



BEFORE THE KANSAS COMMISSION ON PEACE OFFICERS' STANDARDS AND TRAINING

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In the Matter of)
)
CHAD VOTH)
 #31979)

Case No. 2022-0100

CONSENT AGREEMENT AND ORDER OF REVOCATION

Pursuant to K.S.A. 77-505

Now on this 25th day of September, 2023, this matter comes on for consideration by the Kansas Commission on Peace Officers' Standards and Training (Commission). Under the Kansas Administrative Procedure Act, the Commission has delegated its authority to hear and decide the above-referenced matter to the Hearing Panel, which is comprised of the following Commissioners: Roger Soldan, Saline County Sheriff; Sherri Schuck, Pottawatomie County Attorney; and Jody Prothe, Major with the Johnson County Sheriff's Office. The Commission is represented by its Litigation Counsel, Michelle R. Meier. Respondent, Chad Voth, is acting pro se.

To resolve this matter, the parties have agreed to enter into this Consent Agreement and Order of Revocation.

Chad Voth (Respondent) agrees, stipulates, and acknowledges that if this matter were to proceed to hearing, the information and statements below would be presented by clear and convincing evidence to the Hearing Panel.

Procedural History

1. The Commission received information concerning Respondent's conduct as a law enforcement officer. As a result, the Commission investigated the information and the Commission Investigative Committee determined Respondent violated provisions of the Kansas Law Enforcement Training Act (KLETA), K.S.A. 74-5601 *et seq.*, or regulations adopted thereunder. Based upon that determination, the Commission Investigative Committee issued a Summary Order of Revocation to revoke Respondent's law enforcement certification on May 15, 2023. Respondent timely requested a hearing, which is scheduled for September 26, 2023.

Stipulated Facts

2. The Commission granted Respondent a part time law enforcement certification, certification number 31979.
3. Respondent was employed as a part time law enforcement officer with the Peabody Police Department (PPD) from May 20, 2020 to August 27, 2022.
4. On August 27, 2022, Respondent conducted a traffic stop in which he searched the vehicle. Deputies with the Marion County Sheriff's Office (MCSO) were dispatched to assist with the stop. The responding deputies smelled the odor of consumed alcohol coming from Respondent. Respondent's eyes had a glassy, watery, and red appearance. After Respondent left the stop in his patrol vehicle, the deputies reported the situation to command staff. Respondent was contacted at the PPD station, and a DUI investigation was conducted. Respondent stated that he drank three or four beers several hours before his shift. Respondent also claimed that he was not drinking while driving, but instead returned to the patrol station after the traffic stop and drank prior to the arrival of the MCSO deputies. The MCSO deputies noted that Respondent's level of intoxication was inconsistent with this claim. Respondent failed multiple field sobriety tests. A cooler containing two unopened cans of beer was in Respondent's personal vehicle, which was located at the PPD station. The Intoxilyzer 9000 was administered to Respondent and showed his breath alcohol content to be 0.115g/210L. In a Commission interview, Respondent admitted to drinking alcohol while on-duty as a law enforcement officer with the PPD.
5. Based on his conduct in paragraph three, Respondent was arrested for DUI and possession of a firearm under the influence. Respondent was criminally charged in the District Court of Marion County, Case Number MN-2022-CR-000147, with one count of possession of a firearm under the influence, contrary to K.S.A. 21-6332, a class A nonperson misdemeanor. Respondent was found guilty of the charge and is currently on probation through January 2024.

Conclusions of Law

6. 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.
7. K.A.R. 106-2-3(j)(3) defines unprofessional conduct as, except for a legitimate law enforcement purpose, performing the duties as an officer while using or under the influence of alcohol.
8. 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.
9. 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.

10. 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.
11. 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.
12. Respondent acknowledges and agrees that he violated the provisions of the KLETA enumerated in paragraphs six through eleven.
13. The revocation of Respondent's certification as a law enforcement officer is appropriate for his violations of the KLETA, or regulations adopted thereunder, and is not arbitrary or capricious.
14. Respondent does not dispute any of the above facts or conclusions and waives any further proof in this or any other related proceeding before or initiated by the Commission.

