

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of Bryan :
Pettiford, Notice of :
Apparent Violation and : Case No. 21-495-TR-CVF
Intent to Enforce :
Forfeiture. :

- - -

PROCEEDINGS

before Mr. Michael L. Williams, Attorney Examiner, at
the Public Utilities Commission of Ohio, 180 East
Broad Street, Room 11-D, Columbus, Ohio, called at
10:18 a.m. on Tuesday, October 12, 2021.

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

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APPEARANCES:

Dave Yost, Ohio Attorney General
 John Jones, Section Chief
 By Mr. Thomas Sheppard
 and Mr. Werner L. Margard, III,
 Assistant Attorneys General
 Public Utilities Section
 30 East Broad Street, 26th Floor
 Columbus, Ohio 43215

On behalf of the PUCO Staff.

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1 Tuesday Morning Session,
2 October 12, 2021.

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4 EXAMINER WILLIAMS: We are on the record.

5 The Public Utilities Commission of Ohio
6 has set today, October 12, 2021, in Case No.
7 21-495-TR-CVF captioned In Re: Bryan Pettiford,
8 Notice of Apparent Violation and Intent to Assess --
9 Intent to Enforce Forfeiture.

10 I am the Attorney Examiner assigned to
11 hear today's case. I will take appearances from the
12 parties.

13 MR. SHEPPARD: Thank you, your Honor. On
14 behalf of the Staff of the Public Utilities
15 Commission of Ohio, Dave Yost, Attorney General of
16 Ohio, John Jones, Section Chief, Public Utilities
17 Section by Assistant Attorneys General Thomas
18 Sheppard and Werner Margard, 30 East Broad Street,
19 26th Floor, Columbus, Ohio 43215.

20 EXAMINER WILLIAMS: Thank you,
21 Mr. Sheppard.

22 We will note for the record it's almost
23 10:20. We were off the record and convened around
24 10 o'clock. At that time Respondent had not
25 appeared, and he has still not appeared.

1 So with that I will proceed to the State
2 to present its case.

3 MR. SHEPPARD: Thank you. First, Staff
4 will move for motion for default under Ohio
5 Administrative Code Section 4901:2-7-14.

6 EXAMINER WILLIAMS: You want to elaborate
7 on that motion?

8 MR. SHEPPARD: Yeah. As the Respondent
9 is not here, under that section the Respondent is in
10 default for failure to prosecute his case.

11 EXAMINER WILLIAMS: All right. Thank
12 you, Mr. Sheppard. I will take it under advisement.

13 I will entertain further information or
14 evidence from the State.

15 MR. SHEPPARD: Sure. Staff calls to the
16 stand Trooper Rodney D. Ramps.

17 (Witness sworn.)

18 EXAMINER WILLIAMS: Please be seated.
19 Trooper, I'm sorry. I didn't catch your last name.

20 THE WITNESS: It's Ramps, R-A-M-P-S.

21 EXAMINER WILLIAMS: Thank you, Trooper.

22 MR. SHEPPARD: You beat me to it.

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TROOPER RODNEY D. RAMPS

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

DIRECT EXAMINATION

By Mr. Sheppard:

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

A. It's Trooper Rodney Daniel Ramps, last
name is R-A-M-P-S.

Q. Thank you. Where are you employed?

A. For the Ohio State Highway Patrol, the
Warren District Licensing and Commercial Standards
Section. I'm assigned to the Ohio Turnpike.

Q. Okay. You are good at this. How long
have you been with the Patrol?

A. 22 years almost.

Q. Okay. And what are your duties in that
capacity in your job?

A. Nowadays it is simply traffic enforcement
and commercial motor vehicle inspections that occur
on the Ohio Turnpike.

Q. Okay. And do you have any specific
training in that area, any continuing education,
certification?

A. When I first started this 10 years ago,

1 in my section we spent about six weeks in Columbus
2 being trained on all the aspects of the inspection
3 process. We have annual training that takes place on
4 a yearly basis every single year, and I have close to
5 9,000 inspections under my belt, if that means
6 anything for training purposes.

7 Q. Great. Okay. Are motor carrier
8 inspections conducted to protect the safety of the
9 Ohio traveling public?

10 A. Yes, sir.

11 Q. And I think you might have touched on
12 this, but how many inspections on average do you say
13 you perform in a normal year?

