

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

In the Matter of

James Festa

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Case No. 2024-001-S (PI-2023-11-16-002)

**SUSPENSION ORDER**

The Peace Officer Standards and Training Commission (“Commission”) hereby provides notice of the suspension of the law enforcement certification of Respondent James Festa, pursuant to M.G.L. c. 6E, § 9(a)(4) and 555 CMR 1.06(2).

On August 10, 2022,

On January 11, 2023, his certification was suspended by the Commission

the Respondent subsequently requested that the Commission revoke his mandatory suspension

On March 16, 2023, the Commission voted to revoke his suspension. On June 22, 2023, the Respondent’s misdemeanor case was dismissed for lack of prosecution. Id.

In November 2023, the Peabody Police Department (“PD”) notified the Commission of the results of an independent investigation it conducted into the allegations against the Respondent related to the August 2022 incident. The investigation resulted in 19 allegations of misconduct being sustained against the Respondent, including findings that he committed Breaking and Entering to Commit a Misdemeanor (Trespass) and violated various Peabody PD regulations and policies. Thus, the Commission finds by a preponderance of the evidence that suspension of the Respondent’s certification is warranted and is in the best interest of the safety and welfare of the public. M.G.L. c. 6E, § 9(a)(4); 555 CMR 1.06(2).

The Respondent’s suspension is effective immediately upon receipt of this letter by either the Respondent or the head of the Respondent’s law enforcement agency, whichever is earlier.<sup>1</sup> See M.G.L. c. 6E, § 10(e); 555 CMR 1.08(3). The Respondent and the agency must ensure that the Respondent surrenders, without delay, any agency-issued credentials and equipment that promote and support the performance of functions associated with service as a law enforcement officer, including but not limited to, any uniform, badge, firearm, assigned cruiser, and use-of force instruments, such as tasers.<sup>2</sup>

<sup>1</sup> According to information the Commission received from the Peabody PD, the Respondent resigned during the pendency of the internal investigation. See M.G.L. c. 6E, § 8(b)(4); 555 CMR 1.01(5).

<sup>2</sup> See M.G.L. c. 6E, § 3(a); 501 CMR 15.05(1), (2)(f)-(g).

Pursuant to M.G.L. c. 6E, § 9(a)(5), “[a] suspension order of the [C]ommission issued pursuant to [Section 9(a)(4)] shall continue in effect until issuance of the final decision of the [C]ommission or until revoked by the [C]ommission.” See 555 CMR 1.08(4).

By vote of the Commission on November 16, 2023.

Notice to: Daniel Fogarty, Esq. (Respondent’s Counsel)  
Timothy D. Hartnett, Esq. (Enforcement Counsel)  
Peabody Police Department (Agency)  
Collective Bargaining Unit

Date Issued: January 5, 2024

## **Notice of Right to a Suspension Hearing**

You may request a hearing before:

(1) The full Commission to revoke the suspension before the issuance of a final Commission decision. See M.G.L. c. 6E, § 9(a)(5).

- Requests are not subject to a time limit for filing. See generally M.G.L. c. 6E; 555 CMR 1.00.
- A suspension order shall continue in effect until issuance of the final decision of the full Commission or until revoked by the full Commission. See also 555 CMR 1.08(4).
- Appeals of the full Commission's decision are to the Superior Court. See M.G.L. c. 30A, § 14; 555 CMR 1.10.

(2) The Single Commissioner to stay the suspension. See M.G.L. c. 6E, § 9(d); 555 CMR 1.09(1).

- Absent a waiver, such a hearing would be held within 15 days of the effective date of the suspension.
- Requests must be filed no later than five days after the effective date of the suspension and may include a request for an extension of time or a waiver of the right to have the hearing heard by the Single Commissioner within 15 days. See 555 CMR 1.09(2) and (3).
- If the Single Commissioner determines by a preponderance of the evidence that the suspension is not warranted, that commissioner shall stay the suspension. See 555 CMR 1.09(6)(a).
- Appeals of the Single Commissioner's decision are to the Superior Court. See M.G.L. c. 30A, § 14; 555 CMR 1.09(6)(d).

If you wish to request a hearing, please email your request to [POSTCReview@mass.gov](mailto:POSTCReview@mass.gov), with a cc to [postcstandards@mass.gov](mailto:postcstandards@mass.gov), and include in the subject line your case name and number and type of hearing (full Commission or Single Commissioner). In your request, also include:

- (a) Your name;
- (b) Your employing agency as of the date of the Complaint (or Criminal Complaint/Indictment);
- (c) The head of the agency you identified in (b), above;
- (d) Your mailing and email addresses;
- (e) Your phone number;
- (f) If one has been assigned, your Commission identification number;
- (g) If applicable, your attorney/representative's name;
- (h) If applicable, your attorney/representative's email address and phone number;
- (i) A brief description of the basis for the request for the hearing; and
- (j) One of the following statements:

If this is an appeal to the Single Commissioner (stay of suspension):

- I invoke my right to a hearing within 15 days of the effective date of the suspension.
- I waive my right to a hearing within 15 days of the effective date of the suspension and consent to receiving a hearing after 15 days.

If this is an appeal to the full Commission (revocation of suspension):

- I would like to have a hearing before the full Commission at a date to be determined.

A request for a hearing is deemed filed on the date it is received by the Commission. After you have filed a timely request for a hearing, you will receive a notice from the Commission containing further information and instructions.