11 questions.

12 EXAMINER LYNN: All right. I have a few
13 questions for you. You indicated you were in the
14 crossover when you saw Mr. Coy's vehicle approaching;
15 am I right?

16 THE WITNESS: Yes, sir.

17 EXAMINER LYNN: And was that vehicle in
18 the left lane or in the right lane as it approached
19 you? Do you recall?

20 THE WITNESS: The vehicle was in the
21 right lane.

22 EXAMINER LYNN: Okay. And you indicated
23 there was a question asked about weather conditions.
24 You are saying it was a sunny day. Was there any
25 problem with glare on the windshield or on the

1 windows, anything like that?

2 THE WITNESS: No glare, clear day, no
3 adverse weather of any kind.

4 EXAMINER LYNN: All right. Thank you. I
5 don't have any more questions at this time. Maybe
6 later though. You are still under sworn testimony.

7 Mr. Coy, do you have any questions of the
8 witness?

9 MR. COY: Well, this is my first hearing.
10 I didn't know what to expect. I didn't expect all
11 this so I got several.

12 EXAMINER LYNN: Okay.

13 - - -

14 CROSS-EXAMINATION

15 By Mr. Coy:

16 Q. You said you didn't recall me having my
17 seat belt on when you approached the vehicle but you
18 remember all the other details but you didn't
19 remember that one in particular.

20 A. No.

21 Q. Okay. And why did you find it necessary
22 to give me a field sobriety test and ask me if I had
23 been drinking among the other things that you
24 performed on me that wasn't discussed?

25 A. Because I felt at the time you was under

1 the influence of some sort of medication or
2 something.

3 Q. Okay.

4 A. That's why the field sobriety test was
5 conducted. Upon the field sobriety test I didn't
6 feel I had enough evidence to cite you for any type
7 of thing. That's why nothing else was done
8 retrospect to that.

9 Q. Okay. And you said I was wearing an
10 orange sweatshirt because I don't recall owning one
11 of those.

12 A. A red sweatshirt.

13 Q. Red. You said earlier orange.

14 A. I said the seat belt was orange.

15 Q. Oh, okay. My seat belt was black at the
16 time. What else here? And I see you got me for
17 failure to drive within marked lanes. Do you recall
18 making the statement to me that if I didn't
19 immediately admit to not having a seat belt, that you
20 was going to get me for marked lanes and that it
21 didn't matter anyways? Do you recall a statement
22 like that?

23 A. No, sir.

24 MR. COY: You don't. Okay. That's all I
25 have, sir.

1 EXAMINER LYNN: All right. And another
2 question, seat belt was orange, so the entire belt
3 was orange? It wasn't just a slip on?

4 THE WITNESS: Yes, sir, an orange seat
5 belt. A lot of the vehicles are putting orange seat
6 belts in. I have seen several of them. Even some of
7 your like postal service and stuff, mail trucks are
8 orange now as well.

9 EXAMINER LYNN: Okay. Thank you. No
10 further questions. You can take your seat.

11 And, Mr. Eubanks, do you have any other
12 witnesses?

13 MR. EUBANKS: I would like to call
14 Officer McDonald.

15 EXAMINER LYNN: Okay. Come on up,
16 please. Thank you.

17 (Witness sworn.)

18 EXAMINER LYNN: Mr. Eubanks.

19 - - -

20 TROOPER RUSS MCDONALD
21 being first duly sworn, as prescribed by law, was
22 examined and testified as follows:

23 DIRECT EXAMINATION

24 By Mr. Eubanks:

25 Q. Hello, sir. Could you state your full

1 name for the record.

2 A. Trooper Russ McDonald.

3 Q. And your position?

4 A. I'm an Ohio State Trooper. I am also a
5 Commercial Motor Vehicle Inspection Trooper.

6 Q. And are you trained for that -- for
7 inspecting motor vehicles?

8 A. Yes, sir.

9 Q. And how so?

10 A. I received my accreditations for the Ohio
11 State Highway Patrol in 2004 and 2005 by going
12 through the North American Level I Standard School.

13 Q. Would they have covered what you needed
14 to do in order to perform logbook inspections?

15 A. Yes, sir.

16 Q. Okay. On October 23, 2015, were you
17 involved in the inspection of John Coy?

18 A. Yes, sir.

19 Q. Are you familiar with the logbook
20 violation in any way?

21 A. Yes, I am.

22 Q. And how so?

23 A. I was the co-inspector if you look under
24 the captioned "Locally Defined Fields" information, I
25 believe it says on the inspection that I was listed

1 as a co -- co-investigator. I was present at the
2 time that the inspection was conducted.

