

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of James A. Johnson:
Notice of Apparent Violation :Case No.
and Intent to Assess Forfeiture :16-935-TR-CVF

- - -

PROCEEDINGS

Before Megan Addison, Attorney Examiner, held at
the Public Utilities Commission of Ohio, 180
East Broad Street, Hearing Room No. 11-D,
Columbus, Ohio, on Thursday, October 27, 2016,
at 10:00 A.M.

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Armstrong & Okey, Inc.
222 East Town Street, 2nd Floor
Columbus, Ohio 43215
(614) 224-9481 - (800) 223-9481
Fax - (614) 224-5724

- - -

1 APPEARANCES:

2 Ms. Natalia Messenger
3 Assistant Attorney General
4 30 East Broad Street
5 16th Floor
6 Columbus, Ohio 43215

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

10 Mr. James A. Johnson
11 15515 Rose Ridge Court
12 Missouri City, Texas 77489

13 Appearing Pro se.

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Thursday Morning,
October 27, 2016.
- - -

ATTORNEY EXAMINER: Good morning.
The Public Utilities Commission of Ohio calls
for hearing at this time and place Case No.
16-935-TR-CVF being In the Matter of James A.
Johnson Notice of Apparent Violation and Intent
to Assess Forfeiture.

My name is Megan Addison, I am the
Attorney Examiner assigned by the Commission to
hear this case.

At this time I would like to take
appearances of the parties beginning with Staff.

MS. MESSENGER: Thank you, your
Honor. On behalf of Staff of the Public
Utilities Commission of Ohio, Natalia Messenger,
Assistant Attorney General, with the office of
the Ohio Attorney General, Mike DeWine, 30 East
Broad Street, Columbus, Ohio 43215.

ATTORNEY EXAMINER: Thank you. Mr.
Johnson, if you could just state your name and
address for the record we would appreciate it.

MR. JOHNSON: My name is James
Johnson. My address is 15515 Ross Ridge Court,

1 Missouri City, Texas.

2 ATTORNEY EXAMINER: Thank you. Mr.
3 Johnson, you appear to be appearing without
4 counsel today; is that correct?

5 MR. JOHNSON: Yes

6 ATTORNEY EXAMINER: And you
7 understand that you have the right to obtain
8 counsel for the hearing today?

9 MR. JOHNSON: Yes.

10 ATTORNEY EXAMINER: And you are
11 choosing to proceed without one?

12 MR. JOHNSON: Yes.

13 ATTORNEY EXAMINER: Okay. Do we
14 have any preliminary matters before we begin
15 today?

16 MS. MESSENGER: Yes, your Honor.
17 Mr. Johnson has agreed to stipulate to the
18 calculation of the forfeiture in this case.
19 So I would like to mark as Staff Exhibit 1 the
20 Notice of Preliminary Determination.

21 ATTORNEY EXAMINER: It will be so
22 marked.

23 (EXHIBIT HEREBY MARKED FOR
24 IDENTIFICATION PURPOSES)

25 MS. MESSENGER: May I approach,

1 your Honor?

2 ATTORNEY EXAMINER: You may. Thank
3 you very much.

4 Anything else before we begin?

5 MR. JOHNSON: No.

6 ATTORNEY EXAMINER: Thank you.
7 Staff may call it's first witness.

8 MS. MESSENGER: Staff would like to
9 call Inspector Phil Haskins to the stand.

10 (WITNESS SWORN)

11 - - -

12 PHILLIP HASKINS
13 called as a witness on behalf of the Staff,
14 being first duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 By Ms. Messenger:

17 Q. Would you please state your name and
18 address?

19 A. Phillip Haskins. 180 East Broad
20 Street, Columbus, Ohio 43215.

21 Q. And who is your employer?

22 A. State of Ohio, Public Utilities
23 Commission, Transportation Department.

24 Q. And what is your position with
25 the Public Utilities Commission?

1 A. I am a hazardous materials
2 inspector.

3 Q. And what are your duties as a
4 hazardous materials inspector?

5 A. My duties are to ensure compliance
6 with the Federal Safety -- Motor Carrier Safety
7 regulations and Federal hazardous materials
8 regulations by inspecting motor carriers and
9 shippers for compliance.

