

**COMMONWEALTH OF MASSACHUSETTS
PEACE OFFICER STANDARDS AND TRAINING COMMISSION**

IN THE MATTER OF
DEREK JONES

)
)

Case No. 2024-031

FINAL DECISION

In accordance with 555 CMR 1.10(1), a Hearing Officer was assigned to conduct an adjudicatory proceeding regarding this matter on behalf of the Peace Officer Standards and Training Commission (“Commission”).

Pursuant to M.G.L. c. 30A, §§ 11(7) and (8) and 555 CMR 1.10(4)(e)(2), the Hearing Officer issued an Initial Decision and Order, and Derek Jones (“Respondent”) had thirty (30) days to provide written objections to the Commission. No objections were received.

After careful review and consideration, the Commission voted to affirm and adopt the Initial Decision of the Hearing Officer.

For the above reasons, the Motion for Default and Final Decision filed by the Division of Police Standards is hereby **granted**. See 555 CMR 1.10(4). The Respondent was afforded the opportunity for a full and fair hearing. See M.G.L. c. 30A, § 10 (providing that, “[i]n conducting adjudicatory proceedings,” “agencies shall afford all parties an opportunity for full and fair hearing,” and “[u]nless otherwise provided by any law, agencies may” “place on any party the responsibility of requesting a hearing if the agency notifies [the party] in writing of [the party’s] right to a hearing and of [the party’s] responsibility to request the hearing” and “make informal disposition of any adjudicatory proceeding by” “default”), § 13 (providing that, “[e]xcept as otherwise provided in this section, no agency shall revoke or refuse to renew any license unless it has first afforded the licensee an opportunity for hearing in conformity with [§§ 10, 11, and 12],” but “[t]his section shall not apply” “[w]here the revocation, suspension or refusal to renew is based solely upon failure of the licensee to file timely reports, schedules, or applications . . .”), incorporated by reference in M.G.L. c. 6E, § 10(f) and 555 CMR 1.10(4).

The Commission finds, by clear and convincing evidence, that the Respondent is not fit for duty as an officer; is dangerous to the public; has a pattern of unprofessional police conduct that the Commission believes may escalate; was suspended or terminated by their appointing agency for disciplinary reasons, and any appeal of said suspension or termination is completed; and has repeated sustained internal affairs complaints for the same or different offenses. See M.G.L. c. 6E, §§ 10(a)(xvi), 10(b)(iii), 10(b)(iv), and 10(b)(v). Thus, the Respondent’s certification is hereby revoked.

The Executive Director shall take the necessary steps to publish the Respondent’s name in the National Decertification Index. M.G.L. c. 6E, §§ 10(g), 13(b). This is the final decision of the Commission. M.G.L. c. 30A, § 11(8); 555 CMR 1.10(4)(e).

By vote of the Commission on November 21, 2024.

In accordance with M.G.L. c. 30A, § 14 and M.G.L. c. 6E, § 10(f), the Respondent may commence an appeal to the Superior Court within thirty (30) days to the extent allowed by law. After initiating proceedings for judicial review in Superior Court, the Respondent, or the Respondent's attorney, is required to serve a copy of the summons and complaint upon the Boston office of the Attorney General of the Commonwealth, with a copy to the Commission, in the time and manner prescribed by Mass. R. Civ. P. 4(d).

Margaret R. Hinkle

Hon. Margaret R. Hinkle (Ret.), Chair

Notice to: Derek Jones, Respondent
 Tara L. Chisholm, Esq., Commission Enforcement Counsel
 Georgetown Police Department, Agency
 Essex County District Attorney's Office
 Collective Bargaining Unit

**COMMONWEALTH OF MASSACHUSETTS
PEACE OFFICER STANDARDS AND TRAINING COMMISSION**

IN THE MATTER OF
DEREK JONES

)
)

Case No. 2024-031

INITIAL DECISION

I. Introduction

At issue in this matter is whether this proceeding brought by the Massachusetts Peace Officer Standards and Training Commission (“Commission”) should now terminate with a default decision in the Commission’s favor, pursuant to Massachusetts General Laws Chapter 30A, § 10(2), 801 CMR 1.01(7)(a), and 555 CMR 1.10(4). Derek Jones (“Respondent”) did not answer, appear, or defend the allegations of misconduct against him in the Order to Show Cause (“OTSC”). Nor did he respond to mailings delivered to him by the Division of Police Standards (“Division”). For the reasons stated below, I recommend that the Commission grant the Division’s Motion for Default and Final Decision (“Motion”), adopt this Initial Decision as its Final Decision, and determine what discipline should be imposed against the Respondent.

