

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2019-095**

WILLIAM COY-GEESLIN

APPELLANT

**FINAL ORDER
SUSTAINING HEARING OFFICER'S
FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER AS ALTERED**

**JUSTICE AND PUBLIC SAFETY CABINET,
DEPARTMENT OF KENTUCKY STATE POLICE**

APPELLEE

*** **

The Board, at its regular April 2020 meeting, having considered the record, including the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer dated March 24, 2020. Appellant's exceptions, Appellee's response, and being duly advised.

IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer are altered as follows:

- A. **Delete** Finding of Fact paragraph 2 and substitute the following:
2. Prior to Appellant's termination, several of his coworkers reported to supervisors their own observations of Appellant's appearance and behavior:
 - David Sears and Shayla Overturf: Appellant frequently seen sleeping in his office;
 - Shayla Overturf: Observed Appellant had fallen asleep in his vehicle (which was not running) in the worksite parking lot while the outdoor temperature was in the teens; observed Appellant's absences from work, which had also become a matter of discussion among coworkers;
 - Meredith Bales: Observed Appellant exhibit tremors that became progressively worse over time (these tremors were also personally observed by Captain Rogers); observed Appellant's poor grooming and that he did not smell clean. On one occasion, she observed

Appellant come from his office cubicle carrying a shaving kit and looking "like hell."

- Paige Craig: Had concerns for Appellant's frequent absences and his well-being.

B. **Delete** Conclusion of Law paragraph 9 and substitute the following:

9. As Appellant has admitted the conduct described above that he had falsified his timesheets, the Hearing Officer gives less than credible consideration to Appellant's claim on this issue.

IT IS FURTHER ORDERED that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer, as Altered, are approved, adopted and incorporated herein by reference as a part of this Order, and Appellant's appeal is **DISMISSED**.

The parties shall take notice that this Order may be appealed to the Franklin Circuit Court in accordance with KRS 13B.140 and KRS 18A.100.

SO ORDERED this 22nd day of April, 2020.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK, SECRETARY

A copy hereof this day sent to:

Hon. Alea Amber Arnett
Hon. Michael D. Kalinyak
Lt. Col. Chad White

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2019-095**

WILLIAM COY-GEESLIN

APPELLANT

**VS. FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND RECOMMENDED ORDER**

**JUSTICE AND PUBLIC SAFETY CABINET,
DEPARTMENT OF KENTUCKY STATE POLICE**

APPELLEE

* * * * *

This matter came on for an evidentiary hearing on January 6, 2020, at 9:30 a.m., ET, at the office of the Kentucky Personnel Board, 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky, before the Hon. Roland P. Merkel, Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by KRS Chapter 18A.

The Appellant, William Coy-Geeslin, was present and represented by the Hon. Michael D. Kalinyak. The Appellee, Justice and Public Safety Cabinet, Department of Kentucky State Police, was present and represented by the Hon. Alea Amber Arnett. Also present as Agency representative was Ms. Honor Barker.

The issues on appeal were:

1. Whether or not there was just cause to dismiss the Appellant from his position as Internal Policy Analyst III with the Department of Kentucky State Police, Intelligence Branch, effective beginning of business March 12, 2019, and whether that penalty was excessive or erroneous. The burden of proof was on the Appellee to prove its position by a preponderance of the evidence.
2. Appellant had the burden to prove by a preponderance of the evidence that he did not receive an interim evaluation and that he was penalized by this action.

The rule separating witnesses was invoked and employed throughout the course of the hearing. It was made known that the deposition testimony of Dr. Jessica Fairchild had been secured prior to today's hearing and would be submitted by agreement of the parties as testimony offered on behalf of the Appellant. The parties stipulated that once the written deposition is available, it will be admitted into evidence as Appellant's Exhibit 1. The administrative record

will remain open following conclusion of the January 6, 2020 hearing, in order to receive the deposition transcript.

Mr. Kalinyak stated his client would like to present a short statement directly to counsel for the Kentucky State Police before witness testimony began. Counsel for the Appellee, Ms. Arnett, had no objection. Appellant made a short statement, which was not a part of the evidence or testimony in this matter.

The parties each presented their respective opening statements. In Appellant's opening statement, Mr. Kalinyak stated his client did not dispute the 18 incidents cited by the Kentucky State Police and did not deny the behavior identified in those incidents.

BACKGROUND

1. The first witness for the Appellee was **Kenneth Sandusky**. Lieutenant Sandusky has been employed by the Kentucky State Police (KSP) for about 12 and one-half years. He has served as the Commander of the Intelligence Branch since September 1, 2019. Prior to such time, he served as an Assistant Commander for the Kentucky State Police Central Region.

2. Appellant, William Coy-Geeslin, was an Internal Policy Analyst working under Sandusky. Appellant's duties included serving as a legal compliance liaison and training coordinator for the analysts in the Branch. Appellant is also a licensed Kentucky attorney.

3. It was brought to Sandusky's attention that Appellant had an issue with time and attendance. Captain Michael Rogers asked Sandusky to investigate when Appellant was in and out of the office and to monitor Appellant's timesheets. This matter arose when two or three other analysts had sought Appellant's assistance and could not find him in the office.

4. He identified Appellee's Exhibit 1 as a Memorandum dated February 12, 2019, from Captain Michael Rogers to Commissioner Sanders. Following his investigation, Sandusky authored pages four through five, which show Appellant's badge scans upon entry to the building and a comparison with Appellant's timesheets for the period of December 12, 2018, through January 31, 2019. Discrepancies were highlighted in red. It is noted on December 12, 2018, Appellant reported a full day of work, although he did not work seven and one-half hours. Sandusky had also been told by Captain Rogers that on January 16, 2019, Appellant arrived at the office and was involved in a work-related telephone call. The Captain saw Appellant then leave the office and get into his vehicle. Captain Rogers followed Appellant to his residence in Versailles. He saw Appellant pull into the garage and close the door. Appellant had reported on his timesheet he was at work the entire day.