10 Q. And how long have you been in that
11 position?

12 A. Twenty-nine years.

13 Q. What kind of certifications or
14 training have you had as an inspector?

15 A. We are required annual
16 certifications by the Federal Motor Carrier
17 Safety Administration. To maintain
18 certification we are required to conduct annual
19 training and required number of inspections to
20 maintain the certifications as far as the
21 regulations.

22 Q. Were you on duty on March 11 of
23 2016?

24 A. I was.

25 Q. And what was your job assignment

1 that day?

2 A. My job assignment that day was
3 conducting roadside inspections on motor
4 carriers in the western central Ohio area.

5 Q. Were you in a uniform and a marked
6 vehicle?

7 A. I was.

8 Q. Did you inspect a vehicle that
9 resulted in your preparing your report?

10 A. That day, yes.

11 Q. And today do you have an independent
12 recollection of that inspection?

13 A. I do.

14 MS. MESSENGER: Your Honor, I would
15 like to mark the Driver/Vehicle Inspection
16 Report as Staff Exhibit 2.

17 ATTORNEY EXAMINER: So marked.

18 (EXHIBIT MARKED FOR THE PURPOSE OF
19 IDENTIFICATION)

20 MS. MESSENGER: May I approach?

21 ATTORNEY EXAMINER: You may.

22 Q. Inspector Haskins, do you recognize
23 this document?

24 A. I do.

25 Q. What is it?

1 A. It is a copy of my inspection report
2 that I conducted on that day. While working in
3 Union County, Ohio I discovered a vehicle that I
4 inspected and completed this report.

5 Q. Okay. You said it was prepared by
6 you?

7 A. It was.

8 Q. And how did you prepare it?

9 A. I am equipped with a State issued
10 notebook computer with various applications to
11 conduct such inspections I am required to do.
12 And I utilized the notebook computer to prepare
13 the report and print the report, providing a
14 copy to the driver.

15 Q. Was this report prepared in the
16 ordinary course of your duties?

17 A. It was.

18 Q. Was it prepared at the time of
19 the inspection?

20 A. Yes.

21 Q. And is this an accurate
22 representation of the report you created at the
23 time of the inspection?

24 A. Yes. It appears so.

25 Q. On the top right corner of

1 the report is the report number. What does that
2 represent?

3 A. That is the unique identification of
4 this particular inspection. A number that is
5 assigned to this investigation that I did
6 sequentially. And each inspection I do has a
7 unique characteristic of sequence of numbers.
8 That is the number on the top right, the report
9 number.

10 Q. And do the numbers specifically,
11 like what do the first few numbers represent and
12 what do the last few numbers represent?

13 A. The report numbers are identified in
14 the State of Ohio, the first four numbers is my
15 unique identification. I am 3202. And the
16 306293 is the report number that is sequentially
17 prepared at each inspection time.

18 Q. And is that number specific to how
19 many reports you have prepared?

20 A. It's roughly the number that is
21 prepared from that machine. So if I were to
22 have a new machine assigned the numbers would
23 start over. So that is basically --

24 Q. It's specific to your badge number
25 on that machine?

1 A. Yes, ma'am.

2 Q. What time did the inspection take
3 place?

4 A. I believe at 8:35 A.M.

5 Q. What was the inspection level for
6 this inspection?

7 A. This was a Level 2 inspection, which
8 is a walk-around inspection. There are several
9 various types of inspections. And in this case
10 I chose to do a Level 2 walk-around inspection.

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

14 A. Yes, ma'am. I input the information
15 into the inspection report with the information
16 I had at that time.

17 Q. And what do you do with the report
18 once you finished putting the information into
19 the computer?

20 A. One completed and the inspection is
21 completed I print the document and provide a
22 copy of this document to the driver at that
23 time. And at the end of the completion of the
24 day I electronically upload the inspection
25 reports to the State of Ohio for the compliance

1 procedure.

2 Q. Who is the driver identified on this
3 report?

4 A. The driver is James A. Johnson.

5 Q. And how did you identify the driver?

6 A. At the time I stopped and initiated
7 the inspection, stopped the vehicle, I
8 introduced myself, told him who I was and
9 obtained documents from the driver to ensure
10 that he was a qualified driver, using his CDL
11 license. I identified him through his CDL
12 license.

