

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

IN THE MATTER OF
STANLEY CLERGE

)
)

Case No. 2024-020-P

FINAL DECISION

In September 2024, the Division of Police Standards (“Division”) issued an Order to Show Cause (“OTSC”) to the Respondent Stanley Clerge asking why the Massachusetts Peace Officer Standards and Training Commission (“Commission”) should not revoke or otherwise take action against his certification as a law enforcement officer. The Respondent, represented by counsel throughout these proceedings, answered and requested a hearing to address the allegations contained in the OTSC.

Pursuant to M.G.L. c. 6E, § 3(a) and 555 CMR 1.10(1), the Chair of the Commission, Hon. Margaret R. Hinkle (Ret.), designated Hon. Judith A. Cowin (Ret.) as the Hearing Officer. The one-day public hearing was conducted on December 11, 2024, and was held in conformance with M.G.L. c. 30A, §§ 10, 11, and 13; 801 CMR 1.00; and 555 CMR 1.10.

On March 17, 2025, the Hearing Officer issued her Initial Decision, pursuant to M.G.L. c. 30A, §§ 11(7) and 11(8), and 555 CMR 1.10(4)(e)2., finding that the Division failed to prove by clear and convincing evidence that the Springfield Police Department (“SPD”) and the Board of Police Commissioners of the SPD (“BPC”) suspended the Respondent for disciplinary reasons. See Initial Decision, p. 16. In the Hearing Officer’s view, the Division failed to prove by clear and convincing evidence the alleged victim’s account of [REDACTED] between [REDACTED] and the Respondent. Id. The Hearing Officer further found that the Division failed to present substantial evidence that the Respondent was untruthful and that he would benefit in his job performance if retrained. Id. The Hearing Officer noted that the SPD and the BPC ordered the Respondent to attend an Employee Assistance Program, which he has completed. Id.

On April 11, 2025, the Division submitted a response to the Initial Decision, contending that the Hearing Officer’s conclusion that she “cannot find by clear and convincing evidence that [the Respondent] was suspended for disciplinary reasons” is contrary to her own factual findings, is not supported by the evidence, and should be rejected by the Commission. Division’s Response to Initial Decision, pp. 2-3. According to the Division, the SPD and BPC suspended the Respondent for disciplinary reasons, and, because of that fact, the Commission has discretion to discipline him pursuant to M.G.L. c. 6E, §§ 10(b)(iv) and/or 10(d)(vii).¹ Division’s Response to Initial Decision, pp. 3-4. The Division defers to the Commission’s authority as to what discipline should be imposed.

¹ The Hearing Officer did not make a specific finding that an order for retraining pursuant to M.G.L. c. 6E, § 10(d)(vii) would be unwarranted. Instead, she concluded that “the discipline imposed by the SPD is not based on any type of credible evidence; and the BPC . . . ‘was unable to determine whether the conduct occurred,’ even applying a ‘preponderance of the evidence’ standard.” Initial Decision, p. 17.

Thereafter, on April 17, 2025, the Commission established a schedule for the submission of briefs. Neither the Division nor the Respondent submitted any further information to the Commission for review.

The Commission's enabling statute permits the Commission to suspend or revoke an officer's certification if the Commission finds by clear and convincing evidence that the officer was suspended by their appointing agency for disciplinary reasons, and any appeal of said suspension is completed.² M.G.L. c. 6E, § 10(b)(iv); see also M.G.L. c. 6E, § 10(d)(vii). As the Hearing Officer noted, "[i]t is within the discretion of the Commission to determine what, if any, additional discipline is to be imposed." Initial Decision, p. 14. Here, the Hearing Officer recommended that the Commission impose no additional sanction or discipline on the Respondent. Initial Decision, pp. 16-17.

In addition to the finding contested by the Division, the Hearing Officer made the following relevant findings of fact in the Initial Decision:

As a result of this incident[,] the Respondent was disciplined by both the SPD and the [BPC]. On [REDACTED], the day after the incident, the SPD suspended the Respondent without pay for five working days for failure to follow the rules and regulations of the SPD. The suspension was based upon the fact that he had [REDACTED] on a [REDACTED], that he had been [REDACTED] and that the following behavior 'was reported:' he punched [the alleged victim] in the torso, threw [REDACTED] about the room and against furniture and . . . put the back of [REDACTED] head through the drywall causing a head size hole in the wall,' and had then fled the residence.