3 Q. Okay. And did you observe the logbook
4 violation?

5 A. Yes, I did.

6 Q. And what was that violation?

7 A. There was no logbook. The driver stated
8 that he had left it in the shop, left it at the shop.

9 Q. Okay. And there was testimony by Officer
10 Wilcox that the driver began his trip in Pittsburgh.
11 Is that -- are you -- do you concur with that?

12 A. Yes, sir, that's correct.

13 Q. And how would you know?

14 A. I was standing right there when the
15 Trooper Wilcox interviewed the driver. After we made
16 the initial contact -- during the initial contact,
17 after we made the traffic stop, we approached the
18 driver's side of the vehicle and interviewed the
19 driver.

20 Q. Okay.

21 A. We asked for the driver's credentials,
22 driver's license, medical card, registration, bill of
23 lading, and his logbook.

24 Q. So did you review the bill -- the bill of
25 lading?

1 A. Yes, I did.

2 Q. And did it say where the driver was
3 coming from?

4 A. Yes. The load was coming from
5 Pittsburgh.

6 Q. Okay. And you are saying the driver also
7 admitted coming from Pittsburgh?

8 A. That's where he picked the load up, yes,
9 sir.

10 Q. And how did you determine -- or did you
11 determine where he was going, what the destination
12 was going to be?

13 A. Yes, sir.

14 Q. And how did you do that?

15 A. Looking at the bill of lading, the
16 destination was listed as Grove City, Ohio, and
17 that's where the driver said he was going.

18 Q. Did the driver -- the driver also
19 admitted that.

20 A. Yes.

21 Q. Okay. And do you know the distance
22 between Pittsburgh and Grove City?

23 A. Yes. It's over 100 air miles. The route
24 that we looked at this morning was 192. I believe it
25 was 192.4 miles.

1 MR. EUBANKS: Okay. All right. I have
2 no further questions.

3 EXAMINER LYNN: Questions from myself,
4 you addressed the matter of the logbook violation.
5 What are your comments on the seat belt violation?

6 THE WITNESS: I was sitting in the same
7 crossover that Trooper Wilcox was. I was in my own
8 patrol vehicle at the time, and I'm the one that
9 pointed it out, the driver was sitting leaning
10 forward and to the right to the interior of the
11 vehicle. The seat belt was orange; the driver was
12 wearing a red sweatshirt as he went by.

13 EXAMINER LYNN: But you did not see any
14 evidence -- any indication he was wearing the belt at
15 that time when he was driving by.

16 THE WITNESS: That's correct.

17 EXAMINER LYNN: Okay. And what are your
18 comments as far as the weather conditions, ability to
19 see into the vehicle, that kind of thing?

20 THE WITNESS: That's correct. It was a
21 clear -- it was a clear day. I can't recall if the
22 sun was shining, but it was a clear bright day.

23 EXAMINER LYNN: All right. Thank you. I
24 have no further questions of you myself at this time.

25 Mr. Coy?

1 MR. COY: I do.

2 - - -

3 CROSS-EXAMINATION

4 By Mr. Coy:

5 Q. Why was I initially pulled over?

6 A. One, for DOT inspection --

7 Q. Okay.

8 A. -- and the marked lanes violation. When
9 we were following you from the crossover, we pulled
10 out on you from the crossover to the rest area, you
11 were driving off into the rumble strips.

12 Q. Okay.

13 A. Failure to drive within a marked lane.

14 Q. So let me get this correct here. So you
15 was initially going to pull me over for a DOT, but
16 when I am passing, you saw me without the seat belt
17 on.

18 A. That's correct.

19 Q. And then you follow me, and you see I am
20 swerving to get over within the marked lanes. Where
21 did I go out of the marked lanes at?