5. He identified Appellee's Exhibit 2 as Appellant's timesheets for the pay periods of December 14, 2018, through January 31, 2019. These were the timesheets utilized by Sandusky in his investigation. At that time, Captain Rogers was Appellant's first-line supervisor who reviewed and approved three of the four timesheets. When Rogers was not available, Sandusky was authorized to review and approve timesheets. He did so in this instance for the pay period beginning December 16, 2018.

6. These four timesheets show what Appellant reported as his time at work. The timesheets were approved by a supervisor and sent up the chain. Some of the hours reported by Appellant are not correct.

7. A supervisor is charged with the duty to review each day reported on the timesheet and make sure it is complete and correct. Not all days approved in this exhibit were true and correct. Sandusky testified they did not change the Appellant's timesheets: "We purposely allowed mistakes because there was about a month during the investigation we wanted to figure out what exactly he was doing." The investigation started on December 12, 2018, at which time they began to physically observe Appellant's behavior through January 31, 2019.

8. Sandusky and Captain Rogers approved these timesheets knowing there was a discrepancy. "We decided to create an investigation to see exactly what he was doing. If he was doing things such as falsifying a timesheet, we wanted to see exactly what was going on." He admitted a supervisor's signature on a timesheet signifies "approval." When asked by the Hearing Officer whether he approved the hours on the timesheet knowing they were wrong, Sandusky replied, "That is correct."

9. On or about January 31, 2019, Sandusky and Rogers met with Appellant to present their findings. Appellant told them that his time away from the office first began with extended lunches because he was tired. It then progressed to going home to take a nap. At no time, either prior to the meeting or during, did Appellant ever mention any medical problems. Captain Rogers sent the findings to Human Resources.

10. He identified Appellee's Exhibit 3 as the Transaction Log of Appellant's badge scan entries for the period of December 12, 2018, through January 31, 2019. Appellant's workday was from 8 a.m. to 4:30 p.m.

11. He identified Appellee's Exhibit 4 as a printout of a report of the times Appellant logged onto and activated his computer. Sandusky found examples showing Appellant entered his office late in the day with no activity on his computer. He specifically noted the dates: December 18 and 27, 2018, as well as January 8 and 11, 2019.

12. As part of the February 12, 2019 Memorandum (Appellee's Exhibit 1), attached as the last page, there is a specific Contact/Counseling report issued by Stotts to Appellant dated February 9, 2018. On that date, other analysts saw Appellant sleeping in his car in the office parking lot with the engine turned off. It was very cold outside that day. Stotts and Sandusky went outside to see if Appellant was okay. They knocked on the window and Appellant woke up. Mr. Coy-Geeslin said he had a headache, went out during his break to get away from the office, and he accidentally fell asleep. Sandusky and Stotts returned to the building. Appellant never mentioned any medical problem or reference to alcoholism.

13. In examining the last sentence of the first page of that Memorandum (Appellee's Exhibit 1), Sandusky agreed with the statement, "In fact nearly every coworker of Coy-Geeslin has expressed displeasure about his work ethic and, at the same time, concern for his well-being." Sandusky could not give specific examples of this. He had not spoken with Appellant about these issues until after the investigation was completed. For purposes of the investigation, Captain Rogers had asked him to monitor Appellant's behavior going forward. Sandusky did not record or look into any days prior to December 12, 2018, which had been observed by Appellant's coworkers. The investigation arose due to complaints of Appellant's behavior that pre-dated December 12, 2018. His termination was based on behaviors from and after December 12, 2018.

14. The next witness was **Michael Rogers**. Rogers has been employed with the Kentucky State Police since June 2000. Since September 2019, he has been a Major in Special Enforcement. Prior to this assignment, for a period of one year, he was the Captain of the Intelligence Branch.

15. He had been Appellant's direct supervisor in the Intelligence Branch. He oversaw and assisted the investigation, compiled the findings, and relayed them to headquarters, including Human Resources. The investigation began due to employee complaints brought to his attention in mid-December 2018 about Appellant's attendance. Appellant's attendance was then tracked, and his absences verified and compared with the timesheet reporting. The investigation included the help of Lieutenant Sandusky.

16. He identified Appellee's Exhibit 1 as the Memorandum he wrote to the Commissioner following the investigation. It alleged Appellant fraudulently claimed time for working when he did not work, and that he left his computer on, exposing it to possible unauthorized access. In addition, he failed to obtain approval for leave.

17. On January 16, 2019, Rogers saw Appellant leave the building. He followed Appellant in a separate vehicle, then saw him enter the garage of his residence and close the door.

18. He had concluded that a lot of employees were upset by the Appellant's behavior and that such behavior "created a hostile work environment." On January 31, 2019, he met with the Appellant and presented the findings of the investigation. Appellant was "agreeable overall to the findings" and stated he had some sleep problems. The sleep problems started as a long lunch and progressed to the current behaviors. Appellant was advised the matter would be written up and sent on for disciplinary action. Appellant did not deny any of the actions that had been observed.

19. When asked why the investigation had not looked into incidents that occurred prior to December 12, 2018, Rogers stated, "Because it was what I could prove." He stated he could not prove the prior things that were brought to his attention. However, the badge login records and computer logon records generated prior to December 12, 2018, were available. The witness explained that post-December 12, 2018 records were used because they "allowed us to physically see him in the building." Rogers stated they could see when he left the building and stayed away for substantial amounts of time. Activities prior to December 12, 2018, were not considered. "I could not prove that he was not at his workstation." Rogers did not ask the coworkers who brought the complaints to document what they had observed, as "that would have been hearsay information." Captain Rogers admitted the investigation had begun based on this same "hearsay information."