14 A. Anywhere between 800 to a thousand
15 depending on what the day brings.

16 MR. SHEPPARD: May I approach the
17 witness, your Honor?

18 EXAMINER WILLIAMS: Please.

19 MR. SHEPPARD: I would like to have
20 marked as Staff Exhibit 1 the Driver/Vehicle
21 Examination Report.

22 EXAMINER WILLIAMS: So marked.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 Q. Do you recognize the document marked as
25 Staff Exhibit 1?

1 A. Yes, sir.

2 Q. And is this a Patrol record?

3 A. I believe this is the Public Utilities
4 Commission's version of the inspection that I
5 generate.

6 Q. Okay. But the information contained in
7 it is --

8 A. It's identical, yes, sir.

9 Q. Okay. And it is kept in the ordinary
10 course of business?

11 A. Yes, sir.

12 Q. And so the information in this document
13 is an accurate reflection of the report you filled
14 out on July 31, 2019, following the inspection of
15 Bryan Pettiford?

16 A. Yes, sir.

17 Q. Do you recall why you stopped
18 Mr. Pettiford?

19 A. The inspection, as old as it is, I'm
20 inferring this, but in the regular course of my
21 duties when I stop someone for an obvious violation,
22 which I did in this case, the violation that exists
23 in the report that reflects that is the fact there
24 were no company markings on the truck. So I can only
25 infer that would have to be the reason for which I

1 pulled him over in this case.

2 Q. Okay. And can you read the first
3 violation listed on Staff Exhibit 1.

4 A. Yes. "Driving a CMV while CDL is
5 suspended for a safety-related or unknown reason and
6 in state of driver's license issuance."

7 Q. And how did you come to the conclusion
8 that that violation had occurred?

9 A. Every driver that we stop we run them
10 through Ohio LEADS as well as the federal side of it
11 which is the CDLIS program. In this case the driver
12 would have had a Class D -- non-CDL Class D, so we
13 only run them through Ohio LEADS where he comes up
14 suspended.

15 MR. SHEPPARD: May I approach, your
16 Honor?

17 EXAMINER WILLIAMS: Yes.

18 MR. SHEPPARD: I would like to have
19 marked as Staff Exhibit 2 photos here.

20 EXAMINER WILLIAMS: Thank you. Two
21 sheets that appear to be screenshots; you are going
22 to mark those as Staff 2?

23 MR. SHEPPARD: Yeah.

24 EXAMINER WILLIAMS: So marked.

25 (EXHIBIT MARKED FOR IDENTIFICATION.)

1 Q. Do you have before you what has been
2 marked as Staff Exhibit 2?

3 A. I do.

4 Q. Did you take these two photos?

5 A. Yes, sir.

6 Q. And this shows the system that you used
7 to determine Mr. Pettiford's CDL was suspended?

8 A. Yes, sir. The first photograph is of the
9 Ohio LEADS entry on my MCT. The second one is the
10 prescreen entry on the Aspen program by which we
11 perform our inspections.

12 Q. Okay. And you commonly, as part of your
13 job, whenever you do an inspection check to make sure
14 a CDL is valid and not expired?

15 A. Yes; yes, sir.

16 Q. Okay. Okay. Let's move on. If you look
17 back at Staff Exhibit 1, the second violation listed
18 there.

19 A. Yes, sir.

20 Q. Can you go ahead and tell me what that
21 is.

22 A. Yes, sir. The driver had no logbook.
23 The violation is no record of duty status when one is
24 required with an ELD not being required. The driver
25 made statements to me during the stop that he, in

1 fact, did not have a logbook.

2 Q. Okay. And if you look at inspection
3 notes on Staff Exhibit 1, can you read that last
4 sentence for me.

5 A. "Driver stated he knew he was suspended,
6 and that he did not complete a logbook."

7 Q. Okay. So is it your professional opinion
8 that Mr. Pettiford was in violation of the rule
9 requiring him to have a record of duty status?