Initial Decision, p. 10 (internal exhibit references omitted).

On October 4, 2023, the BPC also conducted a hearing regarding this incident. Both the Respondent and [the alleged victim] testified. The BPC found most of the charges 'not sustained' or 'unfounded.' . . . It found by a preponderance of the evidence that the Respondent violated SPD rules because he did not self-report the incident, because he was not 'civil and respectful' to [the alleged victim] during the alleged altercation and because he had [REDACTED]. Accordingly, the BPC suspended the Respondent for ten working days. In addition, he was ordered to enter an Employee Assistance Program for 180 days and 'remain in a program overseen by a supervisor.' The Respondent has completed all the imposed discipline.

Initial Decision, pp. 10-11 (internal exhibit references omitted).

² The second clause of M.G.L. c. 6E, § 10(b)(iv) requires that "any appeal of said suspension or termination is completed." As the Hearing Officer found, the Respondent completed the suspensions imposed by the SPD and BPC. See Initial Decision, p. 11 ("The Respondent has completed all the imposed discipline"); see id., p. 17 ("[T]he Respondent has already served the discipline imposed by the SPD and BPC."); see also Division's Response to Initial Decision, p. 2 n. 1 ("The Initial Decision does not directly address the second clause of § 10(b)(iv) which requires that 'any appeal of said suspension or termination is completed.' However, this issue is not in dispute.").

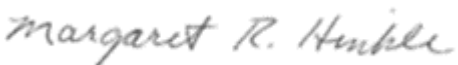
After careful consideration of the evidence presented in the hearing, the findings of fact and rulings of law in the Initial Decision, and the response to the Initial Decision submitted by the Division, the Commission hereby adopts the Initial Decision, including all findings of fact, credibility determinations, conclusions of law, and discussion contained therein, and with the amendment specified below, as the Commission's Final Decision.

The Hearing Officer's finding that: "I cannot find by clear and convincing evidence that Mr. Clerge was suspended for disciplinary reasons. The Commission simply has not met its burden of convincing me by clear and convincing evidence of the alleged victim's account of the incident" is revised to state: "The fact that the Respondent was suspended by the SPD and BPC for disciplinary reasons is supported by clear and convincing evidence, as required under M.G.L. c. 6E, § 10(b)(iv)."

The Commission may, but is not required to, suspend or revoke the Respondent's certification under M.G.L. c. 6E, § 10(b)(iv). The Commission finds such action to be unwarranted in this case. Moreover, the Commission does not find substantial evidence that the Respondent was untruthful or would benefit in his job performance if retrained. Accordingly, it cannot order retraining under M.G.L. c. 6E, § 10(d)(vi) or 10(d)(ix). Finally, while the Commission could order retraining pursuant to M.G.L. c. 6E, § 10(d)(vii), it declines to do so. **Thus, the Commission has decided to terminate the matter without any imposition of discipline.**

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 May 15, 2025.


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

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

IN THE MATTER OF
STANLEY CLERGE

)
)

Case No. 2024-020

INITIAL DECISION

Introduction

On December 31, 2020, Governor Charles D. Baker signed into law An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth. St. 2020, c. 253, § 102 (“the Act”). In 2021, the Massachusetts Peace Officer Standards and Training Commission (“Commission”) was established to certify and decertify all police officers in Massachusetts. The Commission was also authorized to revoke or suspend an officer’s certification or to order retraining for an officer. See M.G.L. c. 6E, § 3.

On July 1, 2021, pursuant to the Act, the Respondent Stanley Clerge (“Respondent” or “Mr. Clerge”) was automatically recertified as a police officer in Massachusetts. On July 1, 2022, Mr. Clerge was re-certified by the Commission. On [REDACTED], Mr. Clerge was

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]. On May 5, 2023, Mr. Clerge’s appointing agency, the Springfield Police Department (“SPD”) notified the Commission of the [REDACTED]

[REDACTED]

On May 11, 2023, the Commission directed its Division of Police Standards (“Division”) to open a preliminary inquiry to investigate allegations of misconduct against Mr. Clerge, pursuant to M.G.L. c. 6E, § 8(c); § 10(a) and (b); and 555 CMR [REDACTED]

On or about May 19, 2023, Mr. Clerge received notice of the Division's preliminary inquiry in this matter. On [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Background

