

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

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In the Matter of)	
)	
WESLEY TANKSLEY)	Case No. 2021-0150
#28361)	
)	

ORDER

Now, on this 20th day of May 2022, 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 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.

Wesley Tanksley appeared in person, pro se. Michelle Meier, Special Assistant Attorney General, who serves as its litigation counsel, represented the Commission. 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. Wesley Tanksley (Tanksley) received his certification as a law enforcement officer on March 18, 2016. After receiving his certification, he was employed by the following agencies:

- Lane County Sheriff's Office (LCSO)-November 24, 2014 until January 11, 2021
- Ness County Sheriff's Office-November 6, 2018 until November 24, 2020
- Ellinwood Police Department-January 23, 2018 until July 29, 2018
- Rice County Sheriff's Office-February 3, 2017 until January 18, 2018
- Phillips County Sheriff's Office-January 26, 2015 until January 9, 2017

At the conclusion of Tanksley's employment with each of the five agencies, each agency submitted a Notice of Termination or Status Change form with the Commission indicating involuntary termination.

2. On May 25, 2022 the Commission received LCSO's Notice of Termination concerning Tanksley's employment. An investigation was initiated to determine whether Tanksley violated the Kansas Law Enforcement Training Act (KLETA), K.S.A. 74-5601 *et seq.*

3. After the investigation was completed, the Commission's Investigative Committee issued a Summary Order of Revocation. The Investigative Committee determined Tanksley had committed the following violations of the KLETA: (1) engaged in unprofessional conduct by exploiting or misusing the position as an officer to obtain an opportunity or benefit that would not be available but for that position and (2) failing to maintain the certification requirement of good moral character. See K.S.A. 74-5616(b). Based upon these violations, the Investigative Committee revoked Tanksley's certification as a law enforcement officer. Tanksley timely requested a hearing on the Summary Order of Revocation.

Hearing

4. The hearing was held on May 20, 2022. Tanksley appeared in person, pro se via Microsoft Teams. Tanksley 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 Hearing Panel admitted State's exhibits 1 through 17 and Tanksley's exhibits 1-20.

5. The Hearing Panel first considered the Motion to Quash filed by District Magistrate Judge Thomas J. Bennett. Judge Bennett appeared in person with counsel John Houston, Assistant General Counsel for the Kansas Supreme Court of Judicial Administration. Both appeared via Teams. Magistrate Judge Bennett had been subpoenaed by Tanksley. The Hearing Panel considered the motion and the arguments of Bennett and Tanksley. The Hearing Panel denied Bennett's Motion to Quash however, limited the scope of the subpoena to factual knowledge known to Judge Bennett.

6. During the late afternoon or early evening hours of April 20, 2021, Tanksley contacted District Magistrate Judge Bennett on Judge Bennett's cell phone. Judge Bennett recalls he was eating dinner with his wife. Tanksley asked Judge Bennett if Lane County did protection orders on the weekend. Judge Bennett was new to the Lane County bench and advised Tanksley he did not know the answer to Tanksley's question and would need to check with others and do some research. Tanksley told Judge Bennett that other law enforcement agencies he had worked for had emergency procedures. Tanksley was home alone at the time of the first call.

Tanksley did not advise Bennett he was inquiring for personal reasons. Within an hour, Tanksley again called Judge Bennett on his cell phone, asking if Judge Bennett had "figured it out". At the time of the second call, Judge Bennett had not made any phone calls or done any research. Judge Bennett advised Tanksley that he would head to the courthouse, however, did not instruct Tanksley to meet him at the courthouse. His purpose at the courthouse was to do research on Tanksley's question. The courthouse was approximately 16 miles from Judge Bennett's home. During the second call, Judge Bennett learned the incident Tanksley was calling about was personal and involved his live-in partner. After learning this, Judge Bennett told Tanksley to contact the Lane County Sheriff's Office in an effort to remove himself. Judge Bennett traveled to the courthouse to do legal research, not to meet Tanksley and did not instruct Tanksley to meet him at the courthouse.