II. Procedural History

1. The Division served the Respondent with an OTSC by USPS Priority Mail on August 9, 2024, addressed to the Respondent’s last known home address. Attachments 1 and 2. The record indicates that the OTSC was delivered on August 14, 2024. Att. 2.

2. The OTSC contained the allegations against the Respondent and notification of the obligation to file an answer or otherwise respond to the allegations within 21 days. Att. 1. The OTSC stated that, if a responsive and timely answer was not filed, the Commission may act. Att. 1. In particular, the Respondent was notified that if an answer to the allegations in the OTSC is not filed, the Commission may enter a Final Decision and Order that assumes the truth

of the allegations in the OTSC and that the Commission may take action against the Respondent's certification, including granting, in full, the action contemplated in the OTSC.

Att. 1.

3. The Motion was mailed by the Division to the Respondent by USPS Priority Mail on October 5, 2024, to the same last known address. Atts. 3 and 4. I take administrative notice that the OTSC was attached as an exhibit to the Motion.

4. By operation of law, the Commission may presume that the Respondent received both the OTSC and the Motion, as discussed below. The Respondent failed to respond to either the OTSC or the Motion.

III. Allegations Contained in the OTSC

1. On July 1, 2021, the Respondent was automatically certified as a police officer in Massachusetts pursuant to St. 2020, c. 253, § 102, an Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth. The Commission approved the Respondent's recertification application on July 1, 2022.

2. The Respondent was employed as a law enforcement officer at the Georgetown Police Department ("Georgetown PD") from September 20, 2002, until he resigned on December 31, 2023. During that time, the Respondent was the subject of various internal investigations that resulted in sustained findings and discipline. The following is a summary of his disciplinary history:

- a. **2013-001**: In March 2013, the Respondent received a Written Reprimand for violations of the Georgetown PD's Rules and Regulations relating to Off-Duty Employment (Rule 4.01), Conduct Unbecoming an Employee (Rule 4.02), and Conflict of Interest (Rule 4.02).

b. **2018-004**: In September 2018, the Georgetown PD sustained a rules violation of Conduct Unbecoming an Employee (Rule 4.02) for the Respondent's behavior wherein he actively tracked and monitored his 23-year-old ex-girlfriend throughout the night and confronted a male employee about his relationship with his ex-girlfriend while both were working at a country club. As a result of this conduct, the Respondent entered into a Last Chance Agreement, wherein he was demoted from sergeant to patrolman; received an unpaid five-day suspension; relinquished positions as a firearms instructor, defensive tactics instructor, and member of the Georgetown PD honor guard; underwent professional counseling services; and agreed that any material violation of either the Last Chance Agreement or Georgetown PD rules could result in further discipline up to and including termination and would be at the sole discretion of the employer.

c. **2018-005**: In September 2018, the Georgetown PD sustained another rule violation of Conduct Unbecoming an Employee (Rule 4.02) for the Respondent's conduct in September 2018, wherein he failed to accurately and fully report to Georgetown PD the events and circumstances surrounding his on-duty traffic stop of a vehicle that was occupied by a female with whom he had a personal relationship, the same 23-year-old ex-girlfriend. The vehicle he stopped was driven by a male that the ex-girlfriend had just met at a bar. The female was passed out in the backseat of the vehicle, and upon the Respondent's approach to the vehicle, she began to vomit. The Respondent then recorded her vomiting on his cell phone. The Respondent failed to perform any field sobriety tests on the male driver, who admitted he had been drinking, even allowing the male to drive his vehicle a short distance in the Respondent's presence. The Respondent did not call for an ambulance for the young woman, nor did he have another officer take

over the stop given the apparent conflict of interest amongst the parties at the scene. The Respondent minimized information contained in his first report to conceal that his ex-girlfriend was the involved party and that the operator may have been given preferential treatment.

d. **2021-003**: Georgetown PD sustained a violation of Rule 7.3 Courtesy for an incident that occurred in August 2021. The Department found that it was inappropriate and intimidating when the Respondent stood outside the female locker room as a female Georgetown PD officer exited to continue discussing a contentious issue he had with an accident report she had just written. The Department further found that the Respondent exhibited poor communication skills in his dealings with other department staff, that he had difficulty accepting the opinions of others, that he had difficulty adjusting to alternatives, and that he used his position as the officer-in-charge to force his opinions or ways on staff (male and female) with less experience.

