

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

100 Cambridge Street: Suite 200
Boston, MA 02114
(617) 979-1900

SAMUEL GOMEZ-GONZALEZ,
Appellant

v.

**CITY OF SPRINGFIELD
POLICE DEPARTMENT,**
Respondent

Docket Number: D1-23-025

DECISION

Pursuant to 801 CMR 1.01 (11) (c), I, serving in my capacity as Chair of the Civil Service Commission (Commission), assigned the Commission's General Counsel to serve as presiding officer over an evidentiary hearing into whether the Respondent had just cause to terminate the employment of the Appellant for the position of municipal police officer.

The Presiding Officer released to the Commission the attached Tentative Decision and advised the parties that they had thirty days in which to provide any written objections to the Commission. Objections were received from the Appellant on May 13, 2024. On that same date, the Appellant also filed a motion for leave to submit an additional exhibit. The Respondent replied to the Appellant's objections in a filing dated May 31, 2024.

After careful review and consideration, the Commission voted to affirm and adopt the Tentative Decision of the Presiding Officer, thus making the attached the Final Decision of the Commission. The Commission also voted this day to deny as untimely the Appellant's motion to expand the record. The additional exhibit the Appellant sought belatedly to introduce consisted of an exchange of one-sentence emails between him and the human resources and payroll manager of the Springfield Police Department (Department), Lynn Vedovelli, on July 26 and August 2, 2022. In his original email of July 26, the Appellant writes: "I just moved[;] what do I have to do to update my address with the job? And on Telestaff[?]" This communication relates to a charge (one of nine) contained in the Respondent's February 8, 2023 notice of contemplated discipline; to wit: an alleged violation of Rule 29, section 3 of the *Regulations of the Springfield Police*

Department requiring all officers to promptly notify the Department of any change of address. This charge was sustained by the Springfield Board of Police Commissioners on March 2, 2023, although it was proof of the Appellant's much more serious violation of five other rules (amounting to conduct unbecoming, lack of truthfulness, and prohibited association with criminals) that ultimately led to his formal discharge that day.

The Commission denies the Appellant's motion for several reasons. First, the Appellant did not produce this email exchange during the local appointing authority hearing in March 2023, after being placed on notice of the charge against him, or even after a Respondent witness testified during a September 2023 evidentiary hearing before this Commission's assigned hearing officer that the Department had no record of the Appellant's new residential address. The Appellant did not disclose the existence of any July - August 2022 email exchange with Ms. Vedovelli in his Proposed Decision filed in January of 2024. His attempt to submit an unauthenticated copy *after* the Presiding Officer has issued his Decision comes too late. Second, the lack of a response from the Appellant to Ms. Vedovelli's instruction that he log into TeleStaff to change his residential record leads to a reasonable inference that the Appellant failed to follow through with this task. Third, the Appellant's statement in the July 26, 2022 email that he had "just moved" was at best misleading and, more likely, dishonest as the Appellant sold his home in Chicopee in April of 2022. Finally, even if the Appellant could prove that he unquestionably and promptly complied with Rule 29, section 3, such a showing would not alter or undermine the solid grounds the Respondent had for terminating his employment.

The Appellant's other objections to the attached Tentative Decision fare no better. The Appellant first asserts that the highly serious charges contained in the Federal Bureau of Investigation's January 3, 2023 report outlining the Appellant's presumed role in delivering illegal narcotics to a Springfield-based drug trafficking organization (DTO) and sharing law enforcement information with DTO members "are not supported by any surveillance videos, photographs, bank records, phone taps, or any other tangible evidence." The short answer to this cavil is that the outcome of a disciplinary proceeding under G.L. c. 31, § 43, need not turn on proof of criminal misconduct. A finding that an appellant has engaged in "substantial misconduct which adversely affects the public interest by impairing the efficiency of the public service" suffices. *Doherty v. Civ. Serv. Comm'n*, 486 Mass. 487, 493 (2020), quoting with emphasis *Police Comm'r of Boston v. Civil Service Comm'n*, 39 Mass. App. Ct. 594, 599 (1996). Here, the Respondent based its termination decision on competent proof of violations of Department regulations forbidding, among other things, unauthorized association with criminals and untruthfulness. As discussed in the Tentative Decision, the Appellant's own testimony served to sustain those charges.

