

State of Indiana
Bureau of Motor Vehicles

In the Matter of [REDACTED])	Case No. 15-CD-028
DL # [REDACTED])	
Petitioner)	

FINAL ORDER

1. This matter comes before me as a result of a hearing request filed by Petitioner [REDACTED] [REDACTED] by letter on November 2, 2015, seeking administrative review of a decision by the Indiana Bureau of Motor Vehicles ("BMV") to disqualify his commercial driving privileges due to two (2) convictions for speeding excessively within a three-year period.
2. This matter was referred to Administrative Law Judge ("ALJ") Steven Sams, Esq., per Indiana Code § 4-21.5-3-27(a), for review and the issuance of a Recommended Order, which was completed on November 20, 2015. On December 7, 2015, [REDACTED] filed a Request for Reconsideration, effectively objecting to the ALJ's Recommended Order.
3. Based on my review of the record, [REDACTED] accumulated two (2) convictions for speeding excessively (defined as operating at least fifteen (15) miles per hour or more over the posted limit) while operating a commercial motor vehicle within three-year period:
 - (1) On May 22, 2015, [REDACTED] was convicted of speeding in Copiah County court in the state of Mississippi. According to the court abstract of conviction, [REDACTED] was operating at a speed of seventy-one (71) miles per hour in a fifty-five (55) mile per hour zone.
 - (2) On August 8, 2013, [REDACTED] was convicted of speeding in Slope County court in the state of North Dakota. According to the court abstract of conviction, [REDACTED] was operating at a speed of eighty (80) miles per hour in a sixty-five (65) mile per hour zone.
4. Pursuant to 49 CFR 383.51 (Table 2), federal law requires that if a commercial driver's license ("CDL") holder is convicted of certain traffic violations within a specified period while operating a commercial motor vehicle, the state *must* disqualify the operator's CDL for a specified period. Indiana Code § 9-24-6-2 adopts the aforementioned federal regulation in its entirety. Specifically, if an individual is convicted of speeding excessively for a second time within a three-year period, the individual's CDL will be suspended for a period of sixty (60) days.
5. Accordingly, I find that there is sufficient information on the record to substantiate the ALJ's Recommended Order. It bears mention that [REDACTED] - in his December 7 letter

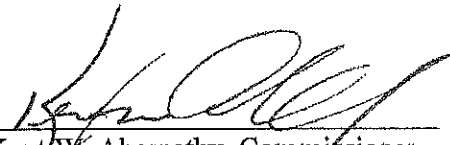
requesting reconsideration of the ALJ's order -- notes that his conviction for speeding in North Dakota was reduced to a lesser charge, and that he was assured by the prosecuting attorney assigned to the matter that the prosecuting attorney "will be correcting the Abstract to reflect the lesser charge," which would result in deletion of the disqualification. As of the date of this Final Order, no such correction has been presented to the BMV.

6. Therefore, I AFFIRM the ALJ's Recommended Order.


SO ORDERED.

2/3/16

Date


Kent W. Abernathy, Commissioner
Indiana Bureau of Motor Vehicles

Written notice of this order shall be provided to:


Indiana Bureau of Motor Vehicles