

KANSAS COMMISSION ON PEACE OFFICERS' STANDARDS & TRAINING

1999 N Amidon Ste. 350

Wichita, KS 67203

In the Matter

of

SETH POLLET

31862

Case No. 2023-0007

ORDER

Now on September 15, 2023, the above-referenced matter comes for hearing by the Kansas Commission on Peace Officers' Standards and Training (Commission) regarding the law enforcement certification of Seth Pollet (Pollet). 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 Scheibler, Chief of Hays Police Department, Jody Prothe, Major, Johnson County Sheriff's Office, and Sherri Schuck, Pottawatomie County Attorney.

Seth Pollet appeared in person and by counsel, Morgan Roach. 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 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. Seth Pollet (Pollet) received his certification as a law enforcement officer, certification number 31862.

2. Pollet was employed as a full-time law enforcement officer with the Coffey County Sheriff's Office (CCSO) from February 28, 2022, to January 13, 2023. His law enforcement certification is currently active.

3. On the morning of January 4, 2023, Pollet performed a welfare check at a residence in Coffey County. In the course of that call, and subsequently in his written report of the call, Pollet was observed to have made false statements and omissions. CCSO then reviewed Pollet's body camera and compared the video to Pollet's contemporary statements and written report of the incident. This review confirmed that Pollet made several false statements and omissions to his superiors and in his report.

4. Based on its investigation, CCSO decided to terminate Pollet's employment. As required by law, CCSO filed a termination report with the Commission.

5. The Commission undertook an investigation of Pollet's conduct and found evidence of violations of the Kansas Law Enforcement Training Act (KLETA).

6. After the investigation, the Commission's Investigative Committee issued a Summary Order of Revocation. The Committee determined Pollet had violated the following two provisions of the KLETA: (1) K.S.A. 74-5616(b)(7)—engaging in unprofessional conduct as defined in K.A.R. 106-2-3(j)(1); and (2) K.S.A. 74-5616(b)(1)—failing to meet and maintain the certification requirement of good moral character sufficient to warrant the public trust as required in K.S.A. 74-5606(b)(5). Based upon these violations, the Commission issued a summary proceeding order on June 19, 2023, revoking Pollet's provisional certification as a law enforcement officer. On June 23, 2023, Pollet requested a hearing on the order.

7. Prior to the hearing, the parties stipulated to eleven State exhibits. Pollet did not submit any evidentiary exhibits.

Hearing

8. The hearing was held on September 15, 2023. Pollet appeared in person and by counsel, Morgan Roach. Pollet was advised of his right to present evidence and witnesses. All witnesses were sworn prior to testifying. The Commission admitted State's exhibits 1-11.

9. In the early morning of January 4, 2023, Pollet arrived at the home of R.T. to check the welfare of R.T.'s son, Z.T., in response to a call from the child's mother. Z.T.'s mother informed CCSO that Z.T. was frightened because R.T. was smoking marijuana "from a bullet." Pollet knocked on R.T.'s door and requested to speak to Z.T. R.T. reluctantly woke up Z.T. and brought him to the door. Pollet asked to speak to Z.T. alone. R.T. agreed, and moved Z.T. forward toward the door. Pollet immediately told R.T. not to shove the child. Upon review of Pollet's bodycam footage, Pollet's supervisors, Sgt. Jeremiah Szambecki and Lt. Garen Honn, did not believe that R.T. had shoved Z.T.

10. Pollet moved away from the door of R.T.'s home in order to question Z.T., leaving R.T. standing inside his doorway. Pollet asked if Z.T. was afraid to be in the house with his father: Z.T. said "no." Pollet also asked Z.T. if his father had been smoking marijuana, and Z.T. said he thought so, but that he had never seen marijuana before.

11. After questioning Z.T., Pollet returned to R.T.'s doorway, but realized he no longer knew where R.T. was—Pollet asked: "Mr. T—, where are you?" When Pollet regained sight of R.T., he began to question R.T. about his use of marijuana. R.T. said that he was not required to answer Pollet's questions. Pollet immediately arrested R.T. for "child endangerment." Pollet then summoned his supervisor, Lt. Garen Honn (Honn), to the scene in order to assist.

12. When Honn arrived at the scene, Pollet said R.T. had shoved Z.T. and characterized the shove as "child abuse." Pollet also said that Z.T. told him he was "terrified to be here." Neither statement was true.

13. In addition, Pollet made false statements in response to questions Honn asked concerning issues of officer safety. Honn asked Pollet if he had kept R.T. in sight the entire time he had been at the house. Despite losing track of R.T. during his questioning of Z.T., Pollet answered in the affirmative. Honn asked Pollet if he had searched R.T. for weapons, and Pollet responded that he had, although he had not and merely assumed, based on what R.T. was wearing, that R.T. did not have any weapons.

14. Honn then requested that Pollet give R.T. a Miranda warning. Pollet read the Miranda warning to R.T., which included notifying R.T. of his right to remain silent. R.T. invoked the right to remain silent and told Pollet he did not want to speak with him. Less than one minute later, Pollet resumed his questioning of R.T. R.T. subsequently gave information about his son and about his own drug use and possession.

15. In his written report, Pollet did not include any account of giving R.T. a Miranda warning, and omitted that R.T. had invoked his right to remain silent. Pollet's written report also contained false statements similar to those he communicated to Honn on the scene: that R.T. had forcibly pushed Z.T., and that Z.T. said he was afraid to stay at his father's house. Pollet's written report additionally falsely attributed information about R.T. smoking marijuana out of a bullet, and Z.T.'s fear of his father, to Z.T., when this information came from Z.T.'s mother at the time she called the police.