The Appellant next claims to have been "blindsided" by FBI and Department investigators' questions regarding his actions the year before in asking a fellow Department police officer to query for personal reasons certain confidential law enforcement and Registry of Motor Vehicle databases for information he later shared with a drug trafficker. As discussed in the Tentative Decision, the Appellant's weak

explanations for his highly unorthodox conduct (which was not, as a further objection asserts, merely a minor offense) and his later related statements, including during sworn testimony before the Commission’s hearing officer, simply were not at all credible.¹

The Appellant further takes issue with the Presiding Officer’s finding, amply supported in the record, that another unbelievable claim advanced by the Appellant in a formal investigatory interview—namely, that he had few interactions with the central DTO figure (despite admitting to having just received an invitation to travel to Miami to celebrate the birthday of this DTO leader’s wife)—lacked veracity.² As the Appeals Court has repeatedly and recently instructed, “findings that are based on credibility determinations by the [hearing officer] are entitled to substantial deference. . . . [T]he fundamental rule rooted in due process that a reviewing body ordinarily may not reverse a credibility judgment made by the administrative or judicial officer who actually heard the testimony of the witness and found him or her to be credible [or not] . . . [means that] a determination of credibility made by one who actually heard a witness is close to immune from reversal on appeal except on the most compelling of showings.” *City of Newton v. Commonwealth Emp. Rels. Bd.*, 104 Mass. App. Ct. 203, 210 n.7, 2024 WL 2306062, at *4 n.7 (Mass. App. Ct. May 22, 2024), quoting *Hollup v. Worcester Retirement Bd.*, 103 Mass. App. Ct. 157, 160–161 (2023) (internal quotations, footnote, and citations omitted). The Appellant’s objections fall far short of any “compelling” showing of error.

¹ Given the unimpeachable evidence that the license plate number that the Appellant asked his colleague to query in a law enforcement database, supposedly associated with a vehicle that the Appellant claimed nearly ran him off the road, was a wholly fictitious license plate created for law enforcement purposes, the Presiding Officer was entitled to infer that the Appellant concocted his story about a near traffic accident as a pretext for obtaining driver information potentially useful to a drug trafficking organization. In sharp contrast to the Appellant’s misuse of a restricted law enforcement database to aid and abet a DTO, the other two police officers the Appellant points to as disciplinary comparators had accessed the restricted database for considerably more benign reasons. See Appellant exhibits 1 and 2.

² Again, the Appellant’s own testimony contributes greatly to the evidence showing that he was prevaricating about the nature of the relationship he had with this DTO leader, identified in the attached Tentative Decision as a bakery owner. In its *Response to Appellant’s Objections to the Tentative Decision*, the Respondent Department cites a dozen transcript passages in which the Appellant himself undermines his false assertion to investigators that he had few interactions with the bakery owner. As one example, after being asked by an FBI investigator about his contacts with the bakery owner, the Appellant testified that he discussed with his wife whether to alert the bakery owner to the fact that investigators were inquiring about him. When later asked at the Commission evidentiary hearing why he would even want to tell the bakery owner about his interview with the FBI, the Appellant testified: “Why wouldn’t I want to tell him?” (Tr. 119, line 12) At a minimum, this would constitute an odd response from a police officer claiming to have only a passing acquaintance with a suspected drug dealer.

Accordingly, the decision of the City of Springfield Board of Police Commissioners to discharge the Appellant from his position as a municipal police officer is hereby affirmed and the Appellant's appeal under Docket No. D1-23-025 is *denied*.

By vote of the Civil Service Commission (Bowman, Chair; Markey, McConney and Stein, Commissioners [Dooley-absent]) on June 13, 2024.

Civil Service Commission

/s/ Christopher C. Bowman

Christopher C. Bowman
Chair

Either party may file a motion for reconsideration within ten days of the receipt of this Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(l), the motion must identify a clerical or mechanical error in this order or decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration does not toll the statutorily prescribed thirty-day time limit for seeking judicial review of this Commission order or decision.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by this Commission order or decision may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of this order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of this Commission order or decision. After initiating proceedings for judicial review in Superior Court, the plaintiff, or his / her 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 Civil Service Commission, in the time and in the manner prescribed by Mass. R. Civ. P. 4(d).

Notice to:

Kevin B. Coyle, Esq. (for Appellant)
David J. Wenc, Esq. (for Respondent)

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

100 Cambridge Street, Suite 200
Boston, MA 02114

SAMUEL GOMEZ-GONZALEZ,
Appellant

v.

SPRINGFIELD POLICE DEPARTMENT,
Respondent

Docket Number: D1-23-025

Appearance for Appellant: Kevin B. Coyle, Esq.
1299 Page Boulevard
Springfield, MA 01104

Appearance for Respondent: David J. Wenc, Esq.
36 Court Street
Springfield, MA 01103

Presiding Officer: Robert L. Quinan Jr., Esq.³

SUMMARY OF TENTATIVE DECISION

The Presiding Officer recommends that the Civil Service Commission determine that the Springfield Police Department had just cause to terminate the Appellant where his conduct, including untruthfulness, was violative of the Springfield Police Department's Rules and Regulations.

³ The Commission acknowledges the assistance of Law Clerk Phoenix Forester in the drafting of this Tentative Decision. As the duly appointed Presiding Officer, I am filing this initial decision with the Commission today. Pursuant to 801 Code Mass. Regs. 1.01(11)(b) and (c), the parties shall have 30 days from today to file any written objections to this Tentative Decision.

