

1       BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

2                               - - -

3  
4       In the Matter of the                       :  
5       Request of Angelo B. Cross               : Case No.  
6       for an Administrative Hearing   : 10-914-TR-CVF

7                               - - -

8  
9                               PROCEEDINGS

10      Before Jim Lynn, Attorney Examiner, held at the  
11      offices of the Public Utilities Commission of  
12      Ohio, 180 East Broad Street, Hearing Room 11-C,  
13      Columbus, Ohio, on Tuesday, February 8, 2011, at  
14      10:00 A.M.

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                              - - -

APPEARANCES:

Mr. Stephen A. Reilly  
Assistant Attorney General  
180 East Broad Street  
Columbus, Ohio 43215

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

Mr. Angelo Cross  
4225 Etna Street  
Whitehall, Ohio 43212

Appearing on his own behalf.

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1 Tuesday Morning,  
2 February 8, 2011.

3 - - -

4 ATTORNEY EXAMINER: The Public  
5 Utilities Commission of Ohio as assigned for  
6 hearing at this time and place Case No.  
7 10-914-TR-CVF, In the Matter of Angelo Cross,  
8 Notice of Apparent Violation and Intent to  
9 Assess Forfeiture.

10 I am Jim Lynn, I am the Attorney  
11 Examiner assigned to hear this case. And at  
12 this time we will have the appearances of the  
13 parties. And we will start with the Ohio  
14 Attorney General's office.

15 MR. REILLY: Thank you, Your Honor.  
16 On behalf of the Staff of the Public Utilities  
17 Commission of Ohio, Mike DeWine, Ohio Attorney  
18 General, Bill Wright, Section Chief, Steve  
19 Reilly, Assistant Attorney General, 180 East  
20 Broad Street, Columbus, Ohio 43215.

21 ATTORNEY EXAMINER: Thank you. And,  
22 Mr. Cross, would you state your name and  
23 address, please?

24 MR. CROSS: Angelo Cross, 4225 Etna  
25 Street, Whitehall, Ohio 43212.

1                   ATTORNEY EXAMINER: Thank you, Mr.  
2 Cross. Mr. Reilly, if you would like to  
3 proceed. I believe you have one or more  
4 witnesses.

5                   MR. REILLY: Yes, Your Honor, thank  
6 you. I will call Inspector Dennis Bays.

7                   (WITNESS SWORN)

8                   - - -

9                   ATTORNEY EXAMINER: Thank you.  
10 Please take a seat. Mr. Reilly, please continue  
11 with your questioning.

12                  MR. REILLY: Thank you, Your Honor.

13                  DENNIS BAYS

14 called as a witness on behalf of the Staff,  
15 being first duly sworn, testified as follows:

16                  DIRECT EXAMINATION

17 By Mr. Reilly:

18                  Q. Mr. Bays, would you introduce  
19 yourself to the Court spelling your last name as  
20 well as giving us your business address and your  
21 employer?

22                  A. My name is Dennis Bays, B-A-Y-S. My  
23 business address is 2855 Dublin-Granville Road,  
24 Columbus, Ohio. And I don't know the zip. I  
25 believe it's 43223.

1           Q.    That is okay.  And who is your  
2   employer?

3           A.    The Ohio State Highway Patrol.

4           Q.    What is your position with the State  
5   Patrol?

6           A.    I am a Motor Carrier Inspector.

7           Q.    And how long have you been a Motor  
8   Carrier Inspector?

9           A.    Just over a year now.

10          Q.    And can you just generally describe  
11   your duties as a Motor Carrier Inspector?

12          A.    I inspect vehicles for safety  
13   compliance, driver's records, log books,  
14   billing, bill of lading receipts, and things  
15   like that.

16          Q.    Are you involved with  
17   the enforcement of the State Motor Carrier and  
18   Federal Motor Carrier Safety Regulations?

19          A.    I am.

20          Q.    Okay.  Is that one of your principal  
21   jobs is to inspect vehicles and drivers for  
22   compliance with those regulations?

23          A.    It is.

24          Q.    I would like to draw your attention  
25   to March 24, 2010, if I can.  Did you have

1 occasion to meet Mr. Angelo Cross?

2 A. I did.

3 Q. Would you describe the events of  
4 that meeting?

5 A. I stopped Mr. Cross for the purposes  
6 of an inspection due to a high ISS rating which  
7 is a DOT safety number. When I approached the  
8 vehicle and made contact with the driver I asked  
9 for his driver's license and medical card.

10 After looking at his driver's  
11 license and medical card I noticed that his  
12 driver's license required him to wear corrective  
13 lenses while he was driving, at which time he  
14 did not have them on. I asked him why he didn't  
15 have his glasses on, and at that time the driver  
16 picked up his glasses and stated that they were  
17 broken and that he had called for an appointment  
18 to get them replaced.

19 Done a further inspection, I done  
20 the underside of the vehicle while Mr. Daniel,  
21 which was training me at the time, had done log  
22 book research and things like that. Made some  
23 phone calls to verify times that the driver made  
24 stops which were not listed in the log book.

25 Went back to the car, entered a



1 report, and then issued the report to the  
2 driver, had him sign it and placed driver out of  
3 service at that time.

4 Q. Let's just talk about a few of the  
5 events in a little more detail. You mentioned a  
6 Mr. Daniel. Who is that?

7 A. He is a coinspector during this  
8 inspection. He has five or six years experience  
9 over top of myself. He was chosen to do my  
10 training for the motor carrier inspections.

11 Q. Now, you have also mentioned a  
12 medical card. Do you recall that?

13 A. I do.

14 Q. I would like you to look up there on  
15 the witness stand. There is a document that is  
16 marked as Staff Exhibit No. 1. Can you find  
17 that for me?

18 A. Yes.

19 Q. Can you tell me what that is?

20 A. It is a copy of a medical examiner's  
21 certification for the driver.

22 Q. Is that a copy of the card that you  
23 received that Mr. Cross gave you on the road  
24 during the inspection?

25 A. Not completely sure. I don't recall

1 the medical card requiring him to have  
2 corrective lenses at the time of the stop. I do  
3 recall the driver's license having that, but I  
4 don't recall that specifically, no.