20. Captain Rogers testified that he had no reason to believe at that time that Appellant suffered from alcoholism. Appellant never mentioned he had any problems related to alcohol.

21. He identified Appellant's Exhibit 2 as a February 5, 2019 email he had sent to Beth Roark in Human Resources. It was accompanied by a draft of his investigative findings requesting major disciplinary action against Appellant. He believed the complaints made by the coworkers had been substantiated. Once he received the complaints, he had not spoken with Appellant until the investigation concluded. The witness concluded that Appellant engaged in a fraudulent use of time for personal gain, which was an egregious offense.

22. When asked whether he had a duty to talk to or counsel an employee when such an employee was accused of creating a hostile or toxic work environment in order to stop that activity, he responded, "No, I do not think so." He also "somewhat" allowed the employee to continue misrepresenting time for about 45 days while the investigation was ongoing.

23. He examined Appellant's Exhibit 3, Appellant's 2017 Annual Employee Performance Evaluation. He agreed that on page three, under the duties of Attendance, Punctuality, Dependability/Responsibility, and Career Development, Appellant had been given scores of five in each category, which meant his activities "Greatly exceeds expectations" and that these constituted perfect scores in those areas. On January 24, 2018, Appellant was assigned

a total score of 410, which was in the "Highly Effective" category. He also read into evidence the comments appearing on page five, from the Mid-Year Interim Review Meeting for the period of January 1, 2017, through June 30, 2017, as it pertained to Attendance, Punctuality, Dependability/Responsibility, and Career Development.

24. He identified Appellant's Exhibit 4 as Appellant's 2018 Annual Employee Performance Evaluation, which had been written by the witness. Rogers was Appellant's supervisor from September 4 through the end of the year. He gave Appellant scores of one or two, with a few exceptions, throughout the evaluation, showing that Appellant was "not a very good employee." The results of the investigation had played a role in his evaluation.

25. He acknowledged Appellant did not receive a 2018 Mid-Year Interim Review. He acknowledged that on the last page of the Year-End Interim Review (February 4, 2019), those remarks showed Appellant exhibited a drastic negative change in the areas of Attendance, Punctuality, and Dependability/Responsibility. These comments and the overall annual rating were based on the witness's observations of Appellant from December 12 through 31, 2018. He testified he would have had no reason to doubt Appellant was in attendance at work the prior 50 weeks of that year.

26. Appellant's behavior regarding time and attendance had improved following the January 31, 2019 meeting.

27. He identified Appellant's Exhibit 5 as Kentucky State Police General Order AM-E-5, Disciplinary System: Chapter 18A Personnel. The policy included procedures "...to ensure supervisory compliance with their role in addressing these standards of conduct." Although he acknowledged counseling and early intervention in employee behavior are important, he chose not to do so in this instance. This situation, an intentional and false claim of time on timesheets, was an egregious act.

28. He identified Appellant's Exhibit 6 as Kentucky State Police General Order AM-I-1, Employee Assistance Program & Chaplain Services. This policy did not mandate that Appellant be referred to KEAP and the witness did not direct that be done. Supervisors cannot make an employee cooperate once directed to the program.

29. He identified Appellant's Exhibit 7 as the Appellant's timesheets for the period of January 1, 2018, through November 30, 2018.

30. With reference to Appellee's Exhibit 2, Captain Rogers agreed that, as supervisor, he had approved Appellant's timesheets for the time periods beginning December 1, 2018, January 1 and January 16, 2019. By signing the timesheets, he certified the format was correct and then sent it on to Human Resources. At the time he approved each timesheet, he had

knowledge that Appellant's time, as reported by Appellant, was incorrect. "I had to do that in order to not hinder the investigation." By presenting the timesheets, it represented to Human Resources that this employee should be paid in accordance with the time recorded thereon. He assumed Human Resources then approved payment in accordance with the timesheets.

31. When asked whose responsibility it was to report that a timesheet is wrong before an employee gets paid for that time period, he testified, "I will take the assumption that it would be me." He believed Appellant, by reporting in this manner repetitively, showed intent on his part rather than accidental reporting for a single timesheet. When asked how many instances of intent would have been sufficient to issue a request for major disciplinary action, Captain Rogers testified that it was done at the proper time.

32. He testified he had no reason to suspect Appellant had problems. Appellant displayed no physical characteristics and never mentioned he had a problem. This was an employee who had been employed by the Kentucky State Police a substantial amount of time, was aware of time recording requirements, and that there were avenues of help available to him, if needed. He never gave any indication to the witness of any type of problem. The first time Rogers heard of the alcoholism was after Appellant's termination.

33. Once Rogers recommended issuance of major disciplinary action, he had no further involvement in the discipline.

34. The next witness was **Meredith Bales**. Ms. Bales has been employed by the Kentucky State Police since 2010 and has served as a Criminal Intelligence Analyst II since 2011. She has worked with the Appellant all throughout her own employment. The last office she worked in with Appellant was in a large room. Appellant had a cubicle in the corner, while the rest of the employees were out in the open throughout the room. She usually had daily contact with Appellant and admitted to a cordial relationship.

35. She is familiar with the signs of alcoholism as she lives with an alcoholic. Such a person is very hard to get along with. They are confrontational, lazy, and do not get things done. Their words are usually slurred and they have a poor physical appearance.

36. She would never have guessed that Appellant was alcohol-dependent. She was not certain at the time what Appellant's issue was, but knew he had some personal issues. Towards the end of his employment, Appellant was not how she knew him to have been. Over time he did not seem to care as much, particularly in his personal grooming. He appeared tired and was frequently shaky. He was not as vocal or active as he had once been.

37. On a couple of occasions she had to text Appellant, as no one knew where he was. She mentioned such episodes once or twice to her supervisors. She did not know what was going

on. "He did not smell great, did not smell clean" within the last two years. She observed he had been away from his desk for extended periods of time. Appellant used a treadmill in the office and often hung his gym clothes there.

