



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

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In the Matter of)
)
DAVID STACY GUSTIN SCHMITT)
#25876)
_____)

Case No. 2017-0133

SUMMARY ORDER OF REVOCATION

Pursuant to K.S.A. 77-537

The above-captioned matter comes on for Commission action through a summary proceeding under the Kansas Administrative Procedures Act, K.S.A. 77-537, regarding the law enforcement certification of DAVID STACY GUSTIN SCHMITT (Respondent).

STATEMENT OF FACTS

1. Respondent holds a full-time law enforcement certification from the Kansas Commission on Peace Officers' Standards and Training (Commission), certification number 25876.
2. Respondent was employed as a full-time officer with the Jefferson County Sheriff's Office from May 19, 2010 to July 8, 2017.
3. On April 12, 2016, Respondent became upset that his wife, R.S., had not bought coffee. The two argued. Respondent grabbed R.S. by the neck with both hands, forced her up off the ground and applied pressure on her neck, and slammed her head against a cabinet. This caused red marks to her neck and a bump on her head. The incident was witnessed by the couple's children, G.S. and C.S., both eleven years old at the time.

4. On September 12, 2016, the children were at Respondent's house for visitation. Respondent spoke to G.S. and C.S. about the April 12 incident with their mother, despite being ordered by a Jefferson County District Court Judge not to do so. Respondent repeatedly told the children that he did not hit or hurt their mother and that not everything they saw had happened, even after the children told Respondent that they saw him slam their mother into the cabinet.
5. On December 1, 2016, G.S. and C.S. were at Respondent's house for visitation. During the visit, Respondent removed his county issued Taser from his gun safe and chased the children around the residence "sparking" it at them.
6. Based upon these incidents, Respondent was criminally charged in the District Court of Jefferson County, Kansas, in Case Number 2017CR000071 with seven felony counts and one misdemeanor count. Respondent ultimately entered a plea agreement on an Amended Complaint and was found guilty to one count of Endangerment in violation of K.S.A. 21-5429, a class A person misdemeanor, and two counts of Endangering a Child in violation of K.S.A. 21-5601, a class A person misdemeanor, based on the April 12, 2016 incident. Respondent was charged and entered a Diversion Agreement in Case Number 2017CR000222 for one count of Aggravated Intimidation of a Witness or Victim in violation of K.S.A. 2013 Supp. 21-5909, a level 6 person felony, based on the September 12, 2016 incident.

CONCLUSIONS OF LAW

Criminal Conduct

7. Pursuant to K.S.A. 74-5616(b)(5), the Commission may revoke the certification of any police or law enforcement officer who engages 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 (KLETA) 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.

8. K.A.R. 106-2-2a(a)(14) states that pursuant to K.S.A. 74-5616 and amendments thereto, an applicant or officer shall not engage in conduct, whether or not charged as a crime or resulting in a conviction, that would constitute Endangering a Child, as defined in K.S.A. 2011 Supp. 21-5601 and amendments thereto.
9. K.A.R. 106-2-2a(a)(5) states that pursuant to K.S.A. 74-5616 and amendments thereto, an applicant or officer shall not engage in conduct, whether or not charged as a crime or resulting in a conviction, that would constitute Assault, as defined in K.S.A. 2011 Supp. 21-5412 and amendments thereto.
10. Respondent's conduct on April 12, 2016 of grabbing R.S. by the neck with both hands, forcing her up off the ground and applying pressure on her neck, and slamming her head against a cabinet constitutes the felony crime of Aggravated Battery in violation of K.S.A. 21-5413. In the alternative, this conduct constitutes a misdemeanor crime of domestic violence as defined in the KLETA at the time the conduct occurred, specifically, Domestic Battery in violation of K.S.A. 21-5414.
11. Respondent's conduct against R.S. on April 12, 2016 in the presence of G.S. and C.S. constitutes the misdemeanor crime of Endangering a Child as defined in K.S.A. Supp. 2011 21-5601 and amendments thereto.
12. Respondent's conduct and statements to G.S. and C.S. on September 12, 2016 constitutes the felony crime of Aggravated Intimidation of a Witness or Victim in violation of K.S.A. 21-5909.
13. Respondent's conduct on December 1, 2016 of chasing G.S. and C.S. around the residence and "sparking" his taser at them constitutes the misdemeanor crime of Assault, as defined in K.S.A. 2011 Supp. 21-5412 and amendments thereto.

Good Moral Character

14. Pursuant to K.S.A. 74-5616(b)(1) the Commission may suspend, condition, revoke, reprimand, censure or deny 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.
15. 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.
16. 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.
17. Respondent's conduct shows that he lacks the personal qualities of integrity, upholding the laws of the state, conduct that warrants the public trust, and upholding the oath required for certification. Respondent repeatedly engaged in criminal conduct, thereby failing to uphold the laws of this state and the oath required for certification.

Summary Proceedings

18. Under K.S.A. 77-537, the Commission may conduct these summary proceedings, subject to Respondent's request for a hearing. The Commission finds that the use of summary proceedings in these circumstances does not violate any provisions of law and the protection of the public interest does not require the Commission to give notice and opportunity to participate to any person other than Respondent.

ORDER

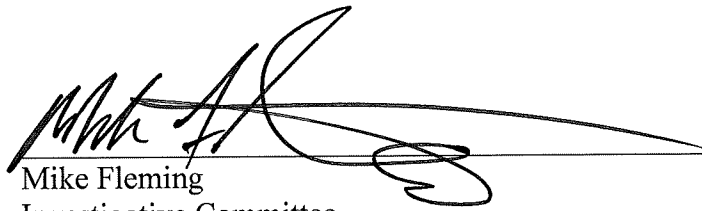
Based on these Statement of Facts and Conclusions of Law, the Commission orders that the Kansas Law Enforcement Officer Certification of DAVID STACY GUSTIN SCHMITT be revoked.

ACCORDINGLY, THE KANSAS COMMISSION ON PEACE OFFICERS' STANDARDS AND TRAINING CERTIFICATE OF DAVID STACY GUSTIN SCHMITT IS HEREBY REVOKED.

FURTHER, Respondent is ordered to surrender and return to the Commission all evidence of his certification as a law enforcement officer.

DATED this 3rd day of May, 2018.

KANSAS COMMISSION ON PEACE OFFICERS'
STANDARDS AND TRAINING



Mike Fleming
Investigative Committee

NOTICE OF RELIEF FROM THIS SUMMARY ORDER

Pursuant to K.S.A. 77-537, the Summary Order is subject to your request for a hearing. If you desire a hearing, you must direct a written request for a hearing to the Kansas Commission on Peace Officers' Standards and Training, 1999 N. Amidon, Suite 350, Wichita, Kansas 67203. This written request must be filed within fifteen (15) days from the date indicated in the Certificate of Service below. If a written request for hearing is not so made, this Summary Order becomes final and effective upon the expiration of the time for requesting a hearing.

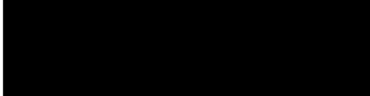
CERTIFICATE OF SERVICE

This is to certify that on the 4th day of May, 2018, true and correct copies of the above and foregoing Summary Order of Revocation were deposited in the United States mail, certified, return receipt requested, and deposited in the United States mail, first class postage prepaid, addressed to:

DAVID STACY GUSTIN SCHMITT



DAVID STACY GUSTIN SCHMITT



A handwritten signature in blue ink, appearing to read "Rose Ann Ohmart", written over a horizontal line.

Rose Ann Ohmart
Senior Administrative Assistant
Kansas Commission on Peace Officers'
Standards and Training