13 Q. What were the origin and destination
14 of the trip?

15 A. The shipment origin began in
16 Kankakee, Illinois, and the destination was in
17 Delaware, Ohio.

18 Q. What kind of cargo was the vehicle
19 carrying?

20 A. The cargo was a hazardous material
21 shipment involving a Class 3 hazardous material
22 weighing approximately 39,580 pounds of a
23 flammable liquid.

24 Q. And how did you --

25 A. Loaded into the transport vehicle

1 that was being driven by Mr. Johnson.

2 Q. And how did you determine the cargo?

3 A. Mr. Johnson presented a shipping
4 document declaring the cargo.

5 Q. Why did you pull this vehicle over?

6 A. At the time I observed Mr. Johnson
7 transporting hazardous materials marked in a
8 placard transport vehicle, I observed him at the
9 intersection of a grade crossing where hazardous
10 materials placard vehicles are required to stop,
11 and he failed to do so.

12 Q. Where were the placards located on
13 the vehicle?

14 A. The transport vehicle is required to
15 display four placards on each side of the unit,
16 and they are clearly marked on the van transport
17 vehicle.

18 Q. Can you take a look at the violation
19 section on the report? And the first violation
20 listed is 392.10(a)(3). What does that section
21 provide?

22 A. That Section 392 is a driver,
23 restricted driver actions, and the Federal Motor
24 Carrier Safety Code, and that particular section
25 says while transporting placarded hazardous

1 materials all vehicles must stop to ensure safe
2 transportation through the intersection of
3 railroad and highway.

4 Q. And what does Section A specifically
5 require a driver to do at a railroad crossing?

6 A. While approaching a grade crossing a
7 vehicle transporting hazardous materials must
8 stop no further than 50 feet, no closer than 15
9 feet, stop, assure that no train is approaching
10 while listening and observing and proceed
11 through the crossing without changing gears to
12 ensure driver or vehicle can clearly cross the
13 intersection without obstruction.

14 Q. And he must come to a complete stop?

15 A. Must come to a complete stop, yes,
16 ma'am.

17 Q. And then Subpart 3 of Section A, why
18 is the Respondent here subject to Subpart 3?

19 A. Because the transport vehicle was
20 required to display warning placards, therefore,
21 he must stop at the intersection because the
22 cargo is listed as one of the provisions that
23 require the vehicle to stop transporting a
24 flammable liquid which is listed in A 3 of
25 the Code categories of hazardous materials.

1 Q. Can you describe what you saw as
2 the violation occurred, how you determined that
3 violation occurred?

4 A. I remember being behind the vehicle.
5 Approximately two, three non-commercial
6 passenger vehicles were between the subject, Mr.
7 Johnson, and myself, and we were both north
8 bound on a two-lane rural State route.

9 And as the vehicle approach the
10 crossing I observed the vehicle accelerate
11 through the crossing, and approximately two
12 miles, two to three miles further down that
13 road, I was able to safely stop the vehicle for
14 inspection.

15 Q. Did you have a clear line of sight
16 of the vehicle?

17 A. I did.

18 Q. What kind of vehicle were you
19 driving at the time?

20 A. I was issued a state vehicle that is
21 marked. Tahoe, Chevy Tahoe.

22 Q. And could you see above the other
23 vehicles that were in front of you?

24 A. Yes. I believe those other vehicles
25 were -- I remember them being non-commercial,

1 which were smaller vehicles, which offered me a
2 clear line of sight to the vehicle in question.

3 Q. What were the weather conditions
4 like that day?

5 A. It was a March morning. I can't
6 recall anything remarkable about the weather
7 conditions that were present. I would have
8 documented that.

9 Q. If you are driving behind the
10 vehicle how did you determine that he did not
11 come to a complete stop?

12 A. Well, I first observed the vehicle
13 transporting hazardous materials with placards,
14 and as I positioned myself in behind the
15 vehicle, like I said, two or three vehicles
16 between us, I saw that the relationship in
17 traffic did not change. And I saw no braking
18 action of any of the vehicles. Passenger
19 vehicles are not required to stop, only
20 commercial vehicles.

21 I had clear vision of what was ahead
22 of me. And I saw the crossing and the vehicles
23 as they went through the crossing.

24 Q. If the Respondent had come to a
25 complete stop what would you -- what action

1 would you have taken against the other vehicles?