38. She testified the work environment was fine. All the employees seemed to get along pretty well. "It has been one of the better working environments I have been in." It was not a toxic work environment. Appellant did not disturb the work environment. She did not know if any other employees would have felt it was a bad environment. Appellant was generally liked among his coworkers.

39. **Shayla Overturf** was the next witness. Ms. Overturf has been employed for 13 years by the Kentucky State Police in the Intelligence Branch as a Criminal Intelligence Analyst. She has worked with the Appellant since January 2012 and had sporadic interaction with him. They worked together in one large room.

40. She observed Appellant absent from the office for long periods of time. She knew he had back problems. At times she was concerned by his absences. In February 2018, she and a coworker walked outside the building around the parking lot. They saw Appellant asleep in his car. She was concerned and feared for his safety, as it was very cold outside and his car was not running. She and the coworker went back inside and reported this to a supervisor.

41. She never observed Appellant's behavior to be that of an alcoholic. Furthermore, she testified it was not a bad work environment. It was neither hostile nor toxic. Everyone could get their work done and generally got along. She never saw anyone complain about Appellant's work ethic. His absences were discussed among coworkers because of their common concern for him.

42. The next witness was **Honor Barker**. Ms. Barker has been employed by the Kentucky State Police for approximately two and one half years. Since July 2019, she has held the position of Executive Advisor to the Commissioner. Prior to that date, she held an interim Human Resources position in an advisory capacity and as a Staff Assistant. She was in a Human Resources staff support role at the time of the incidents discussed in this appeal. Beth Roark was the Human Resources Branch Manager at the time.

43. She identified Appellee's Exhibit 5 as the February 19, 2019 Notice of Intent to Dismiss letter addressed to William Coy-Geeslin. The Commissioner had decided this was the appropriate step to take after examining the results of the investigation. Ms. Barker and Ms. Roark drafted this letter, which had been sent to the Commissioner for his final approval and signature.

44. Appellant requested, but did not attend, a pre-termination hearing. The Commissioner did respond, however, to the letter Appellant sent in response to the Notice of Intent to Dismiss.

45. She identified Appellee's Exhibit 6 as the March 11, 2019 Dismissal Letter issued to Appellant, advising him he was officially dismissed from duty and pay effective beginning of business March 12, 2019. This letter had been drafted by the witness.

46. She identified Appellee's Exhibit 7 as the statutory language found in KRS 18A.145. In particular, Section 4 of that statute was relied on in this termination matter, which states:

No person shall make any false statement, record, or report regarding hours, days, or other time worked by any employee. No person shall falsely prepare any payroll document or record relating to the pay for any employee.

47. She identified Appellee's Exhibit 8 as Kentucky State Police General Order AM-B-1, Code of Ethics, Agency Vision, Mission and Goals. This Code of Ethics was applicable to all KSP personnel. Appellant's acts constituted an ethical violation that adversely affected the Agency.

48. She identified Appellee's Exhibit 9 as Kentucky State Police General Order AM-E-5, Disciplinary System: Chapter 18A Personnel. This was also applicable to Appellant's situation, particularly due to the policy statement contained therein. Employees are expected to perform to the high standards of the Agency.

49. She identified Appellee's Exhibit 10 as two documents acknowledging: (1) Appellant's completion of the Accurate Time Reporting course on or about October 29, 2015, and (2) his understanding and access to Kentucky State Police Confidential and Sensitive Information, signed April 19, 2010.

50. She identified Appellee's Exhibit 11 as the February 20, 2019 letter to the Appellant advising him that he was being placed on administrative leave with pay until the Kentucky State Police's final action.

51. She identified Appellee's Exhibit 12 as a letter from the Appellant, dated February 27, 2019, addressed to Beth Roark, requesting a pre-termination hearing.

52. Instead of attending a pre-termination hearing, Appellant unilaterally decided to present a written statement and forego personal attendance. She identified Appellee's Exhibit 13

as the March 6, 2019 written statement submitted by the Appellant. If an employee does not attend a requested hearing, the hearing would be deemed waived. In this case, however, the Commissioner did respond to the written statement submitted by the Appellant.

53. In none of the Appellant's responses had he ever indicated he had an alcohol problem. In reviewing the type of discipline handed out for such behaviors, Ms. Barker noted the Agency had two previous incidents of time record falsification by other employees and, in both situations, the employees were terminated. The decision for termination in Appellant's case was based on the facts as well as the past discipline issued by the Agency for similar offenses. She recommended termination. The Agency was not provided any mitigating factors by the Appellant or by others. Furthermore, Appellant fully admitted to commission of these acts to his supervisors.

54. She and Beth Roark had telephone conversations with Captain Rogers where Roark expressed reservations of a timesheet being signed and approved by a supervisor, knowing that the reporting on that document was incorrect. The money was paid to the Appellant per the false timesheets. She, Beth Roark, Captain Rogers, and Lt. Sandusky, by the time of submission of the last timesheet, were aware that timesheet was false. Roark told Rogers this was not normally done, but understood it was a short-term investigation. She told them at the time she wanted to make sure that those records were corrected immediately after the investigation. However, that did not happen. These records still need to be corrected and updated. The system will create a "retro-owed debt" on the account. It should have been taken from any last payout made to the Appellant. When Appellant was on administrative leave, he was paid in full for a full day's pay each day he was on leave. If this termination is upheld, the monies owed remain on the record to be recovered against the Appellant if at any time in the future he is employed again by state government. If he does not obtain such employment, the state has a process to write off the claim.

55. She did not recommend progressive discipline less than termination as termination was consistent with past cases involving the Kentucky State Police. Intentional falsification of time records, particularly when admitted by the offender, constitutes theft. That is not something that one attempts to correct. It is an act that is clearly wrong.

