

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of	:	
	:	
Jerry Sigman	:	Case No. 16-2039-TR-CVF
	:	
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PROCEEDINGS

before Kerry Sheets, Attorney Examiner, held at the
offices of the Public Utilities Commission of Ohio,
180 East Broad Street, Room 11-C, Columbus, Ohio, on
Thursday, January 12, 2017, at 10:00 a.m.

- - -

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1 APPEARANCES:

2 Michael DeWine, Ohio Attorney General
3 By Natalia V. Messenger, Esq.
4 Assistant Attorney General
5 30 East Broad Street, 16th Floor
6 Columbus, Ohio 43215

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

9 Jerry L. Sigman
10 11768 Reid Road Northwest
11 Jeffersonville, Ohio 43128

12 Appearing pro se.

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1 Thursday morning,

2 January 12, 2017.

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4 ATTORNEY EXAMINER: I'm going to go
5 ahead and call the hearing. The Public Utilities
6 Commission of Ohio has set for hearing at this time
7 and place Case No. 16-2039-TR-CVF in the matter of
8 Jerry Sigman.

9 My name is Kerry Sheets. I'm an attorney
10 examiner for the commission. I've been assigned to
11 hear this case.

12 May I now have the appearances of the
13 parties, please.

14 MS. MESSENGER: Thank you, Your Honor.
15 On behalf of the Staff of the Public Utilities
16 Commission of Ohio, Natalia Messenger, 30 East Broad
17 Street, Columbus, Ohio 43215.

18 ATTORNEY EXAMINER: Thank you.

19 Mr. Sigman?

20 THE RESPONDENT: Yes. Sir, I --

21 ATTORNEY EXAMINER: State your name and
22 address, please.

23 THE RESPONDENT: Jerry Sigman. I wear
24 hearing aids, and I've got them turned up as loud as
25 I can, and I can't hear you. So I need to move

1 closer, I guess.

2 ATTORNEY EXAMINER: Give your name and
3 address, please.

4 THE RESPONDENT: I don't know what he's
5 saying. He's got a really soft voice.

6 MS. MESSENGER: He has hearing aids in.

7 ATTORNEY EXAMINER: Oh.

8 MS. MESSENGER: So he can't hear very
9 well. Can you just speak up for him? And I'll have
10 him move closer if that's all right.

11 ATTORNEY EXAMINER: Okay. Well, do you
12 want to come up closer?

13 THE RESPONDENT: Yeah, I'll come up
14 closer. You've got a really soft voice.

15 ATTORNEY EXAMINER: Just sit down here.
16 Yeah, that's good.

17 Now I need you to enter an appearance on
18 the record. Okay? Can you give your name and
19 address?

20 THE RESPONDENT: Oh, yeah. Jerry L.
21 Sigman, 11768 Reid Road Northwest, Jeffersonville,
22 Ohio 43128.

23 ATTORNEY EXAMINER: Thank you.

24 Do we have any preliminary matters to take
25 care of this morning?

1 MS. MESSENGER: Yes, Your Honor.

2 Mr. Sigman and I have agreed to stipulate to the
3 forfeiture amount in this case, which is \$250.

4 Mr. Sigman also stipulates to the fact that he
5 received the notice of preliminary determination
6 from the Staff of the Public Utilities Commission.

7 ATTORNEY EXAMINER: Very good.

8 MS. MESSENGER: I would like to mark as
9 Staff Exhibit 1 the notice of preliminary
10 determination.

11 (Staff Exhibit 1 was marked for
12 identification.)

13 MS. MESSENGER: May I approach, Your
14 Honor?

15 ATTORNEY EXAMINER: You may.

16 MS. MESSENGER: That's all the
17 preliminary matters I have for right now.

18 ATTORNEY EXAMINER: Okay. Do you have
19 any witnesses to call?

20 MS. MESSENGER: Yes, Your Honor. I
21 would like to call Steven Morgan to the stand.

22 ATTORNEY EXAMINER: We don't happen to
23 have a chair up here for you. You want to bring one
24 up?

25 MR. MORGAN: Thank you.

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STEVEN R. MORGAN,
called as a witness, being first duly sworn,
testifies and says as follows:

- - -

DIRECT EXAMINATION

BY MS. MESSENGER:

Q. Can you please state your name and
business address for the record?

A. Steven R. Morgan. Business address is
2855 Dublin Granville Road, Columbus 43235.

Q. And who is your employer?

A. State of Ohio.

Q. And what is your position with the
State of Ohio?

A. I'm a motor carrier enforcement
officer.

Q. And what are your duties as a motor
carrier enforcement officer?

A. My duties are to check -- do semi
inspections on the side of the road.

Q. Can you describe your work experience?

A. Yes. I've had -- I drove a truck for
about 28 years, and I've been a mechanic for almost
15. We used to have a truck garage. I'd done

1 mechanic work there.