22 A. You drove into the rumble strips when we
23 pulled out of the crossover.

24 Q. On the left or right side?

25 A. The right side.

1 Q. The right side. Is there a rest stop in
2 that area?

3 A. I think it's approximately a mile from
4 the crossover to the rest area.

5 Q. So where you pulled me over at, I wasn't
6 nowhere near a rest stop. I was about a mile from
7 the rest stop?

8 A. No, sir. That's not what I just said.

9 Q. Okay. How far was I from the rest stop
10 when I finally --

11 A. You pulled into the rest area.

12 Q. Actually in the rest area?

13 A. Yes, sir.

14 Q. Is there a chance I could have been
15 getting over a little bit to maybe get over?

16 A. No, sir, not into the rumble strips.

17 Q. Okay. And why did you initiate the field
18 sobriety?

19 A. Because we had a marked lanes violation
20 and your behavior at the time during the initial
21 contact.

22 Q. Did you initiate a breathalyzer?

23 A. Yes, we did. I think we had a
24 portable --

25 THE WITNESS: Did we have a portable

1 tester?

2 TROOPER WILCOX: I don't recall if we had
3 a portable. I'm not positive.

4 Q. What was the results of that since you
5 said I did blow in the breathalyzer?

6 A. You didn't -- it wasn't high enough for
7 us to further our investigation.

8 Q. And you are 100 percent accurate that I
9 most definitely blew in a breathalyzer?

10 A. I believe Trooper Baillis --

11 Q. Are you 100 percent accurate?

12 A. No, I am not.

13 MR. COY: Thank you. That will be all.

14 EXAMINER LYNN: Okay. Thank you. You
15 can take your seat for the time being.

16 And, Mr. Eubanks, did you have a final
17 witness?

18 MR. EUBANKS: I do not.

19 EXAMINER LYNN: You do not. Okay. I
20 would --

21 MR. EUBANKS: Well, I take that back. I
22 do have one further witness. I would like to call
23 Jonathan Frye to the stand.

24 EXAMINER LYNN: Okay. Mr. Frye.

25 (Witness sworn.)

1 EXAMINER LYNN: Please continue.

2 MR. EUBANKS: I would like to show the
3 witness an exhibit.

4 EXAMINER LYNN: Please do.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 - - -

7 JONATHAN FRYE

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

10 DIRECT EXAMINATION

11 By Mr. Eubanks:

12 Q. Could you state your name for the record.

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

14 Q. And could you state your occupation.

15 A. I'm Chief of Compliance of the
16 Transportation Department.

17 Q. Okay. And what are your job duties?

18 A. To review the assessments of the
19 compliance staff to ensure that the fines are
20 assessed correctly.

21 Q. Okay. In this particular case did you
22 review the fines to see if they were assessed
23 correctly?

24 A. Yes. In this particular case the
25 fines -- there was a \$100 fine that was assessed for

1 no logbook and a \$100 fine that was assessed for a
2 failing to use a seat belt, and those fines were
3 assessed correctly.

4 Q. Okay. I handed you a document. Could
5 you identify it, if you can.

6 A. Yes. This is a Notice of Preliminary
7 Determination letter and what this letter is once the
8 driver makes a request for a conference to dispute
9 the violation, in the event we are unable to reach a
10 resolution, we will issue this document which
11 provides the driver with -- with notice on how to pay
12 the fine as well as notice on how to contest the
13 violation through the administrative hearing process.

14 Q. So is this the document that was issued?

15 A. That's correct.

16 Q. And how would you know?

17 A. Because the document itself indicates
18 Notice of Preliminary Determination and it also
19 indicates the case number that was assigned to this
20 particular case. And this case number is identical
21 to the case number that's on the Driver/Vehicle
22 Examination Report.

23 Q. So the forfeiture amounts on this Notice
24 of Preliminary determination, do they match up with
25 what's been assessed?

1 A. That's correct.

2 MR. EUBANKS: I have no further
3 questions.

4 EXAMINER LYNN: All right. Mr. Frye,
5 just one question on my part. You indicated there is
6 a \$100 violation for both, both violations.

7 THE WITNESS: Right. There are two
8 separate violations. The logbook violation is \$100,
9 and the no seat belt is a separate \$100 violation, so
10 the total amount of the fine is \$200.

11 EXAMINER LYNN: Okay. Thank you. No
12 further questions at this time.

13 Mr. Coy?

14 - - -

15 CROSS-EXAMINATION

16 By Mr. Coy:

17 Q. Do you know what a level III inspection
18 is? Probably not?

19 A. Yes.

20 Q. You do. Oh, you do. What's that consist
21 of?

22 A. Interviewing the driver. Again, I could
23 be wrong because I don't necessarily perform the
24 inspections.

25 Q. So do you know what a level III

1 inspection is?