TENTATIVE DECISION

On March 9, 2023, the Appellant, Samuel Gomez-Gonzalez (Appellant), filed a timely appeal with the Civil Service Commission (Commission) pursuant to G.L. c. 31, § 43.⁴ The appeal challenged the decision of the Springfield Police Department (SPD) to terminate the Appellant's employment as a police officer.

The Commission held a remote pre-hearing conference on April 11, 2023. On September 29, 2023, I conducted a full hearing in the State Office Building at 436 Dwight Street, Springfield, Massachusetts. The hearing was digitally recorded and electronic copies of the audio-recording were provided to the parties.⁵ On January 22, 2024, the parties filed proposed decisions, whereupon the administrative record closed.

FINDINGS OF FACT

The SPD submitted into evidence five exhibits (RESP 1 – 5) and the Appellant one exhibit (APP 1). Based on the documents submitted and the testimony of the following witnesses:

Called by the Respondent:

- Jonathan Sanchez, Officer, Springfield Police Department
- Trent Duda, Captain, Springfield Police Department
- Louis Rosario, Lieutenant, Springfield Police Department

⁴ The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR §§ 1.01, *et seq.*, apply to adjudications before the Commission with G.L. c. 31, or any Commission rules, taking precedence.

⁵ Following the hearing, the parties arranged for an official court reporter to transcribe this audio recording. Should there be a judicial appeal of this decision, the plaintiff in the judicial appeal would be obligated to supply the court with this hearing transcript to the extent that they wish to challenge the decision as unsupported by the substantial evidence, arbitrary and capricious, or an abuse of discretion.

Called by the Appellant:

- Samuel Gomez-Gonzalez, Appellant

and taking administrative notice of all pleadings filed in the case, pertinent rules, statutes, regulations, case law, and policies, and drawing reasonable inferences from the credible evidence, a preponderance of the evidence establishes the following facts:

1. The Appellant, Samuel Gomez-Gonzalez, was a tenured police officer for the Springfield Police Department (SPD). The Appellant had been employed by the SPD from 2014 until his termination on March 1, 2023, and had no disciplinary history prior to this matter. (Stipulations)
2. Jonathan Sanchez (Ofc. Sanchez) is a seven-year SPD Officer who first met the Appellant at least 15 years ago. The Appellant is best friends with Ofc. Sanchez's brother-in-law. (Testimony of Appellant & Testimony of Ofc. Sanchez)
3. Trent Duda (Capt. Duda) is a Captain with the SPD and acts as a liaison between the Federal Bureau of Investigations (FBI) and the SPD. (Testimony of Capt. Duda)
4. Louis Rosario (Lt. Rosario) is a Lieutenant with the SPD assigned to its Internal Investigations Unit. (Testimony of Lt. Rosario)
5. Prior to becoming a police officer, the Appellant worked at a local bakery. (Testimony of Appellant & RESP 1)
6. The Appellant knew the owner of that bakery for a period of at least four years prior to becoming a police officer. (Testimony of Appellant & RESP 1)

7. The Appellant asserted under oath that he is not close with the bakery owner and that he has contacted the bakery owner only three or four times in the past couple of years.⁶ (Testimony of Appellant & RESP 1)
8. The Appellant, while employed as a police officer with the SPD, ate at the bakery for free. (Testimony of Appellant & RESP 1)
9. The Appellant had heard rumors that the bakery owner was “involved in drugs.” (Testimony of Appellant & RESP 1)
10. On May 11, 2021, law enforcement intercepted a package traveling through the U.S. mail system containing a kilogram of cocaine. (Testimony of Capt. Duda)
11. The package was addressed to the Appellant’s niece at the Appellant’s residential address in Chicopee, Massachusetts, a home that he owned at the time. (Testimony of Appellant & Testimony of Capt. Duda)
12. The Appellant’s niece resided with him at this particular address from about January of 2021 until approximately April of 2021, when she moved away to Florida. Sometime prior to April of 2022, however, the Appellant’s niece returned to live in his Chicopee home for awhile.⁷ (Testimony of Appellant)
13. The Appellant’s niece was arrested on federal drug trafficking charges sometime after April of 2022. (Testimony of Appellant & RESP 1)
14. The Appellant’s sister’s boyfriend, “Yankee,” also resided with the Appellant in his home in Chicopee. When asked on cross-examination, the Appellant could not identify Yankee’s full name, stating that he “didn’t care asking my sister

⁶ As noted in the *Analysis* section, I do not credit the Appellant’s testimony on this point.