2 Q. And how did you come to work for the
3 Ohio Highway Patrol?

4 A. I started out 14 years ago working as a
5 maintenance man. Then I was moved up to security
6 and everything else. Then they had this opening, so
7 I applied for the motor carrier vehicle.

8 Q. And how long have you been a motor
9 carrier enforcement officer?

10 A. About a year and a half, ma'am.

11 Q. What certifications or trainings do you
12 have as a motor carrier enforcement officer?

13 A. Federal motor carrier. We had Part A,
14 Part B, hazmat, bus, passenger bus, school bus, and
15 just other endorsements.

16 Q. Were you on duty on August 16, 2016?

17 A. Yes, ma'am.

18 Q. What was your job assignment that day?

19 A. My job assignment was to go out and
20 look for violations on motor carriers -- on the
21 semis.

22 Q. And what area were you working?

23 A. I was working down around Rickenbacker
24 Air Force Base on the south end of Columbus.

25 Q. Were you in a uniform and in a marked

1 vehicle that day?

2 A. Yes, ma'am.

3 Q. Did you inspect a vehicle that resulted
4 in your preparing a report?

5 A. Yes, ma'am, I did.

6 Q. And today do you have an independent
7 recollection of that inspection?

8 A. Yes.

9 MS. MESSENGER: Your Honor, at this
10 time, I would like to mark as Staff Exhibit 2 the
11 driver/vehicle examination report.

12 (Staff Exhibit 2 was marked for
13 identification.)

14 ATTORNEY EXAMINER: Very good.

15 MS. MESSENGER: May I approach?

16 ATTORNEY EXAMINER: You may.

17 MS. MESSENGER: Mr. Sigman, do you
18 recognize this document?

19 THE RESPONDENT: Me?

20 MS. MESSENGER: I'm sorry. I mean
21 Mr. Morgan.

22 BY MS. MESSENGER:

23 Q. Do you recognize this document?

24 A. Yes, ma'am.

25 Q. What is it?

1 A. This is an inspection I have done on
2 Mr. Sigman's vehicle.

3 Q. Was it prepared by you?

4 A. Yes, ma'am, it was.

5 Q. How did you prepare it?

6 A. We have Aspen in our motor carrier
7 vehicles. And in the Aspen program -- I printed it
8 out in that. Then, after we get everything done in
9 that, then I upload it to PUCO.

10 Q. Was this inspection prepared in the
11 ordinary course of your duties?

12 A. Yes, ma'am.

13 Q. And was it prepared at the time of the
14 inspection?

15 A. Yes, ma'am.

16 Q. Is this report an accurate
17 representation of the report that you created at the
18 time of the inspection?

19 A. Yes, ma'am, it is.

20 Q. What time did the inspection take
21 place?

22 A. The inspection started at 2:52 -- 1452
23 on 8/16.

24 Q. What was the inspection level for this
25 inspection?

1 A. It's a Level 2 --

2 Q. And what is --

3 A. -- which is a walk-around inspection.

4 Q. What does that entail?

5 A. I usually go up and speak to the
6 driver, get his information, driver's license, and
7 medical card. Then I do a walk-around around the
8 vehicle, checking lights and tires and so on from
9 there.

10 Q. Was the information in the report
11 accurate at the time you inputted it into the
12 computer?

13 A. Yes, ma'am, it was.

14 Q. And what did you do with the report
15 once you finished putting the information into the
16 computer?

17 A. I uploaded it to PUCO.

18 Q. Who is the driver identified on this
19 report?

20 A. Jerry -- Jerry Sigman.

21 Q. And how did you identify the driver?

22 A. By his license.

23 Q. What were the origin and destination of
24 this trip?

25 A. He was going from Columbus to Columbus.

1 So he was staying right here in the city.

2 Q. Okay. Why did you pull his vehicle
3 over?

4 A. I saw that Mr. Sigman was speaking on
5 his cell phone, which is a violation.

6 Q. Was the road that you pulled him over
7 on -- was that under the jurisdiction of the Ohio
8 Highway Patrol?

9 A. Yes, ma'am.

10 Q. Can you describe where you were parked
11 and what direction you were facing?

12 A. I was facing -- sitting on the right
13 side of the road facing southbound. Mr. Sigman was
14 coming northbound on Rickenbacker Parkway.

15 Q. Do you recall the weather that day?

16 A. I believe it was pretty nice out,
17 ma'am.

18 Q. And what did you see as the driver
19 drove past?

20 A. I noticed the driver had his left hand
21 up to the ear, and I saw the cell phone -- talking
22 on the cell phone.

23 Q. After you pulled him over, what
24 happened?

25 A. I walked up to the truck, and I said,

1 "I stopped you today because you was talking on your
2 cell phone."