2 A. It's -- no, I do not.

3 MR. COY: Okay. Thank you. That's all I
4 have.

5 EXAMINER LYNN: All right. Thank you,
6 Mr. Frye.

7 All right. Mr. Coy, if you would like to
8 take the stand, please.

9 MR. COY: Can I take these with me?

10 EXAMINER LYNN: You can if you want,
11 sure.

12 (Witness sworn.)

13 - - -

14 JOHN A. COY

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

17 DIRECT EXAMINATION

18 EXAMINER LYNN: Well, have a seat and
19 give us your perspective on the alleged violations.

20 THE WITNESS: Well, my perspective is I
21 feel like I was pulled over for a random DOT
22 inspection. I did have my seat belt on; however, I
23 did not have my logbook. I most definitely forgot it
24 at the shop, absolutely. I feel like I was harassed
25 by being pulled out of the vehicle, doing field

1 sobriety tests. I told them several times I would be
2 happy to urinate in a cup or do a breathalyzer. They
3 didn't do that. Most definitely did not blow in a
4 breathalyzer.

5 EXAMINER LYNN: Okay.

6 THE WITNESS: That would be a false
7 statement by him. I feel like the only -- well, not
8 only that but the marked lanes I talked to the
9 prosecutor in the county I was pulled in. She
10 dismissed marked lanes. She told me that -- I said
11 why did they get me for marked lanes and seat belt?
12 She told me any time you don't admit to the seat belt
13 they give you a marked lane violation as well.
14 That's exactly what she told me. She dismissed the
15 marked lanes.

16 MR. EUBANKS: I would like to make an
17 objection.

18 THE WITNESS: That's what she told me.

19 EXAMINER LYNN: Well --

20 THE WITNESS: I am giving you my
21 perspective. That's my perspective.

22 EXAMINER LYNN: Well, I'll just say this,
23 let's focus on the violations for which you received
24 the fine which was the logbook, and you said you did
25 not have the logbook.

1 THE WITNESS: Okay.

2 EXAMINER LYNN: And then as far as the
3 seat belt goes, you are indicating you were wearing
4 the seat belt and either -- is the seat belt orange?

5 THE WITNESS: No, it's black. It's an
6 older truck. No. I have been driving semis a long
7 time. I never saw an orange seat belt. I didn't --
8 never saw an orange seat belt. I very well may have
9 had a red sweatshirt on. But, no, I have never saw
10 an orange seat belt.

11 EXAMINER LYNN: Okay. Mr. Eubanks, do
12 you have any questions for Mr. Coy?

13 - - -

14 CROSS-EXAMINATION

15 By Mr. Eubanks:

16 Q. How were you wearing the seat belt? How
17 do you allege to have been wearing the seat belt?

18 A. I just.

19 Q. So you allege that you had a black seat
20 belt across --

21 A. Uh-huh.

22 Q. Across the orange shirt?

23 A. Correct, red shirt.

24 Q. Across the red shirt.

25 A. Uh-huh.

1 MR. EUBANKS: Okay. And I have no
2 further questions.

3 THE WITNESS: I always wear my seat belt.

4 EXAMINER LYNN: Your question again. Do
5 that one more time. You are saying Mr. Coy is --

6 Q. (By Mr. Eubanks) My question is you're
7 alleging to have had a black seat belt worn across a
8 red shirt.

9 A. Yeah.

10 Q. At the time you were driving your -- your
11 truck.

12 A. To my knowledge I had a red seat belt on.
13 100 percent fact that it's a black seat belt.

14 Q. Not an orange seat belt but a black seat
15 belt across a red shirt.

16 A. 100 percent black seat belt. I am not
17 100 percent about the red shirt. Very well could
18 have been a red shirt. 100 percent no doubt about it
19 black seat belt.

20 MR. EUBANKS: Okay. I have no further
21 questions.

22 EXAMINER LYNN: And, again, just a
23 question for Officers Wilcox and McDonald. You did
24 not see any seat belt being worn at all.

25 TROOPER McDONALD: That's correct.

1 TROOPER WILCOX: No, sir.

2 EXAMINER LYNN: That was when you were --
3 do you recall when you approached him, when the
4 vehicle was pulled over, was there a seat belt on at
5 that time?

6 TROOPER WILCOX: I don't recall at that
7 point, no.

8 TROOPER McDONALD: That's correct. That
9 I don't recall.

10 EXAMINER LYNN: Okay. All right. And,
11 Mr. Coy, do you recall on that date what the weather
12 conditions were like and where the --

13 THE WITNESS: I don't. I am sure
14 whatever the -- I inspected the ticket pretty
15 thoroughly and whatever the ticket stated for the
16 weather is probably pretty accurate.