3. In addition to the above-described findings by the Georgetown PD, the Respondent engaged in the following conduct:

a. Around April 2018, the Respondent, while off-duty, followed an ex-girlfriend from North Andover to a home in Lexington late at night. Upon arrival, the Respondent parked at the entrance to a school, down the street from a residence the female entered. The Respondent approached the door to the residence, unannounced, and attempted to enter the home the female was visiting but was rebuffed by the male who answered the door.

b. Around May 2018, the Respondent, while off-duty, traveled in his vehicle to a neighborhood in North Andover late at night in an attempt to locate his ex-girlfriend. Upon arrival to the neighborhood where he believed her to be headed, the Respondent

parked on a side street. Once he saw her arrive, the Respondent approached her in the driveway of her friend's home. A physical altercation ensued between the parties, wherein the ex-girlfriend initially alleged that the Respondent grabbed her by the wrists and threw her to the ground (only to later recant this allegation); her friend alleged a physical assault by the Respondent as well. The Respondent claimed he was acting in self-defense. The North Andover Police Department investigated this incident and applied for a criminal complaint against the Respondent for Assault and Battery, but no charges issued. That same night, the Respondent contacted Georgetown PD dispatch and asked a dispatcher to call him back on an unrecorded line. When the dispatcher called back, the Respondent asked her to run two license plates, falsely claiming that two cars were blocking his driveway, when in actuality the Respondent was making the request to see if his ex-girlfriend was out with another man.

c. In August 2018, the Respondent traveled to a car wash in Haverhill that his ex-girlfriend had left minutes before his arrival. The Respondent confronted a male who was working at the car wash who had just been speaking with the Respondent's ex-girlfriend. In his conversation with the male worker, the Respondent told him not to date his ex-girlfriend. The worker felt scared and contacted the Haverhill Police Department. Thereafter, the Respondent contacted the car wash worker's own girlfriend via Facebook Messenger to inform her of a possible sexual relationship between the car wash worker and the Respondent's ex-girlfriend.

d. Around October 2018, the Respondent, while off-duty and in his personal vehicle, followed his ex-girlfriend's vehicle from Newburyport to Wakefield, attempting to avoid detection by her. Upon arrival at a home she was visiting, the Respondent parked his

vehicle on a nearby street adjacent to the residence and waited approximately 30 minutes in his vehicle before going to the front door of the residence. The owners of the home answered the door, and the Respondent went inside the residence, up the stairs, and entered a bedroom with a closed door. Inside the bedroom was his ex-girlfriend and a male acquaintance. A verbal argument ensued between the homeowners and the Respondent prior to his leaving the residence.

4. On November 25, 2023, the Respondent, while off-duty, waited in his vehicle outside a house party in Georgetown, Massachusetts, for approximately two hours for a married, female love interest to leave the party.

5. Soon after the woman left the party and entered a vehicle, the Respondent relocated to a nearby street and waited for her vehicle to pass. Once she passed, he followed her in his personal vehicle and then engaged in a dangerous motor vehicle pursuit.

6. While he pursued the vehicle from Georgetown into Rowley, the Respondent attempted to pull the vehicle over multiple times, accelerating behind it, honking his horn, flashing his lights, and pulling up alongside it.

7. The woman's husband called 911 while the motor vehicle pursuit was taking place, and the pursuit ended near the woman's driveway. Following an investigation, the Rowley Police Department sought a criminal complaint against the Respondent for an Assault violation under M.G.L. c. 265 § 13A.

8. In December 2023, Georgetown PD issued its internal investigation report relating to the November 25, 2023, incident. Investigators sustained several allegations, including that the Respondent violated the Law Enforcement Code of Ethics Rules on Professional Conduct and Responsibilities (Rule 4.00), Conduct Unbecoming an Employee (Rule 4.02), Criminal Conduct

(Rule 11.12), the 2018 Last Chance Agreement, and the conditions of the Notice of Administrative Leave with Pay.

9. Effective December 31, 2023, the Respondent resigned from the Georgetown PD pursuant to a Settlement Agreement with the Town and his Union.

10. Following the Respondent's December 31, 2023, resignation, Chief David Sedgwick of the Georgetown PD recommended to the Division, both orally and in writing, that the Commission decertify the Respondent.