Proceedings were conducted before the Honorable Judith A. Cowin, retired Massachusetts Supreme Court Justice, a Hearing Officer appointed by the Commission. The Hearing Officer ("T") presided over three remote pre-hearing conferences on August 13, 2024, October 21, 2024, and December 3, 2024, and an in-person hearing on December 11, 2024.¹ All proceedings were recorded and open to the public, except for a section of the in-person hearing, which was closed to the public to protect the privacy interests of minors and the alleged victim pursuant to a Protective Order.²

Two witnesses testified at the hearing: Officer Stanley Clerge, the Respondent and Detective Samantha Jones, Detective in the Sexual Victims Unit ("SVU") of the SPD. The parties submitted twenty-one joint exhibits, labeled A through U, at the hearing. These exhibits included a police bodycam video of the alleged victim taken just after the incident in question and an audio-video interview of Mr. Clerge by the Commission. They also included reports of officers of the SPD and [REDACTED]. I requested

¹ The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 (Formal Rules), generally apply to adjudications before the Commission, with chapter 6E or any Commission rules taking precedence. 555 CMR 1.10(4) (Conduct of Hearings).

² See 555 CMR 1.10(4)(a)2. ("An adjudicatory hearing conducted under 555 CMR 1.10 . . . shall be public except where the presiding officer . . . determine[s] that closure is necessary to protect privacy interests and will not be contrary to the public interest.").

that an additional exhibit be produced ([REDACTED]). The parties agreed to my request for these additional records. This exhibit is appended hereto as Exhibit V. The parties chose to submit post-hearing memoranda in lieu of closing argument. The post-hearing memoranda were submitted on January 27 and 28, 2025.³

Based on the evidence and the applicable statute and regulations, I recommend that no additional sanctions or discipline be imposed.

Findings of Fact

On [REDACTED], there was an incident (“the incident”) between the Respondent and the alleged victim (“the alleged victim,” or [REDACTED]). Below are my findings of fact regarding that incident and the background thereto. I find the facts as the Respondent recounted them for reasons that are explained in my analysis section. I summarize the testimony of Det. Samantha Jones, the only person to testify other than the Respondent. I also recount the written reports of other officers of the SPD and [REDACTED]. I find credible and find as facts the observations of Det. Jones (both in her testimony and her report). Similarly, I find credible and find as facts the observations in the reports of the other officers and [REDACTED]. With respect to statements made by [REDACTED] to Det. Jones, to other officers and to [REDACTED], I find that [REDACTED] made these statements to the various parties, but I do not find that they were accurate accounts of the incident and do not credit them. Finally, I summarize the reports of the discipline that has already been imposed in this matter by other agencies. I find as facts the action taken by these agencies and the discipline imposed. I do not find as facts the statements regarding the incident that are contained in these reports.

³ The additional exhibit ([REDACTED]) was submitted after the hearing and before the submission of the post-hearing memoranda.

The Respondent became a Springfield police officer in 2019. (Ex. U; Clerge Testimony)
He is thirty-nine-years old, and, [REDACTED], served with no disciplinary record and no criminal record. (Clerge T.)

The Respondent and [REDACTED]. (Clerge T.) They are [REDACTED]. (Clerge T.) In addition, [REDACTED] has [REDACTED]. (Clerge T.) The Respondent, [REDACTED], and [REDACTED] [REDACTED]⁴ (Clerge T.) Eventually, [REDACTED], the Respondent ended the relationship and left the [REDACTED] (Clerge T.) Nevertheless, he [REDACTED]. (Clerge T.)

The Respondent helped [REDACTED]. (Clerge T.) When he ended the relationship, he moved in with [REDACTED] (who were [REDACTED] living on their own by then). (Clerge T.) Indeed, he was still living with [REDACTED] at the time of the incident. (Clerge T.) Whenever [REDACTED] allowed him to do so, the Respondent continued to [REDACTED]. (Clerge T.) He felt a [REDACTED] responsibility to them as well as a strong emotional bond. (Clerge T.) He also frequently returned to [REDACTED] to perform [REDACTED] (Clerge T.)

Even before her relationship with the Respondent, [REDACTED]. (Clerge T.) After [REDACTED] and the Respondent [REDACTED] [REDACTED] (Clerge T.) The Respondent attended [REDACTED] with [REDACTED] when she was

⁴ At some point, the [REDACTED] moved out of the [REDACTED] (Clerge T.)