7. Prior to Tanksley's calls, Judge Bennett had only received after hour calls on his cell phone from law enforcement and attorneys regarding search warrants or bonds. Judge Bennett explained private citizens contact him occasionally, but only on his office phone, never on his cell phone. Judge Bennett responded in the manner he did because Tanksley was a law enforcement officer and that he likely would not have driven 16 miles to the courthouse if a private citizen had called.

8. Lane County Sheriff's Deputy Snead (Snead) had just finished his shift when dispatch requested he return to the Sheriff's Office. Dispatch advised Tanksley had driven to the office and was reporting a domestic dispute involving his live-in partner, Brittany Snodgrass (Snodgrass). Upon arriving, Snead noticed Tanksley in the dispatch area drinking coffee. Snead spoke with Tanksley who indicated he and Snodgrass had been arguing about infidelity during the day while she was away from home. Tanksley advised her not to come home. They argued about who owned the home, Snodgrass returned home, and the argument continued. Tanksley told Snead Snodgrass had slammed his elbow in an exterior door. Snead did not see any marks or injuries on Tanksley's elbow or arm. Snead requested Tanksley complete a witness statement form and was then advised that the investigation would be turned over to the Gove County Sheriff's Office.

9. Lane County Undersheriff Travis Montgomery (Montgomery) was off-duty when Lane County Sheriff Brian Kough (Kough) requested he respond to the domestic disturbance involving Tanksley. Montgomery responded to the Tanksley and Snodgrass home at 544 S. Main and spoke with Snodgrass. Snodgrass indicated Tanksley had gone outside to smoke but had not closed the door. She was on the phone and closed the door, she indicated she did not believe the door hit Tanksley but that it could have. Snodgrass said Tanksley then reentered the home, retrieved his car keys, and left in his car. After speaking with Snodgrass, Montgomery responded to the Sheriff's Office and spoke with Snead and Tanksley. Montgomery noted a very strong odor of consumed alcohol, bloodshot and watery eyes and slurred speech while speaking with Tanksley. When Montgomery mentioned the odor, Tanksley responded "yeah". The entire investigation was to be conducted by the Gove County Sheriff's Office however, due to the lengthy response time, it was determined Montgomery would handle the DUI

investigation. Montgomery confirmed Tanksley had driven to the office by watching video of his arrival. Tanksley refused field sobriety tests, a preliminary breath test and an evidentiary breath test. Tanksley stated he refused a breath test because he "didn't want to know". A blood draw warrant was obtained, and a blood sample was collected from Tanksley at 10:18 p.m., two hours and seven minutes after the video showed Tanksley arriving in his vehicle at the Sheriff's office. The sample was sent to the Kansas Bureau of Investigation where analysis showed an ethyl alcohol level of .09 grams per 100 milliliters of blood. Tanksley was charged in Lane County District Court, case 21-CR-20, with one count of Driving Under the Influence (DUI) in violation of K.S.A. 8-1567. The case was later dismissed.

10. Gove County Undersheriff Corey Dipman (Dipman) responded to Kough's request for outside assistance. Dipman first responded to the Tanksley/Snodgrass home and spoke with Snodgrass, then went to the Sheriff's office to speak with Tanksley. Upon speaking with Tanksley, Dipman noticed the odor of consumed alcohol and that his eyes were bloodshot and watery. Tanksley described Snodgrass slamming his elbow in a door however Dipman did not observe any signs of injury and Tanksley's was using his arm freely. Tanksley described having an argument about infidelity and that Snodgrass slammed the back door "recklessly and intentionally" but said he "didn't know if she meant to". Tanksley told Dipman he had a 12 pack of beer at home and that he had consumed "8 or 9". Dipman concluded in his report that Tanksley, "having the knowledge and experience of a full-time law enforcement officer" attempted "to use the most minute disturbance to try and make the law work in his favor". Dipman further noted Tanksley "not only interfered with law enforcement by reporting a false crime, he also involved his Sheriff, Undersheriff, and Judge during a personal matter" and "he was abusing his position of a full-time law enforcement officer in order to achieve an outcome in his favor."

