

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of Joseph :  
Williams, Notice of Apparent : Case No.  
Violation and Intent to : 20-1588-TR-CVF  
Assess Forfeiture. :

- - -

PROCEEDINGS

Before Jim Lynn, Attorney Examiner, held via  
WebEx, on Monday, November 8, 2021, at 10:00  
A.M.

- - -

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

- - -

APPEARANCES:

Ms. Kyle Kern  
Assistant Attorney General  
30 East Broad Street, 26th Floor  
Columbus, Ohio 43215

Appearing on behalf of the Staff  
of the Public Utilities Commission  
of Ohio.

Mr. Joseph Williams  
6920 Willow Bloom Drive  
Canal Winchester, Ohio 43110

Appearing Pro se.

- - -

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INDEX TO WITNESSES		
- - -		
	DIRECT	CROSS
STATE'S WITNESSES		
Inspectorr Richard Bittner	7	
Bradley Long	20	
RESPONDENT'S WITNESSES		
Joseph Williams	29	34

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INDEX TO EXHIBITS

- - -

STATE'S EXHIBITS	MARKED ADT	
1 Vehicle-Examination Report	9	17
2 Notice of Preliminary Determination	23	28

- - -

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Monday Morning,  
November 8, 2021.  
10:30 A.M.  
- - -

ATTORNEY EXAMINER: The Public  
Utilities Commission of Ohio has assigned for  
hearing at this time Case No. 20-1588-TR-CVF In  
the Matter of Joseph Williams Notice of Apparent  
Violation and Intent to Assess Forfeiture.

I will note that this is being held  
through WebEx which allows the parties to  
participate by video or telephone as the case  
may be. And if there are any technical  
difficulties during the hearing please contact  
me at 614-644-0451. Hopefully we won't have any  
problems. I think everybody is on board now.

I just want to mention to please  
keep your microphone on mute or stay very quiet  
unless you are speaking. And keep any noise to  
a minimum.

And also be mindful of our court  
reporter, so speak clearly and at a reasonable  
pace. And if you have to repeat yourself go  
ahead.

So I believe that's all for the

1 initial comments. Let's start with  
2 the appearances of the parties. And we will  
3 begin with the attorney from the Attorney  
4 General's office.

5 MS. KERN: Thank you, Your Honor.  
6 On behalf of the Ohio Attorney General's office,  
7 David Yost, Section Chief John Jones, 30 East  
8 Broad Street, 26th Floor, Columbus, Ohio 43215,  
9 Assistant Attorney General Kyle Kern.

10 ATTORNEY EXAMINER: Thank you.  
11 And, Mr. Williams, if you could state your name  
12 and address, please.

13 MR. WILLIAMS: Joseph Emerson  
14 Williams.

15 ATTORNEY EXAMINER: And your  
16 address, please.

17 MR. WILLIAMS: 6920 Willow Bloom  
18 Drive, Canal Winchester, Ohio 43110.

19 ATTORNEY EXAMINER: Thank you.  
20 Okay. We will proceed then with the Attorney  
21 General's office first since they are the ones  
22 that brought the case to the Commission. Ms.  
23 Kern, would you like to go ahead with your first  
24 witness, or your opening comments?

25 MS. KERN: Yes, your Honor, thank

1 you. We would like to call Inspector Bittner as  
2 our first witness.

3 (WITNESS SWORN)

4 - - -

5 INSPECTOR RICHARD BITTNER  
6 called as a witness, being first duly sworn,  
7 testified as follows:

8 DIRECT EXAMINATION

9 By Ms. Kern:

10 Q. Can you hear me, Inspector Bittner,  
11 first off?

12 A. Yes, ma'am.

13 Q. Thank you. Can you please state  
14 your full name for the record, please?

15 A. Yes. My name is Richard Bittner.

16 Q. And where are you employed, sir?

17 A. I am employed with the State Highway  
18 Patrol based out of Bucyrus.

19 Q. And what is your position within the  
20 Patrol?

21 A. Motor Carrier Enforcement Inspector.

22 Q. How long have you been with the  
23 Patrol?

24 A. I have been with the Patrol total of  
25 seven years, four years as an inspector.

1           Q.    And can you explain your duties in  
2   your capacity as a Highway Patrolman?

3           A.    Yes, ma'am.  So, basically my duties  
4   are to inspect commercial vehicles roadside and  
5   static, and to -- basically what we will do is  
6   check to ensure that license, registration,  
7   insurance are valid, ensure that their log books  
8   are correct.  We are enforcing federal  
9   guidelines.  Vehicle maintenance as well as any  
10  of the licensing increments that are required.

