

**BEFORE THE KANSAS COMMISSION ON PEACE OFFICERS'  
STANDARDS AND TRAINING**

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In the Matter of	)	
	)	
<b>BRIAN TREASTER</b>	)	<b>Case No. 2019-0134</b>
#19326	)	
_____	)	

**ORDER**

Now, on this 12th day of October 2021, the above-referenced matter comes for hearing by the Kansas Commission on Peace Officers' Standards and Training (the Commission). Under the Kansas Administrative Procedure Act, the Commission has delegated its authority to serve as the Presiding Officer in the above-referenced matter to the Hearing Panel, which is comprised of the following Commissioners: Kirk D. Thompson, Director of the Kansas Bureau of Investigation; Herman Jones, Superintendent of the Kansas Highway Patrol; and Don Scheibler, Chief of the Hays Police Department.

Brian Treaster appeared in person, pro se. The Commission was represented by Michelle Meier, Special Assistant Attorney General, who serves as its litigation counsel. Also present was Laine Barnard, Assistant Attorney General who serves as counsel to the Hearing Panel in this matter.

Based upon its records and the evidence presented at the hearing, the Commission makes the following findings of fact, conclusions of law, and orders.

Findings of Fact

Procedural History

1. Brian Treaster (Treaster) received his certification as a law enforcement officer on May 11, 2001. He was employed as a full-time law enforcement officer with the Ellinwood Police Department (EPD) from May 22, 2017 until March 8, 2019. Treaster was employed as a part-time law enforcement officer with the Bushton Police Department from December 20, 2004 until April 16, 2021.

2. The Commission received a Notice of Termination concerning Treaster's employment with the EPD. Based upon this Notice, the Commission initiated an

investigation to determine whether Treaster had violated the Kansas Law Enforcement Training Act (KLETA).

3. After the investigation was completed, the Commission's Investigative Committee issued a Summary Order of Revocation. The Investigative Committee determined Treaster had committed the following violations of the KLETA: (1) fails to meet and maintain the requirements of K.S.A. 74-5605 (felony convictions), (2) fails to maintain the certification requirement of good moral character and (3) engaged in conduct that would constitute a felony or a misdemeanor crime of domestic violence or a misdemeanor crime that reflects on honesty, trustworthiness, integrity or competence. See K.S.A. 74-5616(b)(5). Based upon these violations, the Investigative Committee revoked Treaster's certification as a law enforcement officer. Treaster requested a hearing on the Summary Order of Revocation.

4. Subsequent to the issuance to the Summary Order of Revocation, it was determined that information relied upon and cited in the Order was incorrect. The Commission requested to amend the Summary Order of Revocation to remove the incorrect information. Treaster had no objection and an Amended Summary Order of Revocation was issued.

#### Hearing

5. The hearing was held on October 12, 2021. Treaster appeared in person, pro se. Treaster was advised of his right to an attorney, his right to present evidence, present witnesses and admit exhibits. All witnesses were sworn prior to testifying. The Commission admitted State's exhibits 1 through 12. Treaster offered no exhibits and presented no witnesses.

6. On April 18, 2019 Officer Zachary Coman (Coman) of the Hutchinson Police Department (HPD) responded to the area of 303 E. Bigger on a report of stalking. Coman made contact with the reporting party, [REDACTED], who reported her soon to be ex-husband, Brian Treaster had shown up at her work location and placed her in fear. [REDACTED] stated that she walked outside and saw Treaster parked near her car in his 1994 Ford Mustang. Treaster questioned [REDACTED] about mail he'd received and sexually transmitted diseases. Treaster's vehicle was seen leaving [REDACTED]'s work place by a co-worker, [REDACTED]. His vehicle was also seen in the area during that time by Detective Styles of the HPD.

7. In place on April 18, 2019 was a mutually agreed upon Restraining Order and Order for Possession of Automobile in Treaster and [REDACTED]'s dissolution of marriage case, Reno County case 2018-DM-916 (State's #5). That Order was signed by Treaster's attorney, Greg Bell. The Order was signed electronically by the Court on March 4, 2019 and ordered that each party be "prohibited from harassing, bothering or going about the premise of the other

party, or where that party is employed.”

8. On April 19, 2019 Coman made contact with Treaster prior to a child custody exchange between he and [REDACTED]. Earlier that day, [REDACTED] had obtained a Protection from Abuse Order (PFA) against Treaster, case 2019-DM-0316. Treaster was served with the PFA by the Reno County Sheriff's Office immediately before Coman spoke with him. After being read his Miranda rights, Treaster admitted to Coman that he had gone to [REDACTED]'s place of work on April 18, 2019.