2 A. I probably would not have initiated
3 an inspection at the time.

4 Q. If he had come to a complete stop
5 what would you have expected other vehicles to
6 do?

7 A. They would stop accordingly.

8 Q. Can you describe your interaction
9 with the driver?

10 A. I don't recall any significant
11 interaction other than routine dialogue, asking
12 him for shipping documents, CDL, vehicle
13 information documents.

14 I did inform him for the reason for
15 the stop. And I do believe Mr. Johnson said
16 that -- his statement to me was he was not aware
17 that he was required to stop.

18 Q. Did he contest the violation?

19 A. Not at the time, not at the
20 inspection.

21 Q. Did he argue to you that he did
22 indeed stop at the railroad crossing?

23 A. No, he did not.

24 Q. Can you take a look at the
25 Inspection Notes section of the report. Can you

1 read what you wrote for the Inspection Notes?

2 A. We have to identify, this inspection
3 is a target inspection because we have use the
4 data of the driver, of the company, to ensure
5 compliance. Therefore, we call it a target
6 inspection so that they are getting -- this
7 carrier has an elevated score, which puts them
8 into ISSS category, which means they have a
9 higher score, which means they have data that
10 elevates them as far as safety concerns.

11 So that is why you will see target
12 inspection ISSS because the carrier has an
13 elevated score.

14 And CMV, stands for Commercial Motor
15 Vehicle, was observed failing to stop at a grade
16 crossing as required when transporting
17 placardable hazardous materials. The crossing
18 is a CSX main line crossing where all placarded
19 vehicles must stop.

20 There are some exceptions in that
21 section of federal law, but in this case it was
22 a main line crossing where all placarded
23 vehicles must stop.

24 And I further state "Driver stated
25 he was not aware of crossing requirement."

1 And I made a note "CMV accelerated
2 through grade crossing" which means I saw no
3 braking action or any safety behavior of the
4 driver at the intersection of the rail and
5 highway.

6 Q. How certain are you that the
7 Respondent did not stop at the railroad
8 crossing?

9 A. One hundred percent certain.

10 Q. And what is the importance of
11 the regulation?

12 A. The regulation is a very old
13 regulation that has been in the safety rules for
14 quite some time. The rule applies to placarded
15 vehicles. It also applies to passenger
16 transportation. Buses must stop at grade
17 crossings. And it ensures safe transportation
18 at a dangerous intersection involving a train,
19 because obviously trains cannot yield to highway
20 traffic.

21 Therefore, certain restrictions are
22 placed on vehicles that are deemed significantly
23 at risk when transporting hazardous materials or
24 passengers. Therefore, they must stop at these
25 intersections to ensure the safe transportation

1 occurs.

2 Some crossings are marked with
3 operating traffic devices, which are accepted
4 because some traffic lights control the
5 crossing. Some lights are controlled by traffic
6 gates which prevent something happening. Some
7 are controlled by cross-bucks with illumination.

8 So the rule is there to protect
9 parties at those intersections.

10 Q. After the inspection, after you
11 completed the report did you sign the report?

12 A. I did.

13 Q. And did you give a copy of the
14 report to the driver?

15 A. I present the signed copy to the
16 driver.

17 Q. And did you submit this report to
18 the Commission?

19 A. Electronically.

20 MS. MESSENGER: Your Honor, at this
21 time I have no further questions. I would like
22 to reserve the inspector for rebuttal.

23 ATTORNEY EXAMINER: Thank you. Mr.
24 Johnson, do you have any questions for Mr.
25 Haskins?

1 MR. JOHNSON: Yes, I do.

2 CROSS-EXAMINATION

3 By Mr. Johnson:

4 Q. You stated that I didn't come to a
5 complete stop. Do you recall the vehicles that
6 was in front of me before I went across the
7 tracks?

8 A. The vehicles in front you, I would
9 not have been able to see them.

10 Q. Okay. The vehicles that was in
11 front of me, it was another 18-wheeler and it
12 was a car. And before that, if you back up --

13 MS. MESSENGER: Your Honor, I am
14 just going to object one second. I mean, the
15 Respondent will have a chance to testify. If he
16 could just stick to questions for the inspector.

17 ATTORNEY EXAMINER: Thank you, Ms.
18 Messenger. Yes, Mr. Johnson, just to clarify.
19 At this point you are just asking questions of
20 Mr. Haskins, then you will have the opportunity
21 to come up here and testify.