56. The failure to have given Appellant a 2018 mid-year evaluation should not have occurred. However, Appellant's acts were not a performance issue that would have been evaluated. No reasonable person could say it was okay to claim time when they did not work for it. The evaluation would not have prevented it.

57. Appellant's Exhibit 8, Appellant's timesheets for the pay periods beginning February 1, 16, and March 1, 2019, were admitted by stipulation of the parties. Appellee rested its case.

58. The first witness for the Appellant was **Bradly Stotts**. Since September 2018, Stotts has been employed by the Kentucky State Police in the rank of Captain and Commander of Post 15. He previously held the rank of Lieutenant when he was the Intelligence Branch Commander from September 2016 through September 2018 and was, at that time, Appellant's first-line supervisor.

59. With reference to Appellant's Exhibit 3 (2017 Annual Employee Performance Evaluation), Captain Stotts had prepared this for the Appellant. He recorded Appellant's overall score to be "Highly Effective." Appellant's performance in 2017 was positive.

60. For the period of his supervision during 2018 up through September 1, Captain Stotts noted a couple of interactions with the Appellant. He had counseled him about having slept in his vehicle in February 2018. Otherwise his day-to-day performance was fine.

61. He acknowledged a responsibility to have prepared an Interim evaluation for the Appellant for the first half of 2018. He had conducted all Interim evaluations for all of his immediate subordinate staff, with the exception of the Appellant. During the last week of July when such Interims were performed, Appellant was off from work. Captain Stotts then was promoted and went through preparation for transfer the following month. He stated that the failure to give that Interim evaluation to the Appellant was his own oversight due to all the transitional matters in which he had engaged. Had he written such an Interim evaluation, it would have been mostly positive, with the exception of the February incident, for which he had previously counseled Appellant. At the time, he found it odd that an employee would sleep during work hours in their car, particularly in the cold weather. When he went outside and woke Appellant up, he (Appellant) appeared to be "pretty coherent."

62. He identified Appellant's Exhibit 9 as a desk note he authored on June 30, 2017. David Sears and Shayla Overturf had reported seeing Appellant asleep on the job. When Captain Stotts spoke to Appellant, Coy-Geeslin told him he had sleeping issues and problems falling asleep. He was advised that sleeping at work was not acceptable. Appellant acknowledged that and promised it would never happen again. At that time, Captain Stotts believed Appellant to have sleeping and back problems, and that Appellant had been very open and forthcoming with him.

63. In July 2017, Lieutenant Larry Newton said he had complaints from his own employees about Appellant's body odor. It was particularly prominent around the lunch hour when Appellant worked out on the treadmill. Captain Stotts spoke to Appellant about this, and Appellant said he had been unaware of the issue. Appellant said he would remedy that and the issue was never again discussed.

64. Nothing Captain Stotts observed of the Appellant indicated Appellant had any problems or issues whatsoever with alcohol or that he was alcohol-dependent.

65. Appellant's Exhibit 10, Annual Employee Performance Evaluations of the Appellant for 2010 through 2016, was admitted by stipulation of the parties.

66. The final witness for the Appellant was the **Appellant, William Coy-Geeslin**. He summarized the history of his jobs while employed at the Kentucky State Police and as an Internal Policy Analyst III. From 2010 through 2019, he had served under several supervisors, the last being Major Rogers. Prior to Major Rogers' supervision, Appellant believed his work had been very good as reflected in his past evaluations.

67. Appellant had a sleep study performed, as a result of problems falling and staying asleep. Following the study, he was prescribed Ambien.

68. In the summer of 2017, he was in denial that he was an alcoholic. No doctor had told him that he was such. He had no reason to believe the sleep problems were related to alcoholism. He had been drinking himself to blackout to fall asleep each night for several years. Over the period of six to seven years, his drinking evolved from occasional binge drinking to drinking to blackout. He never drank or was intoxicated during the day or at work.

69. He experienced tremors, which got worse with time. He experienced tremors at work. It affected his ability to type. He did not know at the time that it was his body telling him he needed alcohol. When others saw his tremors, he told them he just had too much coffee that day.

70. Early in 2019, Appellant started seeing Dr. Jessica Fairchild. He was concerned about his tremors and worried that it was neurologically-based.

71. As he reported to work each day, he felt the adverse effects of his drinking the night before. In February 2018, he came to the office, checked in, and sought out anyone who needed his help. Thereafter, he was so miserable, he went home at lunch to take a nap.

72. On January 31, 2019, he had a meeting with Rogers and Sandusky. He did not know at that time that he was an alcoholic or that he had alcohol-related problems. Prior to this meeting, he had no reason to believe he had done a bad job. In his mind, he believed he was a good employee.

73. On February 19, 2019, he received the Notice of Intent to Dismiss. At that point he had not yet admitted nor had he known that he was an alcoholic. He was placed on

administrative leave with pay. From that point, his alcoholism “ratcheted up.” He drank more and started drinking during the day.¹

74. Appellant was aware that the Kentucky Employees Assistance Program (KEAP) and FMLA had been available to him. However, he did not use either as he did not believe at that time he was an alcoholic.

75. The deposition of **Dr. Jessica Fairchild** was taken by agreement of the parties on January 3, 2020. At the evidentiary hearing, it was agreed the transcript of the deposition, with exhibit attachments, would be admitted and made a part of the administrative record as Appellant’s Exhibit 1. Dr. Fairchild was called as a witness for Appellant.

76. Dr. Jessica Fairchild is a trained chemical engineer, having received her degree from the University of Kentucky. She attended an osteopathic school in Eastern Kentucky (now Pikeville College School of Osteopathic Medicine). She served an internal medicine residency with specific focus on primary care, at the University of Kentucky. Her current medical practice is affiliated with Saint Joseph’s main hospital in Lexington, Kentucky.