11          Q.    Thank you.  Can you explain any  
12  training that you have in that area?

13          A.    Yes, ma'am.  We have extensive  
14  training to come into this position.  We have to  
15  complete North American Standards Part A, Part  
16  B, hazmat, tanker, bulk, other bulk, passenger  
17  and vehicle inspection.  All of those require 32  
18  inspections each time after each of the classes,  
19  and you have to score at least an 80 percent on  
20  the test.

21                   And then you have to go out in the  
22  field with a training officer and show that you  
23  are able to complete these inspections.

24          Q.    Thank you.  Would you agree that  
25  motor carrier inspections are conducted to



1 protect the safety of the Ohio traveling public?

2 A. Yes, ma'am. Absolutely.

3 MS. KERN: Your Honor, I would like  
4 to mark as Staff Exhibit 1 a two-page document  
5 that I circulated on Friday. It is Entitled  
6 Vehicle/Examination Report.

7 ATTORNEY EXAMINER: All right. We  
8 will call that Staff Exhibit 1, and that's a  
9 report that was done on August 11th of 2020.

10 (EXHIBIT HEREBY MARKED FOR  
11 IDENTIFICATION PURPOSES)

12 Q. Inspector Bittner, do you have a  
13 copy of the document Entitled  
14 Vehicle/Examination Report that I just had  
15 marked as Staff Exhibit 1?

16 A. Yes, ma'am, I do.

17 Q. Thank you. I would like for you to  
18 take a look at that document.

19 A. Yes, ma'am.

20 Q. Do you recognize this document?

21 A. I do, ma'am.

22 Q. And is the document a Patrol record?

23 A. Yes, ma'am.

24 Q. It is kept in the ordinary course of  
25 business; is that correct?

1           A.    Yes, ma'am, it is.

2           Q.    Is it the practice of the Ohio State  
3 Highway Patrol to make this report?

4           A.    Yes, ma'am.

5           Q.    Okay.  And I know you are looking at  
6 a different copy, but is it substantially the  
7 same document as when you prepared it to the  
8 best of your recollection?

9           A.    Yes, ma'am.  I have read through it  
10 several times, and it is complete.

11          Q.    Can you explain the reason for you  
12 producing this inspection report of the motor  
13 carrier vehicle operated by Mr. Williams?

14          A.    Yes, ma'am.  I was sitting  
15 stationary patrol on I-71 watching traffic  
16 moving southbound.  Mr. Williams passed by  
17 heading southbound.  As he passed by I noticed  
18 that the orange seat belt was hanging from the  
19 post up on the lefthand side above the left  
20 shoulder.

21                   I pulled out into traffic once Mr.  
22 Williams had passed me.  Mr. Williams was  
23 traveling in the right-hand lane of a three-lane  
24 highway.  As I moved over to the center lane to  
25 be able to read the license plate and gather the

1 information needed for the traffic stop he  
2 started to approach an ODOT unit that was out  
3 mowing the side of the roadway. I stayed back  
4 several car lengths to allow Mr. Williams to  
5 move over into the left lane, to be able to move  
6 safely around the DOT workers.

7 Mr. Williams put on his turn signal,  
8 initially started to move to the left, got to  
9 the point where his front tire had touched the  
10 dotted line of his own lane, and then stayed in  
11 that lane. Continued forward, continued  
12 southbound.

13 I initiated the traffic stop, and  
14 Mr. Williams continued to drive approximately  
15 almost another mile after the traffic stop was  
16 initiated, lights and sirens. Once Mr. Williams  
17 stopped I made my approach, made contact with  
18 the driver, and spoke with the driver.

19 At that time I moved Mr. Williams to  
20 a safer location where we could conduct the  
21 rest of the inspection safely. And while  
22 conducting the inspection I asked Mr. Williams  
23 why he wasn't wearing the seat belt when he was  
24 going down the roadway. And he advised that he  
25 had been wearing it, however, he had not had

1 the shoulder strap on. He advised that that  
2 hurt him. But he did have the lap portion of  
3 the seatbelt on.

4 In my notes, if I can read through  
5 those.

6 Q. If you could just hold just a second  
7 because we are going to get to this part. Thank  
8 you.

9 It sounds like you remember the  
10 inspection; is that correct?

11 A. Yes, ma'am. Very vividly.

12 Q. And the approximate date?

13 A. Yes, ma'am.

14 Q. Okay. And the location, you  
15 remember all of that. And the driver that's on  
16 the report is Mr. Williams; is that correct?

