

KANSAS COMMISSION ON PEACE OFFICERS' STANDARDS & TRAINING

1999 N Amidon Ste. 350

Wichita, KS 67203

In the Matter

of

DONALD JOY

32430

Case No. 2023-0045

ORDER

Now on March 20, 2024, the above-referenced matter comes for hearing by the Kansas Commission on Peace Officers' Standards and Training (Commission) regarding the law enforcement certification of Donald Joy (Joy). 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: Jody Prothe, Major, Johnson County Sheriff's Office, Don Scheibler, Chief of Hays Police Department, and Tony Mattivi, Director of the Kansas Bureau of Investigation.

Donald Joy appeared in person, *pro se*. The Commission was represented by its litigation counsel, Special Assistant Attorney General Michelle Meier. Also present was Jay Rodriguez, Assistant Attorney General, legal counsel to the Hearing Panel in this matter, who conducted the hearing at the direction of the Panel.

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. Donald Joy (Joy) received his certification as a law enforcement officer, certification number 32430.

2. Joy has been employed as a full-time law enforcement officer with the Parsons Police Department (PPD) since November 8, 2021. Joy was employed as a full-

time law enforcement officer with the Chanute Police Department (CPD) from December 21, 2020, to August 9, 2021.

3. On June 26, 2022, Joy's wife, AJ, reported to CPD that, on June 25, Joy left the couple's ten-month-old son, IJ, alone at their home while Joy went shopping. In a criminal complaint dated July 19, 2022, Neosho County filed misdemeanor child endangerment charges against Joy. Joy resolved the charges by entering into a diversion agreement on July 21, 2023, in which he stipulated to committing conduct that constituted misdemeanor child endangerment.

4. The Commission was notified of Joy's diversion agreement, which included stipulated admissions to conduct that violates the Kansas Law Enforcement Training Act (KLETA). Joy's conduct was referred to the Commission's Investigative Committee. During the course of the Commission's investigation, the Commission became aware of instances in which Joy made false statements in official communications.

5. The Commission's Investigative Committee determined Joy had violated the following provisions of the KLETA: Joy's conduct constituted criminal conduct in violation of section 74-5616(b)(5) of the KLETA, as defined in Kansas Administrative Regulations 106-2-2a(a)(14). Additionally, Joy violated K.S.A 74-5616(b)(3) by failing to maintain the certification requirements of K.S.A. 74-5605(b)(5), as his conduct indicated he lacked good moral character which warrants the public trust. Based upon these violations, the Investigative Committee issued a summary proceeding order on December 12, 2023, revoking Joy's certification as a law enforcement officer. On December 20, 2023, Joy filed with the Commission his request for a hearing on the order.

6. Prior to the hearing, the parties stipulated to four exhibits introduced by Joy. Joy did not stipulate to any Commission exhibits.

Hearing

7. The hearing was held on March 20, 2024. Joy appeared in person. Joy was advised of his right to present evidence and witnesses, and to be represented by counsel. All witnesses were sworn prior to testifying. The Hearing Panel admitted Joy's exhibits A-H, which included, at Joy's request and with the agreement of the Panel and the Commission, written testimony from Joy's witnesses. The Panel also admitted Commission's exhibits 1-17. The Panel designated Commissioner Mattivi to sign this order on its behalf.

8. On June 25, 2022, Joy attended a lunch event with his wife, AJ, and his ten-month-old son, IJ. While AJ stayed behind, Joy returned to the couple's home in Chanute with IJ. Once home, Joy put IJ in a "bouncer" and then set up his phone to play a video that IJ could watch while in the bouncer. Joy testified that IJ quickly went to sleep. Once IJ was asleep, Joy decided to go to a local store to purchase items that were needed to address an ant problem at his home. At approximately 3:30 p.m., while Joy was still out, AJ arrived home and discovered IJ unattended. She attempted to contact Joy, but his

phone had been left with IJ and he was unreachable. AJ then left the home with IJ in order to search for Joy; she also called Joy's mother, Deona Joy, to ask if she knew where Joy might be. While driving past her house, AJ noticed that Joy had returned home. While AJ and Joy disagreed about the length of time Joy had left IJ unattended, they agreed it must have been at least fifteen minutes.

9. On June 26, 2022, AJ recorded a conversation with Joy in which Joy admitted to leaving IJ alone at their home. AJ took this recording to CPD, where she requested a civil stand-by while she moved some of her possessions out of the home she shared with Joy. AJ also filed a criminal complaint with CPD.

10. CPD Officer Ashlynn Anderson (now Ashlynn Goodwin) testified that she accompanied AJ to the home. While there, Joy returned home and AJ informed him that she was moving out due to his endangerment of their son the day before. Officer Anderson, aware of AJ's allegations of child endangerment, gave Joy a Miranda warning and asked if he would speak with her. Joy invoked his right to silence and said he would not answer questions without his attorney present.

11. Additionally, on June 30, 2022, AJ reported Joy's conduct to the Department of Children and Families (DCF), which resulted in an investigation by DCF. This investigation affirmed that Joy was responsible for a lack of supervision of IJ, but did not result in Joy being registered with the Kansas Child Abuse/Neglect Central Registry.