11. A Temporary Order of Protection from Stalking, Sexual Assault, or Human Trafficking, pursuant to K.S.A. 60-31a01 *et seq.*, was not issued on April 20, 2021. However, on May 10, 2021, Tanksley sought and received a Temporary Order against Snodgrass. In that Order, "Other provisions:" allowed Tanksley to retrieve his personal items and ordered Snodgrass to return a laptop. The Order listed Snodgrass' address as the 544 S. Main address.

12. On May 19, 2021, after an internal investigation, Sheriff Kough terminated Tanksley's employment with the LCSO. Kough noted "it has been determined that you abused your position as a Deputy here in Lane County, to influence the outcome of a civil dispute between yourself and your significant other". Kough noted Tanksley's conduct constituted a violation of K.S.A. 21-5904, Interference with Law Enforcement. Kough also noted the DUI investigation and/or charge.

13. After Tanksley's termination, the LCSO submitted a Notice of Termination or Status Change to the Commission. The notice indicated Tanksley's employment was terminated involuntarily. The Commission then initiated an investigation to determine whether Tanksley violated the KLETA. George Brown (Brown), an investigator with the

Commission, conducted the investigation.

14. Prior to his employment with KCPOST, Investigator Brown was employed as a law enforcement officer for 23 years. Brown testified that the circumstances surrounding Tanksley's request for an "emergency" protective order seemed strange and that in his 23 years he had never contacted a judge for a protective order. Brown spoke with Kough, Judge Bennett and the court clerk. Other than Judge Bennett explaining he had stayed late on one occasion to complete an order, all advised they had never participated in the issuance of a protective order after business hours. The court clerk indicated she would have had to come in after hours to file the order and that she had never done that.

15. As part of his investigation, on May 13, 2021, Investigator Brown interviewed Tanksley. During the interview, Tanksley indicated he had obtained Judge Bennett's phone number while employed by the Ness County Sheriff's office. Tanksley acknowledged that, but for his employment, he would not have had Judge Bennett's phone number. Tanksley further acknowledged that a citizen would not have direct access to a judge's cell phone, instead would have had to call the Sheriff's office and the Sheriff's office would have made contact with the Judge.

16. During his investigation Brown learned Tanksley's DUI charge had been dismissed. Brown called the prosecutor's office to ask about the circumstances surrounding the dismissal. Brown was told that Tanksley had testified that he had consumed alcohol while at the Sheriff's office, after he had driven, claiming an intervening intoxication defense to the DUI charge. Tanksley testified that he had small bottles of alcohol in the front pocket of his shirt and that he poured the alcohol into his coffee while at the Sheriff's office. The Sheriff's office is public property. Consuming alcohol in a public building, such as the Lane County Sheriff's office, is a violation of K.S.A. 41-719(d). During his various law enforcement interviews on April 20, 2021, Tanksley never described drinking alcohol while at the Sheriff's office. During his interview with Investigator Brown, Tanksley never mentioned drinking alcohol while at the Sheriff's office. No one who had contact with Tanksley while he was at the Sheriff's office saw him possess or consume alcohol on the premises.

17 Dr. Timothy Klerekoper (Klerekoper) has served as the chaplain for the King County Sheriff's Office, Des Moines (WA) Police Department, South King Fire and Rescue and the Department of Homeland Security. He has known Tanksley for over 20 years. On April 28, 2021, Klerekoper was speaking to Tanksley on the phone and describes Snodgrass speaking in the background disrespectfully, argumentatively and admitting to hitting Tanksley with the door.

Conclusions of Law

18. The Commission issued a law enforcement certification to Wesley Tanksley. 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 issued an order revoking Tanksley's certification after concluding he had violated two provisions of K.S.A. 74-5616(b). Tanksley requested a hearing on the revocation of his certification. The Commission has jurisdiction over Tanksley and the subject matter of this hearing.