17 A. Yes, ma'am.

18 Q. To the best of your recollection is  
19 Mr. Williams present on this video conference  
20 hearing today?

21 A. To the best of my knowledge, ma'am.  
22 I am unable to see anyone except for the few  
23 that are here, but he has acknowledged that he  
24 is, and he is Mr. Williams.

25 ATTORNEY EXAMINER: He is

1 acknowledging verbally. We will note that for  
2 the court reporter.

3 Q. Okay. Thank you. Does the driver  
4 get a copy of the report at the stop?

5 A. Yes, ma'am, he does. On completion  
6 of the inspection drivers are given the full  
7 report.

8 Q. And you provided a copy of the  
9 report to Mr. Williams at this particular stop;  
10 is that correct?

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

12 Q. And you started to talk about the  
13 seatbelt violation, which is the reason that we  
14 are here today; correct?

15 A. Yes, ma'am.

16 Q. Could you please explain how you  
17 determined that Mr. Williams was not wearing his  
18 seatbelt, or not wearing it appropriately?

19 A. Yes, ma'am. Initially as I had  
20 said, when Mr. Williams had passed me I could  
21 see that the seatbelt was hanging from the post.  
22 Once I was able to speak with Mr. Williams and I  
23 asked him why he wasn't wearing his seatbelt, he  
24 actually informed me that he was wearing the lap  
25 portion only because the other portion hurt him.

1 Q. So is it still a violation for not  
2 wearing a seatbelt if you are only wearing  
3 the lap portion, sir?

4 A. Yes, ma'am. Along as he has no  
5 restrictions or any medical condition that would  
6 show that he was not required to wear it, he is  
7 required to wear his seatbelt properly.

8 MS. KERN: Thank you. Your Honor, I  
9 have no further questions for this witness.  
10 I would like to move Staff Exhibit 1 into the  
11 record, and again I would reserve this witness  
12 for possible rebuttal if necessary.

13 ATTORNEY EXAMINER: Thank you, Ms.  
14 Kern. I just had a few questions for Mr.  
15 Bittner.

16 EXAMINATION  
17 By the Attorney Examiner:

18 Q. Mr. Bittner, could you explain again  
19 when Mr. Williams' vehicle approached you where  
20 you were parked or where you were sitting at the  
21 time?

22 A. Yes, sir. I was on I-71 and we were  
23 just north of Ashland. I was in the cross-over  
24 just prior to the old scale house that is no  
25 longer used. I was just north of that sitting

1 in the cross-over watching traffic moving  
2 southbound with a clear field of view of at  
3 least 300 yards.

4 Q. All right. And so you were in the  
5 cross-over, or the median. And Mr. Williams'  
6 vehicle, again, what lane was he in? Was it in  
7 a lane closest to you? I think you said it's a  
8 three-lane highway there.

9 A. That is correct, sir. He was in the  
10 far right-hand lane. So there would be, as I  
11 was sitting in the median I would be in the left  
12 lane, Mr. Williams was in the right lane.

13 Q. I see. Okay. And were the weather  
14 conditions clear that day?

15 A. Yes, sir. They were very clear.

16 Q. And were there any other vehicles  
17 similar in height near Mr. Williams at the time  
18 he went by?

19 A. No, sir. There was light traffic,  
20 but it was all passenger vehicles. Very light.

21 Q. All right. When you mentioned that  
22 his shoulder belt was hanging from a post, could  
23 you explain that a little bit, please?

24 A. Yes, sir. So above what would be  
25 considered the B post, A post is your very front

1 post of your vehicle, B post would be right next  
2 to the driver's left shoulder. At that point of  
3 where the seat belt would come down normally and  
4 hanging, that was where I could see the seatbelt  
5 hanging

6 Q. I will mention for the court  
7 reporter, the A post would be basically it's on  
8 the left side of the windshield?

9 A. Yes, sir, the A post is.

10 Q. Then the B post, as Inspector  
11 Bittner is saying is alongside the driver. One  
12 of the supports basically for the roof is what  
13 it amounts to.

14 A. Correct. It is directly behind the  
15 driver's left shoulder.

16 ATTORNEY EXAMINER: All right.  
17 Thank you. Ms. Kern has put a motion to move  
18 the Staff Exhibit into evidence. Before we do  
19 that, Mr. Williams, did you have any questions,  
20 just questions, now, you can tell your side of  
21 the story, but any questions for Inspector  
22 Bittner?

23 MR. WILLIAMS: Basically, you know,  
24 I think it would be impossible for him to see  
25 anything. I was in the right-hand lane, I did



1 have the strap on, I had my seatbelt on.