10 A. Yes, sir.

11 Q. Is there anything else important to note
12 for the record today?

13 A. Those are the two major out-of-service
14 violations, probably the most specific pertaining to
15 why we are here. The only other offenses were the
16 warning that the driver received for his address not
17 being correct on his license, the markings violation
18 for which I pulled him over for, the fact that his
19 carrier had not paid their UCR fee for that current
20 year, and the fact his license plate light was
21 missing.

22 MR. SHEPPARD: I have no further
23 questions.

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EXAMINATION

By Examiner Williams:

Q. Just to clarify, I know there was some issues of notice in the file as well, you indicated you gave a warning for an address that didn't comport with his license.

A. Yes, sir.

Q. So the information on the screenshots on Staff Exhibit 2 describes a Rock Hill, Columbus, address.

A. Uh-huh.

Q. Did he give you a different address?

A. I'm looking for his current address.

Q. That's all right. Only if you recall.

A. It looks like the address in the report -- yeah, in the report which is 295 Quarry Road in Maumee, Ohio, is his current correct address. With the driver having a class A CDL, he is required by Ohio law to change his address and update it within the BMV of 10 days of that address change. With his license and his LEADS entry still showing Columbus, Ohio, that's why that violation is there.

Q. So the Quarry Road address that's on Staff Exhibit 1, where does that come from?

A. That was what the driver offered to me

1 stating that that was his current address.

2 Q. Okay. Thank you.

3 A. Yes, sir.

4 EXAMINER WILLIAMS: Further questions?

5 MR. SHEPPARD: I move to admit Staff
6 Exhibits 1 and 2 into the record.

7 EXAMINER WILLIAMS: Staff Exhibits 1 and
8 2 are admitted.

9 (EXHIBITS ADMITTED INTO EVIDENCE.)

10 EXAMINER WILLIAMS: We will go off the
11 record here for a minute.

12 (Discussion off the record.)

13 EXAMINER WILLIAMS: We are back on the
14 record.

15 Trooper Ramps, thank you for your time
16 this morning. Appreciate your testimony.

17 THE WITNESS: Yes, sir.

18 EXAMINER WILLIAMS: You are excused.

19 THE WITNESS: Thank you, sir.

20 MR. SHEPPARD: Your Honor, Staff will
21 next call Rod Moser to the stand.

22 EXAMINER WILLIAMS: Good morning,
23 Mr. Moser.

24 MR. MOSER: Good morning.

25 (Witness sworn.)

1 EXAMINER WILLIAMS: Thank you. Please be
2 seated.

3 - - -

4 ROD A. MOSER
5 being first duly sworn, as prescribed by law, was
6 examined and testified as follows:

7 DIRECT EXAMINATION

8 By Mr. Sheppard:

9 Q. Good morning, Mr. Moser.

10 A. Good morning.

11 Q. Can you please state your full name for
12 the record.

13 A. My name is Rod Allen Moser.

14 Q. And where are you employed?

15 A. With the -- I'm the Chief of the
16 Compliance Department within the Transportation
17 Department of the Public Utilities Commission of
18 Ohio.

19 Q. Okay. How long have you been in that
20 position?

21 A. Four-and-a-half years.

22 Q. Okay. What are your duties in that
23 position?

24 A. Related to this I'm the -- I administer
25 the civil forfeiture process for the Transportation

1 Department.

2 Q. Okay. Can you explain how the Commission
3 determines the amount of a given forfeiture?

4 A. Sure. The violations are divided into
5 groups. The mechanical violations are divided into
6 groups based upon their likelihood to cause a crash
7 and then there are driver authority and insurance
8 violations that are in a separate group. Those
9 always have a fine. Mechanical violations only have
10 a fine if they are marked as out of service by the
11 inspector.

12 Q. And the Commission applies this process
13 uniformly to everyone?

14 A. Yes, sir.

15 MR. SHEPPARD: Your Honor, may I approach
16 the witness?

17 EXAMINER WILLIAMS: Yes.

18 MR. SHEPPARD: I would like to have
19 marked as Staff Exhibit 3 a document dated August 2,
20 2019, the Notice of Apparent Violation and Intent to
21 Assess Forfeiture.

22 EXAMINER WILLIAMS: So marked.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 Q. Do you recognize this document I have
25 marked as Staff Exhibit 3?