9. Detective Scott Carlton of the HPD was assigned to investigate an incident involving Treaster, [REDACTED], their children and [REDACTED] that occurred at a Dillion's grocery store on June 28, 2019. Treaster and the Treaster children were at the grocery store when [REDACTED] and [REDACTED] entered to store. The children hugged their mother and [REDACTED] and [REDACTED] continued shopping, eventually arriving at the store's salad bar. At the salad bar, Treaster approached [REDACTED] and began arguing with her. [REDACTED] remained on the other side of the salad bar but eventually grabbed [REDACTED]'s arm to pull her away from Treaster. Treaster then walked away, bumping into [REDACTED] with his shoulder. Treaster then left the store, leaving his children. He returned several minutes later, pointed at [REDACTED], [REDACTED] and the children and made a slashing motion across his throat or neck area. Treaster then gathered his children and left the store. The incident was captured on Dillon's video recording equipment and was admitted as State's #8.

10. Later on June 28, 2019 [REDACTED] called her older son to check on his and the other children's welfare. Treaster interrupted the call, taking the phone from his son and placing the call on speaker. At this point, [REDACTED], who is with [REDACTED], begins recording the call. [REDACTED] explains she is calling because she is worried after Treaster threatened to kill her, [REDACTED] and the kids at Dillion's. Treaster confirms the threat stating "That's all I said, I'm going to fuck 'um all..". During the call Treaster tells [REDACTED] the reason he was "at the hospital was because I was going to come kill you." Treaster states "You can ask [REDACTED], I had told her, I planned on killing you". Treaster further states "I was going to kill myself too" and "that's what my goal was, to come kill you in Hutch." On the call Treaster says "If I catch you and [REDACTED] in bed it's going to be a murder/suicide." Treaster requests to meet [REDACTED] alone several times. [REDACTED] declines, stating "I don't want to get shot. You are a police officer, you've got a gun, you can come shoot me." Treaster tells [REDACTED] he shouldn't worry about a gun, stating "I didn't plan on shooting you, I had other plans. I ain't going to be stupid and leave fucking evidence. I had it all planned out." During the call there is discussion regarding urns containing the cremated remains of [REDACTED]'s family members that remain at the home. Treaster indicates he is "going to throw some fucking ashes and urns out" and tells the children "open the garage guys, I'm fucking removing some bodies." During the call, [REDACTED] attempts to calm Treaster down knowing the children were listening. Treaster indicates that the PFA was simply

a piece of paper and that it wasn't going to stop him. The audio recording of the call was admitted as State's #9.

11. Detective Carlton interviewed Treaster about the Dillion's incident and the phone call. When asked about bumping into [REDACTED] Treaster stated, "yes, I hit him with my elbow.." Treaster spoke of a prior incident involving he and [REDACTED]. During that incident [REDACTED] and the children left the home while Treaster was at work to stay at a domestic violence shelter. Treaster described a number of trips trying to locate her at the shelter. He explained he knew the general area based upon the location of the school the children were attending. Treaster located his car parked on the street, got the address and confirmed the location was the domestic violence shelter. He stated he returned later that night took the car. In describing his conduct Treaster stated "I'm smart enough to figure it out, I've been a cop long enough". Treaster also stated "I don't stalk but I freakin keep record. I go look at things and Facebook, find pictures, find vehicles, I've got all sorts of shit in my phone." Treaster again states "I'm pretty smart."

12. The April 18, 2019 and June 28, 2019 incidents were consolidated into one criminal complaint against Treaster, Reno County District Court case 2019-CR-000385. On April 12, 2021 Treaster was convicted at jury trial of Stalking in violation of K.S.A. 21-21-5427(a)(3)(A), a felony, Violation of Protection from Stalking in violation of K.S.A. 21-5924(a)(3)(b1), a person misdemeanor, Criminal Threat in violation of K.S.A. 21-5415 (a)(1), a felony and Battery in violation of K.S.A. 21-5413(a)(2), a person misdemeanor. Treaster was sentenced on June 4, 2021. Treaster later appealed his convictions.

13. On March 15, 2019 the Commission received a Notice of Termination or Status Change from Chance Bailey, Chief of the EPD regarding Treaster's employment. The form indicated that Treaster had voluntarily resigned under questionable circumstances. The form noted February 27, 2019 incidents involving potential telephone harassment and disorderly conduct charges. Also noted was that Treaster [REDACTED] and his resignation was effective on March 8, 2019.