17 EXAMINER LYNN: All right. And do you
18 recall -- as you drove along the interstate, do you
19 recall noticing the Highway Patrol vehicle?

20 THE WITNESS: Yes. Oh, yeah.

21 EXAMINER LYNN: And were they in the
22 crossover?

23 THE WITNESS: What do you mean by were
24 they?

25 EXAMINER LYNN: Crossover as in the

1 median, the crossover.

2 THE WITNESS: Were they in it when?

3 EXAMINER LYNN: Prior to their pulling
4 you over, you said you noticed their vehicles. Do
5 you recall, were they as they had stated in that
6 crossover, you know, between --

7 THE WITNESS: I don't -- I don't
8 recollect two of them there. I recollect the one. I
9 don't recollect the DOT SUV, but definitely Officer
10 Wilcox because he is the one that pulled me over.
11 This other officer, I forget his name. What is it?

12 EXAMINER LYNN: Officer McDonald.

13 THE WITNESS: I am pretty sure he came
14 after the fact, and he is the one that started
15 initiating the breathalyzer, but I am not 100 percent
16 on that either. But I got a pretty daggone good
17 memory.

18 EXAMINER LYNN: At any rate then you
19 recall seeing the Highway Patrol vehicles, or at
20 least one of them.

21 THE WITNESS: Oh, yeah.

22 EXAMINER LYNN: The vehicle for Officer
23 Wilcox.

24 THE WITNESS: Yeah.

25 EXAMINER LYNN: Was it in the median?

1 THE WITNESS: Officer Wilcox, yes.

2 EXAMINER LYNN: In the crossover?

3 THE WITNESS: That's the one I recall. I
4 think the other officer came quite a bit after the
5 fact.

6 EXAMINER LYNN: All right.

7 THE WITNESS: But I am not 100 percent on
8 that.

9 EXAMINER LYNN: Thank you.

10 THE WITNESS: Pretty sure though.

11 EXAMINER LYNN: Okay. I have no further
12 questions at this time.

13 And, Mr. Eubanks, do you have any more
14 questions?

15 MR. EUBANKS: I would like to call
16 Officer Wilcox back to the stand.

17 EXAMINER LYNN: Thank you, Mr. Coy.

18 I will remind you you are still under
19 oath and please continue, Mr. Eubanks.

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1 OFFICER DENNIS WILCOX

2 being previously duly sworn, as prescribed by law,
3 was examined and testified further as follows:

4 REDIRECT EXAMINATION

5 By Mr. Eubanks:

6 Q. Did you take any inspection notes at the
7 time on October 23, 2015, when you were doing the
8 inspection of John Coy?

9 A. Yes, I took some notes, correct.

10 Q. Okay. And when did you write those notes
11 down?

12 A. During my inspection.

13 Q. Okay. So the notes that you wrote down
14 were made contemporaneously with the inspection.

15 A. Yes, sir.

16 Q. So when you testify about the color of
17 the seat belt and the color of Mr. Coy's shirt, the
18 notes -- you took notes about the color of both
19 during the inspection?

20 A. Yes, sir.

21 Q. All right. I would like to hand you
22 again our first inspection -- I mean our first
23 exhibit. So if you could go to the part that is the
24 inspection notes, it's about midway down in the
25 document.

1 A. Yes, sir.

2 Q. Are those the notes you took at the time
3 of the inspection?

4 A. Yes, sir.

5 Q. And what do they indicate about the color
6 of the shirt and color of the seat belt?

7 A. "During inspection, seatbelt was found to
8 be orange, and driver was wearing a red sweat shirt."

9 Q. Okay. So just to be clear, it's not
10 that --

11 MR. EUBANKS: I guess I have no further
12 questions.

13 EXAMINER LYNN: Thank you.

14 Mr. Coy, do you have any additional
15 questions?

16 MR. COY: Yes.

17 - - -

18 RECROSS-EXAMINATION

19 By Mr. Coy:

20 Q. Is it easy to justify and say the seat
21 belt was orange just to justify the seat belt
22 violation for you guys in the past or?

23 A. No. It would have been easier to see a
24 black seat belt on a red shirt. If it was black, it
25 was black. If it was orange, it was orange.