⁷ The Appellant was unsure of the exact dates in his testimony before me.

what's his real name"—despite him having resided under the Appellant's roof for at least three months. (Testimony of Appellant)

15. In late November of 2022, the bakery owner invited the Appellant and the Appellant's wife to Miami to celebrate the owner's wife's birthday. (Testimony of Appellant & RESP 1)

16. On November 30, 2022, an FBI agent and Capt. Duda interviewed the Appellant. They inquired about an occasion some 15 months earlier when the Appellant, while out on injured leave, asked his friend Ofc. Sanchez to query the Commonwealth's online database of registered motor vehicle operators on his behalf after the Appellant indicated that he had nearly been run off the road by a motorist while riding his personal motorcycle. (Testimony of Appellant & RESP 1)

17. During that interview, the Appellant told investigators that he did not remember any incident involving being run off the road in August of 2021, or of asking a fellow police officer to run a license plate on his behalf. (Testimony of Appellant & RESP 1)

18. Investigators also asked the Appellant about his relationship with the bakery owner. The Appellant later wanted to tell the bakery owner about the joint FBI-SPD interview, discussed potentially doing so with his wife, but testified that ultimately he decided to remain quiet. (Testimony of Appellant)

19. On January 3, 2023, the FBI⁸ sent a report to the SPD detailing an investigation regarding narcotics distribution involving the bakery and its owner. (RESP 1)

⁸ The name of the FBI agent who authored the report is not included in this record.

20. Included in the FBI report was information that illicit narcotics coming from Puerto Rico were, for an additional fee of \$7,000, delivered personally by an SPD officer by the name of “Sammy,” who would also provide notice to the traffickers if a raid were going to be conducted in association with the narcotics delivery. (RESP 1)
21. In the course of the investigation, the FBI identified “Sammy” as SPD Ofc. Samuel Gomez-Gonzalez, the Appellant. (RESP 1) The FBI report alleges that the Appellant had recently “provided law enforcement information to [the bakery owner] in support of [drug trafficking activities].” (RESP 1)
22. The FBI report described how a confidential human informant (CHI) was employed to provide to the bakery owner a fictitious license plate number tied to an individual allegedly associated with a rival drug cartel, with the aim of finding out whether anyone at the SPD would run the license plate on the bakery owner’s behalf. (RESP 1) Springfield police officers have access, for legitimate law enforcement purposes only, to a large database maintained by the Commonwealth’s Department of Criminal Justice Information Services (DCJIS) that reflects vehicular registration information compiled by the Registry of Motor Vehicles. “Running a plate,” in this context, thus involves querying the DCJIS database for data associated with the particular license plate. (Testimony of Ofc. Sanchez & RESP 1)
23. While off-duty on August 8, 2021, the Appellant texted Ofc. Sanchez: “Can you run a plate for me, I was on the bike yesterday and I felt like a [car] it [sic] tried to

- hit me on purpose, just want to know if I might know them” followed by “8kx735.” (Testimony of Ofc. Sanchez & RESP 1)
24. Ofc. Sanchez ran the plate and took screenshot pictures of the license plate information, which he texted back to the Appellant. (Testimony of Sanchez & RESP 1)
25. Off-duty officers rarely request to have license plates run. (Testimony of Lt. Sanchez)
26. License plate 8KX735 belongs to a car that was not on the road at the time of the alleged incident. (Testimony of Capt. Duda) The vehicle in question was, in fact, “under the direct control of the FBI.” (RESP 1)
27. License plate 8KX735 is associated with Samuel Tavares in the DCJIS database. Samuel Tavares is not a real person; rather, this fake identity was created for law enforcement investigative purposes. (Testimony of Lt. Rosario)
28. According to the FBI report, the CHI gave an associate of the bakery owner information regarding the vehicle with a fictitious plate and the Appellant, then, allegedly requested payment for having provided to the bakery owner’s ring the planted information about the vehicle. (RESP 1)
29. The FBI report also states that the Appellant discussed his November 2022 FBI interview with the bakery owner. (RESP 1) In a written statement that the Appellant prepared for the SPD Superintendent in late January of 2023, he conceded having spoken to the bakery owner “in the beginning of December [2022].” (RESP 1)

30. On January 24, 2023, Lt. Rosario and SPD Sergeant Mark Kenny interviewed the Appellant as part of an internal affairs investigation. (Testimony of Lt. Rosario & RESP 1)
31. During that interview, the Appellant was asked again about the alleged motor vehicle incident of August of 2021. He stated again that he had no recollection of the relevant events. Lt. Rosario then refreshed the Appellant's memory by showing him screenshots of his text to Ofc. Sanchez asking for a plate to be run. The Appellant indicated that his recollection was refreshed to the limited extent that he could remember only the text exchange. (Testimony of Appellant, Testimony of Lt. Rosario & RESP 1)
32. During an evidentiary hearing before me on September 29, 2023, however, the Appellant testified in some detail that the incident took place near Liberty Street and Szot Park on the Springfield/Chicopee line on August 7, 2021. The vehicle in question had stopped at a red light when allegedly it suddenly accelerated up to "30 or 40 [m.p.h.]" and attempted to hit him just past the other side of the intersection. The Appellant said he was forced to "go up on the sidewalk" and became distracted as a result but then "caught up to [it]" and was able to memorize the license plate: 8KX735. The Appellant stated that he was unsure why he waited until the next day to ask Ofc. Sanchez to run the plate. (Testimony of Appellant).
33. The vehicle bearing license plate number 8KX735 "was in sole ownership of the FBI and . . . was not on the road" in August of 2021. (Testimony of Capt. Duda)