3 And Mr. Sigman said, "Yes." He said, "I
4 went" --

5 Him and his wife went to eat, and they
6 brought some food back. And he wasn't feeling -- he
7 was feeling bad. And he was calling -- he called
8 his wife to see what maybe he had ate to make him
9 sick.

10 So I said, "Okay." I said, "Let's get off
11 the road" because we was sitting in the middle of
12 the road. I said, "Let's get off the road and go up
13 here and turn in."

14 So we went up and parked in an open lot, and
15 then I continued to do my inspection from there.

16 Q. So the driver admitted to you that he
17 was on his cell phone?

18 A. Yes, ma'am, he did.

19 Q. Can you take a look at the violations
20 section of the report?

21 A. Yes, ma'am.

22 Q. And what information goes into the
23 violation description?

24 A. "Using a hand-held mobile telephone
25 while operating a CMV," commercial motor vehicle.

1 Q. And is that something you write in
2 there, or does it populate automatically?

3 A. It populates automatically.

4 Q. Okay. If you look at the first
5 violation listed, in Section 392.82(a)(1).

6 A. Yes, ma'am.

7 Q. And what does that section provide?

8 A. It's talking about operating a
9 commercial motor vehicle while talking on a cell
10 phone.

11 Q. How did you determine that Mr. Sigman
12 violated this section?

13 A. Through my training that I had and
14 through the regulation book that I have in the
15 vehicle. I pulled it up, double checked. But the
16 training we -- my certifications tell me that that
17 is a violation.

18 Q. So you saw him speaking on the phone
19 with his wife at the time that you pulled him over?

20 A. Yes, ma'am.

21 Q. After you completed the report, did you
22 sign it?

23 A. Yes, ma'am, I did.

24 Q. And did the driver sign it?

25 A. Yes, ma'am.

1 Q. And did you give Mr. Sigman a copy of
2 it?

3 A. Yes, ma'am, I did.

4 Q. And did you submit it to the
5 commission?

6 A. Yes.

7 MS. MESSENGER: Your Honor, at this
8 time, I have no further questions for Mr. Morgan,
9 but I would like to reserve him for rebuttal.

10 ATTORNEY EXAMINER: You can do that.

11 Mr. Sigman, do you have any questions for
12 this witness?

13 THE RESPONDENT: For him?

14 ATTORNEY EXAMINER: Yes.

15 THE RESPONDENT: No. No. He done a
16 very good job. It's just that --

17 ATTORNEY EXAMINER: No questions?

18 THE RESPONDENT: Not at all, no.

19 ATTORNEY EXAMINER: You're excused.

20 MR. MORGAN: Thank you, sir.

21 ATTORNEY EXAMINER: Do you have any
22 other witnesses?

23 MS. MESSENGER: I do not, Your Honor.

24 ATTORNEY EXAMINER: Mr. Sigman, do you
25 want to present testimony?

1 THE RESPONDENT: I'd like to.

2 ATTORNEY EXAMINER: Come up.

3 - - -

4 JERRY L. SIGMAN,
5 being first duly sworn, testifies and says as
6 follows:

7 - - -

8 DIRECT TESTIMONY

9 ATTORNEY EXAMINER: Why don't you go
10 ahead and tell us what happened on the day of the
11 inspection? Just present a narrative-style
12 testimony.

13 THE RESPONDENT: Okay.

14 ATTORNEY EXAMINER: Speak up so the
15 reporter can hear you.

16 THE RESPONDENT: Oh, okay. I work for
17 Rush Expediting. And we are hauling containers out
18 of Norfolk Southern down at Rickenbacker, and we're
19 only hauling them five miles. I really didn't like
20 doing it, but, like I said, I've been with the
21 company three years.

22 And I did -- I told them -- I said, "Well,
23 you need to find something else for me to do because
24 these are not safe. That's all there is to it."

25 And the day that I picked this one up, I

1 did notice that the -- the light that comes on to
2 let you know the brakes -- when something might be
3 wrong with the brakes came on but it was busted
4 loose, and one of the marker lights was out. But
5 being that I was only going five miles, I called
6 dispatch, and they said, "Well, you've got to take
7 it. We've got more to pull out of there. You need
8 to take it over there. Don't worry about it."

9 So I went around to check with the service
10 department. They didn't have time to fix it. They
11 said, "Just go ahead and take it. Don't worry about
12 it."