77. Appellant established a doctor-patient relationship with her in early 2015. Up until 2019, her questions to Appellant regarding alcohol use were “just general annual medical questions.” She initially saw a “pattern of behavior...that I was not very fond of...and counseled against.” It was not necessarily too often, but “certainly too much.” Alcohol abuse is defined as “too much, too often.” Over the course of the next few years, Appellant started to describe his alcohol consumption as “not just too often...or too much, but then too often, and so there was certainly an evolution over those first few years.”

78. He came to see Dr. Fairchild in 2019 after not having seen her for a year. She noticed he exhibited “fairly consistent” tremors. She saw this as “asterixis,” associated with too much alcohol or dependence on alcohol. Appellant mentioned he could no longer legibly write his name; he had, at one point, dropped his keys and could not physically pick them up “because he was shaking so aggressively.” She did not know if, at that time, Appellant associated the tremors with alcohol.

79. At that meeting, Appellant mentioned being concerned about his family history of Huntington’s disease. Dr. Fairchild reassured him his tremors did not look to be neurologic. She told him he may need to see someone in Neurology. She was also concerned about alcohol

¹ Appellant’s counsel began to ask questions of events that occurred after Appellant’s termination from employment. After hearing arguments of counsel, the Hearing Officer ruled that such matters, occurring subsequent to the dismissal of Appellant, were not relevant and could not be presented in testimony. Appellant’s attorney requested, and was granted, the ability to present that evidence in an avowal following conclusion of formal testimony on that day.

usage. Because of that, more blood work was needed. “Unfortunately, he never got that blood work.”

80. Appellant did have blood work performed at a subsequent hospital admission. He had shown several signs of alcohol use disorder, alcohol dependence, and alcoholism.

81. Dr. Fairchild stated that medical literature shows alcoholism may affect the body in the following manners: confabulations, the patient lies; depression, anxiety, and an abnormal sleep pattern; it affects speech, particularly through tremors; inner irreversible nerve damage; and eventually the patient may exhibit trouble walking, as one becomes “ataxic” and cannot walk a straight line.

82. With regard to the tremors Appellant exhibited in early 2019, one would not expect to see that manifestation until the later stages of alcoholism. There are two options available to stop the tremors: (1) have a drink of alcohol; or (2) take medicine that mimics the action of alcohol on the brain. Such medicines include valium, clonazepam, and alprazolam (Xanax).

83. In 1956, the American Medical Association classified alcoholism as a disease. It is both physical and mental. It is an inability to control one’s drinking, secondary to a physical or emotional dependence on alcohol.

84. One evening while Dr. Fairchild was on call, she received a telephone call from Appellant’s former wife. She related that Appellant’s drinking was out of control, and he threatened to take his own life. The doctor discussed actionable options with her. Appellant ended up going to Good Samaritan Hospital and was placed on a 72-hour hold.

85. She identified a document, marked as Exhibit A, as the ED (Emergency Department) Triage Note GSH dated March 25, 2019. It shows Appellant upon arrival was drunk and having suicidal thoughts.

86. She identified the document identified as Exhibit B as a discharge note issued by the UK Chandler Medical Center. Appellant had spent his first 72 hours in hold, withdrawing and being treated for alcohol withdrawal. He was then transitioned to a 28-day stay at Hope Valley in North Carolina, a residential alcohol treatment facility. A social worker had recommended Appellant participate in the program at Hope Valley for residential treatment and then follow-up with Dr. Fairchild. After his residential treatment, Appellant did visit Dr. Fairchild.

87. During Appellant’s visit with the doctor in early 2019, she worked on a differential diagnosis. He did not express, at that time, that alcohol had been affecting his ability

to work, nor had he sought out or requested accommodations under the Americans with Disabilities Act (ADA) or Family Medical Leave Act (FMLA). He had not come in that evening seeking treatment for alcoholism.

88. Dr. Fairchild felt absolutely that it is a significant moment in the treatment of a person with alcohol use disorder to admit they have a problem. Without acknowledging something exists, "you absolutely cannot seek help and start the process to healing, to recovery."

FINDINGS OF FACT

1. The Appellant, William Coy-Geeslin, at the time of his termination from employment, was a classified employee with status. He had been employed as an Internal Policy Analyst III with the Department of Kentucky State Police, in the Intelligence Branch, until his termination on March 12, 2019. He was and is a Kentucky licensed attorney.

2. Prior to Appellant's termination, several of his coworkers reported to supervisors their own observations of Appellant's appearance and behavior:

- David Sears and Shayla Overturf: Appellant frequently seen sleeping in his office;
- Shayla Overturf: Observed Appellant had fallen asleep in his vehicle (which was not running) in the worksite parking lot while the outdoor temperature was in the teens; observed Appellant's absences from work, which had also become a matter of discussion among coworkers;
- Meredith Bales: Observed Appellant exhibit tremors that became progressively worse over time (these tremors were also personally observed by Captain Rogers); observed Appellant's poor grooming and that he did not smell clean. On one occasion, she observed Appellant come from his office cubicle carrying a shaving kit and looking "like hell."
- Paige Craige: Had concerns for Appellant's frequent absences and his well-being.

3. Both Captain Rogers and Lieutenant Sandusky had training, background, and experience dealing with intoxicated persons.

4. Appellant was issued regular Annual Employee Performance Evaluations for the years 2010, 2011, 2012, 2013, 2014, 2015, 2016 (Appellant's Exhibit 10), 2017 (Appellant's Exhibit 3), and 2018 (Appellant's Exhibit 4).

5. On Appellant's 2017 Annual Employee Performance Evaluation, completed on January 24, 2018, he was awarded a score of 410 (Highly Effective). He received the highest scores possible under the categories of Attendance, Punctuality, Dependability/Responsibility, and Career Development. (Appellant's Exhibit 3.)