Unprofessional Conduct

21. Pursuant to K.S.A. 74-5616(b)(7), the Commission may revoke the certification of any police or law enforcement officer who engages in unprofessional conduct.

22. K.A.R. 106-2-3(g) defines unprofessional conduct as exploiting or misusing the position as an officer to obtain an opportunity or benefit that would not be available but for the position.

23. Tanksley's conduct on April 20, 2021, was unprofessional conduct. He called Judge Bennett on a phone number he had received while working as a law enforcement officer. He contacted Judge Bennett, twice, in a manner a private citizen would not have access to, to gain a protective order against Snodgrass. Although unsuccessful, he exploited his law enforcement position to obtain an opportunity to gain a response from Judge Bennett that would not be available but for his law enforcement position.

24. Tanksley's April 20, 2021 unprofessional conduct resulted in the involvement of his Sheriff, Undersheriff, Magistrate Judge Bennett and the Undersheriff of an outside agency.

Good Moral Character

25. 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).

26. 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.

27. 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).

28. 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).

29. 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.

30. The Commission hereby incorporates by reference the paragraphs numbered 6 through 17 and 23 through 24 above. The Commission determines those paragraphs show Tanksley's conduct clearly demonstrates a lack of good moral character sufficient to warrant the public trust in the following respects:

A. Tanksley's conduct on April 20, 2021, of driving under the influence of alcohol, with a blood alcohol content of .09, to the Sheriff's Office/courthouse to speak with a judge and law enforcement to report a crime, which after investigation, was determined to be false, is not conduct that warrants the public trust. By engaging in this conduct, Tanksley shows he fails to maintain good moral character sufficient to warrant public trust.

B. Tanksley's conduct on April 20, 2021, shows he lacks integrity and fails to maintain good moral character sufficient to warrant public trust. Tanksley used his position as a law enforcement officer to gain an opportunity that would not otherwise be available. Tanksley made a criminal report, which was investigated and determined to be a false report by the investigating agency. Tanksley involved Sheriff Kough, Undersheriff Montgomery, Magistrate Judge Bennett and Undersheriff Dipman in a personal, domestic matter. Tanksley used his law enforcement knowledge and

contacts in an attempt to obtain a protective order against Snodgrass. Again, based upon his law enforcement knowledge, Tanksley created an intervening intoxication defense to his DUI charge, claiming he drank alcohol after he arrived at the Sheriff's office, which resulted in his .09% blood alcohol level. Notably, the scenario created by Tanksley, if true, would constitute a violation of K.S.A. 41-719(d), a misdemeanor.


C. Tanksley's conduct shows he lacks honesty and fails to maintain good moral character sufficient to warrant public trust. After his investigation, Gove County Undersheriff Dipman concluded Tanksley interred with law enforcement by reporting a false crime. By creating an intervening intoxication defense to his driving under the influence charge, Tanksley shows he lacks honesty and fails to maintain good moral character sufficient to warrant public trust. Tanksley never discussed drinking alcohol at the Sheriff's office during his various interviews on April 20, 2021, or during his interview with Investigator Brown. No one at the Sheriff's office observed Tanksley possessing or consuming alcohol on April 20, 2021.

D. Tanksley's conduct resulted in a violation of K.A.R. 106-3-6's oath required for certification. Tanksley failed to hold himself accountable for the driving under the influence charge. Tanksley further failed to acknowledge the misuse of his position in an attempt to gain an opportunity not available but for his position as a law enforcement officer. By violating the oath, Tanksley shows he fails to maintain good moral character sufficient to warrant public trust.

Based upon the totality of the evidence, the Commission concludes that there is clear and convincing evidence to show Tanksley 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 Wesley Tanksley should be and is hereby revoked. It is the further decision and order of the Commission that Wesley Tanksley 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 Wesley Tanksley 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 27th day of September 2022, a copy of the above Order and Notices were deposited in the United States mail, first-class postage prepaid, and addressed to:

Wesley Tanksley



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



Staff
Kansas Commission on Peace Officers'
Standards and Training