5 Q. After you completed your inspection  
6 of the vehicle what did you do?

7 A. I went back to the car. We finished  
8 filling out a report on the MCT which afterwards  
9 the report is downloaded into a database. It's  
10 a federal and state database. Print it out, the  
11 report, issued the report to the driver, asked  
12 him to sign off on it.

13 And at that time placed the driver  
14 out of service for out of service violations.

15 Q. Now, you mentioned MCT. What is  
16 that?

17 A. It's a mobile computer terminal  
18 which is the computers that we have in our cars  
19 to type our reports on.

20 Q. It's a laptop?

21 A. Yes.

22 Q. And you mentioned you uploaded that,  
23 what you typed into the computer, you uploaded  
24 it into a federal and state database?

25 A. Yes.

1 Q. Okay. Do you know what the purpose  
2 of those database is? How they were used?

3 A. I do.

4 Q. And that is?

5 A. It is to prove or show compliance of  
6 a motor carrier or a driver through a system  
7 that follows the Safety Alliance. The state and  
8 federal use that for safety as far as knowing  
9 how the drivers, the companies, are rated.

10 Q. It's used in the administration and  
11 enforcement of the Motor Carrier Safety  
12 Regulations in the state and federal government?

13 A. Yes, it is.

14 Q. Is accuracy important in entering  
15 information into that computer?

16 A. Very.

17 Q. Was that stressed to you in your  
18 training for your job?

19 A. Yes.

20 Q. I would like you to take a look up  
21 there on the witness stand and take a look for a  
22 document identified as Staff Exhibit No. 2. If  
23 you know is that a printout from the Safety Net  
24 program describing what you input into the  
25 computer as a result of your inspection?

1           A.     It is.

2           ATTORNEY EXAMINER:   Go off the  
3     record just or minute.

4           (DISCUSSION OFF THE RECORD)

5           ATTORNEY EXAMINER:   Mr. Reilly,  
6     please continue.

7           MR. REILLY:   Thank you, Your Honor.  
8     I apologize, Mr. Cross, for not having given you  
9     copies of those.

10          Can I have a moment, Your Honor?

11          ATTORNEY EXAMINER:   Yes.   Go off the  
12     record for a minute.

13          (RECESS TAKEN)

14          ATTORNEY EXAMINER:   Back on the  
15     record, please.   Mr. Riley, if you would,  
16     please.

17          MR. REILLY:   Thank you, Your Honor.  
18     That is all we have for Inspector Bays.

19          ATTORNEY EXAMINER:   Okay.   Inspector  
20     Bays, I would like to ask you some questions to  
21     clarify for me.

22                                 EXAMINATION

23     By the Attorney Examiner:

24           Q.     So you are indicating that the  
25     Commercial Driver's License indicated

1 restriction on wearing glasses, corrective  
2 lenses?

3 A. Yes.

4 Q. And the medical examiner's  
5 certificate, Staff Exhibit 1 here, you are  
6 indicating that you are not 100 percent certain  
7 that is the certificate that you saw on that  
8 day?

9 A. Right. I do remember the driver's  
10 license if in fact this is the medical card that  
11 was present during the time. I don't recall  
12 seeing that marked. I do remember it being on  
13 the driver's license.

14 Q. But at any rate typically during an  
15 inspection you would ask to see the medical  
16 examiner's certificate too?

17 A. Yes.

18 ATTORNEY EXAMINER: Okay. I have  
19 no further questions at this time, but if I have  
20 other questions you are reminded you are still  
21 under oath.

22 THE WITNESS: Thank you.

23 ATTORNEY EXAMINER: Thank you. You  
24 may take your seat.

25 THE WITNESS: Thank you.

1                   ATTORNEY EXAMINER: And, Mr. Reilly,  
2 do you have any other witnesses?

3                   MR. REILLY: We would call Steven  
4 Daniel.

5                   ATTORNEY EXAMINER: Okay. Mr.  
6 Daniel.

7                   (WITNESS SWORN)

8                   - - -

9                   STEVEN DANIEL  
10 called as a witness on behalf of the Staff,  
11 being first duly sworn, testified as follows:

12                  ATTORNEY EXAMINER: Please take a  
13 seat. Mr. Reilly.

14                  MR. REILLY: Thank you, Your Honor.

15                  DIRECT EXAMINATION

16 By Mr. Reilly:

17                  Q. Mr. Daniel, if you would introduce  
18 yourself to the Bench and spell your last name  
19 for the court reporter and give us your business  
20 address and your employer.

21                  A. My name is Steven Daniel,  
22 D-A-N-I-E-L. The employer is the State Highway  
23 Patrol. The address is 2855 Dublin-Granville  
24 Road, Columbus, Ohio

25                  Q. Is your address the same as

1 Inspector Bays?

2 A. Yes, it is.

3 Q. Okay. And what is your position  
4 with the Patrol?

5 A. I am a Motor Carrier Inspector.

6 Q. And were you here for Mr. Bays'  
7 testimony?

8 A. Yes.

9 Q. Did you hear Mr. Bays' testimony?

10 A. Yes, I did.

11 Q. Okay. Are your duties as a motor  
12 carrier inspector fundamentally the same as the  
13 ones he described as his duties?

14 A. Yes, sir.

15 Q. Okay. Now, were you present at the  
16 inspection involved in this case on March 24th,  
17 2010 of Mr. Cross and his vehicle?

18 A. Yes, sir, I was.

19 Q. And why were you there?

20 A. I was the training officer. Dennis  
21 had just come out of the motor carrier class and  
22 they have to ride with a motor carrier inspector  
23 to get a number of inspections. So, we have  
24 training to ride along.

25 Q. Sure. And how long have you been a

1 motor carrier inspector?