14. Upon receipt of the notice, the Commission opened an investigation to determine whether Treaster had violated the KLETA. Michael Oliver, an investigator with the Commission conducted the investigation.

15. Investigator Oliver had previously met Treaster during an investigation in 2016 and 2017. Treaster was involved in incidents in which he was being criminally investigated. These incidents involved [REDACTED], her ex-husband and occurred while children were present. At the conclusion of the investigation, criminal charges were declined. In 2016, Treaster was employed by the Rice County Sherriff's Office and was allowed to resign effective December 11, 2016. No action was taken by the Commission.

16. As part of his investigation, Investigator Oliver reviewed Chief Chance Bailey's report dated March 9, 2019 (State's #1), the Notice of Termination or Status Change form submitted by Chief Bailey, (State's 2), Hutchinson Police Department's reports 2019-00004342 (State's #3) and 2019-00004367 (State's #4), the Commission's central registry printout (State's 11) and a certified copy of the Reno County District Court's journal entry in State of Kansas v. Brian Gregory Treaster, 2019-CR-000385 (State's 12).

17. Investigator Oliver did not interview Treaster citing that the felony convictions were automatic disqualifiers under the KLETA. Oliver concluded sufficient evidence existed to show two felony convictions (or conduct constituting felony crimes) occurred.

### Conclusions of Law

18. The Commission issued a law enforcement certification to Brian Treaster. The KLETA authorizes the Commission to suspend, condition, or revoke the certification of a law enforcement officer who commits a violation under subsection (b) of K.S.A. 74-5616.

19. Pursuant to K.S.A. 74-5616(b)(l) the Commission may revoke the certification of a police or law enforcement officer who fails to meet and maintain the requirements of K.S.A. 74-5605 or 74-5607a, and amendments thereto.

20. The Commission's Investigative Committee subsequently issued an order revoking Treaster's certification after concluding he had violated three provisions under K.S.A. 74-5616(b). Treaster requested a hearing on the revocation of his certification. The Commission has jurisdiction over Treaster and the subject matter of this hearing.

### Felony Conviction

21. K.S.A. 74-5605(b)(3) states that each applicant for certification shall not have been convicted of a crime that would constitute a felony under the laws of this state.

22. On April 12, 2021 Treaster was convicted at jury trial of Stalking in violation of K.S.A. 21-21-5427(a)(3)(A), a felony, and Criminal Threat in violation of K.S.A. 21-5415 (a)(1), a felony. Treaster was sentenced on June 4, 2021. Treaster later appealed his convictions. As of the date of the hearing, no action has been taken by the Court of Appeals on Treaster's convictions.

23. Due to his felony convictions in the District Court of Reno County, Case Number 2019-CR-000385, Respondent fails to meet and maintain the requirements of K.S.A. 74-5605.

## Criminal Conduct

24. Pursuant to K.S.A. 74-5616(b)(5), the Commission may revoke the certification of any police or law enforcement officer who engages in conduct which, if charged as a crime, would constitute a felony crime under the laws of this state, a misdemeanor crime of domestic violence as defined in the Kansas Law Enforcement Training Act at the time the conduct occurred, or a misdemeanor crime that the Commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant as defined by rules and regulations of the Commission.

25. Pursuant to K.S.A. 21-5415(a) (1), Criminal threat is any threat to commit violence communicated with intent to place another in fear, or to cause the evacuation, lock down or disruption in regular, ongoing activities of any building, place of assembly or facility of transportation, or in reckless disregard of the risk of causing such fear or evacuation, lock down or disruption in regular, ongoing activities. Criminal threat is a severity level 9, person felony. Treaster's conduct on June 28, 2019 was conduct which constituted a felony, criminal threat. In the Dillion's grocery store, Treaster made a slashing motion across his neck/chest area and told [REDACTED], [REDACTED] and his children that he was going to kill them all. Treaster conduct and words were communicated with the intent to place others in fear.

