



**U.S. Department of Justice**

Office of Justice Programs

*Office for Civil Rights*

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*Washington, D.C. 20531*

March 22, 2011

Sergeant Bruce Bialorucki  
Legal Counsel  
Illinois State Police  
801 South Seventh Street, Suite 1100-S  
P.O. Box 19461  
Springfield, IL 62794-9461

Re: Notice of Findings  
v. Illinois State Police (10-OCR-0251)

Dear Sergeant Bialorucki:

Thank you for the documentation that you submitted to the Office for Civil Rights (OCR), Office of Justice Programs, U.S. Department of Justice, on behalf of your client, the Illinois State Police (ISP), in connection with the administrative Complaint that (Complainant) filed against the ISP. In his Complaint, the Complainant alleges that Trooper \_\_\_\_\_ discriminated against him based on race (African American), sex (male), and religion (Christian) in connection with a March 17, 2009, traffic stop and search of the Complainant's vehicle. The OCR has completed our review of the documentation provided by both the ISP and the Complainant and has determined that there is insufficient evidence of a violation of the civil rights laws that we enforce. Our findings are set forth below for your review.

In his Complaint, the Complainant alleges that the following occurred on March 17, 2009:

At approximately 1:40 p.m. the Complainant was driving his company's truck southbound on Interstate 57 near milepost 115 when Trooper \_\_\_\_\_ pulled his truck over. Trooper \_\_\_\_\_ told the Complainant that the Complainant had been speeding as the Complainant drove down a hill; the Complainant acknowledges to the OCR that he was driving down a hill at the time he was stopped and that his speed may have increased. Trooper \_\_\_\_\_ ran a check on the Complainant's license and registration, and Trooper \_\_\_\_\_ remarked to the Complainant that the Complainant has been in trouble in the past. Trooper \_\_\_\_\_ performed a commercial vehicle examination of the outside of the truck, and subsequently issued the Complainant a written warning for traveling 61 miles-per-hour in a 55 miles-per-hour zone and for being in violation of several federal Department of Transportation regulations requiring drivers of commercial vehicles to write daily reports of any defects, to inspect the vehicle's emergency equipment, and to maintain a fire extinguisher in the vehicle. The Complainant states that he carries a Bible

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in the truck and that he was holding the Bible in his hand when he was interacting with Trooper [redacted] and told Trooper [redacted] that he attends church.

After performing the commercial vehicle inspection of the truck, Trooper [redacted] asked the Complainant whether he had anything illegal in the truck, and the Complainant said that he did not. Trooper [redacted] then asked the Complainant whether Trooper [redacted] could search the truck, and the Complainant said no. However, Trooper [redacted] proceeded to search the truck and found a handgun in the truck behind the front passenger seat. Trooper [redacted] arrested the Complainant for aggravated unlawful use of a weapon. The Complainant believes that Trooper [redacted] stopped and searched his vehicle due to the Complainant's race, religion, and sex.

In the ISP's responses to the OCR's Notice of Discrimination Complaint and Data Request and the OCR's follow-up inquiries, the ISP stated that Trooper [redacted] stopped the Complainant for speeding in violation of 625 Ill. Comp. Stat. 5/11-601(b) (2011). The ISP provided the OCR with a copy of the Field Report that Trooper [redacted] completed regarding the traffic stop, in which Trooper [redacted] states that he observed that the Complainant's vehicle appeared to be traveling faster than the posted speed limit, and that he activated his radar and confirmed that the vehicle was traveling 61 miles-per-hour in a 55 miles-per-hour zone. The ISP confirmed that Trooper [redacted] ran a check on the Complainant's license and registration and conducted a Motor Carrier Inspection on the Complainant's truck, and that Trooper [redacted] issued the Complainant a written warning for speeding and for failing to complete driver vehicle inspection reports, failing to inspect/use emergency equipment, and for having no/discharged/unsecured fire extinguisher.

The ISP also provided an explanation from Trooper [redacted] regarding the nature of his interaction with the Complainant during the traffic stop. Trooper [redacted] stated that when talking to a subject during a traffic stop, his common practice is to begin the interaction by asking a few general questions regarding topics such as marital status and employment. Trooper [redacted] said that he then asks the subject some questions that are more uncomfortable, such as whether the subject has any illegal items in the vehicle or whether the subject has ever been arrested before, so that Trooper [redacted] can judge the difference in the subject's reaction and facial expressions. Trooper [redacted] said that he cannot recall the exact questions he asked the Complainant. However, Trooper [redacted] said that due to the Complainant's change in emotions during questioning, Trooper [redacted] had reasonable suspicion that the Complainant had something illegal in the vehicle, and that based this suspicion he requested permission to search the Complainant's vehicle. Trooper [redacted] said that the Complainant provided verbal consent which was captured on a video and audio recording of the traffic stop. In regard to the Complainant's allegation that the Complainant was carrying a Bible and told Trooper [redacted] that he attends church, Trooper [redacted] said that he does not recall whether this occurred but that he does not consider whether an individual is religious in determining what law enforcement action to take.