Acknowledgements and Agreement

Chad Voth (Respondent) fully understands, agrees, and stipulates to the following:

15. The Commission is the Kansas agency vested with the authority to carry out and enforce the provisions of the KLETA. Under the KLETA, the Commission is vested with the authority to conduct proceedings and hearings to condition, suspend, reprimand, censure, deny, or revoke the certification of a police officer or law enforcement officer.
16. Respondent states he is of sound mind and not under the influence of or impaired by alcohol, any medication, or any drug. By signing this Consent Agreement and Order of Revocation, Respondent knowingly and voluntarily submits to the jurisdiction of the Commission in this matter.
17. Respondent acknowledges that he has the right to be represented by counsel of his own choosing and expense. Respondent waives this right and chooses to proceed pro se. Respondent voluntarily enters into this Consent Agreement and Order of Suspension after having been given the opportunity to consult with counsel.
18. Respondent and the Commission mutually desire to enter into this Consent Agreement and Order of Revocation in lieu of any proceeding or hearing on the issue or issues of whether Respondent violated any provision in the KLETA, or any regulation adopted pursuant to the KLETA, and if so, whether his certification should be conditioned, suspended, reprimanded, censured, or revoked.
19. In lieu of an adjudicatory hearing in this matter, Respondent hereby voluntarily surrenders his certification as a law enforcement officer in the State of Kansas, certification number, 31979. Respondent knowingly and voluntarily acknowledges and stipulates to the facts, legal conclusions, conditions, and orders as stated herein.
20. By surrendering his certification and voluntarily entering into this Consent Agreement and Order of Revocation, Respondent acknowledges and agrees that he waives all rights

to a hearing and an adjudication by the Hearing Panel regarding the applicable facts, law, and penalty, as well as reconsideration of such adjudication, under the Kansas Administrative Procedure Act (KAPA), K.S.A. 77-507 *et seq.* Respondent acknowledges and agrees he also waives all rights for review under the Kansas Judicial Review Act (KJRA) K.S.A. 77-601 *et seq.* Respondent further understands his waivers will result in the waiver of the following rights under the KAPA and the KJRA:

- A. The right to contest any alleged violation of the KLETA or regulations adopted thereunder;
- B. the right to have a public hearing on the issues in this matter;
- C. the right to confront and cross-examine witnesses called to testify against me;
- D. the right to present evidence on my own behalf;
- E. the right of compulsory process to secure attendance of witnesses to testify on my own behalf;
- F. the right to testify on my own behalf;
- G. the right to receive written findings of fact and conclusions of law to support the decision on the merits of the issues in this matter; and
- H. the right to obtain judicial review of the Commission's decision.

21. Respondent acknowledges he has read this Consent Agreement and Order of Revocation in its entirety, he understands its legal consequences, and he agrees that none of its provisions or terms are unconscionable, arbitrary, or capricious.
22. The parties agree that this Consent Agreement and Order of Revocation is intended to resolve only violations arising out of the facts set forth in the Summary Order of Revocation in this matter. The Commission reserves jurisdiction regarding any other potential complaints arising from circumstances or incidents other than those concerning the Summary Order of Revocation in this matter.
23. Respondent understands that the Commission is free to accept or reject this Consent Agreement and Order of Revocation, and if rejected, the Commission will begin proceedings authorized under the KAPA. If either party should reject this Consent Agreement and Order of Revocation, it shall be regarded as null and void and will not be regarded as evidence against either party at a subsequent proceeding or hearing in this matter. Respondent will be free to present a defense and no inferences will be made from his willingness to consider this Consent Agreement and Order of Revocation. It is further agreed that neither the presentation of this Consent Agreement and Order of Revocation nor the Commission's consideration of the same will be deemed to have unfairly or illegally prejudiced the Commission or its individual members and thereby Respondent agrees to waive any rights he may have to challenge the impartiality of the Commission or its members to conduct any proceeding or hearing regarding the incident or incidents in this matter if either party rejects this Consent Agreement and Order of Revocation.
24. The parties agree this Consent Agreement and Order consists of a total of seven (7) pages, including the signature and certificate of service pages, and constitutes the entire agreement between Respondent and the Commission. This Consent Agreement and Order of Revocation may only be changed, modified, or amended by a written agreement signed by the parties and a member of the Hearing Panel, and filed with the Commission.