22 MR. JOHNSON: All right.

23 Q. Just that question, did you see
24 vehicles that was in front of me?

25 A. I did not.

1 Q. Okay. So, you don't know really if
2 I came to a complete stop based on the vehicles
3 that was in front of me?

4 A. For clarification purposes, are you
5 saying in front of you or in front of me?

6 Q. In front of me in the direction that
7 I was heading.

8 A. I would not have been able to see
9 beyond my line of sight.

10 Q. All right. Because there was two
11 vehicles in front of me. One was an 18-wheeler,
12 the other was a car.

13 ATTORNEY EXAMINER: Mr. Johnson,
14 again, just this is for you asking him
15 questions. You will have an opportunity to
16 present that.

17 MR. JOHNSON: That is all.

18 ATTORNEY EXAMINER: Okay. I have
19 just a few clarifying questions, Mr. Haskins.

20 EXAMINATION

21 By the Attorney Examiner:

22 Q. You noted that you did not observe
23 any sort of braking for his vehicle?

24 A. From my position I could see the
25 lamps of all the vehicles. And I saw no

1 illumination of any stop lamps with Mr.
2 Johnson's vehicle or any non-commercial type
3 passenger vehicles that was in front of me.

4 Q. And to clarify one of your
5 inspection notes, you noted CMV accelerated
6 through grade crossing.

7 A. Yes. I could hear the vehicle
8 proceed through the crossing without slowing
9 down. One of the provisions of that rule means
10 that the vehicle must stop, not change gears,
11 and come to a complete stop before entering
12 through the crossing.

13 And I could hear the commercial
14 vehicle drive through the crossing without any
15 braking action.

16 Q. But when you use the word
17 accelerated, you don't mean to indicate that he
18 increased his speed?

19 A. No. He went through the crossing
20 without any change of positioning of
21 the vehicle, no stopping in front of
22 the crossing, no behavior that would be visible
23 to show he was stopping at the crossing or
24 slowing.

25 Q. Thank you. And do you recall, was

1 there any sort of incline up to the tracks, or
2 was it relatively flat?

3 A. In the northbound direction it has
4 kind of a down grade, it has a slight down grade
5 at that crossing in the direction we were
6 traveling.

7 On the other hand it has an up
8 grade. So when the crossing is approached from
9 the southbound through the crossing it slopes
10 down. So it is a flat crossing from the
11 direction that Mr. Johnson was driving.

12 Q. Thank you. Can you describe just
13 for the record the actual railroad crossing
14 itself? What sort of mechanisms were present?

15 A. That's a CSX main line crossing
16 which requires placarded vehicles to stop. It
17 is a one-lane crossing with crossing gates that
18 are hopefully functioning.

19 It is a relatively flat crossing
20 from the south, as I said. There are some
21 trees. It is rural at the crossing, but it is
22 clearly marked. And it has no restricted
23 access through the vegetation or structures that
24 would prevent someone from fully seeing the
25 crossing from either direction.

1 ATTORNEY EXAMINER: Thank you. Ms.
2 Messenger, did you have any redirect questions?

3 MS. MESSENGER: I do not.

4 ATTORNEY EXAMINER: I have no
5 further questions. You are excused.

6 MS. MESSENGER: Your Honor, I would
7 like to ask for the exhibits to be moved into
8 evidence, Staff Exhibits 1 and 2.

9 ATTORNEY EXAMINER: Thank you. Mr.
10 Johnson, do you have any objections to these
11 exhibits being admitted into the record?

12 MR. JOHNSON: No.

13 ATTORNEY EXAMINER: Thank you. They
14 will be admitted.

15 (EXHIBITS HEREBY ADMITTED INTO
16 EVIDENCE)

17 ATTORNEY EXAMINER: Mr. Johnson, at
18 this time I will ask you to please take the
19 stand. If you have any documents you would like
20 to mark as exhibits I would ask that you just
21 bring those up. It will make things a little
22 easier as we work through things.

23 (WITNESS SWORN)

24 - - -

25 JAMES A. JOHNSON

1 called as a witness, being first duly sworn,
2 testified as follows:

3 ATTORNEY EXAMINER: I will ask that
4 you just state your name and business address
5 for the record one more time.

6 MR. JOHNSON: James Johnson.
7 Address 15515 Rose Ridge court, Missouri City,
8 Texas.

9 ATTORNEY EXAMINER: And just be sure
10 when you are answering any questions or
11 providing your testimony that you speak up so
12 our court reporter can hear you clearly.