2 ATTORNEY EXAMINER: Mr. Williams,  
3 again, those are important comments, but we will  
4 do that after we swear you in for your side of  
5 the story.

6 But I wanted to know, is there  
7 anything you have in mind that you could pose as  
8 a question for Inspector Bittner?

9 MR. WILLIAMS: No, no. I do not.

10 ATTORNEY EXAMINER: Okay. With that  
11 in mind I will mention that we included you on  
12 the e-mail that the A.G.'s office, Attorney  
13 General, Assistant AG Kern, sent you the copies  
14 of the inspection report which, of course, you  
15 were given too at the time of the inspection.

16 So, do you have any objection to  
17 that examination report being admitted into  
18 evidence?

19 MR. WILLIAMS: No.

20 ATTORNEY EXAMINER: All right. Then  
21 we will admit Staff Exhibit 1 into evidence.  
22 And that's the Driver/Vehicle inspection report.

23 (EXHIBIT ADMITTED INTO EVIDENCE)

24 ATTORNEY EXAMINER: Thank you  
25 again, Mr. Williams. And, Ms. Kern, did you

1 have any other questions for this witness, for  
2 Mr. Bittner or Inspector Bittner, or did you  
3 have any other exhibits that you wanted to put  
4 forward?

5 MS. KERN: No other exhibits, but I  
6 did have one more clarifying question, your  
7 Honor, if I may.

8 ATTORNEY EXAMINER: Go ahead.

9 REDIRECT EXAMINATION

10 By Ms. Kern:

11 Q. Inspector Bittner, do you recall the  
12 color of Mr. Williams' seatbelt?

13 A. It was orange in color.

14 Q. And so you would have been able to  
15 see a distinction between an orange seatbelt and  
16 Mr. Williams' clothing, is that correct, to know  
17 if it was across the shoulder?

18 A. Yes, ma'am. He was wearing a white  
19 T-shirt.

20 MS. KERN: No further questions.

21 ATTORNEY EXAMINER: All right.

22 FURTHER EXAMINATION

23 By the Attorney Examiner:

24 Q. Inspector Bittner, what was the  
25 speed of the vehicles at that time,

1 approximately, on that part of the highway?

2 A. Sir, I have no way to -- as  
3 commercial enforcement we do not have the  
4 ability. I can tell you that once I had pulled  
5 out into traffic and faced Mr. Williams we were  
6 paced right at about 65 miles per hour.

7 Q. And some other question. Let me  
8 think for just a minute.

9 And about how far away, if you can  
10 estimate, was Mr. Williams' vehicle at the time  
11 that you were looking into the cab and noticed  
12 the seatbelt?

13 A. Yes, sir. It would be less than 30  
14 feet. But I also used binoculars. I have a set  
15 of binoculars that I use. At that particular  
16 spot coming down the hill, and I am at the  
17 bottom of the valley of the hill where the  
18 cross-over is, and as they come down the hill I  
19 have a clear view into the cabs of the vehicles.

20 ATTORNEY EXAMINER: All right.  
21 Thank you. Okay. Thank you very much. You are  
22 still under oath, so we may get back to you with  
23 further questions.

24 And, Ms. Kern, did you have any  
25 other witnesses that you wanted to bring

1 forward?

2 MS. KERN: Yes, your Honor. Staff  
3 would like to call Bradley Long.

4 (WITNESS SWORN)

5 - - -

6 BRADLEY LONG

7 called as a witness, being first duly sworn,  
8 testified as follows:

9 DIRECT EXAMINATION

10 By Ms. Kern:

11 Q. Please state your full name for  
12 the Commission, sir.

13 A. It is Bradley Long.

14 Q. Where are you employed?

15 A. Public Utilities Commission,  
16 Transportation Section, Compliance.

17 Q. And what is your position?

18 A. I am Assistant Chief of Compliance.

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

21 A. I have been in this position since  
22 November of 2019, almost two years.

23 Q. And could you briefly explain your  
24 duties as Assistant Chief?

25 A. Yes. I assist in the oversight and

1 monitoring of the compliance section and civil  
2 forfeiture process. Also organization  
3 assignment of work for our compliance staff and  
4 CO officers. I am also responsible for  
5 reviewing conference summaries for completion,  
6 accuracy and are they done in a timely manner.

7 Q. What are your expert qualifications  
8 in violations or the subject matter of  
9 violations?

10 A. Prior to my time here with the PUCO  
11 I was a State Trooper for 24 years on the road,  
12 25 total with Highway Patrol. In that time I  
13 was ten years with the crash reconstruction  
14 section where I was trained specifically  
15 certified with commercial motor vehicle crash  
16 investigations, ECM, which is electronic control  
17 module monitoring.

