

Decision No. R21-0016

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20V-0519CP

IN THE MATTER OF THE PETITION OF JONATHAN CHEATHAM FOR A
WAIVER OF RULE 6109 (PROOF OF MEDICAL FITNESS) OF THE RULES
REGULATING TRANSPORTATION BY MOTOR VEHICLE, 4 CCR 723-6.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
G. HARRIS ADAMS
DISMISSING PETITION WITHOUT PREJUDICE**

Mailed Date: January 11, 2021

I. STATEMENT

1. On November 23, 2020, Jonathan Cheatham (Petitioner) filed a verified Petition for Waiver/Variance of Safety Regulations – Drivers of Vehicles with a seating capacity of 15 passengers or less, including the driver (Form PFW-D-15-1, Revised 5/15/2019) (Petition). Petitioner requests a waiver of the specific subparagraph(s) of Rule 6109 of the Commission Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6: “(IX) – Visual disorder or impairment as defined in 4 CCR 723-6-6109(c)(IX).” Petition at 1. In support, Petitioner filed: (a) a Medical Examination Report Form (Form MCSA-5875); (b) a Medical Examiner’s Certificate (Form MCSA-5876); (c) a Certified Official Colorado Driver Record (driving record); and (d) a copy of Petitioner’s Colorado driver’s license. Petitioner also supplemented the Petition on November 30, 2020.

2. This proceeding was referred to an Administrative Law Judge for disposition by minute entry during the Commission’s weekly meeting held on December 9, 2020.

3. By Decision No. R20-0904-I, issued December 21, 2020, Petitioner was informed that the Petition was incomplete, and he was ordered to either cure the deficiencies noted or to show cause why this matter should not be dismissed without prejudice by January 8, 2021. As of

January 8, 2021, Petitioner failed to provide any support for the requested relief as to Petitioner's ability to safely operate a motor vehicle based upon his medical condition.

4. While Petitioner filed a current copy of his Official Colorado Driver Record, he failed to provide any qualified medical opinion in support for the requested relief. The Medical Examiner's Certificate filed with the petition certifies that the person is medically fit to drive only if accompanied by a specific waiver. There is no qualified medical opinion expressed whatsoever in support of the requested relief as to Petitioner's ability to safely operate a motor vehicle. Further, Petitioner failed to demonstrate sufficient cause otherwise not to dismiss the application without prejudice. Because Petitioner failed to satisfy the order to show cause, the Petition will be dismissed without prejudice.

5. In accordance with § 40-6-109, C.R.S., the Administrative Law Judge recommends that the Commission enter the following order.

II. ORDER

A. The Commission Orders That:

1. The petition filed by Jonathan Cheatham on November 23, 2020, requesting a waiver of Rule 6109 of the Commission Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* 723-6 is dismissed without prejudice.

2. Proceeding No. 20V-0519CP is closed.

3. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

4. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

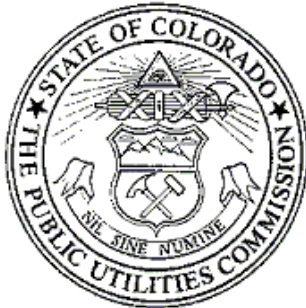
a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own

motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

5. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director