13 MR. JOHNSON: Okay.

14 ATTORNEY EXAMINER: Thank you. Mr.
15 Johnson, you can begin explaining your side of
16 the story any way you would like.

17 MR. JOHNSON: Okay. On this
18 particular day in the direction that I was
19 rolling, right before I got to the railroad
20 crossing there was several school zones that I
21 had to pass.

22 I recall going through the school
23 zones at the posted speed. The traffic was
24 pretty heavy. I had a couple of vehicles in
25 front of me. I noticed that there was an

1 18-wheeler in front of me, and right behind that
2 was a car.

3 As we came out of the school zone I
4 remember seeing Officer Haskins' vehicle to my
5 left maybe about 30, maybe about 30 feet to my
6 left.

7 On the tracks to my right there was
8 a train down the road, down the tracks, maybe
9 about 35, 40 feet.

10 As I approached the tracks there
11 was, like I said, an 18-wheeler and there was a
12 car in front of me. So the 18-wheeler in front
13 of me stopped. The car stopped. Everybody's
14 lights lit up.

15 I came to a stop. I remember there
16 was a slight incline going across the tracks.
17 By that time I had already stopped.

18 As I proceeded across the tracks I
19 looked to my left, I looked to my right, because
20 I remember seeing his vehicle because when I
21 identified his vehicle I remember seeing orange
22 lights on top of it.

23 The train that was down the tracks,
24 it had one car attached to it. I remember
25 seeing that. As I proceeded across the tracks

1 the other 18-wheeler behind me came across
2 the tracks too. I remember seeing the Officer's
3 vehicle come out behind that one truck behind
4 me.

5 And then I remember his lights came
6 on as he came around that truck and got behind
7 me. There was a little soft part of
8 the shoulder, and I remember when he came behind
9 that vehicle he kind of came around that vehicle
10 and kind of stuck out a little bit so I could
11 see his lights flashing.

12 And I pulled over to the shoulder.
13 That's when he chose to do the vehicle
14 inspection.

15 My question too is Officer Haskins
16 explained that I was not aware of stopping at a
17 railroad crossing. Well, I have had my license
18 for over 30 years. I have always had my hazmat
19 endorsement ever since I had my license.

20 I know the protocol, I know the
21 protocol. I picked that load up I think it was
22 the day before that. I was still in the State
23 of Illinois. I use the protocol that calls for
24 us to stop at the railroad crossings.

25 The thing is about all this, I don't

1 know how this is going to turn out. My question
2 is this:

3 If there is a fine I have to pay, I
4 understand all that. What I cannot afford to
5 have happen is for my license to be suspended
6 for two months.

7 This took place back on March 11th.
8 By March the 31st my job terminated. I was in
9 the process of purchasing this truck. I was two
10 years into this truck. I had two years left.

11 They took \$53,000 from me. So I
12 can't get that back. I took a loss there.

13 Out of these seven months I have
14 only worked three months. It was hard for me to
15 find another job. I found another job, I worked
16 there for two months, they down sized. I lost
17 that job.

18 The other job I had, I had to let
19 that go in order to come here and try to fight
20 for my license.

21 You know, in this trucking industry,
22 I know everybody works here, but in
23 the trucking industry when your license are
24 suspended no one wants to hire you. You are a
25 risk.

1 So, seven months, four months I
2 haven't worked. Then an additional two months,
3 let alone counting the other months it may take.
4 Someone won't even give me a chance. And if
5 someone gives me a chance for a job, the sad
6 part about that is I have to go and work for
7 someone that does not follow the rules and
8 regulations that's out for us to work under.

9 So, out of 30 years of driving, over
10 30 years of driving, if this is something that
11 Officer Haskins said I did, I am not going to
12 sit up here and go back and forth. I am just
13 stating what happened to me that day.

14 I am just asking the Court to not
15 suspend my license. I will pay the \$500, but I
16 need my license.

17 I mean, at the end of the day -- I
18 am on medication without health insurance. That
19 stuff is sky high. I can't afford my medicine.
20 And I can't get my medicine if I can't work.
21 This is all I know. This is all I know. I have
22 been doing this all my life.

23 I just want to work. I just want to
24 work. I am just asking the Court not to suspend
25 my license. Take into consideration I have been

1 out of work four months.