18 Prior to my last two years with the  
19 Patrol I was in the License Commercial Standards  
20 Unit where I was a commercial motor vehicle  
21 Trooper. Completed roughly around 1,500  
22 inspections before I came to the PUCO.

23 During that I had to have  
24 certifications in North American Standards Part  
25 A and B, hazmat general, cargo tank, other bulk,

1 bulk, motor coach, school bus inspector. So  
2 several since then.

3 Q. Thank you. Can you explain how you  
4 determine the amount of a forfeiture?

5 A. Sure. Inspections come in that are  
6 not hazmat, in this case it was a non-hazmat  
7 inspection, the violations come into the system  
8 and the system automatically assesses them based  
9 on what we call group numbers.

10 There are five groups, zero through  
11 4, group zeros never get a fine assigned to  
12 them. These groups are basically assigned in a  
13 manner based on the likelihood of a crash  
14 occurring.

15 So Groups 1 through 3 generally  
16 will receive a fine if the violation is an out  
17 of service, or we are talking more of equipment  
18 violations, things like that.

19 This is a Group 4 violation. Group  
20 4 relations always have a fine assessed to them.  
21 Those are generally your authority or driver  
22 violations.

23 So this system came in and it was  
24 assessed at a \$100 fine, which is the fine  
25 amount that is assessed for that violation no

1 matter who gets it, no matter what driver, how  
2 it comes in, a seatbelt violation is going to  
3 get a \$100 fine. That is generally related  
4 to -- in relationship to the CBSA and FMCSA  
5 regulations.

6 Q. Thank you. So the Commission  
7 applies this process of determining a forfeiture  
8 uniformly to everyone; is that correct?

9 A. That is correct.

10 Q. I would like to turn your attention  
11 to a document called the Notice of Preliminary  
12 Determination.

13 MS. KERN: Your Honor, I sent it to  
14 both you and Respondent on Friday. It should be  
15 marked as Staff Exhibit 2, please.

16 ATTORNEY EXAMINER: All right.

17 (EXHIBIT MARKED FOR THE PURPOSE OF  
18 IDENTIFICATION)

19 Q. Mr. Long, let me know when you have  
20 that document.

21 A. I have it.

22 MS. KERN: And, your Honor. Okay.  
23 Do you have that document?

24 ATTORNEY EXAMINER: Yes, I do.

25 MS. KERN: Okay. Thank you.

1           Q.    Do you recognize this document, Mr.  
2   Long?

3           A.    I sure do.

4           Q.    What is it?

5           A.    It's a Notice of Preliminary  
6   Determination.  It's provided to the Respondents  
7   after a conference with a compliance officer  
8   where a settlement cannot be reached.  Then  
9   it's explained to them that they still have the  
10   option to either pay the forfeiture in full or  
11   within 30 days as it's noted down at the bottom  
12   request an administrative hearing.

13          Q.    Thank you.  And was this specific  
14   document sent to the Respondent?

15          A.    That's correct.

16          Q.    And did you review this document in  
17   preparation for this hearing?

18          A.    I did.

19          Q.    Is this document kept as a  
20   Commission record in the ordinary course of  
21   business?

22          A.    It is.

23          Q.    And can you, I know you just gave an  
24   explanation about how forfeitures are generally  
25   derived, but can you explain how the \$100



1 forfeiture amount was derived in this case?

2 A. Yes. When it came into the system  
3 again, that fine is set as a Group 4 violation  
4 fine in the system. So whenever that seatbelt  
5 violation comes into the system written under  
6 392.16 it's going to come in as a Group 4  
7 violation, the system is going to recognize that  
8 violation, automatically assesses that fine for  
9 \$100, unless there is an entry in that  
10 inspection that the Respondent was issued a  
11 traffic citation for the violation or a warning  
12 or something in the state field was written it's  
13 always going to be assessed \$100.

14 Q. So this penalty is consistent with  
15 the recommended fine schedule and recommended  
16 civil penalty procedure adopted by the  
17 Commercial Motor Vehicle Alliance; is that  
18 correct?

19 A. That's correct.

20 Q. Would you recommend this amount to  
21 the Commission as a forfeiture of \$100?

22 A. That's correct. I would.

23 Q. Is there anything else important to  
24 note that we have not discussed that you would  
25 like the Commission to know for the record?