██████████. (Clerge T.) She ██████████
██████████. (Clerge T.) When she ██████████ she was ██████████ (Clerge T.)
When she was ██████████ she would ██████████; the Respondent would try to calm ██████████,
but her ██████████ behavior would escalate. (Clerge T.) She would “bang on things,” smash
windows, break things (the television and cell phones) and ██████████ (Clerge T.) If the
Respondent tried to leave, she grabbed items and threw them against the wall. (Clerge T.) She
threw pots of food at him. (Clerge T.) Once, she took a knife and poked and struck him. (Clerge
T.) He sometimes called ██████████ to try to calm her down. (Clerge T.) During some
incidents, ██████████
██████████. (Clerge T.)

The Respondent never reported these incidents to the police. (Clerge T.) As a police
officer himself, he believed that the police would see the disarray, that she would accuse him of
abuse and he would be blamed. (Clerge T.) Instead, he helped ██████████ through these crises. (Clerge
T.) She would see ██████████. (Clerge T.) He
loved ██████████ and sought to keep ██████████ together. (Clerge T.) He realizes now that he
should have left ██████████ earlier, but stayed longer than he should have because he wanted to
“be there” for ██████████. (Clerge T.)

In July 2022, he came ██████████ late one night; ██████████ was upset; she pulled a knife and the
Respondent decided he “had had enough” and decided to leave ██████████. (Clerge T.) He called
██████████ and they tried to persuade him to remain in ██████████ (Clerge T.) Nevertheless, he
left and moved in with ██████████ who “understood the situation” and “welcomed him
with open arms.” (Clerge T.) He continued to ██████████
██████████. (Clerge T.) He also continued ██████████

██████████. (Clerge T.) Given the length of their relationship and his affection for ██████████, he believed these were his responsibilities. (Clerge T.)

On ██████████, at ██████████ request, the Respondent returned to ██████████ to take out some trash. (Clerge T.) At one point, he realized he had left his cellphone in another part of the home. (Clerge T.) He found ██████████ with the phone, crying and distraught because another woman had telephoned him. (Ex. C; Ex. E; Clerge T.) ██████████ had told the other woman that she and the Respondent were about to ██████████ and ██████████ used vulgarities toward the other woman.⁵ (Clerge T.) The Respondent told ██████████ that he had to leave; ██████████ threw his phone. (Clerge T.) He was getting ready to leave; she kept asking how he could “do this to her.” (Clerge T.) She insisted that he call the other woman back and tell her that it “was all over between them,” and that he and ██████████ were ██████████. (Clerge T.)

██████████ yelling woke up ██████████ who was ██████████ asleep in the primary bedroom. (Clerge T.) The Respondent went into ██████████. (Clerge T.) ██████████ grabbed his collar, screamed at him to come back and punched and scratched him. (Clerge T.) She insisted that he “couldn’t do this to her” and that they were ██████████. (Clerge T.) She was falling “all over” trying to get his attention away from ██████████ and back toward her. (Clerge T.) At one point, he grabbed her hands. (Clerge T.) She kept thrashing about. (Clerge T.)

The Respondent ran outside. (Ex. B; Ex. C; Ex. E; Clerge T.) As he did so, he heard ██████████ trashing things in the primary bedroom where ██████████ was. (Clerge T.) ██████████ followed him and tried to prevent his leaving. (Clerge T.) She even banged on his windshield after he had gotten into his car. (Clerge T.) ██████████ eventually went back into the house. (Clerge T.)

⁵ Respondent was not “seeing” this other woman at the time of his break-up with ██████████

The Respondent has seen photographs of bruises on [REDACTED] (Clerge T.) He did not hit her at any time and does not know how the bruises occurred unless it was from her throwing herself against the wall. (Clerge T.) He did not try to harm her at any time that day. (Clerge T.) He is now aware that there is a hole in the wall in the primary bedroom but did not see it before. (Clerge T.) He did not cause it and does not know how it got there. (Clerge T.) He does not usually go into that room when he visits [REDACTED]. (Clerge T.) He stays in the main rooms as he does not want [REDACTED] to think he has any plans to [REDACTED] renew their relationship. (Clerge T.)