2 A. I have been with the state a little  
3 over 30 years. I have been a motor carrier,  
4 went through the training first in '92 and then  
5 also went through training as a motor carrier in  
6 2001.

7 Q. Okay. And as part of your duties as  
8 a motor carrier inspector you have inspected  
9 motor vehicles?

10 A. Yes, sir.

11 Q. For compliance with the Federal and  
12 State Motor Carrier Safety Acts?

13 A. Yes, sir.

14 Q. Have you inspected a lot of  
15 vehicles?

16 A. Well, almost 10,000 probably in 10  
17 years.

18 Q. That would be a lot of vehicles?

19 A. Yes, sir.

20 Q. Now, Inspector Daniel, are drivers  
21 required to carry a medical certificate with  
22 them?

23 A. Yes, sir, they are.

24 Q. I would like you to take a look at  
25 what is marked for identification purposes as



1 Staff Exhibit No. 1. Can you find that up there  
2 on the witness stand?

3 A. Yes.

4 Q. Okay. If you would take a moment  
5 and take a look at that exhibit. Is that a  
6 standard medical card that drivers are required  
7 to carry?

8 A. This is one type. They have a long  
9 form and a short form. This is one particular  
10 type, yes.

11 Q. Is that the long form or --

12 A. This would be the short form.

13 Q. But it would be the type of card the  
14 drivers are required to carry?

15 A. Yes, sir.

16 Q. Now, that card has a name on it.  
17 Who is that card for?

18 A. Angelo B. Cross.

19 Q. Okay. And I notice the driver's  
20 license number. Can you see there is a section  
21 on the card that is identified at driver's  
22 license number?

23 A. Yes, sir.

24 Q. What is entered in that section?

25 A. Driver's license No. Robert Norris

1 863032.

2 Q. When you say Robert Norris you mean  
3 RN?

4 A. Right.

5 Q. And would that be the individual's  
6 driver's license number?

7 A. Yes, it was.

8 Q. I would like you take a moment and  
9 look at Staff Exhibit No. 2. Can you find that  
10 up there for me?

11 A. Yes, sir.

12 Q. Is Mr. Cross' driver's license  
13 number indicated anywhere on that exhibit?

14 A. Yes, sir, it is.

15 Q. I would like you to compare the  
16 driver's license number indicated on Staff  
17 Exhibit No. 2 with the driver's license number  
18 shown on Staff Exhibit No. 1. Would you do that  
19 for me, please?

20 A. I did, and they are the same.

21 Q. Okay. Would that lead you to  
22 conclude that the medical examiner's certificate  
23 depicted in Staff Exhibit 1 is for Mr. Angelo  
24 Cross, the Respondent in this case?

25 A. Yes.

1 MR. REILLY: Thank you, Mr. Daniel.  
2 We have nothing further.

3 ATTORNEY EXAMINER: Okay. I have a  
4 question, Inspector Daniel.

5 EXAMINATION

6 By the Attorney Examiner:

7 Q. If you cannot answer I will ask  
8 Inspector Bays. This medical examiner's  
9 certificate, Staff Exhibit 1, is this a  
10 photograph taken with a camera at the time of  
11 inspection of Mr. Cross?

12 A. Yes.

13 Q. All right. And did you take that  
14 photograph? Do you remember if Mr. Bays took  
15 the photograph?

16 A. I am thinking I did for the simple  
17 fact that I was taking photos of his log book,  
18 and when --

19 Q. So you were the person with  
20 the camera at that time?

21 A. Yes.

22 Q. And this is a photograph of the  
23 certificate that Mr. Cross presented at the time  
24 of inspection?

25 A. Yes.

1                   ATTORNEY EXAMINER: Thank you. I  
2 have no further questions. And you may take  
3 your seat for the time being.

4                   THE WITNESS: Okay.

5                   ATTORNEY EXAMINER: Thank you. Mr.  
6 Reilly, your next witness.

7                   MR. REILLY: Thank you. We would  
8 call Mr. Tom Forbes.

9                   (WITNESS SWORN)

10                   - - -

11                   TOM FORBES  
12 called as a witness on behalf of the Staff,  
13 being first duly sworn, testified as follows:

14                   ATTORNEY EXAMINER: Please take a  
15 seat. Mr. Reilly, you may continue.

16                   MR. REILLY: Thank you, Your Honor.

17                   DIRECT EXAMINATION

18 By Mr. Reilly:

19                   Q. Mr. Forbes, would you introduce  
20 yourself and spell your last name and give us  
21 your business address and employer?

22                   A. My name is Tom Forbes, F-O-R-B-E-S.  
23 My business address is 180 East Broad Street,  
24 Columbus, Ohio 43215.

25                   Q. And who are you employed by?

1           A.     The Public Utilities Commission of  
2     Ohio, Transportation Department, Compliance  
3     Division.

4           Q.     And what do you do for them?

5           A.     I am a compliance officer. I assess  
6     civil forfeitures from motor carrier inspections  
7     and compliance reviews that is done by PUCO and  
8     Highway Patrol staff.

9                     I answer technical questions, attend  
10    training, testify in civil forfeiture hearings,  
11    and answer technical calls to the regulated  
12    community.

13          Q.     And about how long have you been  
14    doing that, Mr. Forbes?

15          A.     About five and a half years.

16          Q.     And you have been involved with the  
17    Motor Carrier Safety Regulations far longer than  
18    that; haven't you?

19          A.     Yes, sir.

20          Q.     How long have you been involved with  
21    those regulations?

22          A.     Almost 30 years.

23          Q.     And been involved with the  
24    enforcement system for the same amount of time?

25          A.     Yes, sir.

1           Q.    Could you go over some of your  
2 previous occupations within this 30 year span  
3 for us?

4           A.    I started out with the State Fire  
5 Marshal's Office in 1983 in the hazardous  
6 materials emergency response field, where I also  
7 did training on motor carrier safety regs and  
8 hazardous material regulations.

9                   I was with the State Fire Marshal's  
10 Office up through '91 when I took a job with the  
11 private industry in the environmental field, and  
12 I stayed with those for 14 years.