2 I will pay the fine. I will pay the
3 fine. I just want to keep my license.

4 ATTORNEY EXAMINER: Thank you, Mr.
5 Johnson. Does that conclude your statement?

6 MR. JOHNSON: Yes.

7 ATTORNEY EXAMINER: I just had a
8 couple questions for you.

9 EXAMINATION

10 By the Attorney Examiner:

11 Q. What sort of requirements do you
12 have to undergo in terms of education in order
13 to maintain your CDL license?

14 A. Give me a minute.

15 Q. Take your time.

16 A. Texas told me that if my license are
17 suspended that I don't have to do a refreshment
18 course or anything of that nature.

19 Q. And your 30 years, or 30 plus years
20 of experience --

21 A. I have to go in there, I go in every
22 four years, and I have to do the hazmat test and
23 all that all over again. I just done it in
24 February. I just did my refreshment course in
25 February. So, I know the protocol. I followed

1 the protocol. I have been doing this for over
2 30 years.

3 Q. Is this requirement to stop at a
4 railroad crossing, that is something that would
5 typically be covered in --

6 A. It's automatic. Those are questions
7 that they ask you. Supposed to stop back from
8 the railroad crossing. The whole protocol. I
9 have been doing this all my life.

10 Q. And just to clarify, Mr. Johnson,
11 are you stating that you did come to a complete
12 stop?

13 A. Yes, I did, because I had those
14 vehicles in front of me.

15 Q. And you observed those vehicles also
16 come to a complete stop?

17 A. Yes. Yes. I observed the whole
18 thing. Before I even went down there there was
19 two school crossings, two school zones. There
20 was heavy traffic at that time of morning.

21 The plant that I had to deliver to
22 was up the road on the left-hand side. I saw
23 Officer Haskins sitting over there in the Blazer
24 with the orange lights on top. I saw all of
25 that.

1 Q. Do you happen to recall if you looked
2 in one of your mirrors if the vehicles behind
3 you also had stopped?

4 A. There was an 18-wheeler. He wasn't
5 pulling -- I don't think he was pulling any
6 hazmat though. But I remember the Officer
7 following behind him, and then as I went across
8 to tracks he came around that vehicle and got
9 behind me. And then he stuck out a little bit
10 so I could see his lights flashing and he pulled
11 me over.

12 Q. So you are stating there was an
13 18-wheeler in between your truck and Officer
14 Haskins?

15 A. Yes. Officer Haskins was behind me,
16 but in front of him was another 18-wheeler.
17 And like I say, he came around that 18-wheeler,
18 got in front and got behind me. And stuck out a
19 little bit with his lights on.

20 Q. One final question, Mr. Johnson.
21 Is this a typical route that you have taken?
22 Is this the first time that you have --

23 A. No, it's not a typical route. That
24 was a customer that my company kept me in that
25 area because at that particular time in my life

1 on March the 8th, three days before the Officer
2 stopped me, I lost my oldest niece. So they
3 kept me in the Illinois, Ohio, Indiana area.

4 But, with this company I always haul
5 hazmat. I always haul. I was on a special
6 account, it was a hazmat account. That is all I
7 did was haul hazmat.

8 Q. Would you say this was the first
9 time that you had driven on U.S. 42 then?

10 A. Yes. It's my first time.

11 ATTORNEY EXAMINER: Thank you very
12 much, Mr. Johnson. Ms. Messenger may have a
13 few questions for you.

14 MS. MESSENGER: I think I just have
15 one question just for clarification.

16 ATTORNEY EXAMINER: Certainly.

17 CROSS-EXAMINATION

18 By Ms. Messenger:

19 Q. Mr. Johnson, you said there was an
20 18-wheeler behind you, but I think at the
21 beginning of your testimony you said there was,
22 in front of you, there was an 18-wheeler and a
23 passenger car too.

24 A. Yes.

25 Q. Is that right?

1 A. Yes.

2 Q. So an 18-wheeler and passenger car
3 and then your vehicle, and then another
4 18-wheeler behind you?

5 A. 18-wheeler behind me, in front of me
6 was a passenger car. And then there was another
7 18-wheeler.

8 MS. MESSENGER: Okay. I just wanted
9 to clarify it.

10 ATTORNEY EXAMINER: Thank you very
11 much. I have no further questions. You are
12 excused, Mr. Johnson. Thank you very much.