1 A. I do, yes, sir.

2 Q. And can you explain to me what this is?

3 A. This would be the initial letter that was
4 sent out notifying the Respondent of the Commission's
5 intent to assess a civil forfeiture for the
6 violations discovered in the inspection.

7 Q. And did you review it in preparation for
8 this hearing?

9 A. This I did not.

10 Q. Okay.

11 A. I did the NPD.

12 Q. Sorry. On the letter dated August 2
13 right on the front, can you read the address listed
14 there at the top?

15 A. It is 295 Quarry Road, Maumee, Ohio
16 43537.

17 Q. Okay. If you flip back a few pages, it's
18 on the flip side of one of the pages. It's about
19 four pages back dated September 1, 2019.

20 A. Same address, 295 Quarry Road, Maumee,
21 Ohio.

22 Q. Okay. And then a few pages further the
23 letter dated September 4, can you read that address?

24 A. The address on this one is 2953 Quarry
25 Road, Maumee, Ohio.

1 Q. Okay. And can you explain your
2 understanding of why there was a third notice sent
3 out here with a different address?

4 A. I think we just discovered that the
5 address on the first two were not consistent with
6 what was on the inspection report.

7 Q. Okay. So the Respondent was served with
8 this document eventually with the right address.

9 A. Correct.

10 Q. Okay. Is the document that you see a
11 Commission record?

12 A. It is.

13 Q. Is it kept in the ordinary course of
14 business?

15 A. Yes, it is.

16 Q. And you use the process you described
17 earlier to arrive at the -- at the civil forfeiture
18 in this case?

19 A. Yes, that's correct.

20 Q. And this is a correct forfeiture amount
21 for the case?

22 A. It is, yes.

23 Q. Would you recommend this on to the
24 Commission?

25 A. Yes, sir.

1 Q. Is there anything else important you want
2 to note for the record?

3 A. No.

4 MR. SHEPPARD: Okay. No further
5 questions, your Honor.

6 - - -

7 EXAMINATION

8 By Examiner Williams:

9 Q. Mr. Moser, just to clarify my
10 understanding, so we have one address that's in the
11 LEADS system, and we have the address that he gave
12 the Trooper. How did you first have the 295 Quarry
13 Road address?

14 A. I really don't know how that happened
15 because really our whole system is automated, so I'm
16 not sure.

17 Q. Okay. But at some point then presumably
18 the address -- the recognition that the address was
19 different than what was provided the Trooper
20 contained in the incident report.

21 A. Yes. We realized it was not correct.

22 Q. And then tell me for my further
23 understanding or repeat understanding the obligation
24 generally of drivers to keep their addresses current.

25 A. Well, I don't know that I can quote state

1 law. I believe they have 10 days to notify the
2 Bureau of Motor Vehicles of an address change.

3 Q. And you are not aware of any information
4 regarding any updated addresses beyond what we have
5 here.

6 A. We did not get any updated information.

7 EXAMINER WILLIAMS: Okay. Thank you.
8 That's all the questions I have.

9 MR. SHEPPARD: All set.

10 EXAMINER WILLIAMS: Thank you, Mr. Moser.

11 MR. SHEPPARD: Oh, I would like to move
12 Staff Exhibit 3 into the record.

13 EXAMINER WILLIAMS: That's deemed as
14 admitted as well.

15 (EXHIBIT ADMITTED INTO EVIDENCE.)

16 MR. SHEPPARD: I would like to renew
17 Staff's motion for default judgment.

18 EXAMINER WILLIAMS: That's still under
19 advisement. And any other witnesses or information
20 you want the Bench to be aware of?

21 MR. SHEPPARD: Staff rests.

22 EXAMINER WILLIAMS: All right. I will
23 take the entirety of the case under advisement
24 including the presentation of the evidence here
25 today. We will get a decision out as quick as

possible as soon as the transcript is published.

Thank you, everyone.

(Thereupon, at 10:33 a.m., the hearing
was adjourned.)

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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 Tuesday, October 12,
2021, and carefully compared with my original
stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-7165)

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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

10/22/2021 9:54:32 AM

in

Case No(s). 21-0495-TR-CVF

Summary: Transcript October 12th 2021

In the Matter of Bryan Pettiford, Notice of Apparent Violation and Intent to Enforce Forfeiture.
electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson,
Karen Sue Mrs.