25. By signing this Consent Agreement and Order of Revocation, Respondent consents to the submission of this Consent Agreement and Order of Revocation to the Hearing Panel, and understands that upon approval by the Hearing Panel, this Consent agreement and Order becomes a final order of the Commission. Respondent understands that the Consent Agreement and Order of Revocation shall become effective on the day it is approved, accepted, signed, and entered as an order of the Commission.
26. Upon execution by all parties and entry as an order by the Commission, Respondent acknowledges this Consent Agreement and Order of Revocation becomes a public record and is subject to disclosure under the Kansas Open Records Act.
27. Respondent acknowledges and agrees this Consent Agreement and Order shall remain a part of his permanent certification record and be considered as disciplinary action. Respondent further understands that, for purposes of reporting to the National Decertification Index, this matter shall be categorized as Adverse Action Classification: Order of Revocation.
28. Respondent does hereby fully, completely, and finally release the Commission and its agents, staff, or employees from any and all claims, charges, demands, damages, costs, expenses, actions and causes of action of every kind and whatsoever related to this Consent Agreement and Order of Revocation. The Commission admits to no liability in any way related to this Consent Agreement and Order of Revocation.
29. Respondent acknowledges and agrees this Consent Agreement and Order of Revocation is in conformance with Kansas and federal laws and the Commission has jurisdiction to enter into this Consent Agreement and Order of Revocation and to revoke his certification as a law enforcement officer. Respondent further agrees that the KLETA is constitutional on its face and as applied in this case. Additionally, this Consent Agreement and Order of Revocation shall be interpreted under Kansas law and construed as if jointly prepared and written by the parties, and any uncertainty or ambiguity shall not be interpreted against either party.
30. The parties agree this Consent Agreement and Order of Revocation shall be interpreted under Kansas law and, in the event a Kansas court of competent jurisdiction deems any provision of this Consent Agreement and Order of Revocation invalid or unenforceable, the remaining provisions of this Consent Agreement and Order of Revocation shall be given full force and effect.
31. By surrendering his certification and signing this agreement, Respondent agrees and acknowledges the Commission will revoke his certification as a law enforcement officer and this disposition is just and appropriate under the above stated facts, conclusions, stipulations, and acknowledgments.
32. Respondent further agrees not to seek or request reinstatement or certification as a law enforcement officer in Kansas for a period of five (5) years from the effective date of this Consent Agreement and Order of Revocation. If Respondent makes such a request after that time, he acknowledges he must provide evidence to show he meets the qualifications for certification as a law enforcement officer pursuant to K.S.A. 74-5605, and amendments thereto, as well as the factors stated in K.S.A. 74-5622, and amendments thereto, for reinstatement or certification as a law enforcement officer.

ORDER

Based upon the above acknowledgements, agreements, and stipulations of applicable facts, law, and conclusions, the Commission hereby accepts Chad Voth's surrender of his certification as a law enforcement officer and orders the revocation of his law enforcement certification.

It is the further decision and Order of the Commission that Chad Voth must 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 the further decision and Order of the Commission that the Hearing scheduled for September 26, 2023, is hereby cancelled for mootness.

IT IS SO ORDERED.

 As authorized by:

Commissioner and Member of Hearing Panel
As authorized by and on behalf of the
Kansas Commission on Peace Officers' Standards and Training

AGREED AND APPROVED BY:



Michelle R. Meier
Special Assistant Attorney General
Litigation Counsel for the Commission on
Peace Officers' Standards and Training

AGREED AND APPROVED BY:



CHAD VOTH,
Respondent

STATE OF Kansas
COUNTY OF Marion

CHAD VOTH personally appeared before me, a notary public, in and for the county and state aforesaid, who being duly sworn, did in my presence execute the foregoing Consent Agreement and Order of Suspension by affixing his signature thereto.

IN WITNESS THEREOF, I have affixed by seal and signature this 19th day of September 2023.





CERTIFICATE OF SERVICE

This is to certify that on the 25th day of September, 2023, a copy of the above Consent Agreement and Order of Revocation was deposited in the United States mail, first-class postage prepaid, and addressed to:

CHAD VOTH



I further certify that on the same day, a copy of the above Consent Agreement and Order was personally delivered to:

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

and the original filed with the Commission.


Staff
Kansas Commission on Peace Officers'
Standards and Training