

BEFORE THE KANSAS COMMISSION ON PEACE OFFICERS'  
STANDARDS AND TRAINING

1999 N Amidon Ste. 350  
Wichita, KS 67203

Petition for Reinstatement

of

Eric Maack  
Certification # 09767

Case No. 2016-0186

**ORDER**

Now on June 5, 2023, the above-referenced matter comes for hearing by the Kansas Commission on Peace Officers' Standards and Training (Commission) regarding the reinstatement of the law enforcement certification of Eric Maack. Pursuant to 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: Don Schiebler, Chief of Hays Police Department; Sherri Schuck, County Attorney of Pottawatomie County; and Roger Soldan, Sheriff of Saline County Sheriff's Office.

Eric Maack appeared in person and was not represented by counsel. The Commission was represented by its litigation counsel, Special Assistant Attorney General Michelle Meier. Also present was Jay Rodriguez, Assistant Attorney General, serving as legal counsel to 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. Eric Maack (Maack) received his certification as a law enforcement officer, certification number 09767, on February 27, 1998.

2. Maack was employed as a full-time law enforcement officer with the Lawrence Police Department (LPD) from September 24, 2001, to October 7, 2016.

3. In 2016, Maack began Crime Scene Investigation (CSI) training with the LPD. The training was designed to prepare officers for a CSI certification test. For the officers who completed the training, CSI certification could have led to promotion opportunities at LPD. Officers taking the course were tested on their knowledge of the materials. During tests, officers were instructed that they should clear off their desks and should not consult any materials to answer the questions.

4. On September 14, 2016, during a CSI training test, Maack was observed by multiple officers looking at his cellphone and at a notebook, then answering test questions.

5. When Maack's superior officers, Sergeant Fowler and Captain Pattrick, learned of the allegations that he had cheated on the test, they questioned Maack. Maack initially denied that he looked at his phone to get answers to the test questions. He told Fowler and Pattrick that he had received a text message from his wife. He also denied looking at his notebook. As Fowler and Pattrick continued to question Maack, however, Maack reluctantly acknowledged that that he had looked at his phone and at his notebook to check some of his answers. He denied cheating.

6. On October 13, 2016, LPD notified the Commission that Maack had resigned to avoid potential adverse employment action. The Commission opened an investigation to determine whether Maack had violated the Kansas Law Enforcement Training Act (KLETA). Investigator Jackie Stewart interviewed Maack. Maack acknowledged that he had lied to Fowler and Pattrick when he initially told them he had not cheated. He also acknowledged that he had cheated on the test.

7. Following its investigation, on March 27, 2017, the Commission issued a Summary Proceeding Order revoking Maack's law enforcement certification, due to his violation of two provisions of KLETA: (1) failure to maintain the certification requirement of good moral character sufficient to warrant the public trust in violation of K.S.A. 74-5605(b)(5); and (2) engaging in unprofessional conduct in violation of K.S.A. 5616(b)(7).

8. Maack requested a hearing on the Summary Proceeding Order. The hearing was held before the Commission's Hearing Panel on August 22, 2017. Maack was represented by counsel. The Commission determined that Maack had violated KLETA by making six false statements to his superior officers when he was asked about his conduct during his CSI test. This constituted unprofessional conduct in violation of K.S.A. 74-5616(b)(7). In addition, by cheating and then repeatedly lying about cheating, Maack failed to uphold his oath as a law enforcement officer and thereby failed to maintain the certification requirement of good moral character sufficient to warrant the public trust, in violation of K.S.A. 74-5616(b)(1).

9. On the basis of these violations, the Commission revoked Maack's law enforcement certification. The Commission's 2017 Order revoking Maack's certification is hereby incorporated by reference.

#### Reinstatement Hearing

10. On January 3, 2023, Maack petitioned the Commission to reinstate his law enforcement certification and requested a hearing.

11. The hearing was held on June 6, 2023. Maack appeared in person, not represented by counsel. Maack was advised of his right to present evidence and witnesses. All witnesses were sworn prior to testifying. The Commission admitted State's exhibits 1 - 4. Maack testified on his own behalf, but did not present any exhibits or call any witnesses.