13                   At that time I shipped hazardous  
14 materials and hazardous waste as somebody who  
15 was regulated, and packaged and filled out  
16 the paperwork for that.

17                   And then for the last five and a  
18 half years I have been with the Public Utilities  
19 Commission.

20           Q.    Thank you, Mr. Forbes. Now, as part  
21 of your duties with the transportation staff of  
22 the Public Utilities Commission have you had  
23 occasion to review the procedure in this case  
24 and the development of civil forfeiture?

25           A.    Yes, sir.

1           Q.    Okay.  Has the procedure in this  
2 case followed the requirements of  
3 the Commission's regulations?

4           A.    Yes, sir.

5           Q.    One of the notices that somebody  
6 receives is called a notice of apparent  
7 violation.  Are you familiar with that?

8           A.    Yes, sir.

9           Q.    Could you tell us what that is?

10          A.    There is a notice of apparent  
11 violation and an attempt to assess forfeiture  
12 that are sent to Respondents, whether they be  
13 carries or drivers, to notify them that there is  
14 a proposed fine levied against them.  And it  
15 comes with an instruction sheet to explain how  
16 they can either pay the forfeiture or request a  
17 conference to discuss it.

18          Q.    Did Mr. Cross receive a notice of  
19 apparent violation?

20          A.    Yes, sir.

21          Q.    And do you know, did Mr. Cross  
22 discuss this violation, the violation involved  
23 in this case, with the staff of the Public  
24 Utilities Commission?

25          A.    Mr. Cross did request a telephone

1 conference, and did discuss this case with  
2 staff.

3 Q. All right. And if a case is not  
4 resolved at that level, of the apparent  
5 forfeiture level, what does the staff do next?

6 A. They issue a letter that is called a  
7 notice of preliminary determination to the  
8 Respondent if the case was not resolved. And in  
9 this case it was not. A notice of preliminary  
10 determination was issued to Mr. Cross, and with  
11 it came an instruction sheet to explain how to  
12 either pay the forfeiture or request an  
13 administrative hearing.

14 Q. Now I would like you to take a look  
15 at what has been marked for identification as  
16 Staff Exhibit No. 3 that I have placed up there  
17 on the witness stand. Can you find that  
18 document for me?

19 A. Yes, sir.

20 Q. I would like you to take a moment  
21 and take a look at that document.

22 A. Yes, sir.

23 Q. Is that the notice of preliminary  
24 determination that you just described for this  
25 case?



1           A.    Yes, sir, it is.

2           Q.    The instruction sheet with the  
3 notice of preliminary determination notified Mr.  
4 Cross and any Respondent that they have the  
5 right to request an administrative hearing such  
6 as this one. Is that not correct?

7           A.    That is correct.

8           Q.    Okay. Now, I would like to talk to  
9 you about the development of the civil  
10 forfeiture in this case for a little bit. All  
11 right?

12          A.    Yes, sir.

13          Q.    Okay. Can you tell me how the -- do  
14 you know how the forfeiture was developed?

15          A.    Yes, sir.

16          Q.    Can you explain how?

17          A.    For non-hazmat inspections such as  
18 this one there is a fine schedule, and it uses  
19 the violations section code off of the  
20 inspection report that was completed. And it is  
21 a fine that is electronically generated for both  
22 the carriers and if applicable drivers.

23                So, when the inspection report was  
24 uploaded to the Safety Net it was eventually  
25 transferred to the civil forfeiture section. It

1 was ran through a computer program, and using  
2 the violations section numbers a forfeiture was  
3 proposed.

4 Q. Okay. Now, does Staff Exhibit No. 3  
5 identify the violation alleged in this case?

6 A. Yes.

7 Q. And what is that? What is the  
8 section number involved with that?

9 A. 391.11 (b)(5).

10 Q. And that is for not being licensed  
11 for the commercial motor vehicle. Can you  
12 describe to us why if somebody is required to  
13 wear corrective lenses and is not wearing them  
14 is not licensed to drive the commercial motor  
15 vehicle?

16 A. A CDL may be issued with  
17 restrictions. And in this case it's my  
18 understanding that there was a corrective lenses  
19 restriction on Mr. Cross' CDL. That CDL is only  
20 valid if the conditions of the restrictions are  
21 met. If the conditions of the restrictions are  
22 not met it is not a valid CDL.

23 Q. All right. I would like you to take  
24 a look at Staff Exhibit No. 4 and tell us if you  
25 can find that violation identified anywhere on

1 Staff Exhibit No. 4? And in particular I direct  
2 your attention to page 3.

3 A. Yes, sir. On page 3 a little better  
4 than halfway down the page that section No.  
5 391.11 (b) (5) is listed. It shows it is a  
6 Group 4 violation that is assessed against the  
7 driver 4D, and then it gives the basic  
8 description of not licensed for the type of  
9 vehicle being operated. And it shows that the  
10 forfeiture is \$250 forfeiture.

11 Q. Just for completeness sake, Mr.  
12 Forbes, The 4 at the front, you said it was a  
13 Group 4?

14 A. Yes, sir.

15 Q. Where are the groups shown?

16 A. The Groups were shown on the first  
17 two pages of Staff Exhibit 4. They are Group 1,  
18 2, 3 and 4.

19 Q. Mr. Forbes, is the civil forfeiture  
20 in this case consistent with the recommended  
21 penalties or forfeitures schedule adopted by  
22 the Commercial Motor Vehicle Safety Alliance?

23 A. Yes, sir.

24 Q. And is the forfeiture being assessed  
25 pursuant to a procedure that is consistent with

1 the recommended procedure adopted by  
2 the Commercial Motor Vehicle Safety Alliance?