34. On a different topic, the Appellant stated during his January 24, 2023, investigative interview that for the last year or so he had been residing with friends at several different addresses, ending up on Whittier Street in Springfield, Massachusetts. (RESP 1)
35. Although I do not credit his testimony on this point, the Appellant claimed that he had notified the SPD of his change in residence from Streiber Drive in Chicopee to Whittier Street in Springfield via email sent to SPD Human Resources Manager, Lynn Vedovelli, sometime during June of 2022 (a good two months after he sold his Chicopee home) but later was unable (for unspecified reasons) to produce a copy of this email. (Testimony of Appellant)
36. The SPD Human Resources department, as of January 30, 2023, had received no notice regarding any change of address for the Appellant. They still had him listed as residing on Streiber Drive in Chicopee. (Testimony of Lt. Rosario)
37. On February 8, 2023, the SPD notified the Appellant of several disciplinary charges pending against him.⁹ The charges that were eventually sustained¹⁰

⁹ The Appellant filed a motion with the Commission alleging that this notification was deficient. This Presiding Officer ruled otherwise in a June 30, 2023, decision.

¹⁰ The Appellant was also charged with violating Rule 29: Section 7, although that charge was not sustained at the March 1, 2023, hearing. Additionally, the Appellant was charged with violating Rule 29: Section 9, although that charge was deemed to be duplicative at the March 1, 2023, hearing. These latter two rules specify:

Rule 29: Section 7: No member or employee of the Department shall communicate to any person not connected with the Department any information concerning Police business, nor shall they communicate to any other office, any special order, they may have received, nor shall they communicate to anyone where or in what work any office, may be engaged, except by the permission of the Chief of Police or the official in charge of the station. No member or employee shall communicate to any person information which may enable them

involved violations of:

Rule 29: Conduct: Employees shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on the Department. Conduct unbecoming an employee shall include that which tends to indicate that the employee is unable or unfit to continue as a member of the Department or tends to impair the operation of the Department or its employees.

Rule 29: Directives and Orders: Employees shall obey and comply with all rules, orders and other directives of the Department whether transmitted verbally or in writing. Employees shall obey all orders of a Superior Officer, Officer of Rank, or Supervisor.

Rule 29: Section 1: All members of the Department shall obey the Rules and Regulations as set forth herein, the Ordinances of the City of Springfield, the laws of the Commonwealth of Massachusetts and of the United States of America, and shall perform their duties with silent courage, discretion, placing the safety and welfare of the City of Springfield and its citizens first at all times.

Rule 29: Section 3: All members of the Springfield Police Department shall report to the Chief of Police their place of residence and telephone number with such particularity as to enable them to be easily found, and shall report any change of residence or telephone number within twenty-four hours after such change occurs. The address furnished to the Chief of Police shall be the actual permanent domicile of such member. Any violation of this section will be a serious violation of Department Rules and Regulations. All Department members are required to maintain a telephone number at which they can be reached.

Rule 29: Section 32: Employees shall submit all necessary reports on time and in accordance with established Departmental procedures. Reports submitted by employees shall be truthful and complete. No employee shall

to dispose of or secrete any valuable things stolen or otherwise unlawfully obtained or held.

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, indecent, lewd or disorderly. They shall not be guilty of misconduct, neglect of duty, conduct unbecoming an Officer and a gentleman, or acts tending to discredit the Department, even though such conduct is not specifically set forth in these Rules and Regulations.

knowingly enter, or cause to be entered, any inaccurate, false or improper information.

Rule 29: Section 39: Department employees shall not associate with persons who they know, or should know, are persons under criminal investigation, or who have a reputation in the community or in the Department for recent or present involvement in felonious or criminal activities. This rule shall not apply where said associations are necessary in the performance of official duties, or where said associations are unavoidable due to familiar relationship [sic] of employees.

(RESP 2 and 4)¹¹

38. On March 1, 2023, the Springfield Board of Police Commissioners conducted a hearing regarding the charges against the Appellant, who appeared and testified.

