

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

IN THE MATTER OF
LEON DAVIS

)
)

Case No. 2025-005

FINAL DECISION

Pursuant to 555 CMR 1.10(1), a Hearing Officer was assigned to conduct an adjudicatory proceeding regarding this matter on behalf of the Massachusetts 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 Leon Davis ("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 agency is required by any law to revoke, suspend or refuse to renew a license, as the case may be, without exercising any discretion in the matter, on the basis of a court conviction or judgment" or "[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).

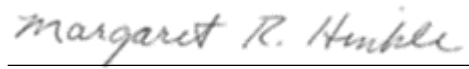
The Commission finds, by clear and convincing evidence, that the Respondent has been [REDACTED] and used force in violation of M.G.L. c. 6E, § 14. See M.G.L. c. 6E, §§ [REDACTED] and 10(a)(x). **Thus, the Respondent's certification is hereby revoked.**

The Executive Director shall take the necessary steps to publish the Respondent's name in the National Decertification Index. See 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 May 15, 2025.

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).

A handwritten signature in cursive script, reading "margaret R. Hinkle".

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

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

IN THE MATTER OF
LEON DAVIS

)
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Case No. 2025-005

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). Leon Davis (“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 the discipline that should be imposed against the Respondent.

II. Procedural History

1. The Division served the Respondent with an OTSC by USPS Priority Mail on January 8, 2025, addressed to the Respondent’s last known home address. Attachment 1; see Att. 3 n.1.

The record indicates that the OTSC was delivered on January 16, 2025. 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 twenty-one 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 February 20, 2025, to the same last known address. Atts. 3 n.1 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 pursuant to St. 2020, c. 253, § 102, an Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth.

2. On [REDACTED], the Respondent [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

3. On or about December 2, 2022, the Commission suspended the Respondent's certification.

4. On April 14, 2023, the Commission directed the Division to open a preliminary inquiry to investigate the allegation that the Respondent had engaged in conduct that may [REDACTED]
[REDACTED]. M.G.L. c. 6E, § [REDACTED]; 555 CMR [REDACTED].

5. On [REDACTED] the Respondent [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

6. As part of [REDACTED], the Respondent admitted that there were sufficient facts to prove that, while on duty, he used excessive force with his police-issued taser in drive-stun mode, wherein the taser itself was pressed against the body of the victim to emit a painful shock multiple times [REDACTED]
[REDACTED].

7. The Respondent's employing law enforcement agency, the Springfield Police Department ("Springfield PD"), sustained multiple charges of misconduct against the Respondent after conducting an internal affairs investigation. In connection with said investigation, Springfield PD concluded that, in the incident in question, the Respondent used his taser without first attempting de-escalation tactics or determining that de-escalation tactics were not feasible.

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 January 8, 2025.

Attachment 2: OTSC USPS Priority Mail tracking, indicating delivery January 16, 2025.

Attachment 3: Motion for Default and Final Decision, dated February 20, 2025.

Attachment 4: Motion for Default USPS Priority Mail tracking, indicating delivery
February 24, 2025.

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 [REDACTED] “[t]he [C]ommission shall, after a hearing, revoke an officer’s certification if the [C]ommission finds by clear and convincing evidence that . . . the officer [REDACTED]

3. Pursuant to M.G.L. c. 6E, § 1, [REDACTED]

4. The Respondent, by admitting to sufficient facts, [REDACTED]

[REDACTED] the purposes of imposing discipline under chapter 6E.

5. Pursuant to M.G.L. c. 6E, § 10(a)(x), “[t]he [C]ommission shall, after a hearing, revoke an officer’s certification if the [C]ommission finds by clear and convincing evidence that . . . the officer used force in violation of section 14.”

6. Pursuant to M.G.L. 6E, § 14(a)(i), “[a] law enforcement officer shall not use physical force upon another person unless de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances and such force is necessary to . . . effect the lawful arrest or detention of a person”

7. The Respondent's conduct as described in paragraphs 6 and 7 in the "Allegations" section, constitutes the use of force, in violation of M.G.L. c. 6E, §§ 10(a)(x) and 14(a)(i).
8. 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").
9. 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 regarding 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 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"); Univ. 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 respondent reasonable procedural safeguards for notice and an 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 February 20, 2025, 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 address as indicated by a CLEAR search conducted by the Division. Att. 3.

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 failure to respond 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 respondent was given clear notice of the consequences, could obtain an extension of time, petition for a default to be vacated, and 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. 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; Univ. Hosp., 396 Mass. at 534, 538-39.

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 determine the appropriate discipline. In accordance with the provisions of 555 CMR 1.10(4)(e)2.b., the officer has thirty days to file written objections to the Initial Decision with the Commission.

SO ORDERED.

A handwritten signature in cursive script, reading "Judith A. Cowin", written in dark ink.

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

Date: March 21, 2025