3 A. Yes, sir.

4 MR. REILLY: Thank you, Mr. Forbes.  
5 We have nothing further.

6 ATTORNEY EXAMINER: And I have no  
7 questions either, Mr. Forbes. Thank you.

8 MR. REILLY: Your Honor, we would at  
9 this time move the introduction of Staff  
10 Exhibits 1 through 4 inclusive.

11 ATTORNEY EXAMINER: Into evidence.  
12 Mr. Cross, do you have objections to any of  
13 these exhibits?

14 MR. CROSS: No.

15 ATTORNEY EXAMINER: We will then  
16 admit those Staff Exhibit 1, 2, 3 and 4 into  
17 evidence.

18 (EXHIBITS HEREBY ADMITTED INTO  
19 EVIDENCE)

20 MR. REILLY: And with that Staff  
21 would rest.

22 ATTORNEY EXAMINER: Okay. Thank  
23 you. Mr. Cross, if you would like to come up  
24 here and I will swear you in and you can state  
25 whatever comments you would like to make.

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(WITNESS SWORN)

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ANGELO B. CROSS

called as a witness on behalf of the Respondent,  
being first duly sworn, testified as follows:

EXAMINATION

By the Attorney Examiner:

Q. Thank you, Mr. Cross. If you would  
like to take a seat and explain what brought you  
here today and any comments you might have.

A. Well, I am not arguing any of the  
stuff he put up here. My argument is the  
glasses were on. I took them off and he is  
saying I wasn't wearing my glasses.

The glasses, don't say I had to have  
them when I wasn't driving. It just says while  
driving. And I had my corrective lenses.

Yes, I did tell him that my  
prescription glasses were being fixed. And they  
were. I didn't lie to them about it. They  
were. In fact, they needed to be fixed. But I  
had them, and I got two pair of corrective  
lenses which I had to put on to read.

The State highway Patrol when they  
showed me the deal on the securement of loads, I

1 had one pair that I had to wear when I read  
2 because they magnified, and I had the pair with  
3 the corrective lenses for driving. And those  
4 were the corrective lenses I took my driving  
5 test with when I got my driver's license.

6 Q. Let me back up a minute. You  
7 mentioned a lot of things there and I want to  
8 ask a few questions about what you have said.

9 A. Okay.

10 Q. At the time that you were stopped  
11 for the inspection, I assume you were traveling  
12 on the highway?

13 A. I was traveling down 23.

14 Q. Traveling on the highway and  
15 the inspector pulled you over?

16 A. Yes.

17 Q. At the time that he pulled you over  
18 tell me, were you wearing glasses, were you  
19 wearing contacts?

20 A. I wear my corrective lenses that I  
21 have, but they are real heavy. They are like  
22 three times heavier than my prescription.

23 Q. So at the time he pulled you over  
24 you are saying you were wearing glasses?

25 A. Yes. When I stopped I take them off

1 because I can see fine. I just had to have them  
2 to drive because that is what it said. So I set  
3 them up on the dash.

4 Q. Okay.

5 A. And I had my other pair in my pocket  
6 because I need to read because I knew if I had  
7 to read something I was going to need them. So  
8 I set them -- the other one on the dash, then  
9 when the State Highway Patrol called me out to  
10 check the papers, read me --

11 Q. The violation, or explain  
12 the securement issue and so forth?

13 A. And he came up after the fact, after  
14 he had been back in the back checking over  
15 everything, he came up and asked me if I was  
16 wearing contacts or whatever. I said I don't  
17 wear contacts because I don't know if they would  
18 mess my eyes up. I don't wear contacts, but I  
19 had the corrective lenses, but my prescription  
20 glasses were in the shop is exactly what I told  
21 him. And my corrective lenses were still  
22 setting there on the dash.

23 Q. So what you are indicating then is  
24 at the time you were pulled over for  
25 the inspection --

1           A.     While driving I wear my glasses.

2           Q.     Okay.  Let's back up.  While driving  
3     you were wearing glasses that allowed you to  
4     drive?

5           A.     Correct.

6           Q.     Then you are saying that you pulled  
7     over on the side of the road?

8           A.     Well, to the rest area.

9           Q.     To the rest area.  Okay.  And you  
10    are saying that when you pulled over and before  
11    the inspector actually got --

12          A.     No.  This is after the inspector  
13    came to the door I actually took them off.

14          Q.     You took them off after the  
15    inspector --

16          A.     And set them on the dash, and then  
17    it was after that they came up after they had  
18    already wrote most of the ticket out or whatever  
19    they were doing back there at their vehicle when  
20    he asked me if I wear contacts.  And at the time  
21    I guess he figured out on the license I wear  
22    corrective lenses.

23          Q.     So you are saying that you were  
24    wearing the glasses at the time that you were --

25          A.     I was just pulled over.



1           Q.    When you were initially in the rest  
2 stop you are saying you had glasses on?

3           A.    Initially.

4           Q.    Then you are saying as the inspector  
5 approached the cab or actually when he got into  
6 the cab --

7           A.    They come up and I opened my door.

8           Q.    You opened the door and then you  
9 took your glasses off?

10          A.    They wanted my license, I give them  
11 my license, took my glasses off and laid them on  
12 the dash because when I am not driving I don't  
13 need them.

14          Q.    You put on a different pair of  
15 glasses and at that point then is after he  
16 stopped you and you opened the door.

17          A.    No. I just left them off because I  
18 didn't need them unless I read because I had two  
19 pair of corrective lenses. One I read by. I  
20 mean, magnifies so I -- if I don't have these  
21 glasses on I cannot read this. But the others  
22 are corrective lenses for driving where it makes  
23 the distance or whatever clear.

24          Q.    So --

25          A.    Those are the one I wear.

1 Q. So you were wearing a pair of  
2 glasses while you were driving?

3 A. Correct.

4 Q. When you pulled into the rest stop  
5 and the inspector approached the vehicle and you  
6 opened the door --

7 A. They got their information.

8 Q. At that point you took the glasses  
9 off?

10 A. Well, after they got their  
11 information.

12 Q. Well, okay. So you gave them  
13 whatever information they asked for?

14 A. Well, what they wanted.

15 Q. You took the glasses off and then  
16 you went through the inspection and so forth.  
17 When he finished the inspection did he give you  
18 a copy of the inspection report?