(Stipulations & RESP 3)

39. On March 2, 2023, the SPD sustained the above six charges and provided the Appellant with a notice of his termination. (Stipulations & RESP 4 and 5)

40. As noted above, on March 9, 2023, the Appellant filed a timely appeal with this Commission. (Stipulations)

APPLICABLE CIVIL SERVICE LAW

A tenured civil service employee may be terminated for “just cause” after due notice and hearing upon written decision “which shall state fully and specifically the reasons therefor.” G.L. c. 31, § 41. An employee aggrieved by the decision may appeal to the Commission. G.L. c. 31, § 43. Under section 43, the appointing authority carries the burden to prove “just cause” for the action taken by a “preponderance of the

¹¹ The February 8, 2023, Disciplinary Charge Notice also cited (1) SPD General Order 100.50 relating to Department Values, which requires SPD officers to “maintain the highest standards of integrity and professionalism;” (2) the SPD’s Code of Ethics; and (3) the SPD’s 2014 Policy restricting officer access to DCJIS data “for criminal justice purposes only.” (RESP 1 and 2)

evidence.” *Id.* See, e.g., *Falmouth v. Civ. Serv. Comm’n*, 447 Mass. 814, 823 (2006); *Police Dep’t of Boston v. Collins*, 48 Mass. App. Ct. 411, *rev. den.*, 726 N.E.2d 417 (2000).

In performing its review ... the commission hears evidence and finds facts anew ... [after] a hearing de novo upon all material evidence and ... not merely for a review of the previous hearing held before the appointing officer. There is no limitation of the evidence to that which was before the appointing officer...

Leominster v. Stratton, 58 Mass. App. Ct. 726, 727-28 (2003). See also *Falmouth v. Civil Serv. Comm’n*, 447 Mass. at 823; *Cambridge v. Civil Serv. Comm’n*, 43 Mass. App. Ct. 300, 303-05, *rev. den.*, 428 Mass. 1102 (1997).

The Commission determines justification for discipline by inquiring “whether the employee has been guilty of substantial misconduct which adversely affects the public interest by impairing the efficiency of public service.” *School Comm. v. Civil Service Comm’n*, 43 Mass. App. Ct. 486, 488 (1997). See also *Murray v. Second Dist. Ct.*, 389 Mass. 508, 514 (1983). By virtue of the powers conferred by their office, police officers are held to a high standard of conduct. *Zorzi v. Town of Norwood*, 29 MCSR 189 (2016). “An officer of the law carries the burden of being expected to comport himself or herself in an exemplary fashion.” *McIsaac v. Civil Service Comm’n*, 38 Mass. App. Ct. 473, 475 (1995). “Police officers are not drafted into public service; rather, they compete for their positions. In accepting employment by the public, they implicitly agree that they will not engage in conduct which calls into question their ability and fitness to perform their official responsibilities.” *Police Commissioner of Boston v. Civil Service Comm’n*, 22 Mass. App. Ct. 364, 371, *rev. den.* 398 Mass. 1103 (1986).

A Commission hearing officer must take into account all credible evidence in the administrative record, including anything that would fairly detract from the weight of any particular evidence supporting the decision reached below. *See, e.g., Massachusetts Ass’n of Minority Law Enforcement Officers v. Abban*, 434 Mass. 256, 264-65 (2001). It becomes the purview of the hearing officer, however, to determine the credibility of testimony presented to the Commission. “[T]he assessing of the credibility of witnesses is a preserve of the [Commission] upon which a court conducting judicial review treads with great reluctance.” *Leominster v. Stratton*, 58 Mass. App. Ct. at 729. *See Embers of Salisbury, Inc. v. Alcoholic Beverages Control Comm’n*, 401 Mass. 526, 529 (1988); *Doherty v. Retirement Bd. of Medford*, 425 Mass. 130, 141 (1997).

Truthfulness is an essential attribute of a police officer. To this end, the Commission has noted, for example, that

... [t]he criminal justice system relies on police officers to be truthful at all times[.] . . . *See, e.g., LaChance v. Erickson*, 522 U.S. 262 (1998) (lying in a disciplinary investigation alone is grounds for termination); *Meaney v. Woburn*, 18 MCSR 129, 133-35 (discharge upheld for police officer based, in part, on officer's consistent dishonesty and “selective memory” during departmental investigation of officer’s misconduct); *Pearson v. Whitman*, 16 MCSR 46 (appointing authority’s discharge of police officer who had a problem telling the truth upheld); *Rizzo v. Town of Lexington*, 21 MCSR 634 (2008) (discharge upheld based partially on officer’s dishonesty regarding a use of force incident); and *Desharnias v. City of Westfield*, 23 MCSR 418 (2009) (discharge upheld based primarily on officer’s dishonesty about a relatively minor infraction that occurred on his shift).

Wine v. City of Holyoke, 31 MCSR 19 (2018). *See also Gonsalves v. Falmouth*, 25 MCSR 231 (2012), *aff’d sub nom. Gonsalves v. Civil Service Commission and Town of Falmouth*, Suffolk Superior Court, C.A. No. 12-2655G (2014) (town “fully justified” in terminating police officer who repeatedly demonstrated his inability to tell the truth).