13 So I thought, "Well, okay."

14 So anyway, I went ahead and pulled it out
15 and was going down through there. I really wasn't
16 feeling good that day. I don't know if I ate
17 something or what, but when the officer pulled me
18 over, I thought, "Oh, he's seen the lights or
19 something -- you know, what I missed."

20 And he said, "I'm pulling you over. You
21 were talking on your cell phone."

22 I said, "Yeah. I was talking to my wife
23 because I'm trying to figure out what's wrong with
24 me." I thought I was going to throw up on him. But
25 anyway, he found what was wrong with the trailer and

1 everything and did his job.

2 But as far as my history -- do you want to
3 hear that? I've been driving since 1964. I had one
4 violation with 3.5 million miles of driving. I've
5 done all kinds of driving all over, and I liked what
6 I did.

7 And anyway, after he gave me the ticket and
8 everything, I went ahead and called Rush before I --
9 when I got over to drop the trailer, told them what
10 happened. They said, "Well, we can't use you
11 anymore. You messed up."

12 She said, "You know that's a \$2,500 fine?"

13 I said, "I only got a \$250 fine."

14 "Yeah, but we'll get an \$11,000 fine."

15 I thought, "Okay. Whatever." You know?

16 So I went back to the terminal, and they
17 let me go. And that's where it ended. And as far
18 as trying to get another job, nobody would hire me.
19 I checked with different companies.

20 "No," they said. "Not with that kind of a
21 violation. We just can't afford to have you."

22 I said, "Well" --

23 I thought I was on private property back
24 there too. I didn't realize that the state of Ohio
25 had any kind of a jurisdiction back there. And I

1 checked with Rickenbacker, and they said the only
2 thing they do for us is keep the roads clean.

3 And the guy told me -- he said, "I think
4 they just started having the DOT back here in the
5 last couple of months."

6 I said, "That's the first time I'd ever
7 seen them back there." There was two of them
8 sitting there on the side. It kind of surprised me.
9 And I said, "Well, you know, you've got to do what
10 you can do."

11 But I thought I was on private property or
12 I would never have even had my cell phone out. So I
13 didn't -- you know, wasn't aware that I was, you
14 know, in an area where I could get a ticket for
15 that. So that's basically what it is. You know?

16 And I have not been able to collect
17 unemployment because the company won't approve that.
18 So I'm not able to even get a job. I'd like to
19 drive a couple more years, you know, just locally,
20 but -- I'm kind of a victim of circumstances, but I
21 did it myself. So I'm not going to --

22 And the officer -- very, very nice. You
23 know, I would not go against what he said at all. I
24 had a nice conversation with him that day and
25 everything.

1 So that's basically what it is. And this
2 has been going on since August. I finally got to a
3 hearing anyway. I've been up here three or four
4 different times talking to Mr. Banks, and I sent one
5 letter up here that never got to who it was supposed
6 to go to, because I called him two or three
7 different times. He said, "Well, bring it up here,
8 and we'll a copy of it" because I even got a
9 registered mail back, but it was delivered here
10 somewhere. I forget the guy's name that signed it,
11 but I've got his name there too.

12 So basically that's what it is. You know?
13 I made a mistake, and I'm willing to do that. I'm
14 willing to pay my \$250 fine and whatever it takes
15 to -- so I can get a job. That's the main thing. I
16 mean, I can't even go on unemployment. I can't get
17 anybody. So just -- that's where it is.

18 Is that all you need to know?

19 ATTORNEY EXAMINER: Does that conclude
20 your testimony?

21 THE RESPONDENT: Yes.

22 ATTORNEY EXAMINER: Do you have any
23 questions for this witness?

24 MS. MESSENGER: I do not, Your Honor.

25 ATTORNEY EXAMINER: You're excused.

1 THE RESPONDENT: Thank you.

2 ATTORNEY EXAMINER: Do you have
3 anything more at this time?

4 MS. MESSENGER: I have nothing further,
5 Your Honor.

6 ATTORNEY EXAMINER: Very well. I will
7 admit Staff's Exhibits 1 and 2 into evidence.

8 (Exhibits admitted into evidence.)

9 MS. MESSENGER: Thank you.

10 ATTORNEY EXAMINER: And I submit --
11 consider this matter submitted on the record. I
12 thank you all for coming.

13 (Thereupon, the hearing was concluded at
14 10:20 a.m.)

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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, January 12,
2017, and carefully compared with my original
stenographic notes.

Heather A. Piper, Registered
Professional Reporter and
Notary Public in and for
the State of Ohio.

My commission expires October 29, 2020.

This foregoing document was electronically filed with the Public Utilities

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in

Case No(s). 16-2039-TR-CVF

Summary: Transcript In the Matter of Jerry Sigman, hearing held on January 12, 2017. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Piper, Heather A. Ms.