Following the incident the Respondent slept in his car. (Clerge T.) He called [REDACTED] at one point. He received a telephone call from his superior officer who advised him that there would be [REDACTED]. (Ex. B; Ex. E; Clerge T.) He did so. (Ex. B; Ex. E; Clerge T.)

The next day the Respondent [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

After the incident, [REDACTED] frequently called the station where the Respondent works; she left messages for him and for his superior officers. (Clerge T.) The messages were generally ignored. (Clerge T.) When the Respondent complained to superior officers about these calls, he was essentially given a “brush off,” told to ignore them and just keep away from [REDACTED] (Clerge T.)

As mentioned, [REDACTED] did not testify at the hearing before me. When Detective Samatha Jones (one of the responding officers, and a member of the SVU) arrived at the scene, she saw that [REDACTED] was upset and had been crying. (Jones T.) [REDACTED] told Det. Jones that she and her boyfriend had argued about another woman. (Jones T.) [REDACTED] said that the Respondent grabbed her, tossed her around, threw her into a wall making a hole in the wall and then “took off.” (Jones T.) [REDACTED] named her boyfriend and said that he was a Springfield police officer. (Ex. D; Jones T.) Det. Jones observed that the scene was consistent with [REDACTED] report: items were strewn about the bedroom, a table was flipped over and there was an oval-shaped hole in the wall. (Jones T.) The hole was the size of [REDACTED] head. (Jones T.) It was behind the door of the room and was higher than the doorknob. (Jones T.) [REDACTED] said that she had a headache and injuries to her arm. (Jones T.) The injuries Det. Jones observed were consistent with [REDACTED] statements.⁶ (Jones T.) [REDACTED] also said there had been a history of unreported domestic violence. (Ex. D; Jones T.) [REDACTED] completed an affidavit [REDACTED] at the police station. [REDACTED]. (Ex. B; Ex. C; Ex. E; Ex. M; Jones T.)

The officer in charge of the initial police response, Lieutenant Joseph A. Dunn, responded to the scene, saw and spoke with [REDACTED] and authored a report that recounted [REDACTED] version of the incident. (Ex. B) [REDACTED] told Lt. Dunn that an argument began in the kitchen. (Ex. B) The argument was the result of another woman calling on the Respondent’s cell phone. (Ex. B) [REDACTED] in the bedroom began to cry and [REDACTED] asked Mr. Clerge to [REDACTED] (Ex. B) The argument continued in the bedroom. (Ex. B) [REDACTED] stated that Mr. Clerge then turned toward her, struck her and threw her around the room “like a rag doll.” (Ex. B) She said he pushed her

⁶ A later report authored by Det. Jones states that she observed redness to [REDACTED] right arm and left side lower back. (Ex. D)

against the dresser and then onto the ground; he picked her up by the shoulder and shoved her against the wall behind the bedroom door, causing the back of her head to hit the drywall and making a hole. (Ex. B) She said that the Respondent threw her to the ground again, picked her up by either her hair or shoulders and threw her over a small chair, causing the chair to “flip over.” (Ex. B) She stated that, once more, she was picked up, thrown against [REDACTED] and then against the dresser on the other side of the room. (Ex. B) Lt. Dunn reported that he observed no injuries “visible at this time.” (Ex. B) He did see a “sizable” hole in the drywall. (Ex. B) It was similar in size and shape to a head and was consistent with [REDACTED] head. (Ex. B)

The [REDACTED] Report from [REDACTED]

[REDACTED] states that [REDACTED] recounted that she remembered everything. [REDACTED]

[REDACTED]

[REDACTED] Notes relate [REDACTED] version of the encounter. (Ex. V) It is generally similar to the above, but this time [REDACTED] stated that she was struck on the head multiple times and believed that she had “blackened out” for a couple of moments. (Ex. V) She said that Mr. Clerge threw her “face first into the wall.” (Ex. V) [REDACTED] told [REDACTED] that she was “swung around by her hair,” hit against the corner of the wall and kicked in the ribs. (Ex. V) This report also says that [REDACTED] stated that Respondent said that he “wanted her dead.” (Ex. V) An [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

An audio-video interview of [REDACTED] was conducted by the SPD two days after the incident. [REDACTED]. generally describes the incident as above, but adds that when she hit the [REDACTED], she “bounced” to the floor and lost consciousness.