26. Pursuant to K.S.A. 21-5427(a) (3) Stalking is, after being served with, or otherwise provided notice of, any protective order included in K.S.A. 21-3843, prior to its repeal or K.S.A. 2021 Supp. 21-5924, and amendments thereto, that prohibits contact with a targeted person, recklessly engaging in at least one act listed in subsection (f)(1) that violates the provisions of the order and would cause a reasonable person to fear for such person's safety, or the safety of a member of such person's immediate family and the targeted person is actually placed in such fear. K.S.A. 21-5427 (f)(1) includes:

- (A) Threatening the safety of the targeted person or a member of such person's immediate family;
- (B) following, approaching or confronting the targeted person or a member of such person's immediate family;
- (C) appearing in close proximity to, or entering the targeted person's residence, place of employment, school or other place where such person can be found, or the residence, place of employment or school of a member of such person's immediate family;
- (D) causing damage to the targeted person's residence or property or that of a member of such person's immediate family;
- (E) placing an object on the targeted person's property or the property of a member of such person's immediate family, either directly or through a third person;
- (F) causing injury to the targeted person's pet or a pet belonging to a member of such person's immediate family;
- (G) any act of communication;

Treaster entered into a mutually agreed upon Restraining Order and Order for Possession of Automobile in Reno County case 2018-DM-916. That Order was signed by Treaster's attorney, Greg Bell. The Order was signed electronically by the Court on March 4, 2019 and ordered that each party be "prohibited from harassing, bothering or going about the premise of the other party, or where that party is employed." The Order was issued pursuant to K.S.A. 2021 Supp. 23-2707 which is a protective order included in K.S.A. 21-5427. On April 18, 2019 Treaster engaged in conduct constituting the crime of Stalking when he went to [REDACTED]'s work place, parked near her car and confronted her, placing her in reasonable fear for her safety.

27. K.A.R. 106-2-2a(a)(44) states that, pursuant to K.S.A. 74-5616 and amendments thereto, an applicant or officer shall not engage in conduct, whether or not charged as a crime or resulting in a conviction, that would constitute violation of a protective order, as defined in K.S.A. 21-5924, and amendments thereto. On April 18, 2019 Treaster engaged in conduct constituting the crime of Violation of a Protective Order when he went to [REDACTED]'s work place, parked near her car and confronted her in violation of the mutually agreed upon Restraining Order and Order for Possession of Automobile in Reno County case 2018-DM-916.

28. K.A.R. 106-2-2a(a)(6) states that, pursuant to K.S.A. 74-5616 and amendments thereto, an applicant or officer shall not engage in conduct, whether or not charged as a crime or resulting in a conviction, that would constitute battery, as defined in K.S.A. 21-5413, and amendments thereto.

29. Pursuant to K.S.A. 21-5413 (a)(2) Battery is knowingly causing physical contact with another person when done in a rude, insulting or angry manner, a class B misdemeanor. On June 28, 2019 Treaster engaged in conduct constituting the crime of Battery when he purposefully and in a rude, insulting and angry manner bumped his shoulder into [REDACTED] at the Dillion's grocery store.

30. Respondent's conduct constitutes felony crimes and misdemeanor crimes that the Commission determines reflects on the honesty, trustworthiness, integrity, or competence of the applicant as defined by rules and regulations of the Commission.

#### Good Moral Character

31. The Commission is authorized to suspend, condition, or revoke the certification of a police officer or law enforcement officer who fails to meet and maintain the requirements of K.S.A. 74-5605 and amendments thereto. K.S.A. 74-5616(b)(1). One requirement for certification as a law enforcement officer is good moral character sufficient to warrant the public trust. K.S.A. 74-5605(b)(5).

32. K.A.R. 16-2-4(a) defines the term "good moral character" to include the following personal traits or qualities:

- (1) Integrity;
- (2) honesty;
- (3) upholding the laws of the state and nation;
- (4) conduct that warrants the public trust; and
- (5) upholding the oath required for certification as specified in K.A.R. 106-3-6.

The required oath for certification as a law enforcement officer is:

On my honor, I will never betray my badge, my integrity, my character, or the public trust. I will always have the courage to hold myself and others accountable for our actions. I will always uphold the constitution of the United States and of the state of Kansas, my community, and the agency I serve. K.A.R. 106-3-6.

33. Any single incident or event is sufficient to show that an officer has failed to maintain good moral character sufficient to warrant the public trust. K.A.R. 106-2-4(b).

34. Because they are vital members of the judicial system, law enforcement officers must adhere to a higher standard of conduct than what is expected of private citizens. For persons who uphold the law, this higher standard is not reflected in taking the path of least resistance, but by doing the unpleasant thing if it is right and not doing the pleasant thing if it is wrong. *Application of Walker*, 112 Ariz. 134, 138 (1975).