19 A. I did get one.

20 Q. And did he mention, did he describe  
21 the violations on there?

22 A. Well, he came up first. Before he  
23 gave me the report he came up and asked me about  
24 if I wore corrective lenses. Then back filling  
25 out the report or whatever and this is like 45

1 minutes to an hour later he comes up and asked  
2 if I wear corrective lenses.

3 Q. Let me ask you this. At the time  
4 that you stopped and you opened the door and you  
5 gave him the documents he asked for and so  
6 forth, do you believe he saw you take off the  
7 corrective lenses or glasses?

8 A. That I can't say. I can't say.

9 Q. So when he asked you then do you  
10 wear corrective lenses, take me from there.  
11 What happened?

12 A. I told him I wear, yes, I wear  
13 corrective -- he asked if I wear contacts. I  
14 said, no, I don't wear contacts. I told him I  
15 wear corrective lenses and pointed to the ones  
16 on the dash. But I also I guess I told him that  
17 I wear -- I had prescription glasses, but they  
18 were broke.

19 And obviously there was a  
20 misunderstanding somewhere in the transfer that  
21 I didn't wear corrective lenses and my glasses  
22 were broke.

23 Q. When you say, just for my own  
24 information, prescription glasses, you mean  
25 glasses that -- a pair that basically allow you

1 to drive as well as read?

2 A. These are prescription (indicating).

3 Q. Without switching from one pair to  
4 another?

5 A. Correct. These are my prescription  
6 here.

7 Q. Okay.

8 A. It's hard to explain because at the  
9 time I needed glasses to drive, but also needed  
10 a different pair of glasses to read.

11 Q. Staff Exhibit 2 indicates the driver  
12 stated his glasses were broken and he was not  
13 wearing them.

14 A. That is what I am saying.

15 Q. Okay.

16 A. Misunderstanding.

17 Q. So when he handed you a copy of the  
18 inspection report did you ask him to --

19 A. I looked at it and read it, but tell  
20 you right off this is not an admittance of  
21 guilty, you have to sign it. We are going to  
22 charge you with this, it's not admittance of  
23 guilt, but you have to sign it.

24 Q. So you indicated to the inspector  
25 that you did not wear contact lenses?

1           A.     Correct.  I don't.

2           Q.     And then you are saying that you  
3     also -- you don't wear -- you informed  
4     the inspector you do not wear contact lenses,  
5     and then you pointed to the glasses on the dash?

6           A.     Setting on the dash.  Those are my  
7     corrective lenses that I drive with.

8           Q.     I see.  Okay.

9           A.     The other ones are in my pocket that  
10    I read with.  So I didn't bother telling him I  
11    needed -- I didn't go through all this telling  
12    him I needed two pair of glasses.

13                   But, somewhere or other it got  
14    confused that my glasses were broke because I  
15    guess I should have kept my mouth shut about my  
16    other glasses being broke and worked on period.

17                   ATTORNEY EXAMINER:  All right.  
18    Thank you.  I have no further questions at the  
19    moment.  Mr. Reilly.

20                   MR. REILLY:  I have a few.  Just a  
21    couple clarifications, Mr. Cross.

22                   CROSS-EXAMINATION

23    By Mr. Reilly:

24           Q.     The glasses that you are wearing  
25    today aren't the ones you were talking about?

1           A.     These are my new pair.  
2     Prescriptions.

3           Q.     Right.  The ones that you claim that  
4     you had to drive with out there on the highway,  
5     you said they were heavy and that is why you  
6     took them off?

7           A.     Well, when I am not driving I take  
8     them off because I can see fine as far as -- I  
9     can see fine anyway without them as far as to  
10    move around or something, I don't run into  
11    nothing.  But, they were like three times as  
12    heavier than my prescription glasses.

13                 So when it wasn't necessary to wear  
14    them when I am not driving I take them off.

15           Q.     And so when you say they are  
16    heavier, they had bigger frames, right?  They  
17    had bigger frames?

18           A.     They were a heavier frame, the  
19    glasses were a little more of a smaller lense  
20    type glasses.

21           Q.     Heavy frame, heavy glasses?

22           A.     Heavy glasses.  Probably, yes.

23           Q.     Okay.  Probably dark frames too?

24           A.     No.  They were wire rim.

25           Q.     Heavy frame, wire rim glasses.

1           A.    Like three times the wire, the wire  
2   rims three times heavier than the prescription  
3   type you get.

4           Q.    All right.

5           A.    But they were big glasses.

6           Q.    They were big enough you had to take  
7   them off for your comfort; right?

8           A.    Yes.  They left marks in your nose.

9           MR. REILLY:  Okay.  I have nothing  
10   further, Your Honor.

11           ATTORNEY EXAMINER:  All right.  
12   Thank you, Mr. Reilly.  Mr. Cross, you can take  
13   your seat for the moment.  Thank you for your  
14   testimony.  And I will remind you you are still  
15   under oath if I have any further questions.

16           For the sake of our reporter hearing  
17   things I will call inspector Bays back to the  
18   witness stand, please.

19           And I will remind you you are still  
20   under oath, Inspector Bays.  Thank you.  Please  
21   take a seat.

22                               - - -

23                               DENNIS BAYS  
24   called as a witness on behalf of the Staff,  
25   being previously duly sworn, testified further

1 as follows:

2 EXAMINATION

3 By the Attorney Examiner:

4 Q. Inspector Bays, the inspection  
5 report, Staff Exhibit 2, that was then, if I  
6 understand correctly, written by you or typed up  
7 by you; am I correct?

8 A. Right. Well, with the assistance of  
9 Inspector Daniel.

10 Q. Okay. And, let's see. Mr. Cross  
11 indicated the inspection took place in a rest  
12 area. Is that your recollection of it as well?

13 A. Yes, sir.

14 Q. When the inspection began was it you  
15 or inspector Daniel that first approached the  
16 driver in the cab? Do you recall?