12. In his testimony, Maack admitted that he "messed up" and "made it worse by lying." He admitted that he had cheated on the CSI test and he accepted the factual account of the incident as it was described in the Commission's 2017 Order. He said that in 2017, at the time of the cheating incident, he was early in his recovery from alcoholism, and that he has done a lot of work on himself since then as part of his recovery. Since he left LPD in 2017, he no longer lies about anything. Since his law enforcement certification was revoked, he has been employed with the Kansas Army National Guard. He holds a responsible position as an instructor with the Weapons of Mass Destruction Civil Support unit.

13. The Commission heard a recording of a phone interview of Maack, conducted by the Commission's Investigator, George Brown, on May 12, 2023. During his phone conversation, Maack said that the CSI training was "nothing we were getting credit for" and said he was not copying answers on the test, but rather was only confirming answers. These statements were not consistent with Maack's testimony at the hearing.

14. Maack did not present evidence that he had taken any steps to rehabilitate himself, other than saying that he has devoted himself to being a good husband and father and a responsible employee of the National Guard. He expressed remorse for his behavior in 2017, but was not conspicuously conscious of how his dishonesty affected his own credibility and reputation or the credibility and reputation of law enforcement generally.

#### **CONCLUSIONS OF LAW**

15. Administrative proceedings to reinstate a certification of a law enforcement officer are conducted pursuant to the Kansas Administrative Procedure Act (KAPA), K.S.A. 77-501, *et seq.* K.S.A. 74-5616(c). Under the KAPA, the Commission issued an Order Revoking Certification after concluding that Maack had committed violations of two provisions of the KLETA. Maack timely requested a hearing for reinstatement. The Commission has jurisdiction over Maack and this matter.

16. The Commission is guided in its determination to reinstate or deny reinstatement of a law enforcement certification by KLETA. K.S.A. 74-5622 states:

(2) The commission may reinstate a revoked certificate upon a finding that the petitioner is otherwise qualified for certification under the Kansas law enforcement training act and is sufficiently rehabilitated to warrant the public trust. The burden shall be upon the petitioner to establish rehabilitation by clear and convincing evidence.

(3) In determining whether a petitioner is sufficiently rehabilitated to warrant the trust, the commission may consider any relevant evidence, and may, but shall not be required, to consider the following factors:

(A) The present moral fitness of the petitioner for performance of duties as a police officer or law enforcement officer;

(B) the demonstrated consciousness of the wrongful conduct and disrepute which conduct has brought upon the law enforcement profession and the administration of justice;

(C) the extent of the petitioner's rehabilitation;

(D) the nature and seriousness of the original misconduct;

(E) the conduct subsequent to discipline;

(F) the time elapsed since the original discipline; and

(G) the petitioner's character, maturity and experience at the time of the original revocation.

17. The considerations in K.S.A. 74-5622(3) were initially set forth by the Kansas Supreme Court in *Vakas v. Kansas Bd. of Healing Arts*, 248 Kan. 589, 600 (1991) and *State v. Russo*, 230 Kan. 5, 9 (1981). The Court explained “[t]he objective in determining whether to reinstate a license is the same objective in determining whether to grant a license initially – to exclude incompetent or unscrupulous persons from being licensed to practice [in the profession].” 248 Kan. at 602; 230 Kan. at 9.

18. The requirements for initial certification as a police officer are set forth in K.S.A. 74-5605(b). Among other requirements, the applicant must “be of good moral character sufficient to warrant the public trust in the applicant as a police officer or law enforcement officer.” K.S.A. 74-5605(b)(5). Thus, when the Commission is considering

initial certification or reinstatement of certification, an additional and critical requirement is the person's moral fitness for performance as a law enforcement officer.