11. On February 15, 2024, the Commission directed the Division to open a preliminary inquiry to investigate the above-described allegations against the Respondent.

IV. Attachments

In ruling on this matter, I have considered the Motion filed by the Division and the following attachments:

Attachment 1: OTSC with a certificate of service, dated August 9, 2024.

Attachment 2: OTSC USPS Priority Mail tracking, dated August 27, 2024.

Attachment 3: Motion for Default and Final Decision, dated September 27, 2024.

Attachment 4: Motion for Default USPS Priority Mail tracking, dated October 7, 2024.

I take administrative notice of all papers filed in this case, as well as chapter 6E and Commission regulations. See M.G.L. c. 30A, § 11(5).

V. Legal Basis for Commission Disciplinary Action

1. Pursuant to M.G.L. c. 6E. § 3(a):

The [C]ommission shall have all powers necessary or convenient to carry out and effectuate its purposes, including, but not limited to, the power to:

(1) act as the primary civil enforcement agency for violations of [chapter 6E]; . . .

(4) deny an application or limit, condition, restrict, revoke or suspend a certification, or fine a person certified for any cause that the commission deems reasonable; . . .

(23) restrict, suspend or revoke certifications issued under [chapter 6E];

(24) conduct adjudicatory proceedings in accordance with chapter 30A;

2. Pursuant to M.G.L. c. 6E, § 10(a)(xvi), “[t]he [C]ommission shall . . . revoke an officer’s certification if the [C]ommission finds by clear and convincing evidence that . . . the officer is not fit for duty as an officer and the officer is dangerous to the public, as determined by the [C]ommission.”

3. Pursuant to M.G.L. c. 6E, § 10(b)(iii), “[t]he [C]ommission may . . . suspend or revoke an officer’s certification if the [C]ommission finds by clear and convincing evidence that the officer . . . has a pattern of unprofessional police conduct that [the] [C]ommission believes may escalate.”

4. Pursuant to M.G.L. c. 6E, § 10(b)(iv), “[t]he Commission may . . . suspend or revoke an officer’s certification if the [C]ommission finds by clear and convincing evidence that the officer . . . was suspended or terminated by their appointing agency for disciplinary reasons, and any appeal of said suspension or termination is completed.”

5. Pursuant to M.G.L. c. 6E, § 10(b)(v), “[t]he Commission may . . . suspend or revoke an officer’s certification if the [C]ommission finds by clear and convincing evidence that the officer . . . has repeated sustained internal affairs complaints, for the same or different offenses.”

6. Pursuant to M.G.L. c. 6E, § 10(g), the Commission shall publish any revocation order and findings and shall provide all revocation information to the National Decertification Index (“NDI”).

7. Pursuant to M.G.L. c. 6E, § 10(h), the Commission may institute a disciplinary hearing after an officer’s appointing agency has issued a final disposition on the alleged misconduct.

VI. Notice

The Respondent was notified at his last known address by the OTSC that if he did not file

an answer or otherwise respond to the allegations in the OTSC in a responsive and timely manner, the Commission could enter a Final Decision and Order that assumes the truth of the allegations in the OTSC. In addition, the notice informed him that the Commission may take particular action against his certification, including granting in full the relief contemplated in the OTSC. These advisories were sufficient to place him on notice of the consequences of any default. See Lawless v. Bd. of Registration in Pharmacy, 466 Mass. 1010, 1010 n.1, 1011 (2013) (concluding that pharmacist had “ample notice,” where he was informed that “failure to appear at any hearing would result in entry of default and that, in the event of default, the board could enter a final decision accepting as true the allegations contained in the show cause order”); see also University Hosp., Inc. v. Massachusetts Comm’n Against Discrimination, 396 Mass. 533, 539 (1986) (holding that default provision did not violate due process, as it “afford[ed] the [R]espondent reasonable procedural safeguards for notice and opportunity to be heard”). Despite being afforded the opportunity to do so, the Respondent has failed to file an answer, request an adjudicatory hearing, or otherwise respond.

On September 27, 2024, the Division moved for a default judgment and final decision and served the Motion, with the OTSC and OTSC tracking information attached as exhibits, by USPS Priority Mail with tracking information to the Respondent’s last known addresses, as indicated by a CLEAR search conducted by the Division, and previous correspondence from the Respondent. Att. 3 n.1.