ANALYSIS

One instance of proven, deliberate dishonesty alone may be sufficient to warrant and sustain a termination from the SPD. A non-exhaustive accounting of events in this case provides ample evidence of the Appellant's repeated dishonesty. My assessment of the Appellant's credibility concludes that little of what he has stated in response to the disciplinary charges levied against him can be taken at face value. To begin with, it is not plausible that the Appellant could have asserted, over the course of a year and a half, that he possessed no clear memory of the August 7, 2021, traffic incident despite repeated questioning (which included the provision of documentation to refresh his recollection), only to suddenly remember in considerable detail the events of that date during his testimony before me. Even more problematic, the Appellant could not possibly have been "almost run off the road" by a vehicle with the license plate number 8KX735 when Capt. Duda had personal knowledge of the fact that the car so registered "was in sole ownership of the FBI and . . . was not on the road" in August of 2021. Furthermore, the Appellant's orchestrated use of the DCJIS system under false pretenses for a personal, non-law enforcement purpose subjects him "to disciplinary action, up to, and including, termination."¹² (RESP 1 at 0041) This pattern of falsification and abuse of his authority as a police officer, alone, established just cause for the SPD's decision to terminate the Appellant's employment.

Notably, the Appellant's mistruths are not limited to those which he conveyed

¹² The Appellant's actions in doing so exposed him to the (later sustained) charge of violating SPD Rule 29 for not abiding by an SPD directive. Standing alone, the Appellant's violation of the DCJIS network security policy probably would not have warranted termination but here it does support the ultimate disciplinary disposition when viewed in context.

under oath during the Commission's evidentiary hearing. The Appellant's history of untruthfulness permeates this case from start to finish. In 2021, the Appellant fabricated a story via text messages to support his request that Ofc. Sanchez query the DCJIS database for him regarding the FBI-planted license plate. Then, when initially questioned by investigators, the Appellant was evasive and untruthful about why he had asked Ofc. Sanchez to run the plate for him, even denying that he could recall whom he had asked to run the plate. Given that the Appellant's request was likely in violation of SPD policy, it is unlikely that he would have forgotten whom he had asked to conduct the search. Such a lapse of memory is even less likely in view of the fact that the Appellant has a long-standing personal relationship with Ofc. Sanchez. That relationship, however, does help explain why the Appellant would have chosen Ofc. Sanchez to do this favor for him.

Of particular significance, I did not find the Appellant's testimony before me to demonstrate indicia of accuracy and reliability. When asked by his own attorney, on *direct* examination, why he had asked another officer to run the plate number for him, the Appellant's response was: "I thought it [a car trying to run me off the road] was intentional; I thought it was an accident him trying to hit me[.]" The Appellant, right there, seemed unable to maintain a consistent account over the span of one sentence. Later, the Appellant was asked on cross examination: "You had the Springfield police officer run the license plate because you were almost hit by a vehicle . . . But that wasn't true, there was no vehicle, was there?" The Appellant responded with "Yes." When asked: "Why didn't you call the police if someone almost hit you intentionally?" the Appellant responded with: "It's not a crime to almost hit someone." This response simply rings false to me. A police officer testifying truthfully would acknowledge that

police *can* take action when a motorist is driving so recklessly (accelerating rapidly after jumping a red light) as to force a motorcyclist off the road. Although the Appellant testified that he would have confronted the driver had he known his (or her) identity, he admits that he did nothing to ascertain who was driving the car until *the next day* when he asked his colleague, Ofc. Sanchez, to run a plate for him. Even when the FBI agent told the Appellant that the plate he had inquired about was associated with a car under FBI control, that still didn't trigger any recollection as to why he asked for the plate to be run in the first place. As previously referenced, at the hearing, though, the Appellant managed to recall the fine details of the alleged August 7, 2021, incident. This, however, is not the sole matter that strains credulity.

The Appellant's statements pertaining to how often he communicated with the bakery owner (barely once a year, he offered at one point) are almost certainly not worthy of belief either. First, the Appellant acknowledged eating lunch for free at the bakery. Second, the bakery owner had very recently invited the Appellant and his wife to join him (and the bakery owner's wife) on a trip to Miami. Third, the FBI seemed certain (stating in an official report) that the Appellant had discussed his November 30, 2022, FBI interview with the bakery owner. Fourth, it seems likely that information about the fictitious license plate number traveled from the FBI's CHI to the Appellant via the bakery owner. Even the most conservative and rudimentary tally of possible communications between the Appellant and the bakery owner establishes that the Appellant's claim of having spoken with him only a few times in the past three to four years is demonstrably false.

Finally, the Appellant was likely also untruthful in stating that he had notified the SPD HR unit in June of 2022 that he had moved from Chicopee to Springfield earlier in 2022. He produced no evidence of such, and Lt. Rosario testified that the HR unit had confirmed to him that the Appellant's residence was still listed as Streiber Drive in Chicopee on January 30, 2023, even though the Appellant had sold his Chicopee home at least nine months earlier. This constitutes "a serious violation" of SPD Rule 29, § 3 (per the Rule's own text), and I conclude that the Appellant's transgression in not immediately reporting to the proper SPD official each of his (several) changes of address following the sale of his Chicopee home warrants commensurately severe discipline independent of any other charges sustained against the Appellant.