### Reinstatement Factors

19. As the K.S.A. 74-5622(3) factors are applied to Maack, the Commission holds the following:

- (A) Maack did not demonstrate that he currently possesses the moral fitness for performance of duties as a law enforcement officer. His inconsistent statements about his conduct, continuing to May 12, 2023, indicate that he has not fully rehabilitated himself;
- (B) Maack did not sufficiently demonstrate consciousness of his wrongful conduct and the disrepute which that conduct has brought upon the law enforcement profession and the administration of justice. He minimized the seriousness of his misconduct and did not recognize how that misconduct might impair his ability to function effectively as a law enforcement officer;
- (C) Maack did not present any specific evidence of his rehabilitation. While his efforts to improve as a husband and father, as well as his work in the National Guard and his continued recovery from alcoholism, are admirable, they are not directly related to the repeated dishonest conduct for which Maack's certification was originally revoked;
- (D) The original misconduct was very serious, striking at the heart of the integrity and reputation of law enforcement. Law enforcement officers must be honest and trustworthy, and Maack's cheating and repeated false statements are so grave that it is unlikely that, if reinstated, he could effectively serve as a law enforcement officer;
- (E) To his credit, Maack has not engaged in additional dishonest conduct or made false statements in the course of his employment since his certification was revoked;
- (F) More than five years have elapsed since the original discipline, which is appropriate under KLETA;
- (G) Maack's character, maturity and experience at the time of the original revocation do not recommend reinstatement, since at the time of his revocation he was in his mid-forties, and was an experienced law enforcement officer with nearly twenty years in the profession. Any officer of his age and maturity should have known his conduct was wrong and been able to avoid it.

## Failure to Maintain Certification Requirement of Good Moral Character

20. KLETA authorizes the Commission to suspend, condition, or revoke the certification of a law enforcement officer who fails to meet and maintain the requirements of K.S.A. 74-5605(b)(5), which requires law enforcement officers to have good moral character sufficient to warrant the public trust. K.S.A. 74-5616(b)(1).

21. 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.

22. 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).

23. 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.

24. The Commission hereby incorporates by reference the paragraphs numbered 1 through 19 above. The Commission determines those paragraphs, in conjunction with the Commission's 2017 Order, show Maack's conduct clearly demonstrates a lack of good moral character sufficient to warrant the public trust due to his dishonest and unprofessional conduct, and his failure to sufficiently rehabilitate himself.

25. Based upon the totality of the evidence, the Commission concludes that Maack has not presented clear and convincing evidence to show his rehabilitation. Additionally, Maack has failed to establish the requirement for certification as a law enforcement officer of "good moral character sufficient to warrant the public trust." K.S.A. 74-5605(b)(5).

## Sanction


26. The Commission has concluded that the facts show that Maack violated two provisions of the KLETA, engaging in unprofessional conduct and failing to maintain the good moral character, warranting the public trust, that is required of his certification. This conduct resulted in the revocation of his law enforcement certification in 2017. Upon application for reinstatement, Maack has failed to establish that he has been rehabilitated and that he possesses the necessary requirements for certification.

27. Based on the above conclusions of fact and law, the Commission determines that Maack's law enforcement officer certification should not be reinstated.

**ORDER**

Upon 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 Eric Maack is not reinstated.

IT IS SO ORDERED.

  
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Roger Soldan  
Commissioner  
As designated by and on behalf of the  
Kansas Commission on Peace  
Officers' Standards and Training



### **NOTICE OF ADMINISTRATIVE RELIEF**

The above Order is a final order. Pursuant to K.S.A. 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.


### **NOTICE OF JUDICIAL RELIEF**

Pursuant to K.S.A. 77-613, 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 agency officer who may receive service of a petition for reconsideration, a petition for a stay, or a petition for judicial review on behalf of the Board is Doug Schroeder, Kansas Commission on Peace Officers' Standards and Training, 1999 N. Amidon, Suite 350, Wichita, KS 67203.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 22<sup>nd</sup> day of June, 2023, a copy of the above Final Order and Notice of Administrative and Judicial Relief was deposited with the United States Postal Service, postage pre-paid, and addressed to:

Eric Maack  


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

Original filed with:

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Staff  
Kansas Commission on Peace Officers'  
Standards and Training