



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

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In the Matter of)
)
JOSEPH R. BUTNER)
 #02275)
)
)

Case No. 2017-0100

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 certificate of JOSEPH R. BUTNER (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 02275.
2. Respondent was employed as a full-time police officer with the Atchinson County Sheriff's Office (ACSO) from January 14, 2013 to December 30, 2016.
3. On February 28, 1999, Respondent operated a motor vehicle while in an intoxicated condition on US Highway 59 in Buchanan County, Missouri. At the time of motor vehicle operation, Respondent's weight of alcohol in his blood was 0.1 or more. Respondent was contacted by the Missouri Highway Patrol and was issued a citation for doing so.

4. As a result, Respondent was charged in the Circuit Court of Buchanan County, in St. Joseph, Missouri with Driving with Excessive Blood Alcohol Content contrary to RSMo 577.012, a Class C Misdemeanor, in Case Number 05CR03990556. Respondent entered a guilty plea on March 10, 1999.
5. On December 30, 2016, Respondent operated a motor vehicle on a public street or road at a time when he was under the influence of alcohol to a degree that rendered him incapable of safely driving a vehicle on US Highway 73 in Atchinson County, Kansas. At the time of motor vehicle operation, Respondent's blood alcohol content was .12. Respondent was contacted by the Kansas Highway Patrol and was issued a citation for doing so.
6. As a result, Respondent was charged in the District Court of Atchinson County, Kansas with Driving While Under the Influence of Alcohol and/or Drugs, a Class B Nonperson Misdemeanor, contrary to K.S.A. 8-1567, in Case Number 17TR24. Respondent entered a Diversion Agreement in this case, in which he stipulated to the facts set forth in Paragraph 5.

CONCLUSIONS OF LAW

Conduct Constituting a Misdemeanor Crime

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 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)(58) 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 a second or subsequent occurrence of driving under the influence, as defined in K.S.A. 2011 Supp. 8-1567 and amendments thereto.

9. Respondent's conduct on December 30, 2016 constitutes a second or subsequent occurrence of driving under the influence, as defined by K.S.A. 2011 Supp. 8-1567 and amendments thereto.

Good Moral Character

10. 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.
11. 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.
12. K.A.R. 106-2-4 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.
13. Respondent's conduct on December 30, 2016 reflects a lack of the personal traits or qualities of integrity, upholding the laws of the state and union, and conduct that warrants the public trust.

Summary Proceedings

14. 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 the above Statement of Facts and Conclusions of Law, the Commission orders that the Kansas Law Enforcement Officer Certification of JOSEPH R. BUTNER be revoked.

ACCORDINGLY, THE KANSAS COMMISSION ON PEACE OFFICERS' STANDARDS AND TRAINING CERTIFICATE OF JOSEPH R. BUTNER 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 12th day of February, 2018.

KANSAS COMMISSION ON PEACE OFFICERS'
STANDARDS AND TRAINING



Jeff Herrig
Chairperson, 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 12th day of February, 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:

JOSEPH R. BUTNER





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