1 Q. And do you know what a level III
2 inspection is?

3 A. I know exactly what a level III
4 inspection is.

5 Q. What does that consist of?

6 A. It consists of driver credentialing,
7 markings on the truck, has nothing to do with the
8 mechanics of the truck.

9 Q. Okay. Did you check for insurance on the
10 vehicle?

11 A. Yes.

12 Q. You did.

13 A. Yes.

14 Q. And do you recall giving me a
15 breathalyzer?

16 A. I don't think I gave you a breathalyzer
17 because I did not suspect alcohol, and the
18 breathalyzer only is for alcohol. I suspected more
19 of a some sort of narcotics or prescription drugs or
20 something, so I did not give a breathalyzer.

21 Q. Did you give me a urinalysis?

22 A. No.

23 Q. If you thought I was under the influence
24 of drugs -- drugs, why didn't you give me a
25 urinalysis or something further?

1 A. Because -- because upon my inspection
2 after checking your eyes with the field sobriety, I
3 didn't feel the need to go any further as to do a
4 urine test.

5 Q. Okay. But you found it necessary to
6 charge me for marked lanes, logbook, and seat belt,
7 three violations.

8 A. Yes. And as far as the marked lanes
9 violation goes, that was actually on video. When
10 the -- once it was taken care of in court, the videos
11 are erased after 30 days. That's per Highway Patrol
12 policy unless it is saved. It wasn't saved because
13 the court was taken care of. I have the court
14 paperwork where you wrote a not guilty plea in
15 writing. And further down through here it ended up
16 they amended it to a headlight violation so you
17 wouldn't receive any points on your driver's license
18 because the marked lane violation is a 2 point
19 violation and that's a fairly common practice in the
20 Belmont County court system.

21 Q. So you're assuming that's why she done
22 it. There's no way she might have just thought --

23 MR. EUBANKS: I would like to object to
24 this line of questioning. We are not here about
25 the --

1 EXAMINER LYNN: Mr. Coy, I understand why
2 you are asking the question --

3 MR. COY: Thank you.

4 EXAMINER LYNN: Well, what I was about to
5 say is this, because we are here for the violations
6 for which you were assessed the fines, you could ask
7 the officer about some of the questions of that
8 nature after the hearing if you wish.

9 MR. COY: Yeah.

10 EXAMINER LYNN: Actually, Mr. Coy, I have
11 a question for you. Given that we are nearing the
12 end of your hearing, you will not need to reoccupy
13 the stand. Do you always drive the same vehicle or
14 tractor for Jart?

15 MR. COY: Not 100 percent of the time,
16 no.

17 EXAMINER LYNN: Not always?

18 MR. COY: Most of the time, yes.

19 EXAMINER LYNN: Okay. Thank you.

20 MR. COY: All their seat belts are black.

21 EXAMINER LYNN: Okay. Mr. Eubanks,
22 anything else?

23 MR. EUBANKS: I have no further
24 questions.

25 EXAMINER LYNN: Before we go further I'll

1 ask -- assume staff wants to have these exhibits
2 admitted into evidence.

3 MR. EUBANKS: Yes, yes.

4 EXAMINER LYNN: Okay. So Staff Exhibit
5 1, which is the Driver/Vehicle Examination Report;
6 Staff Exhibit 2, which is the Notice of Preliminary
7 Determination issued to Mr. McCoy. Mr. Coy, do you
8 have any objections to admitting either of these
9 items into evidence?

10 MR. COY: I got about 7 minutes for the
11 meter just for your information, sir.

12 EXAMINER LYNN: Thank you for the
13 reminder.

14 MR. COY: I don't want a ticket.

15 EXAMINER LYNN: I understand. Do you
16 have any objection to admitting either of these into
17 evidence, the inspection report or the Notice of
18 Preliminary Determination?

19 MR. COY: No, sir.

20 EXAMINER LYNN: All right. Thank you. I
21 believe that wraps things up for today. I want to
22 thank everyone for attending and have a good trip
23 back.

24 (Thereupon, the hearing was concluded at
25 10:49 a.m.)

1 CERTIFICATE

2 I do hereby certify that the foregoing is
3 a true and correct transcript of the proceedings
4 taken by me in this matter on Thursday, March 31,
5 2016, and carefully compared with my original
6 stenographic notes.

7
8
9 Karen Sue Gibson, Registered
10 Merit Reporter.

11 (KSG-6174)

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Summary: Transcript In the Matter of John Coy, Notice of Apparent Violation and Intent to Assess Forfeiture, hearing held on March 31, 2016. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.