

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF DAMARQUIS OWENS,
NOTICE OF APPARENT VIOLATION AND
INTENT TO ASSESS FORFEITURE.

CASE NO. 23-498-TR-CVF
(OH3274024883D)

FINDING AND ORDER

Entered in the Journal on July 12, 2023

I. SUMMARY

{¶ 1} The Commission grants Staff's motion to dismiss Respondent's request for an administrative hearing because payment of the civil forfeiture terminates further proceedings in the matter.

II. DISCUSSION

{¶ 2} Staff served a notice of preliminary determination upon Damarquis Owens (Respondent) in accordance with Ohio Adm.Code 4901:2-7-12, alleging violations of the Commission's transportation regulations. Specifically, Respondent was charged with violation of Federal Motor Carrier Safety Administration regulation 49 C.F.R. § 383.51A-SIN, driving a commercial motor vehicle (CMV) while the commercial driver's license (CDL) is suspended for safety-related or unknown reason and in state of driver's license issuance. Staff assessed a civil forfeiture due to the violation.

{¶ 3} On December 15, 2022, a vehicle operated by RT 80 Express Inc. and driven by Respondent was inspected in the state of Ohio. As a result, on December 19, 2022, the Respondent was served with a Notice of Intent to Assess a Forfeiture. The Respondent did not contact the Commission regarding the case.

{¶ 4} On January 18, 2023, a second notice was mailed to Mr. Owens. The second notice of intent to assess a forfeiture was returned by the United States Postal Service as

undeliverable and, as a result, a notice was mailed to Respondent's employer on February 13, 2023.

{¶ 5} On March 13, 2023, the civil forfeiture was paid via the Commission's online portal. As such, on March 17, 2023, the notice of conviction for violation of 49 C.F.R. 383.51A-SIN, driving a CMV with a suspended CDL due to a safety-related or unknown reason and in state of driver's license issuance, was sent to the Ohio Bureau of Motor Vehicles.

{¶ 6} On May 4, 2023, Respondent filed a request for the Commission to reopen his case.

{¶ 7} On May 17, 2023, Staff filed a response to Respondent's request to reopen his case. In the response, Staff states that, pursuant to Ohio Adm.Code 4901:2-7-22, Respondent's payment of the civil forfeiture terminates all further proceedings regarding the violation. Staff points to previous Commission decisions in which respondents were denied reopening of their cases after having paid proposed forfeitures. *See In the Matter of Mark L. Arrasmith, Notice of Apparent Violation and Intent to Assess Forfeiture, Case No. 21-203-TR-CVF, Entry (Jan. 11, 2023); In the Matter of Daniel Anofils, Notice of Apparent Violation and Intent to Assess Forfeiture, Case No. 19-1792-TR-CVF, Finding and Order (Feb. 13, 2020).* Staff asserts that by paying the assessed forfeiture, Respondent is deemed to have admitted the violation and that such payment ends the Commission's jurisdiction to hear the case.

{¶ 8} On May 19, 2023, the attorney examiner issued an Entry directing Mr. Owens to file a response within 30 days indicating why there is good cause to reopen the case.

{¶ 9} On June 7, 2023, the attorney examiner was made aware of an email correspondence from Mr. Owens regarding the request to reopen his case. Consequently, on June 13, 2023, the correspondence was properly docketed in the case. In the correspondence, Mr. Owens asserts, without supporting documentation, issues with his CDL records and alleges a mix-up of his mailing address. Further, Mr. Owens

acknowledges that payment was remitted for his forfeiture, and that he applied for an administrative appeal and was denied.

{¶ 10} Ohio Adm.Code 4901:2-7-22 provides, in pertinent part, that payment of a civil forfeiture assessed pursuant to a violation of the Commission's transportation regulations constitutes an admission of the occurrence of the violation and serves to terminate all further Commission proceedings.

{¶ 11} The Commission finds that Respondent has not presented good cause to reopen his case. Payment of the civil forfeiture in connection with inspection number OH3274024883D concludes jurisdiction over this matter as provided in Ohio Adm.Code 4901:2-7-22. We recognize that Respondent admits to the payment of the civil forfeiture. Further, we note that in accordance with the Commission's established process in these types of proceedings and prior to the payment of the forfeiture, Mr. Owens was afforded the opportunity to engage with the Commission and present any mitigating circumstances in his case. Accordingly, the Commission finds that this case will be considered closed of record.

III. ORDER

{¶ 12} It is, therefore,

{¶ 13} ORDERED, That this case be closed as described in Paragraph 11. It is, further,

{¶ 14} ORDERED, That a copy of this Finding and Order be served upon Respondent and all other interested parties of record.

COMMISSIONERS:

Approving:

Jenifer French, Chair
Daniel R. Conway
Lawrence K. Friedeman
Dennis P. Deters
John D. Williams

IMM/dmh

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

7/12/2023 2:52:20 PM

in

Case No(s). 23-0498-TR-CVF

Summary: Finding & Order that the Commission grants Staff's motion to dismiss Respondent's request for an administrative hearing because payment of the civil forfeiture terminates further proceedings in the matter electronically filed by Ms. Donielle M. Hunter on behalf of Public Utilities Commission of Ohio.