

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA**

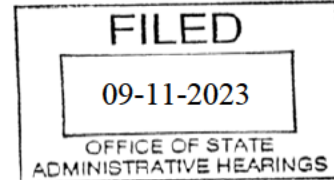
**ERNEST SCOTT,**  
**Petitioner,**

v.

**DEPARTMENT OF PUBLIC SAFETY,**  
**Respondent.**

**Docket No.: 2406042**  
**2406042-OSAH-DPS-OWOS-60-**  
**Woodard**

**Agency Reference No.: OWOS-0059158**



**FINAL DECISION**

**I. Introduction**

The Petitioner requested a hearing pursuant to O.C.G.A. § 32-6-27 after the Respondent issued a citation to him for causing an overweight vehicle and/or load to be operated, on a public road of this state. The hearing took place at the Office of State Administrative Hearings, Atlanta, on September 8, 2023 before the undersigned administrative law judge. After considering all of the admissible evidence and the arguments of the parties, the Respondent's action is **AFFIRMED** for the reasons stated below.

**II. Findings of Fact**

1. Motor Carrier Compliance Officer Jacob Riner was on routine road patrol on June 24, 2023 at approximately 11:30 a.m. on Georgia State Route 98 in the city limits of Jesup, in Wayne County. He observed a Freightliner tractor operated by Ernest Scott pulling a trailer load of wood chips. The trailer's brake lights were not properly functioning, and Officer Riner also was concerned that at least one of the trailer's tires was bulging, a sign that it might be underinflated. Officer Riner initiated a traffic stop, and he and Scott moved their vehicles to a Wal-Mart parking lot where Riner continued his investigation.
2. Officer Riner learned that Scott had picked up his load of wood chips from the Rayonier lumber mill in Quitman, Georgia, and was travelling to the Rayonier mill in Jesup to unload. Riner confirmed that the trailer's brakes were not working, and that one tire was underinflated at just 20 p.s.i. He ordered that the vehicle be taken out of service until those issues were corrected but did not cite Scott for a traffic violation for either offense.
3. Riner weighed the tractor and trailer on portable scales that were certified by a state technician. The scales were placed on a hard, flat and level surface, and there was no indication that the scales were malfunctioning. Riner determined that the vehicle's gross weight was 87,300 pounds spread over 5 axles.
4. Because the trailer was loaded with wood chips at a mill rather than in a forest, Riner concluded that the vehicle was no the 88,000-pound weight limit for vehicles carrying forest products. Instead, the vehicle was subject to the 80,000-pound limit for federal roads, and Riner issued a citation for 7,300 pounds overweight. He issued a fine at 5 cents per pound, for a total of \$365.00.
5. Scott appealed, and the case was referred by Respondent to the Office of State Administrative Hearings for adjudication. Scott argued that his vehicle should be subject to the 88,000-pound weight limit because he was transporting forest products. He testified that the wood chips he loaded at the mill in Quitman were identical to those cut in the forest, and that neither were "processed" forest products. The employees of the mill who loaded Petitioner's trailer may have assumed that the wood chips it processed met the definition of "forest products," and therefore filled the trailer to the 88,000

pound limit.

### III. Conclusions of Law

The Respondent bears the burden of proof in this matter. Ga. Comp. R. & Regs. 616-1-2-.07(1). The standard of proof is a preponderance of the evidence. Ga. Comp. R. & Regs. 616-1-2-.21(4). The Respondent met its burden and proved the following:

1. Respondent has the authority to weigh and measure commercial vehicles, and to issue citations to vehicles that exceed the applicable weight limit for a particular road. O.C.G.A. §§ 32-6-20, -26, -27. Damage to the road is presumed for any overweight vehicle operated in Georgia. O.C.G.A. § 32-6-7(a)(1).
2. The weight limit for a state road is 80,000 pounds for vehicles with 5 axles. O.C.G.A. §§ 32-6-26. There is an exception for vehicles transporting forest products, which was increased from 84,000 pounds (5 percent additional weight) to 88,000 pounds (10 percent additional weight) effective July 1, 2023. H.B. 189. This bill was signed by the governor but has not yet been codified into the Official Code of Georgia.<sup>1</sup>
3. There is no dispute that wood chips are “forest products” and thus potentially eligible for the higher weight limit. However, O.C.G.A. § 32-6-26(g)(1)(A) states that for a load to qualify for the 88,000 pound limit, the operator must be “[h]auling forest products *from the forest where cut* to the first point of marketing or processing....” Petitioner picked up the wood chips from the Rayonier mill in Quitman, not from the forest where the trees were cut. Therefore, the higher weight limit does not apply.
4. Based on a measured gross vehicle weight of 87,300 and a roadway weight limit of 80,000 pounds, Respondent calculated the amount of the overweight assessment citation in accordance with the schedule provided in O.C.G.A. § 32-6-27.

Accordingly, the Respondent’s issuance of the overweight assessment citation was proper. O.C.G.A. § 32-6-27.

### IV. Decision

**IT IS HEREBY ORDERED** that the Respondent’s issuance of overweight assessment citation number **OWOS-0059158** is **AFFIRMED**.

**SO ORDERED**, this 11th day of September 2023.

  
  
**M. Patrick Woodard**  
**Administrative Law Judge**