16. Following the welfare check on January 4, 2023, Honn alerted his supervisors to the inaccuracies in Pollet's statements and written report. Sgt. Szambecki and Undersheriff Eric Smith independently reviewed Pollet's bodycam footage and written report of the incident. Their investigations confirmed that Pollet made several deliberate false statements, in his verbal statements to Honn and in his written report after the incident, which could not be characterized as mistakes. They also concluded that Pollet had improperly called for emergency medical services for Z.T. and had arrested R.T. without probable cause.

17. On January 13, 2023, CCSO informed Pollet that he was being terminated for misconduct committed during the January 4, 2023, welfare check. In response, Pollet falsely told Undersheriff Smith that his mistatements during the welfare check were due to short-term memory loss caused by [REDACTED]. Pollet admitted in his testimony that short-term memory loss did not have anything to do with the false statements he made to his supervisor and in his written reports. When CPOST Investigator Michael Oliver questioned Pollet about his claimed short-term memory loss, Pollet said he was angry and spouting off; the short-term memory loss was “emotional mumbo-jumbo.”

18. In his defense, Pollet observed that as a young Sheriff’s Deputy, he was relatively inexperienced. He also testified that his childhood experience of physical abuse by adults using drugs negatively affected his ability to remain impartial when encountering what he perceived to be a similar situation as a law enforcement officer. However, Pollet stated that he had not done anything to resolve or improve his emotional or psychological wellbeing since January 4, 2023, and admitted that he was not presently prepared to deal with the psychological issues to which he attributed his false statements. Pollet agreed that the false and misleading statements he made to his supervisor and in his written report were inaccurate, but insisted that he not had deliberately lied.

CONCLUSIONS OF LAW

19. Administrative proceedings to suspend or revoke the 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’s Investigative Committee issued a Summary Order Revoking Certification after concluding that Pollet had committed violations of two provisions of the KLETA. Pollet timely requested a hearing on the order. The Commission has jurisdiction over Pollet and this matter.

20. K.S.A. 74-5616(b)(1) authorizes the Commission to suspend, condition, or revoke the certification of a law enforcement officer who fails to meet and maintain the requirements for certification as set forth in K.S.A. 74-5605 and amendments thereto. Clear and convincing evidence was presented at the hearing to show Pollet violated the following provisions of the KLETA: (1) K.S.A. 74-5616(b)(7)—engaging in unprofessional conduct as defined in K.A.R. 106-2-3(j)(1); and (2) K.S.A. 74-5616(b)(1)—failing to meet and maintain the certification requirement of good moral character sufficient to warrant the public trust as required in K.S.A. 74-5606(b)(5). Based upon these violations, the Commission issued a summary proceeding order on June 19, 2023, revoking Pollet’s certification as a law enforcement officer. On June 23, 2023, Pollet requested a hearing on the order.

Unprofessional Conduct

21. KLETA authorizes the Commission to suspend, condition, or revoke the certification of a law enforcement officer who engages in unprofessional conduct, as

defined by the Commission in regulation. K.A.R. 106-2-3 defines unprofessional conduct, which includes the following:

K.A.R. 106-2-3(j)(1) Intentionally using a false or deceptive statement in any official document or communication.

22. On January 4, 2023, during his employment with CCSO, Pollet made false and deceptive statements to his supervisor. In his written report of his conduct on January 4, 2023, Pollet made additional false and misleading statements. Pollet also made false statements when he was terminated by CCSO. He dishonestly claimed that his misconduct was caused by short-term memory loss.

23. Based on the totality of the evidence, the Commission concludes that there is clear and convincing evidence to show that Pollet engaged in unprofessional conduct by making multiple false and deceptive statements in his written reports, in his statements to his supervisor with regard to what took place during the January 4, 2023, welfare check, and in response to questioning before and after CCSO's investigation of his conduct, in violation of K.S.A. 74-5616(b)(7), as defined in K.A.R. 106-2-3(j)(1).

Failure to Maintain Certification Requirement of Good Moral Character

24. 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).

25. 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.

26. 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).

27. 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.

28. The Commission hereby incorporates by reference the paragraphs numbered 8 through 23 above. The Commission determines those paragraphs show Pollet's conduct clearly demonstrates a lack of good moral character sufficient to warrant the public trust due to Pollet's dishonest and unprofessional conduct. Pollet's conduct was conduct that destroys the public trust as well as betrays his badge and integrity as a law enforcement officer.

29. Based upon the totality of the evidence, the Commission concludes that there is clear and convincing evidence to show Pollet 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).

Sanction

30. The Commission has concluded that the facts show that Pollet has violated two provisions of the KLETA. Pollet engaged in unprofessional conduct and he failed to maintain the good moral character, warranting the public trust, that is required of his certification.

31. Based on the above violations, separately and collectively, the Commission determines that the law enforcement officer certification issued to Pollet should be revoked.

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 Seth Pollet should be and is hereby revoked. It is the further decision and order of the Commission that Seth Pollet must surrender and return to the Commission all evidence of his certification as a law enforcement officer with thirty (30) days from the date entered on the certificate of service below.

IT IS SO ORDERED.



As authorized by:

Don Scheibler
Commissioner and
Chair of Hearing Panel
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 Seth Pollet 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.

Pursuant to K.S.A. 77-528, a party may file with the Commission 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


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 3rd day of October, 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:

Seth Pollet


Morgan L. Roach
McCauley & Roach LLC
527 W. 39th St., Suite 200
Kansas City, MO 64111
Counsel for Seth Pollet

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:

Kansas Commission on Peace Officers' Standards and Training
1999 N Amidon, Suite 350
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Staff
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