13 MS. MESSENGER: If I could have just
14 one more minute, your Honor.

15 ATTORNEY EXAMINER: Certainly.
16 Let's go ahead and go off the record.

17 (DISCUSSION OFF THE RECORD)

18 ATTORNEY EXAMINER: Let's go back
19 on the record. And Ms. Messenger has recalled
20 Inspector Haskins. Mr. Haskins, I will not
21 swear you in again, but I will remind you that
22 you are still under oath.

23 INSPECTOR HASKINS: Yes, ma'am.

24 ATTORNEY EXAMINER: Thank you. Ms.
25 Messenger.

1 MS. MESSENGER: Just a couple
2 questions.

3 - - -

4 PHILLIP HASKINS
5 recalled as a witness, being previously duly
6 sworn, testified further as follows:

7 REDIRECT EXAMINATION

8 By Ms. Messenger:

9 Q. Do you recall seeing an 18-wheeler,
10 another commercial motor vehicle, behind Mr.
11 Johnson's truck when you were behind him?

12 A. No, I do not.

13 Q. And is this an area that you
14 frequently patrol?

15 A. It is. And keep in mind that this
16 route is a two-lane rural route with sometimes
17 there is traffic. It's a truck route used often
18 by commercial vehicles.

19 So if there were any additional
20 vehicles in traffic that would have prevented my
21 line of sight, or my vantage point I would have
22 made note of that. In this case I had a clear
23 unobstructed view of the vehicle driven by Mr.
24 Johnson.

25 Q. And are you aware of any school

1 zones in the area nearby?

2 A. There are school zones. That
3 crossing is approximately four miles north of
4 the nearest town, which is Plain City, and
5 the school zones are about two miles south of
6 Plain City.

7 So it would be roughly almost over
8 five miles from that intersection grade
9 crossing.

10 MS. MESSENGER: Those are all the
11 questions I have for the Inspector.

12 ATTORNEY EXAMINER: Thank you, Ms.
13 Messenger. Mr. Johnson, did you have any
14 questions limited to those questions that Ms.
15 Messenger just asked?

16 RECROSS-EXAMINATION

17 By Mr. Johnson:

18 Q. You stated that you had a clear view
19 of my truck, and I was traveling northbound.
20 Exactly where were you sitting?

21 A. When I observed you?

22 Q. Yes.

23 A. During the stop? I don't know
24 exactly where I was, but I was probably less than
25 100 feet from you when I observed you at the

1 crossing.

2 Q. Okay. From where you were sitting
3 would you say there was trees on the side of
4 the road where you were sitting?

5 A. There is vegetation in that area.
6 But the crossing is clearly marked and the
7 intersection is not obstructed by any bushes or
8 trees or anything near the crossing.

9 MR. JOHNSON: I have no further
10 questions.

11 ATTORNEY EXAMINER: Thank you, Mr.
12 Johnson. I have no further questions. Thank
13 you, Mr. Haskins.

14 THE WITNESS: Yes, ma'am.

15 ATTORNEY EXAMINER: Is there
16 anything else that we need to address before
17 adjourning today?

18 MS. MESSENGER: Staff has nothing
19 further, Your Honor.

20 ATTORNEY EXAMINER: Thank you, Ms.
21 Messenger. Mr. Johnson.

22 MR. JOHNSON: Just for the record, I
23 have all my certificates over the years of me
24 driving and being a safe driver. You know,
25 that is all I have.

1 ATTORNEY EXAMINER: Thank you, Mr.
2 Johnson. Then the Commission will consider this
3 case based on the testimony and evidence
4 provided today.

5 With that we are adjourned. I want
6 to thank everyone for coming, especially Mr.
7 Johnson. That is quite a hike from Texas. But
8 thank you very much.

9 MR. JOHNSON: Fighting for my
10 license.

11 (At 10:50 A.M. the hearing was
12 concluded)

13 - - -

CERTIFICATE

I do hereby certify that the foregoing
is a true and correct transcript of the
proceedings taken by me in this matter on
October 27, 2016, carefully compared with my
original stenographic notes.

Michael O. Spencer,
Registered Professional
Reporter.

- - -

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Summary: Transcript In the Matter of James A. Johnson Notice of Apparent Violation and Intent to Assess Forfeiture, hearing held on October 27, 2016. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Spencer, Michael O. Mr.