

Cause #: 98-2
Name: Darrell L. Ake
Administrative Law Judge: William K. Teeguarden
Date: April 1, 1999
Commission Action: Affirmed

FINDINGS OF FACT

1. The EMSC is an agency within the meaning of IC 4-21.5.
2. IC 4-21.5, IC 9, IC 16-31, and 836 IAC 1 apply to this proceeding.
3. The EMSC is the state agency charged with regulating emergency medical services in the state of Indiana and as such, is responsible for regulating first responders.
4. The EMSC is also the ultimate authority within the meaning of IC 4-21.5 with respect to matters involving EMS certifications.
5. At all times relevant to this proceeding, Ake held First Responder certificate 39806 issued by the EMSC.¹
6. On February 17, 1998, the EMSC filed an emergency suspension of the certificate because of travelling 96 mph in a 55 mph zone while on a run.
7. Ake had been found guilty in a court not of record and appealed to Superior Court thus his original conviction became a nullity.
8. A duly authorized sworn member of the Indiana State Police (“Trooper”) clocked Ake at 96 mph while on a run using his green lights in June of 1997 on SR 129 near St. Paul Indiana.
9. The trooper followed Ake to the scene of an accident and after Ake was finished, the trooper gave him a ticket.
10. In February of 1998, the trooper again saw Ake speeding with his green lights flashing on SR 129. This time, he was clocked at 66 mph and given another

¹ Ake also held green light certificate number 7471, which is a permit signed by the executive director and requires an individual to have an EMT certificate to apply. See IC 9-19-14.5. Since green light permits are regulated by the executive director and not the EMSC and since the parties reached a separate agreement on the return of the green light permit, no further action on certificate 7471 will be taken at this time.

ticket.

11. At the initial hearing in March of 1998, the hearing was suspended with the agreement that Ake's certificate would remain suspended pending completion of the hearing and that the hearing would resume when the traffic tickets were resolved.
12. The traffic tickets were resolved in December by way of a deferred prosecution.
13. Ake produced testimony that he had been told by a dispatcher to "step it up" on his June run.
14. A vehicle with a green light does not fall within the definition of an "authorized emergency vehicle". See IC 9-13-2-6.
15. Only authorized emergency vehicles are given the privilege of violating certain traffic laws including posted speed limits. See IC 9-21-1-8.
16. A vehicle operating under the authority of a green light is not exempt from any traffic law.
17. A radio dispatcher is not authorized to tell a vehicle with a green light to exceed the speed limit.
18. The fact that Ake was travelling at 66 mph on a state highway does not cause great concern and could be resolved with a written reminder that green lights do not allow a driver to disobey traffic laws.
19. Travelling in excess of 40 mph over the speed limit on a 2 lane state highway in hilly southern Indiana is much more serious.
20. 836 IAC 1-5-1(g)(4) allows suspension of a certificate for "negligent, reckless, or dangerous conduct which endangers the health or safety of . . . the members of the general public while functioning as an emergency medical technician."
21. A suspension of the certificate is justified in this case.
22. Given that the certificate has been suspended over 13 months as of the date of the resumption of the hearing, the suspension should be terminated as of that date and no fine imposed.

NONFINAL ORDER

Indiana Emergency Medical Services First Responder Certificate Number 39806 issued to Darrell L. Ake shall be suspended until March 25, 1999, at which time Darrell L. Ake shall become eligible for reinstatement of the Certification.