As a result of this incident the Respondent was disciplined by both the SPD and the Springfield Board of Police Commissioners (“BPC”).⁷ (Ex. I; Ex. K) On January 11, 2023, the day after the incident, the SPD suspended the Respondent without pay for five working days for failure to follow the rules and regulations of the SPD. (Ex. I) The suspension was based upon the fact that [REDACTED]

[REDACTED] the following behavior “was reported:” he punched [REDACTED] in the torso, threw “her about the room and against furniture and . . . put the back of her head through the drywall causing a head size hole in the wall,” and had then fled the residence. (Ex. I)

On October 4, 2023, the BPC also conducted a hearing regarding this incident. (Ex. K) Both the Respondent and [REDACTED] testified.⁸ The BPC found most of [REDACTED] “not sustained” or “unfounded.” (Ex. L) The Board concluded that a charge of conduct unbecoming an officer was

⁷ I am unaware of the relation between these two entities. No evidence was presented regarding their relationship. I make no findings on their relationship but assume that the BPC is some type of superior body to the SPD.

⁸ It is of significance that this is the only hearing at which both parties testified.

“not sustained” because the “Board was unable to determine whether the conduct occurred beyond a preponderance of the evidence.” (Ex. L) A charge of failing to obey orders and rules was determined to be “unfounded” because the orders and rules did “not apply to alleged conduct.” For the same reason another charge was not sustained. (Ex. L) The BPC did sustain two charges. (Ex. L) It found by a preponderance of the evidence that the Respondent violated SPD rules because he did not self-report the incident, because he was not “civil and respectful” to [REDACTED] during the alleged altercation and because he had been [REDACTED] [REDACTED]”⁹ (Ex. L) Accordingly, the BPC suspended the Respondent for ten working days. (Ex. K; Ex. L) In addition, he was ordered to enter an Employee Assistance Program for 180 days and “remain in a program overseen by a supervisor.”¹⁰ (Ex. K; Ex. L) The Respondent has completed all the imposed discipline.

Applicable Legal Standard and Relevant Law

The Act Relative to Justice, Equity and Accountability provided for certain individuals to be automatically certified as officers for a period of time. St. 2020, c. 253, § 102.

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 [C]ommission deems reasonable;...
- (23) restrict, suspend or revoke certifications issued under [chapter 6E];
- (24) conduct adjudicatory proceedings in accordance with chapter 30A; . . .

M.G.L. c. 6E, § 10(b)(iv):

The [C]ommission may, after a hearing, 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

⁹ Specifically, the BPC found that respondent engaged in “misconduct” and violated “Rule 29: Respectful Treatment” because he “should have stayed on the scene” and “was not civil and respectful to [REDACTED] during the alleged altercation.” The BPC also found that the respondent engaged in “misconduct” and violated “Rule 29: Section 9: Members of the Department shall not conduct themselves in an immoral, indecent, lewd, or disorderly manner, or in a manner that might be construed as immoral, lewd or disorderly.”

¹⁰ No evidence was presented as to what an “Employee Assistance Program” is. I assume that it is some type of behavior modification or training program.

appeal of said suspension or termination is completed.

M.G.L. c. 6E, §§ 10(d)(vi), (vii), and (ix):

The [C]ommission may, after a hearing, order retraining for any officer if the [C]ommission finds substantial evidence that the officer: . . . was untruthful . . . was suspended or terminated by their appointing agency for disciplinary reasons . . . or . . . would benefit in their job performance if retrained.

M.G.L. c. 6E, § 10(g):

The [C]ommission shall publish any revocation order and findings. The [C]ommission shall provide all revocation information to the national decertification index. No officer may apply for certification after that officer's certification has been revoked pursuant to this section.

M.G.L. c. 6E, § 10(h):

An appointing agency shall complete an internal affairs investigation into officer misconduct and issue a final disposition within one year of receiving a complaint or notice from the [C]ommission of the complaint being filed. . . . The [C]ommission shall not institute a revocation or suspension hearing pursuant to this section until the officer's appointing agency has issued a final disposition or 1 year has elapsed since the incident was reported to the [C]ommission, whichever is sooner.

“Clear and convincing evidence” is “a degree of belief greater than the usually imposed burden of proof by a fair preponderance of the evidence, but less than the burden of proof beyond a reasonable doubt imposed in criminal cases.” See Stone v. Essex County Newspapers, Inc., 367 Mass. 849, 871 (1975).