6. Appellant was issued regular mid-year Interim Reviews for January through June for the years 2010, 2011, 2012, 2013, 2014, 2015, 2016 (Appellant's Exhibit 10), and 2017 (Appellant's Exhibit 3).

7. In the Interim Review for the period of January 1 through June 30, 2017, issued July 31, 2017, Captain Stotts wrote:

Will uses leave time sparingly and is very reliable in his attendance. With the exception of emergencies, he always requests leave well in advance of the dates needed.

Will is rarely late for work and always completes his shift. If there are circumstances which prevent him from arriving at work on time, he always notifies the Branch of these circumstances and the time when he expects to arrive.

Will is very dependable and willingly accepts and completes a variety of assignments with little need for follow-up on the part of supervision. (Appellant's Exhibit 3.)

8. No mid-year Interim Review was conducted for Appellant for the period of January through June 2018. (Appellant's Exhibit 4.) Captain Stotts, whose responsibility it was to perform that Interim Review, failed to do so as:

- (a) Appellant was off from work the last week of July; and
- (b) Stotts was promoted and required to attend to matters pertaining to his transition. He testified that had he timely written such an Interim Review, he would have cited a "mostly positive" evaluation, with the exception of the February 2018 incident, for

which he had previously counseled Appellant. (Testimony of Bradley Stotts.)

9. On February 9, 2018, Appellant, during the workday, went out to his car in the office parking lot and fell asleep. It was a cold day, with temperatures in the teens, when two coworkers walking in the lot noticed Appellant asleep and his car not running. The coworkers notified Sandusky.

10. Sandusky and Stotts went outside and woke the Appellant. Appellant advised he had sleeping issues and problems falling asleep at night. Appellant was coherent and returned to the building.

11. Stotts issued a specific Contact/Counseling report that day, setting out the events and the counseling conducted with the Appellant (Appellee's Exhibit 1, page 6). The report indicates that Stotts accepted Appellant's explanation he had been suffering a headache, took over-the-counter medication prior to his break, and accidentally fell asleep in his vehicle.

12. In December 2018, two of Appellant's coworkers reported to Captain Michael Rogers, Appellant's direct supervisor, observations concerning Appellant's attendance at work. Captain Rogers directed Lt. Sandusky to conduct an investigation.

13. The investigation was conducted from December 14, 2018, through January 31, 2019. During that time, Lt. Sandusky examined and compared Appellant's submitted timesheets (Appellee's Exhibit 2) with a Transaction Log of Appellant's badge scan entries at work (Appellee's Exhibit 3) and the report of Appellant's computer logon activity (Appellee's Exhibit 4) for the same time period. Lt. Sandusky found no less than 19 days that constituted discrepancies in Appellant's timesheet reports. These findings were made a part of Captain Rogers' February 12, 2019 Memorandum (Appellee's Exhibit 1, pages 4-5).

14. On January 16, 2019, Captain Rogers saw Appellant leave the worksite building. He followed Appellant in a separate vehicle and observed Appellant drive home, into his garage, and close the garage door. Records reflect Appellant came to the office at 8:00 a.m. and logged on to his computer; he left the office at 9:00 a.m. with his computer unsecured; and then returned to the office at 12:45 p.m. (Appellee's Exhibit 1.) Appellant reported he had worked 7.5 hours that day (Appellee's Exhibit 2).

15. During the investigative time period, Appellant submitted his signed timesheets, claiming more hours worked than hours he actually worked. Three of these timesheets had been signed and approved by Captain Rogers and one timesheet had been signed and approved by then-Sergeant Kenny Sandusky (Appellee's Exhibit 2).

16. When a supervisor signs a subordinate's timesheet, he certifies the format and that the time recorded by the employee is correct. It is that supervisor's duty to report when a timesheet is false or incorrect.

17. Captain Rogers was aware at the time he signed each of the three timesheets that the time reported by Appellant was false or incorrect.

18. Lieutenant Sandusky was aware at the time he signed the one timesheet that the time reported by Appellant was false or incorrect.

19. Neither Sandusky nor Rogers made any changes to the timesheets. They "purposely allowed mistakes" for about a month to document Appellant's false reporting (Testimony of Kenneth Sandusky). The timesheets were sent to Human Resources and Appellant was paid in full for all the time he recorded thereon.

20. On January 31, 2019, Sandusky and Rogers met with Appellant to discuss their findings with him. At no time at or prior to this meeting had Appellant ever mentioned any medical problems (other than sleep or back problems) or alcohol dependence issues, nor had he inquired of or requested accommodations, Family Medical Leave, or referral to the Kentucky Employee's Assistance Program. Appellant told them his problems were sleep-related. Appellant did not dispute their findings.

21. Captain Rogers sent the investigation findings and a February 12, 2019 Memorandum to Commissioner Sanders to Human Resources (Appellee's Exhibit 1). He requested issuance of Major Disciplinary Action.

22. An Intent to Dismiss letter of February 19, 2019, was issued to Appellant by Commissioner Richard W. Sanders (Appellee's Exhibit 5). The letter also advised Appellant of his right to request a pre-termination hearing.

23. The Commissioner also issued a February 20, 2019 letter to Appellant, advising Coy-Geeslin he was placed on Administrative Leave with Pay until the final action of the Kentucky State Police (Appellee's Exhibit 11). Appellant was paid a full days' wages for each workday he was on administrative leave.

24. Appellant completed and returned his Pre-Termination Hearing Request form with a cover letter, both dated February 27, 2019 (Appellee's Exhibit 12).

25. On March 6, 2019, Appellant decided to submit a letter "in lieu of appearing in person." Such letter did not directly address the allegations of the Intent to Dismiss letter (Appellee's Exhibit 13).