17 A. We both approached at the same time.

18 Q. Both at the same time.

19 A. Correct.

20 Q. And I assume you probably approached  
21 on the driver's side of the cab?

22 A. Yes. At a rest area we do.

23 Q. Okay. Do you recall anything  
24 comparable or anything in contrast to what Mr.  
25 Cross is stating? Namely, that when he opened



1 the door was he wearing glasses, was he not?  
 2 Did he at some point through the discussion  
 3 point to glasses on the dashboard? What is your  
 4 recollection?

5 A. At no time during the initial  
 6 contact do I ever remember him having glasses  
 7 on. When I approached him he opened the door, I  
 8 asked him for his driver's license, medical  
 9 card, which is the first thing I do. Those are  
 10 the first things I check for requirements.  
 11 Licensing, medical card.

12 Q. All right.

13 A. That is how I start my inspection.  
 14 At that time is when I asked him whether or not  
 15 he had contacts on, or why he didn't have  
 16 glasses on.

17 Q. So you are saying that when you get  
 18 the inspection underway, you are talking to the  
 19 driver, among the things you asked for first are  
 20 medical examiner's certificates, CDL, that kind  
 21 of thing?

22 A. Those are the first two documents  
 23 that I ask for during an inspection, yes.

24 Q. And I assume that while you were  
 25 looking at those items, the medical examiner's

1 certificate and the CDL, commercial driver's  
2 license, that it is at that point in time that  
3 you noted the restrictions on corrective lenses  
4 on his CDL?

5 A. Right.

6 Q. And at that point in time you asked  
7 Mr. Cross about whether he wore contact lenses?

8 A. Or why he didn't have glasses.

9 Q. Okay. And Mr. Cross' response from  
10 what you are indicating here in the examination  
11 report is he said that his glasses were broken.

12 A. Yes.

13 Q. That is why he was not wearing them.

14 A. At that time he picked the glasses  
15 up off the dash and showed me the broken  
16 glasses.

17 Q. Did they look broken?

18 A. Yes.

19 Q. They looked broken?

20 A. Yes. There was one of the two  
21 lenses were broken somewhat, or --

22 Q. Cracked or something?

23 A. Not the lenses, no, the --

24 Q. The frame?

25 A. No. The ear piece.

1           Q.    I see.  The part that would attach  
2   the glasses to his ear is what was broken?

3           A.    One of the two was broken.

4           Q.    And apparently then not wearable.  
5   That was your assumption?

6           A.    Right.

7           Q.    Okay.  All right.  So, you are  
8   indicating that Mr. Cross' glasses were broken  
9   and he picked up this pair that was on the dash.

10          A.    Right.

11          Q.    And your observation was they were  
12   indeed broken, the part that locked around Mr.  
13   Cross' ear?

14          A.    Right.

15          Q.    But you are saying at no point in  
16   time -- well, back up.  You are saying when you  
17   began the inspection, he opened the door and so  
18   forth, he did not have glasses on then?

19          A.    Right.

20          Q.    Okay.  And he told you the glasses  
21   were broken and held them up and so forth?

22          A.    Right.

23          Q.    And he also told you he did not wear  
24   contact lenses?

25          A.    He did.

1           Q.    And Mr. Cross then did not mention  
2   anything to you about, you know, because his  
3   prescription glasses were broken he was wearing  
4   two other pairs and changing from one to drive  
5   to one to read?

6           A.    No.

7           Q.    He didn't mention anything like  
8   that?

9           A.    No.

10           ATTORNEY EXAMINER:  All right,  
11   Inspector Bays, thank you.

12           MR. REILLY:  Your Honor, if I might  
13   ask just a few clarifying questions.

14           ATTORNEY EXAMINER:  Yes.

15           REDIRECT EXAMINATION

16   By Mr. Reilly:

17           Q.    Inspector Bays, did you see Mr.  
18   Cross before you stopped him?

19           A.    I did.

20           Q.    Was he wearing glasses?

21           A.    No.

22           Q.    So you saw Mr. Cross, you actually  
23   saw him driving a commercial motor vehicle  
24   without glasses on?

25           A.    Right.

1 MR. REILLY: I have nothing further.

2 Thank you.

3 FURTHER EXAMINATION

4 By the Attorney Examiner:

5 Q. Before you leave the witness stand,  
6 Inspector Bays, this occurred on Route 23?

7 A. Yes.

8 Q. At the time you saw Mr. Cross  
9 driving was he going approximately say 55 to 60  
10 miles per hour?

11 A. Approximately, yes.

12 Q. And do you recall the conditions at  
13 that time? Were you able to actually see into  
14 the cab? That is, was it sunny, what kind of a  
15 day was it? How long did you have to look into  
16 the cab?

17 A. It was a clear day. Chilly. We  
18 were setting along U.S. 23. There is a pull off  
19 in an area that the City of Columbus owns some  
20 land down on 23. There is a driveway that  
21 inters into it. We back into that section and  
22 you can observe the drivers coming southbound on  
23 23.

24 Q. So you were parked alongside 23 in  
25 this pull off area as you describe it?

1           A.    Yes.

2           Q.    And Mr. Cross was traveling towards  
3 you on 23. This is going south, I guess?

4           A.    Right.

5           Q.    And from my recollection, well, you  
6 have to tell me, 23 south at that point in time  
7 is a four-lane divided highway; am I right?

8           A.    It is.

9           Q.    Okay. And you were then on -- Mr.  
10 Cross was going southbound on 23, you were in  
11 this pull off adjacent to the southbound part of  
12 Route 23?

13          A.    Yes.

14          Q.    And about how far was that pull off  
15 from the highway? Like the length of a couple  
16 of cars or --

17          A.    Right against the highway. The  
18 front of the vehicle sits no more than 10 feet  
19 off the road.

20          Q.    And you are saying that it was a  
21 sunny day, there was nothing like tinted glass  
22 or anything, no rain, nothing to obstruct your  
23 view to see Mr. Cross through the cab?