1           A.     Not that I am aware of at this time.

2           MS. KERN:   Thank you.   Your Honor, I  
3     have no further questions for this witness.

4           ATTORNEY EXAMINER:   All right.  
5     Thank you.   Mr. Williams, you heard an  
6     explanation of how that fine was calculated and  
7     how it was determined.   And you may disagree  
8     with the violation, but do you have any  
9     objection to this particular piece of evidence,  
10    this letter that you received indicating what  
11    the fine is?

12           MR. WILLIAMS:   Yes.   I think that it  
13    is excessive.   And there is a couple questions I  
14    would like to ask the officer.

15           ATTORNEY EXAMINER:   Well, go ahead.

16           MR. WILLIAMS:   Is that okay?

17           ATTORNEY EXAMINER:   Yes, that is. If  
18    you have questions about how the fine was  
19    determined, go ahead.

20           MR. WILLIAMS:   No.   This is not  
21    about that.   It's the distance.   Like 30 feet.  
22    He had to be at least 30 yards.   He is in the  
23    center section, I am in the far right-hand lane.

24           ATTORNEY EXAMINER:   Okay.   And  
25    that --

1 MR. WILLIAMS: Traveling at least 60  
2 miles an hour.

3 ATTORNEY EXAMINER: Well, Mr.  
4 Williams, it sounds as though those are comments  
5 maybe you would make when we have you testify.  
6 Okay?

7 MR. WILLIAMS: Okay.

8 ATTORNEY EXAMINER: As far as any  
9 objections to, again you may perhaps object,  
10 apparently you do object to the violation,  
11 but --

12 MR. WILLIAMS: Absolutely, yes, I  
13 do.

14 ATTORNEY EXAMINER: But do you have  
15 any objections as far as his explanation about  
16 how the dollar fine was calculated?

17 MR. WILLIAMS: No. That is part of  
18 the system. I can't argue that. But I do  
19 object to the amount especially when I am  
20 pleading not guilty to this.

21 ATTORNEY EXAMINER: Well, then again  
22 you can get to those comments about your  
23 perspective in just a moment. So, Mr. Williams,  
24 then do you have any objection to admitting this  
25 exhibit into evidence? Again it's simply

1 the letter that indicates there was a violation  
2 and the dollar amount. You have no objection  
3 there?

4 MR. WILLIAMS: No.

5 ATTORNEY EXAMINER: All right.

6 Well, then we will admit Staff Exhibit 2 into  
7 evidence as well.

8 (EXHIBIT ADMITTED INTO EVIDENCE)

9 ATTORNEY EXAMINER: And, Ms. Kern,  
10 did you have any further questions or comments  
11 for this witness, or any other remarks to make?

12 MS. KERN: No, your Honor. I would  
13 just like to move all of the Staff's exhibits  
14 into the record.

15 ATTORNEY EXAMINER: Okay. Well, we  
16 will do that.

17 Thank you, Mr. Long, for your  
18 comments. And, Mr. Williams, we will let you  
19 testify now. Now, I appreciate you getting in  
20 touch. I am sure with your schedule of driving  
21 you are quite busy. And apparently, I assume  
22 you must be telephoning in, which you can do.

23 MR. WILLIAMS: I took today off. I  
24 did not want to miss this. I want to bring this  
25 to a conclusion, which, yes, also brings up a

1 few questions that I have about the statute of  
2 limitations here.

3 ATTORNEY EXAMINER: Why don't we do  
4 this. First, I will swear you in. As I said I  
5 cannot actually see you on the screen, but we  
6 will assume you are raising your right hand.

7 (WITNESS SWORN)

8 ATTORNEY EXAMINER: Now, let's hear  
9 your perspective, and you made some remarks  
10 earlier, but now you are actually, you know, if  
11 we were doing this in person you would be on the  
12 witness stand.

13 Let's hear your comments about the  
14 alleged violation.

15 DIRECT TESTIMONY

16 MR. WILLIAMS: Well, as I said  
17 before, the officer, I saw the officer first  
18 sitting in the center section. And it's not 30  
19 feet, it has to be at least 30 yards or more.

20 I did have my seatbelt on. It was  
21 loose, but I had it on. And I didn't take the  
22 seatbelt off until he approached me. And  
23 actually I opened up the door and I took the  
24 seatbelt off.

25 EXAMINATION

1 By the Attorney Examiner:

2 Q. Mr. Williams, when you say you  
3 had the seatbelt on, this was -- are you saying  
4 both the lap portion and the shoulder strap as  
5 well?

6 A. Yes. It was there, but that is what  
7 I am saying. There is no possible way at least  
8 30 to 40 yards away that he could possibly know  
9 if I had it on or not. I could check myself. I  
10 have sat going down the highway and looking  
11 across, I said there is no possible -- I can't  
12 see anything in vehicles.