In the ISP's response to the OCR's data request, the ISP said that pursuant to ISP policy, audio tapes are only kept for 30 days following an incident and video tapes are only kept

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for 90 days, and that copies of the radio transmission tape and video tape of the Complainant's March 17, 2009, traffic stop are no longer available. In the Field Report that Trooper [redacted] completed, he states that he asked the Complainant for permission to search the vehicle and that the Complainant said he could search the vehicle. Trooper [redacted] indicates in the Field Report that while searching the Complainant's truck, Trooper [redacted] located a loaded pistol behind the passenger seat. The ISP provided the OCR with a copy of the STOP Card and Written Warning that Trooper [redacted] completed regarding this incident and provided to the Complainant, where Trooper [redacted] marks a box indicating that search was requested and that "consent" is the reason for searching the vehicle.

Title VI of the Civil Rights Act of 1964 (Title VI) provides that "[n]o person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. § 2000d. Additionally, the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act), under which the ISP receives DOJ funding, contains a discrimination provision modeled after Title VI that prohibits funding recipients from discriminating on the basis of race, color, national origin, sex, and religion. 42 U.S.C. § 3789d(c)(1). To prove discrimination under these statutory provisions, the evidence must establish an intent to discriminate. Village of Arlington Heights v. Metropolitan Housing Development Corporation, 429 U.S. 252, 265 (1977). Discriminatory intent may be shown by such factors as substantial disparate impact, a history of discriminatory actions, procedural and substantive departures from the norms generally followed by the decisionmaker, and discriminatory statements. Id.

Based on the OCR's review of the information that has been submitted by both the Complainant and the ISP, the OCR finds that the evidence is insufficient to demonstrate that Trooper [redacted] actions constitute intentional discrimination based on race, age, or religion in violation of Title VI and the Safe Streets Act. According to the information that is before the OCR, it does not appear that Officer [redacted] actions were in violation of federal law or ISP policy, or were departures from established norms. Under federal law, a police officer's decision to stop a vehicle is reasonable under the Fourth Amendment when an officer has probable cause to believe that a traffic violation has occurred. Whren v. United States, 517 U.S. 806, 810 (1996). Probable cause exists when "the circumstances confronting a police officer support the reasonable belief that a driver has committed even a minor traffic offense." United States v. Cashman, 216 F.3d 582, 586 (7<sup>th</sup> Cir. 2000). As discussed above, Trooper [redacted] told the Complainant and indicated in his Field Report that he stopped the Complainant's vehicle because the Complainant had been speeding, and he noted in the Field Report that a radar gun confirmed that the Complainant was speeding. Furthermore, the Complainant acknowledged to the OCR that he may have increased his speed as he drove down the hill. Accordingly, the evidence is insufficient to demonstrate that Officer [redacted] did not have probable cause to stop the Complainant's vehicle for a traffic offense.

In regard to the search of the Complainant's vehicle, an officer may search a vehicle without a warrant when the officer receives voluntary consent to search the vehicle.

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United States v. Figueroa-Espana, 511 F.3d 696, 704 (7<sup>th</sup> Cir. 2007). The ISP provided the OCR with a copy of the ISP Directive ENF-037, Warrantless Searches, which states that when an ISP officer requests and obtains consent from an individual to search a vehicle, the officer should audio record the request and the individual's verbal consent using the in-car camera, or if the individual does not agree to recording, should have the individual sign a Consent to Search form. The Directive further states that the officer should complete a Field Report or Investigative Report whenever an individual provides consent to search and should document that consent was provided in the report. As discussed previously, Trooper [redacted] asserts that he audio recorded the Complainant's verbal consent to search the Complainant's vehicle, and the ISP provided the OCR with a copy of the Field Report that Trooper [redacted] completed in which he states that the Complainant provided consent to search. While the Complainant disputes that he provided Trooper [redacted] consent to search his vehicle, and the video and audio recording of the incident is no longer available to verify whether the Complainant provided consent, at the time of the incident Trooper [redacted] noted that the Complainant provided consent to search in both the Field Report and the STOP Card and Written Warning. Based on the evidence before the OCR, the OCR finds that the evidence is insufficient to demonstrate that the Complainant did not provide Trooper [redacted] with consent to search his vehicle or that the search was in violation of established law or ISP policy.

Additionally, the information provided by the Complainant and the ISP does not indicate that Trooper [redacted] made any discriminatory statements regarding race, religion, or sex during his interaction with the Complainant. The evidence is insufficient to demonstrate whether Trooper [redacted] was even aware of the Complainant's Bible or the Complainant's religion. Furthermore, it does not appear that the ISP or Trooper [redacted] has a history of discrimination. According to the ISP's response to the OCR's data request, from January 1, 2008 to May 20, 2010, there have been no lawsuits or state or local administrative actions by members of the public alleging race, sex, or religious discrimination by the ISP. Additionally, from January 1, 2008 to May 20, 2010, there have been no complaints by members of the public against Trooper [redacted] alleging race, sex, or religious discrimination. The ISP provided information demonstrating that from January 1, 2008, through May 31, 2010, ISP troopers conducted 37 traffic stops in Marion County, Illinois, where the troopers searched a vehicle based on consent; 25 of these searches involved a White driver, 9 of these stops involved an African American driver, and 3 of these stops involved an Hispanic driver.

Based on all of the information discussed above, the OCR finds that there is insufficient evidence to demonstrate that Trooper [redacted] intentionally discriminated against the Complainant based on race, sex, or religion in violation of Title VI and the Safe Streets Act. Therefore, we are closing the administrative Complaint filed by the Complainant.

Sincerely,

/s/

Michael L. Alston

Director