12. After an investigation of Joy's conduct, CPD referred the case to Neosho County. On July 19, 2022, Neosho County charged Joy with misdemeanor endangering a child, under K.S.A. 21-5601(a). On August 22, 2022, Joy was notified by his attorney—representing him in his divorce proceedings—that CPD had issued an arrest warrant for Joy. He received a summons from CPD on August 25, 2022.

13. Joy informed PPD of the criminal charges against him, but told his superiors, including Lieutenants Kyle Wiford and Jason Ludwig, that he had not been contacted by CPD and did not know what behavior of his the charges were based on. These were false statements. While Joy's wife was moving out of her home due to Joy leaving his son unsupervised, CPD specifically attempted to speak with Joy about leaving his son unsupervised and had given Joy a Miranda warning. Joy knew he had been contacted by CPD and he knew why they had contacted him.

14. Joy self-reported his charges to the Commission on April 12, 2023, nearly six months later. The Chief of PPD, Robert Spinks, testified that this delay was due to Spinks giving inaccurate advice to Joy about the proper timeline in which he should report his arrest to the Commission.

15. Joy entered a diversion agreement in Neosho County district court on July 21, 2023. Joy stipulated to the facts in the criminal complaint, and admitted to the charged conduct. He agreed to take parenting classes, to pay certain fines, and to refrain from violating any laws until July 21, 2024.

16. After entering the diversion agreement in July of 2023, Joy did not report the resolution of his criminal charge to PPD. Instead, PPD was notified of the diversion agreement by the Commission, in September of 2023. Joy told Lt. Ludwig, in response to questions asked during an internal PPD investigation, that he did not notify PPD of the diversion agreement because he did not have a chance to inform PPD in the nearly six-weeks between signing the diversion agreement and CPOST's notification. This statement by Joy that he did not have a chance to inform PPD of his diversion agreement was false—in his testimony, Lt. Ludwig characterized this statement as “untruthful.”

17. Joy admitted that he left IJ alone on June 25, 2022. He denied leaving IJ alone at home on any other occasion. He expressed remorse for his conduct and committed to never repeating it. He maintains joint custody of his son. Joy's command staff at PPD testified to Joy's productivity as a law enforcement officer.

CONCLUSIONS OF LAW

18. 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 Joy violated two provisions of the KLETA. Joy timely requested a hearing on the order. The Commission has jurisdiction over Joy and this matter.

19. Clear and convincing evidence was presented at the hearing to show Joy violated the following two provisions of the KLETA: (1) K.S.A. 74-5616(b)(5)—engaging 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 (as defined in K.A.R. 106-2a(a)(14)); and (2) K.S.A. 74-5616(b)(1), failing to maintain the certification requirements of K.S.A. 74-5605(b)(5), as his conduct indicated he lacked good moral character which warrants the public trust.

Misconduct

20. KLETA authorizes the Commission to suspend, condition or revoke the certification of a law enforcement officer who engages in conduct which, if charged as a crime, would constitute a misdemeanor crime under Kansas law that the Commission determines reflects on the honesty, trustworthiness, integrity or competence of the licensee as defined by rules and regulations of the commission, in violation of K.S.A. 74-5616(b)(5). Such misdemeanor crimes include endangering a child. K.A.R. 106-2a(a)(14).

21. The definition of the misdemeanor crime of endangering a child is (1) knowingly or unreasonably causing or permitting a child under the age of 18 years to be placed in a situation in which the child's life, body or health may be endangered. Child endangerment committed in this manner is a misdemeanor. K.S.A. 21-5601(a).

22. As shown in the hearing, Joy committed the misdemeanor crime of endangering his ten-month-old child, IJ, when he left IJ home alone, without supervision, while Joy went shopping. Joy admitted to this conduct in his testimony at the hearing, and accepted responsibility for this conduct when he agreed to diversion in order to resolve misdemeanor criminal charges filed against him. This conduct reflects negatively on the honesty, trustworthiness, integrity and competence of Joy as a law enforcement officer.

23. Based on the totality of the evidence, the Commission concludes that there is clear and convincing evidence to show that Joy engaged in misconduct by committing the misdemeanor crime of endangering a child, in violation of K.S.A. 74-5616(b)(5), as defined in K.A.R. 106-2a(a)(14).

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 7 through 23 above. The Commission determines those paragraphs show Joy's conduct clearly demonstrates a lack of good moral character sufficient to warrant the public trust due to Joy's commission of a misdemeanor crime reflecting on his integrity and competence as a law enforcement officer, and due to his dishonesty in communications with PPD. Joy'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 Joy 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 Joy violated two provisions of the KLETA. Joy engaged in misconduct by engaging in conduct which constitutes misdemeanor child endangerment. Joy also failed to maintain the good moral character, warranting the public trust, that is required of his certification. K.S.A. 74-5616(b)(1).

31. Based on the above violations, separately and collectively, the Commission determines that the law enforcement officer certification issued to Joy 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 Donald Joy should be and is hereby revoked. It is the further decision and order of the Commission that Donald Joy 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.



As authorized by:

Tony Mattivi

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 Donald Joy 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 28th day of March, 2024, 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:

Donald Joy


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
Wichita, KS 67203



Staff
Kansas Commission on Peace Officers'
Standards and Training