13 Q. Okay.

14 A. No. 2 question that I have here is  
15 about the statute of limitations on this  
16 violation. Isn't there a statute of  
17 limitations?

18 Q. Well, Mr. Williams, I will make that  
19 comment, or address that comment. Because of  
20 the Covid pandemic, okay, we would have  
21 ordinarily had this hearing much sooner. It  
22 would have been in person I will add too.

23 Because of the pandemic, basically  
24 any sort of time frame as far as having hearings  
25 like this was put on hold. And it is only

1 fairly recently that we are able to -- the  
2 Commission was able to get operating again for  
3 hearings, some of which are in person, but many  
4 of which are electronic. And it took the  
5 Commission some time to determine what internet  
6 technology was needed to do them electronically.

7 So you are asking a good question,  
8 and again, anything of this type, any hearing of  
9 this type, would have happened much, much  
10 sooner, but with the pandemic going on,  
11 everything was simply the Governor issued an  
12 order, actually it was the Commission had an  
13 order, that matters would be put on hold, for  
14 the time the clock would stop running basically.

15 A. Okay. As a rule of the law, which,  
16 you know, I am not a lawyer, I couldn't even get  
17 one, as a rule of law I am saying that don't you  
18 have to adhere to these rules?

19 Q. Well, again --

20 A. Regardless of the situation. You  
21 have to go by certain rules and guidelines.

22 Q. Well --

23 A. I am not really sure of the time  
24 limit for, you know, you are talking about  
25 speedy hearing or whatever, but I think there is

1 a time limit that that has to be done.

2 Q. Well, as I indicated --

3 A. And you have exceeded that time  
4 limit.

5 Q. Well, as I said, many things at the  
6 Commission, and indeed at the State level as a  
7 whole, were put on hold because of the pandemic.  
8 Initially when this all started in March of 2020  
9 there was no procedure set up for electronic  
10 hearings, we simply never had to do them before.  
11 And it took time to develop a way to do that  
12 with the internet technology, or calling in as  
13 the case may be, and it was done for safety.  
14 We couldn't hold them in person because there  
15 wasn't even the opportunity of vaccination, and  
16 there were persons that were not masking and  
17 that kind of thing.

18 But also it took some time to work  
19 through several internet platforms to find a way  
20 that hearings could be done electronically.

21 A. Yes, sir, I do understand what you  
22 are saying. But I am also -- what I am trying  
23 too say is that there are certain guidelines  
24 like you have certain guidelines according to  
25 your fines, and I am saying there regardless of



1 the situation you have to go by those  
2 guidelines. And you are not doing that.

3 Q. Well, I cannot say anything more  
4 than what I have already said.

5 A. I understand, I understand. But  
6 still you are violating me really because  
7 the law of the land is the law of the land.  
8 And you are saying, well, we had circumstances  
9 where we couldn't go by these certain rules.  
10 And I am saying you have to regardless, and you  
11 are not being fair to me.

12 Q. Well, let's steer things back to any  
13 further comments you have about the alleged  
14 violation. Now, you mentioned that, you know,  
15 you questioned how much the inspector could  
16 actually see you inside the vehicle because of  
17 the distance.

18 A. I would say it would have been  
19 pretty difficult for him to see anything. I am  
20 in the far hand lane, and traveling 55 to 60  
21 mile an hour. And I also saw him before he saw  
22 me, I think.

23 And I just feel that this is almost  
24 impossible for him to say that he clearly saw  
25 the seatbelt hanging from the hook.

1                   ATTORNEY EXAMINER:   Okay.   All  
2   right.   I will ask Ms. Kern from the Attorney  
3   General's office, did you have any questions of  
4   Mr. Williams?

5                   MS. KERN:   Just two, your Honor.

6                   ATTORNEY EXAMINER:   Okay.

7                   CROSS-EXAMINATION

8   By Ms. Kern:

9                   Q.   Mr. Williams, you admit that you  
10   were driving the vehicle the day that this  
11   examination, vehicle/examination report was  
12   prepared; is that correct?

13                  A.   Yes.

14                  Q.   And did you have a chance to look at  
15   the vehicle/examination report that I sent to  
16   your attention on Friday?

17                  A.   I did not.

18                  Q.   Okay.   Have you ever seen a copy of  
19   that report?

20                  A.   When it was issued, yes.

21                  Q.   Okay.   And --

22                  A.   It's been quite some time.

23                  Q.   Do you admit that you told Officer  
24   Bittner that you were, excuse me, I just want to  
25   make sure I get the words correct here, you

1 admit that you told Officer Bittner that you  
2 were wearing you seatbelt across your lap, but  
3 not across your chest because it hurt you; is  
4 that correct?