“Substantial evidence,” as defined by statute, is “such evidence as a reasonable mind might accept as adequate to support a conclusion.” M.G.L. c. 30A, § 1(6). See also Cobble v. Comm’r of Dep’t of Soc. Servs., 430 Mass. 385, 390 (1999).

Analysis/Discussion

1. The Incident

The Respondent was convincing in his version of the events, and I am not persuaded of the Division’s version by clear and convincing evidence. (In fact, even if the Division’s burden were the “lesser” preponderance of the evidence standard, I doubt I would be so persuaded.) I find the Respondent credible because he presented a coherent and logical chronology of the incident as well as consistent supporting background. Moreover, his demeanor and presentation corroborated his testimony. His concern for [REDACTED] was evident throughout his presentation.

In regard to the hole in the wall, he was forthright in admitting that he did not know its cause and could not explain its presence. He did say that he did not usually enter that room when he visited [REDACTED]. He did not attempt to fabricate an explanation. Moreover, the Respondent's testimony is consistent in all respects with his pre-hearing interview conducted by the Commission. (Ex. T)

In addition, the history the Respondent presented of [REDACTED] behavior is supported by [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. (Ex. V; Clerge T.) This testimony is consistent with [REDACTED].

On the other hand, [REDACTED] version of the events is called into question in several respects. Most significant is that her injuries were simply not consistent with the scene she described. Although Det. Jones reported that she saw redness to [REDACTED] right arm and left side lower back, all other reporters ([REDACTED]) found almost no injuries, visible bruises, swelling, or bleeding. (Ex. H; Ex. V; Jones T.) Nor was she [REDACTED].

[REDACTED]. A lack of injuries, other than the "redness" (as reported by Det. Jones) and mild left eye swelling is unlikely if the woman had been thrown around "like a rag doll," shoved into various pieces of furniture, thrown on the floor, pushed into the wall and kicked in the ribs.

Inconsistencies in [REDACTED] statements also cause me to question her veracity. Minor inconsistencies are understandable after a traumatic event. But the versions [REDACTED] provided contain too many striking inconsistencies. For example, at [REDACTED] she stated for the first

time that she was kicked in the ribs and that the Respondent stated he “wanted her dead.” (Ex. V) These serious accusations were never mentioned before. In addition, the report of her head hitting the wall became multiple hits to the head by the time [REDACTED]. (Ex. V) Yet, her affidavit in support of her request for [REDACTED] does not even mention her head hitting the wall. (Ex. M) Also, she told Lt. Dunn that the back of her head hit the wall but told [REDACTED] that she was thrown face first into the wall. (Ex. B; Ex. V)¹¹ Finally, the [REDACTED] said that [REDACTED] reported no loss of consciousness. But at [REDACTED], she stated that she had “blacked out” for a “couple of moments.” (Ex. V)

2. Prior Discipline

As stated above, the Respondent was disciplined by both the SPD and the BPC and has completed the imposed discipline. The Commission’s enabling statute permits the Commission to suspend or revoke an officer’s certification if the Commission finds by clear and convincing evidence that the officer was suspended or terminated by their appointing agency for disciplinary reasons. M.G.L. c. 6E, §10(d)(vii). However, this provision does not mean that the Commission is simply a rubberstamp for the appointing agency and that once the appointing agency has imposed discipline the Commission must do likewise. It is within the discretion of the Commission to determine what, if any, additional discipline is to be imposed. The prior discipline imposed here is less persuasive than it seems at first blush.

To begin with, it is not clear what standard the SPD applied in reaching its decision. Secondly, the decision of the SPD was made the day after the incident and was based solely upon

¹¹ I recognize that victims of domestic abuse may not testify against their abusers for various reasons, including the fact that they may be dependent on the abuser for support. I did not consider the fact that [REDACTED] did not testify in reaching my credibility decision.

the report of the alleged victim and the reports of her statements to the responding officers. (Ex. I) Thus, all evidence was hearsay; there was no input by the Respondent; solely the reports of statements of the alleged victim. These reports were not challenged in any manner. There was no opportunity for a credibility determination by the SPD; it received merely an allegation of domestic violence.