35. The practice of law enforcement is reliant upon the trait of good moral character sufficient to warrant the public trust. The trust that the public places in a law enforcement officer is based upon the expectation that an officer is honest, candid, fair, and respectful of the laws and individuals. Any officer failing to adhere to these standards has compromised their integrity.

36. The Commission hereby incorporates by reference the paragraphs numbered 22, 23 and 25 through 29 above. The Commission determines those paragraphs show Treaster's conduct clearly demonstrates a lack of good moral character sufficient to warrant the public trust in the following respects:

37. Respondent's conduct surrounding his felony and misdemeanor convictions in Reno County case 2019-CR-000385 show that he lacks the personal qualities of integrity, honesty, upholding the laws of the state, conduct that warrants the public trust, and upholding the oath required for certification.

A. Treaster failed to uphold the laws of the state when he engaged in conduct constituting the crime of Stalking on April 18, 2019. By engaging in this conduct, Treaster further shows his conduct does not warrant public trust.



B. Treaster failed to uphold the laws of the state when he engaged in conduct constituting the crime of Criminal Threat on June 28, 2019. By engaging in this conduct, Treaster further shows his conduct does not warrant public trust.

C. Treaster failed to uphold the laws of the state when he engaged in conduct constituting the crime of Violation of a Protective Order on April 18, 2019. Treaster further shows his failure to uphold the laws by stating a PFA is simply a piece of paper and was not going to stop him. By engaging in this conduct, Treaster further shows his conduct does not warrant public trust.

D. Treaster failed to uphold the laws of the state when he engaged in conduct constituting the crime of Battery on April 18, 2019. By engaging in this conduct, Treaster further shows his conduct does not warrant public trust.

E. By threatening to kill not only [REDACTED] and [REDACTED] but also his own children, Treaster shows conduct not warranting public trust.


F. Treaster's own statements about his detailed plan to kill [REDACTED] and eliminate any evidence of the killing shows Treaster engaged in conduct not warranting public trust.

G. Treaster's threat to discard human remains of [REDACTED]'s family members, as well as engaging his children to assist, show Treaster lacks integrity and does not warrant the public trust.

Based upon the totality of the evidence, the Commission concludes that there is clear and convincing evidence to show Treaster has failed to maintain the requirements for certification as a law enforcement officer, specifically the requirement in K.S.A. 74-5605(b)(5) of "good moral character sufficient to warrant the public trust," thereby violating K.S.A. 74-5616(b)(1).

After consideration of the above findings of fact and conclusions of law, it is the decision and order of the Commission that the law enforcement certification issued to Brian Treaster should be and is hereby revoked. It is the further decision and order of the Commission that Brian Treaster must surrender and return to the Commission all evidence of his certification as a law enforcement officer within thirty (30) days from the date entered on the certificate of service below.

IT IS SO ORDERED.

  
Herman Jones, Commissioner  
As designated by and on behalf of the  
Kansas Commission on Peace Officers'  
Standards and Training

### NOTICE OF ADMINISTRATIVE RELIEF

The above Order revoking the certification as a law enforcement officer issued to Brian Treaster is a final order. Pursuant to K.S.A. 2021 Supp. 77-529, a party may file with the Commission a petition for reconsideration within 15 days from the date noted below in the Certificate of Service. Such petition must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking judicial review.

Pursuant to K.S.A. 2021 Supp. 77-528, a party may file, if applicable, a petition for stay of effectiveness of the order prior to the expiration of the time in which to file a petition for judicial review. The filing of a petition for a stay of effectiveness is not a prerequisite for seeking judicial review.

### NOTICE OF JUDICIAL RELIEF

If a petition for reconsideration is not filed, a party may file within 30 days from the date noted below in the Certificate of Service a petition for judicial review with the appropriate district court as provided in the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.*

The person who may receive service of a petition for reconsideration, a petition for stay of effectiveness, or a petition for judicial review on behalf of the Commission is: Doug Schroeder, Executive Director of KS-CPOST, 1999 N. Amidon, Suite 350, Wichita, KS 67203.

### CERTIFICATE OF SERVICE

This is to certify that on this 15<sup>th</sup> day of December, 2021, a copy of the above Order and Notices were deposited in the United States mail, first-class postage prepaid, and addressed to:

Brian Treaster



I further certify that on the same day a copy of the above Order and Notices were personally delivered to:

Michelle R. Meier  
Special Assistant Attorney General  
Kansas Commission on Peace  
Officers' Standards and Training  
1999 N. Amidon, Suite 350  
Wichita, KS 67203

  
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Staff  
Kansas Commission on Peace Officers'  
Standards and Training