



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

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In the Matter of)	
)	
DAVID TOLAND)	Case No. 2019-0206
#22823)	
)	

SUMMARY ORDER OF REVOCATION

Pursuant to K.S.A. 77-537

The above-captioned matter comes on for Commission action through a summary proceeding under the Kansas Administrative Procedures Act, K.S.A. 77-537, regarding the law enforcement certification of DAVID TOLAND (Respondent).

STATEMENT OF FACTS

1. The Kansas Commission on Peace Officers’ Standards and Training (Commission) granted full-time certification to Respondent, certification number 22823.
2. Respondent was employed as a full-time law enforcement officer with the Wyandotte County Sheriff’s Office from September 1, 2009, to August 20, 2020.
3. On September 5, 2019, Respondent was on-duty as a Sergeant in the Wyandotte County Adult Detention Facility. An inmate, M.F., and his cellmate were suspected of smoking in their cell. The inmates were both handcuffed and removed from the cell so that it could be searched. No tobacco or contraband was found in the cell or on M.F. Jail staff was

instructed to return M.F. to his cell. Although M.F. voiced his displeasure with the situation to the jail staff, he was compliant with their instructions. Respondent and four jail deputies entered the elevator with M.F., who remained handcuffed behind his back, to escort him back to his cell. In the elevator, M.F. was facing the wall and was restrained by jail staff. Respondent repeatedly told M.F. to “shut the fuck up.” As soon as the elevator doors closed, Respondent shoved M.F. against the elevator doors, grabbed him by the neck, and punched him in the face. After punching M.F. in the face, Respondent grabbed M.F. by the hair and jerked his head into the elevator doors multiple times. Respondent continued to pull M.F.’s hair and talk to him as M.F. slumped in the corner. During the incident, Respondent was yelling, “Shut the fuck up. When we tell you to shut the fuck up, you shut the fuck up.” Other deputies in the elevator stated that force against M.F. was not needed and there was no reason for Respondent to react as he did. When interviewed later, M.F. stated he had never been that scared in his life and that Respondent called him the “N word” multiple times.

4. Respondent was criminally charged in the District Court of Wyandotte, County, Case Number 2019-CR-1284. On March 7, 2022, Respondent entered a plea and was found guilty of battery, contrary to K.S.A. 21-5413, and mistreatment of a confined person, contrary to K.S.A. 21-5416.

CONCLUSIONS OF LAW

Criminal Conduct

5. 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.

6. 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.
7. K.A.R. 106-2-2a(a)(7) 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 mistreatment of a confined person, as defined in K.S.A. 21-5416, and amendments thereto.
8. Respondent's conduct constitutes 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. Respondent's conduct constitutes battery and mistreatment of a confined person.

Unprofessional Conduct

9. Pursuant to K.S.A. 74-5616(b)(7), the Commission may revoke the certification of any police or law enforcement officer who has engaged in unprofessional conduct as defined by rules and regulations of the Commission.
10. K.A.R. 106-2-3(f) defines unprofessional conduct as using excessive physical force in carrying out a law enforcement objective. As used in this subsection, physical force shall be deemed excessive if it is greater than what a reasonable and prudent officer would use under the circumstances.
11. Respondent used excessive physical force during his interaction with M.F. Respondent's actions toward the handcuffed inmate were greater than what a reasonable and prudent officer would use under the circumstances.

Good Moral Character

12. Pursuant to K.S.A. 74-5616(b)(1) 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.
13. K.S.A. 74-5605(b)(5) states that each applicant for certification shall be of good moral character sufficient to warrant the public trust in the applicant as a police officer or law enforcement officer.
14. K.A.R. 106-2-4(a) defines good moral character as including the personal traits or qualities of integrity, honesty, upholding the laws of the state and nation, conduct that warrants the public trust, and upholding the oath required for certification as specified in K.A.R. 106-3-6.
15. Pursuant to K.A.R. 106-2-4(b), any single incident or event may suffice to show that a licensee lacks or has failed to maintain good moral character.
16. Respondent's conduct shows that he lacks the personal qualities of integrity, upholding the laws of the state, conduct that warrants the public trust, and upholding the oath required for certification.

Summary Proceedings

17. Under K.S.A. 77-537, the Commission may conduct these summary proceedings, subject to Respondent's request for a hearing. The Commission finds that the use of summary proceedings in these circumstances does not violate any provisions of law and the protection of the public interest does not require the Commission to give notice and opportunity to participate to any person other than Respondent.

ORDER

Based on the above Statement of Facts and Conclusions of Law, the Commission orders that the Kansas Law Enforcement Officer Certification of DAVID TOLAND be revoked.

ACCORDINGLY, THE KANSAS COMMISSION ON PEACE OFFICERS' STANDARDS AND TRAINING CERTIFICATE OF DAVID TOLAND IS HEREBY REVOKED.

FURTHER, Respondent is ordered to surrender and return to the Commission all evidence of his certification as a law enforcement officer.

DATED this 20th day of July, 2022.

KANSAS COMMISSION ON PEACE OFFICERS'
STANDARDS AND TRAINING



Jeff Herrig
Chair, Investigative Committee

NOTICE OF RELIEF FROM THIS SUMMARY ORDER

Pursuant to K.S.A. 77-537, the Summary Order is subject to your request for a hearing. If you desire a hearing, you must direct a written request for a hearing to the Kansas Commission on Peace Officers' Standards and Training, 1999 N. Amidon, Suite 350, Wichita, Kansas 67203. This written request must be filed within fifteen (15) days from the date indicated in the Certificate of Service below. If a written request for hearing is not so made, this Summary Order becomes final and effective upon the expiration of the time for requesting a hearing.

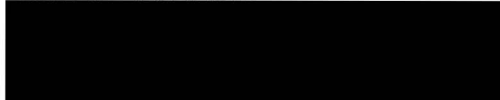
CERTIFICATE OF SERVICE

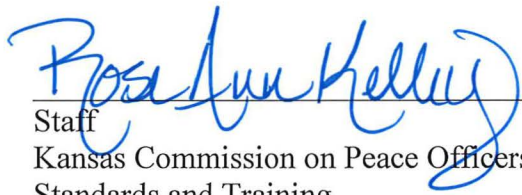
This is to certify that on the 20th day of July, 2022, a true and correct copy of the above and foregoing Summary Order of Revocation was deposited in the United States mail, certified, postage prepaid, return receipt requested, and deposited in the United States mail, first class postage prepaid, addressed to:

DAVID TOLAND



DAVID TOLAND





Staff
Kansas Commission on Peace Officers'
Standards and Training