The Commission provided sufficient notice by delivering the OTSC and the Motion using USPS Priority Mail. Under Massachusetts case law, there is a presumption that the addressee receives properly deposited mail. See Espinal’s Case, 98 Mass. App. Ct. 152, 152-53, 156 (2020) (citing Eveland v. Lawson, 240 Mass. 99, 103 (1921) (“The depositing of a letter in the

post office, properly addressed, postage prepaid, to a person at his place of business or residence, is prima facie evidence that it was received in the ordinary course of mails.”)); see also Commonwealth v. Crosscup, 369 Mass. 228, 239 (1975) (“Proper mailing of a letter is ‘prima facie evidence’ in civil cases of its receipt by the addressee.”). Further, nothing in chapter 6E required the Division to take any additional steps. Nor is the Division prohibited from relying on the certification that it mailed the Motion via USPS Priority Mail delivery. See Espinal’s Case, 98 Mass. App. Ct. at 157 (stating that “on other occasions when the Legislature intended to impose a requirement for notice by certified mail, return receipt requested, it has done so explicitly”). I may presume that the Respondent received the Motion that was sent through USPS Priority Mail at his last known address.

VII. Discussion

Pursuant to 801 CMR 1.01(7)(a), a party may request through a motion that a Hearing Officer “issue any order or take any action not inconsistent with [the] law or 801 CMR 1.00.” One such action is recommending the entry of a final judgment of default where a respondent has failed to appear. Under M.G.L. c. 30A, § 10(2), an agency is specifically authorized to “make informal disposition of any adjudicatory proceeding by . . . default.” Lawless, 466 Mass. at 1011-12 (affirming that agency “ha[d] authority, in an appropriate circumstance, to dispose of an adjudicatory proceeding by default,” citing M.G.L. c. 30A, § 10; and concluding that agency’s decision to do so was not shown to be improper, where the party failed to appear after the first day of hearing). That step is warranted here. The Commission has afforded the Respondent an opportunity for a full and fair hearing as required by M.G.L. c. 30A, §§ 10, 11(1) and 801 CMR 1.01(4)(c).

In University Hosp., 396 Mass. at 538-39, the Supreme Judicial Court rejected the notion

that due process standards were violated by an agency rule that provided sanctions for a party's default upon receiving interrogatories. The court concluded that the provisions of the agency rule "afford . . . reasonable procedural safeguards for notice and an opportunity to be heard," noting that a respondent is given clear notice of the consequences, and has opportunities to object, to obtain an extension of time, to petition for a default to be vacated, and to seek judicial review of the entire proceedings. *Id.* at 539. In the case before the Commission, the OTSC and the Motion (both sent by USPS with tracking) provided the Respondent with notice of the consequences of a failure to appear or defend in this matter, as well as an opportunity to object. Atts. 1 and 3. The Respondent could have sought more time to respond under 801 CMR 1.01(4)(e), (7)(a), and (7)(d). Therefore, the entry of a default judgment by the Commission is both legal and proper.


By reason of the Respondent's default, and upon consideration of the Division's Motion, I recommend that the Commission grant the Motion. *See Lawless*, 466 Mass. at 1010-12 & n.1; *University Hosp.*, 396 Mass. at 538-39; *Productora e Importadora de Papel, S.A. de C.V. v. Fleming*, 376 Mass. 826, 833-35 (1978) (recognizing that a default establishes the truth of factual allegations). In addition, I recommend that the Commission find that the allegations in the OTSC and the violations of the statutes and regulations stated therein are deemed admitted and established. *See Lawless*, 466 Mass. at 1010-12 & n.1; *University Hosp.*, 396 Mass. at 534, 538-39; *Productora e Importadora de Papel*, 376 Mass. at 833-35.

VIII. Conclusion

The Division's Motion should be granted for the reasons stated above. I recommend that the Commission find the allegations to be supported, make this Initial Decision final, and proceed to determine what discipline is appropriate. In accordance with the provisions of 555

CMR 1.10(4)(e)(2)(b), the officer has 30 days to file written objections to the Initial Decision with the Commission.

SO ORDERED.



Hon. Charles J. Hely (Ret.)
Hearing Officer

Date: October 16, 2024

Notice: Derek Jones, Respondent
Tara L. Chisholm, Esq., Commission Enforcement Counsel
Georgetown Police Department, Agency
Essex County District Attorney's Office
Collective Bargaining Unit