The Appellant's objection that the key evidence against him reflects hearsay, and so should be discounted, mistakes both the strength and the relevance of the objected-to evidence. It might appear at first blush that perhaps even a majority of the evidence of the Appellant's misconduct (certainly the most egregious, dishonesty aside) is based on hearsay. Yet "[i]n administrative proceedings, hearsay evidence can be received and may constitute substantial evidence if it contains sufficient indicia of reliability and probative value." *McCormack v. Dep't of State Police*, 92 Mass. App. Ct. 1103 (2017) (unpublished disposition affirming this Commission's finding that the State Police had established just cause, partly through hearsay evidence, to terminate a trooper for *inter alia* untruthfulness), quoting *School Comm. of Brockton v. Massachusetts Comm'n Against Discrimination*, 423 Mass. 7, 15 (1996). In any event, an official FBI investigative report is as reliable a piece of evidence as one could hope for in the face of a still-active criminal investigation. At bottom, it is only information about the Appellant's and the

bakery owner's suspected activities as participants in a drug trafficking ring that is truly vulnerable to a hearsay objection—and yet, at the end of the day, those allegations do not have a substantial bearing on the outcome of my recommended decision because I ground my recommendation principally on the Appellant's lack of honesty in other respects, as explained above.

That said, the Appellant's ongoing association with the bakery owner, established by a preponderance of direct and circumstantial evidence, suffices to sustain the additional charge under SPD Rule 29, § 39. By the Appellant's own admission, he had heard that the bakery owner was "involved in drugs". While it seems no inquiry on the record occurred into which specific drug(s) were at issue, I find it odd that such a rumor would sprout if it were in reference to any legal drug. In any event, the Appellant's testimony and prior statements about how long he had known the bakery owner were also inconsistent and unreliable. He stated that he "grew up across the street" from the bakery and knew the owner from those days. The Appellant, now 34 years old, turned 18 in 2007 (some 16 years before the FBI interview). He told the FBI agent that he had known the bakery owner for 14 or 15 years. But he then told Lt. Rosario two months later in a separate investigative interview that he had known Perez for "about ten years."

Other oddities abound, specifically the Appellant's putative complete lack of awareness surrounding certain things under his own roof. The Appellant claimed he did not know the last name of a man residing in his own home for at least three months (his sister's boyfriend "Yankee"). The Appellant also claimed to have no knowledge that his niece, also at the same time living under his roof, but later incarcerated on drug and home invasion charges, had engaged in illicit activities. Yet, the Appellant suddenly became

less guarded (or, more likely, slipped) when asked about packages of cocaine addressed to his home. On cross examination: “But you resided at 67 Streiber when the packages [of cocaine] were being delivered there, right?” The Appellant simply responded: “Yes.” The Appellant even confirmed that “[his niece] actually received, she had a package that was addressed to her at 67 Streiber, right?” These testimonial statements are, at best, noteworthy mental gaffes or, at worst, an admission that the Appellant did know that illicit activities were transpiring under his roof.

Where the Appellant’s conduct is concerned, the testimony of Lt. Rosario, Capt. Duda, and Ofc. Sanchez, by contrast, struck me as credible and compelling. Independent of the bakery owner’s conduct and the FBI report, the evidence reflects that at least one (and it can be inferred from Capt. Duda’s testimony and the Appellant’s own acceptance of the multi-package phrasing of counsel’s question that *more* than one) package of cocaine actually was delivered, or intercepted en route, to the Appellant’s residence at a time when his niece, the putative recipient, was living in Florida. Independent of the bakery owner’s conduct and the FBI report, the evidence shows that the Appellant conveyed a false narrative to Ofc. Sanchez in furtherance of an abuse of the DCJIS system to run a fictitious license plate for personal purposes. Independent of the bakery owner’s conduct and the FBI report, the evidence reveals a troubling propensity on the Appellant’s part to resort to untruthful narratives over even seemingly trivial matters: how long he has known someone, how often he has spoken to someone, whether he knows the name of someone living with him in his own home, when he moved, where he has been living, whether he followed SPD procedures. These inconsistencies in, or doubts about, the Appellant’s direct statements not only fall outside any hearsay

objection but suffice to sustain a termination on untruthfulness grounds.

In short, the SPD has proven multiple instances of untruthfulness that provide just cause for the Appellant's termination. The Appellant's own testimony under oath and related statements in formal investigative settings did not bear indicia of either accuracy or reliability. His hearsay objections fade into insignificance in the face of compelling evidence of his sustained lack of veracity.

CONCLUSION

For the above reasons, I recommend that the Commission affirm the decision of the City of Springfield to terminate Samuel Gomez-Gonzalez's employment as a police officer.

Civil Service Commission

/s/ Robert L. Quinan Jr., Esq.

Robert L. Quinan Jr., Esq.

General Counsel and assigned Presiding Officer

Date: April 12, 2024