5 A. That's another statement that he  
6 made that was not accurate. Let's put it that  
7 way. I had my seatbelt on, it was loose, but it  
8 was on. And I did not remove it until he  
9 approached the truck. I even opened the door  
10 and took it off.

11 We had a conversation about  
12 something, I forget what it was right now. But  
13 that is when I actually unbuckled the seatbelt.

14 MS. KERN: No further questions,  
15 your Honor.

16 ATTORNEY EXAMINER: Okay. Thank  
17 you.

18 I will go back to the inspector just  
19 for a moment, please.

20 - - -

21 INSPECTOR RICHARD BITTNER  
22 recalled as a witness, being previously duly  
23 sworn, testified as follows:

24 FURTHER EXAMINATION

25 By the Attorney Examiner:

1           Q.    Inspector Bittner, when you  
2 mentioned the distance that you were from Mr.  
3 Williams when you -- from your perspective you  
4 observed that he was not wearing his shoulder  
5 strap, only the belt, you mentioned 20 feet.  
6 Did you mean to say 20 yards or --

7           A.    What I believe I said was  
8 approximately 20 to 30. Each lane of this  
9 3-lane, the set standard lanes for interstate  
10 lanes is 12 feet. 12 feet is the set standard,  
11 I believe it was set in 1956, thereabouts by  
12 the set standards for the roadways. It's  
13 approximately 12 feet in width. So three lanes,  
14 12 feet each, is 36 feet.

15          Q.    Okay. The question on my part.  
16 When you observed him, and you indicated you  
17 were using binoculars and so on.

18          A.    Yes, sir.

19          Q.    Did you first see inside the cab  
20 using binoculars when Mr. Williams was coming  
21 down the hill towards you, or was it --

22          A.    Yes, sir. That particular area has  
23 a clear field of view. The traffic comes from  
24 the north coming down south. It is a huge hill  
25 that they come down. Then you are able to see

1     them all the way down the hill, and you are able  
2     to see inside the cab. That is the reason why I  
3     sit there.

4             Q.     When you first saw him coming down  
5     the hill, approximately what distance would that  
6     be?

7             A.     Quarter of a mile. I mean, from the  
8     time that I started watching.

9             Q.     Then you stay focused on him  
10    apparently as he got closer to you and went past  
11    you?

12            A.     Yes.

13                   ATTORNEY EXAMINER: All right.  
14    Okay. Mr. Williams, I asked a few more  
15    questions of the Inspector. Did you have  
16    anymore questions yourself?

17                   MR. WILLIAMS: No. I do not at this  
18    time. No, I don't.

19                   ATTORNEY EXAMINER: Well, thank you,  
20    very much. I believe we have covered everything  
21    and I want to thank everyone for working through  
22    any connection difficulties as far as  
23    participating in the hearing today. And I also  
24    want to thank Mr. Williams for making sure that  
25    he could actually participate in the hearing

1 today as well.

2 I don't believe there is anything  
3 more to be done. We admitted all the exhibits  
4 into evidence, and I think I asked all the  
5 questions that we can.

6 With that being said, thanks to Mica  
7 Schmidt who did the internet work on this case,  
8 and helped get Ms. Kyle Kern, the Attorney  
9 General's representative, connected to the  
10 hearing too.

11 I want to say to everyone stay safe,  
12 stay well and Covid is still out there. And we  
13 have Thanksgiving coming up in a few weeks, so  
14 please have a good holiday as well.

15 That will be the end of the hearing  
16 for today. And I want to thank you all for  
17 participating.

18 MS. KERN: Thank you, your Honor.

19 (At 11:15 A.M. the hearing was  
20 concluded)

21 - - -

22

23

24

25

CERTIFICATE

I do hereby certify that the foregoing  
is a true and correct transcript of the  
proceedings taken by me in this matter on  
November 8, 2021, and carefully compared with my  
original stenographic notes.

\_\_\_\_\_  
Michael O. Spencer,  
Registered Professional  
Reporter.

- - -

**This foregoing document was electronically filed with the Public Utilities  
Commission of Ohio Docketing Information System on**

**11/18/2021 1:08:15 PM**

**in**

**Case No(s). 20-1588-TR-CVF**

Summary: Transcript November 8th 2021 In the Matter of Joseph Williams, Notice of Apparent Violation and Intent to Assess Forfeiture. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Spencer, Michael O. Mr.