The decision of the BPC carries significantly more weight than that of the SPD. First, both the alleged victim and the Respondent testified before the BPC. Secondly, although the Respondent was disciplined by a ten-day-suspension, the BPC found barely any violations. Of most import, the charge of conduct unbecoming an officer was “not sustained” because the “Board was unable to determine whether the conduct occurred beyond a preponderance of the evidence.”¹² (Ex. L) The charge of failing to obey orders and rules was determined to be “unfounded” because the orders and rules did “not apply to alleged conduct.” (Ex. L) For the same reason another charge was not sustained. (Ex. L) The BPD did sustain two charges: The Respondent failed to be civil and respectful, courteous and considerate toward all because he “should have stayed on scene” and because he “was not civil and respectful to [REDACTED] during the alleged altercation.” (Ex. L) He also violated a catch-all provision summarized above. (Ex. L) (See n. 9) This second violation was sustained because [REDACTED] (Ex. L) But, [REDACTED] [REDACTED].

The sum total of these findings regarding discipline indicates that the BPC, the only body to have heard the testimony of both parties to the altercation, “was unable to determine whether the conduct occurred,” even applying a preponderance of the evidence standard. (Ex. L) The

¹² “Preponderance of the evidence” means that something is more likely to be true than not. Helfman v. Northeastern University, 485 Mass. 308, 313, n.12 (2020).

Respondent was deemed to have violated one rule because he was [REDACTED]

[REDACTED] (Ex. L)

Finally, the only other charge to be sustained was that he did not self-report and he did not act civilly and courteously toward the alleged victim. (Ex. L)

Clear and convincing evidence “is a greater burden than proof by a preponderance of the evidence, but less than the proof beyond a reasonable doubt required in criminal cases.” Doe v. Sex Offender Registry Bd., 473 Mass. 297, 309 (2015) (citations omitted). “The evidence must be sufficient to convey a high degree of probability that the contested proposition is true.” Matter of Sushchyk, 489 Mass. 330, 334 (2022) (quotations and citation omitted). Applying this principle, I cannot find by clear and convincing evidence that Mr. Clerge was suspended for disciplinary reasons. The Commission simply has not met its burden of convincing me by clear and convincing evidence of the alleged victim’s account of the incident.

“Substantial evidence” is “such evidence as a reasonable mind might accept as adequate to support a conclusion.” M.G.L. c. 30A, § 1(6); see also Cobble v. Comm’r of Dep’t of Soc. Servs., 430 Mass. 385, 390 (1999). Pursuant to M.G.L. c. 6E, §§ 10(d)(vi) and (ix), I do not find by substantial evidence that the officer was untruthful and that he would benefit in his job performance if retrained. He was ordered into an Employee Assistance Program and has complied with said order.

Recommendation


Based on the evidence and the applicable statutes and regulations, for the reasons described above, I do not recommend that any additional sanctions or retraining be imposed. Applying a clear and convincing standard, the testimony and exhibits do not permit me to credit the alleged victim’s version of the events. Thus, I do not believe that this was a case of domestic

abuse. There was an argument; no question, but I cannot find by clear and convincing evidence that the Respondent physically abused [REDACTED]. In addition, the discipline imposed by the SPD is not based on any type of credible evidence; and the BPC, the only body to hear both parties, “was unable to determine whether the conduct occurred,” even applying a “preponderance of the evidence” standard. Moreover, the Respondent has already served the discipline imposed by the SPD and BPC. I do not recommend any additional retraining.

Accordingly, I recommend that the Commission issue a final decision that no additional sanction or retraining be imposed.

NOTICE OF 30-DAY RIGHT FOR REVIEW BY THE COMMISSION

Pursuant to 555 CMR 1.10(4)(e)2.b., “[u]pon receipt of the [P]residing [O]fficer’s initial decision, if there is objection by the officer in writing to the [E]xecutive [D]irector regarding the [P]residing [O]fficer’s findings and recommendations, the [C]ommission shall set dates for submission of briefs and for any further hearing which the [C]ommission in its discretion deems necessary. The [C]ommission shall review, and may revise, the findings of fact, conclusions of law and recommendation of the [P]residing [O]fficer, giving deference to the [P]residing [O]fficer’s evaluation of the credibility of the testimony and other evidence presented at the hearing. Failure by the officer to object to the [P]residing [O]fficer’s initial decision within 30 days shall constitute a waiver of the officer’s right to appeal under M.G.L. c. 30A, § 14.”


Hon. Judith A. Cowin (Ret.)
Hearing Officer

Date: March 17, 2025