24          A.    Right.

25          Q.    And you are saying at that point in

1 time you did not see him wear glasses either?

2 A. I did not.

3 Q. And about how many seconds would you  
4 think you had to look at him before he rolled  
5 past you completely? Estimated time.

6 A. Probably a good eight to ten seconds  
7 I would imagine. This is a straight stretch.

8 Q. So it's a straight stretch, not  
9 curved. And by any chance was your pull off,  
10 was that elevated over the highway or was it at  
11 the same level as the highway?

12 A. Same level as the highway.

13 ATTORNEY EXAMINER: All right.

14 Thank you, Inspector. I appreciate that.

15 Inspector Daniel, I will ask you to come up to  
16 the witness stand just for a couple minutes,  
17 please. Thank you. I will remind you you are  
18 still under oath as well.

19 MR. DANIEL: Yes, sir.

20 - - -

21 STEVEN DANIEL

22 called as a witness on behalf of the Staff,  
23 being previously duly sworn, testified further  
24 as follows:

25 EXAMINATION

1 By the Attorney Examiner:

2 Q. Just take a seat. Inspector  
3 Daniel, Inspector Bays indicated that both of  
4 you approached the cab of the vehicle at the  
5 same time. Is that your recollection?

6 A. That's correct.

7 Q. And is there anything that Mr. Bays  
8 said in his testimony right in the last few  
9 minutes that you would add to or disagree with?

10 A. No, sir.

11 Q. Nothing at all you would change?

12 A. No.

13 Q. And you were present while he was  
14 speaking with Mr. Cross and typing up  
15 the inspection report?

16 A. Yes, sir.

17 Q. You also did not witness Mr. Cross  
18 wear any glasses at the time that you began the  
19 inspection?

20 A. I don't remember Mr. Cross having  
21 glasses on at all.

22 Q. And that is including when he was  
23 driving by in the cab?

24 A. That's correct.

25 ATTORNEY EXAMINER: On the highway.



1 All right. Thank you, Mr. Daniel.

2 Finally, Mr. Cross, do you have  
3 anything you would like to add? If so you can  
4 take the witness stand so the reporter can hear  
5 you a little better. If you would like to come  
6 up for just one last opportunity? Thank you.  
7 And you are still under oath as well.

8 - - -

9 ANGELO B. CROSS  
10 called as a witness on behalf of the Respondent,  
11 being previously duly sworn, testified further  
12 as follows:

13 EXAMINATION

14 By the Attorney Examiner:

15 Q. Is there anything that you would  
16 like to say based on the follow-up comments of  
17 the two inspectors?

18 A. Well, one, the tractor I was driving  
19 had tinted windows and it has a visor on the  
20 front of it that shows a shadow over the front  
21 of the cab windshield.

22 Two, I would have to have an awful  
23 long arm to reach my broken glasses in Canal  
24 Winchester because my broken glasses had a  
25 bubble in the lenses is why they were in the

1 shop. And he said I picked up my broken  
2 glasses. My broken glasses were in Canal  
3 Winchester in the glasses shop.

4 I looked and they were setting in  
5 the middle this way (indicating). I am coming  
6 this way, they have three lanes to look from to  
7 see in my truck. And it's a small window.

8 Q. Now, Mr. Cross, you are indicating  
9 that the inspectors were actually you say  
10 sitting in the middle. Do you mean --

11 A. They were sitting in the median.

12 Q. You are saying they were in the  
13 median?

14 A. Setting across from me. Like  
15 three-quarters of a mile down to the rest area  
16 they pull you off in. But there was no broken  
17 glasses in the truck. They were actually three  
18 pair of glasses in the truck. None of the three  
19 broken.

20 One was an old prescription, but he  
21 is saying I showed him my broken glasses. My  
22 broken glasses was in the shop in Canal  
23 Winchester. The reason they were in the shop  
24 wasn't for a broken handle, the lense had heated  
25 had bubbled so I had to get them replaced.

1           Q.   Okay.  So you are indicating the  
2   inspectors were actually in the median and you  
3   were driving towards them and --

4           A.   They had to look across their  
5   vehicle into mine with a small window tinted  
6   over a visor out in front that shaded the whole  
7   windshield.

8           Q.   All right.  Thank you.  Anything  
9   else, Mr. Cross?

10          A.   There is nothing else I can say.

11           ATTORNEY EXAMINER:  Well, thank you  
12   for your comments.  Inspector Bays, just to  
13   confirm, you are indicating your vantage point  
14   to observe Mr. Cross as he drove along was  
15   actually in an area where you were pulled off  
16   along the side of the road, not in the median.

17           MR. BAYS:  Yes.

18           ATTORNEY EXAMINER:  So, yes, you  
19   were adjacent to the road, not in the median.

20           MR. BAYS:  Yes.

21           ATTORNEY EXAMINER:  And you were  
22   adjacent to the lanes, the southbound lanes of  
23   U.S. 23.

24           MR. BAYS:  Yes.

25           ATTORNEY EXAMINER:  All right.

1 Thank you. I have no further questions. Does  
2 anyone? Mr. Reilly, do you have anything  
3 further?

4 MR. REILLY: We have no further  
5 questions, Your Honor. We would submit it on  
6 the record.

7 ATTORNEY EXAMINER: Okay. Thank  
8 you. I believe that wraps up all of the  
9 proceedings for today. And thank you all for  
10 attending and this hearing is adjourned.

11 MR. REILLY: Thank you, Your Honor.

12 ATTORNEY EXAMINER: Thank you, Mr.  
13 Cross.

14 - - -

15 (At 10:55 A.M. the hearing was  
16 concluded)

17  
18 - - -

19

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21

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23

24

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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  
February 8, 2011, and carefully compared with my  
original stenographic notes.

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Michael O. Spencer,  
Registered Professional  
Reporter.

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Summary: Transcript Transcript of Angelo B. Cross hearing held on 02/08/11. electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Spencer, Michael O. Mr.