26. On March 11, 2019, Commissioner Sanders issued a letter to Appellant notifying him that he was dismissed from duty and pay effective beginning of business March 12, 2019. Dismissal was based on 101 KAR 1:345, Section 1, lack of good behavior and unsatisfactory performance of duties, and for direct violation of KRS 18A.145(4): "No person shall make any false statement, record, or report regarding hours, days, or other time worked by any employee." Included were 21 cited instances of false reporting of time by the Appellant for the period between January 12, 2018, and January 31, 2019 (Appellee's Exhibit 6). Appellant has not contested the occurrence of these 21 incidents. In his opening statement, Appellant's counsel stated his client did not dispute the "18 incidents" cited by the Kentucky State Police and did not deny the behavior identified in these incidents.

27. The dismissal letter cited the following as having been violated by Appellant's acts:

- KRS 18A.145(4);
- Kentucky State Police General Order AM-B-1, Code of Ethics;
- Kentucky State Police General Order AM-E-5, Disciplinary System.

28. During the time of all alleged events and conduct of Appellant, the following were in full force and effect:

- KRS 18A.145(4) (Appellee's Exhibit 7);
- Kentucky State Police General Order AM-B-1, Code of Ethics (Appellee's Exhibit 8);
- Kentucky State Police General Order AM-E-5, Disciplinary System (Appellee's Exhibit 9 and Appellant's Exhibit 5); as well as
- Kentucky State Police General Order AM-I-1, Employee Assistance Program & Chaplin Services (Appellant's Exhibit 6).

29. Appellant did not acknowledge he was alcohol-dependent or had problems with alcohol until after he was terminated from employment. His testimony, however, made it quite clear he was very much aware prior to his termination of his increasing alcohol intake over time to the point of drinking "to blackout" or pass out to get to sleep at night. He never advised his coworkers or supervisors of his pre-termination alcohol consumption or episodes of passing out at night.

30. There is a lack of a preponderance of evidence to show that the failure to issue Appellant an Interim Review for the period of January through June 2018 resulted in a penalization against Appellant.

CONCLUSIONS OF LAW

1. A classified employee with status shall not be dismissed...or otherwise penalized except for cause. KRS 18A.095(1). Appointing Authorities may discipline employees for lack of good behavior or the unsatisfactory performance of duties. 101 KAR 1:345, Section 1. At the time of his termination from employment, Appellant, William Coy-Geeslin, was a classified employee with status.

2. Appellant, as an employee of Appellee, Justice and Public Safety Cabinet, Department of Kentucky State Police, was subject to and charged with knowledge of Kentucky State Police General Order AM-B-1, Code of Ethics (Appellee's Exhibit 8) and Kentucky State Police General Order AM-E-5, Disciplinary System (Appellee's Exhibit 9). Such policies were in full force and effect at all times during the events described herein.

3. The March 11, 2019 termination letter also cited lack of good behavior as a ground for termination (Appellee's Exhibit 6).

4. As stated in KRS 13B.090(7):

...the agency has the burden to show the propriety of a penalty imposed or the removal of a benefit previously granted. The party asserting an affirmative defense has the burden to establish that defense. The party with the burden of proof on any issue has the burden of going forward and the ultimate burden of persuasion as to that issue. The ultimate burden of persuasion in all administrative hearings is met by preponderance of evidence in the record.

5. "Preponderance of evidence" means: "... evidence which, as a whole, shows that the facts sought to be proved is more probable than not. With respect to burden of proof in civil actions, means greater weight of evidence, or evidence that is more credible and convincing to the mind." Black's Law Dictionary, 5th Ed., p. 1064. Failure to meet the burden of proof is grounds for a recommended order from the hearing officer. KRS 13B.090(7).

6. Appellant, prior to his termination, was aware:

- In the summer of 2017, he had problems falling asleep. He was prescribed Ambien. He had been drinking himself to blackout to fall asleep each night for approximately six to seven years.
- “Drinking myself to sleep was the only thing that mattered.” (Testimony of Appellant, 03:58:55).
- Appellant experienced hand tremors that worsened to the point he could no longer legibly write his name and he experienced difficulty typing and grasping items.
- His drinking had evolved from occasional binge drinking to drinking to blackout.
- He was counseled by Stotts on June 30, 2017, about sleeping in his office (Appellant’s Exhibit 9).
- Although there is no evidence he was ever intoxicated at work, Appellant testified he felt the adverse effects of his nightly drinking each following day at work. In February 2018, there was a day he felt so miserable that he went home at lunch to take a nap.

7. Appellant did not deny the incidents cited in his termination letter.

8. Appellant testified he had received high marks on his Annual Employee Performance Evaluations, and his Time and Attendance marks were often “perfect scores,” having been awarded the highest scores possible in those categories. He testified this led him to believe he was at all times a very good employee. He has contended that the failure to indicate any employment problems, coupled with the failure to provide him an Interim Evaluation for the first half of 2018, resulted in a penalization by not, prior to termination, advising him a problem existed.

9. As Appellant has admitted the conduct described above in paragraphs four and five, and that he had falsified his timesheets, the Hearing Officer gives less than credible consideration to Appellant’s claim on this issue.

10. A “penalization” includes, but is not limited to, dismissal as well as any action that diminishes the level, rank, discretion, or responsibility of an employee without proper cause, and the abridgement or denial of other rights granted to state employees. KRS 18A.005(24).

11. Appellant has failed to prove by a preponderance of the evidence that the failure to issue an Interim Review for the period of January through June 2018 resulted in a penalization against him.

12. The investigation conducted by Captain Rogers was begun based on his having received in mid-December 2018 "...numerous complaints from this individual's coworkers with regard to his attendance, punctuality, and numerous periods of what appears to be unexplained absence during workdays." (Appellee's Exhibit 1.) Instead of investigating the time period pertaining to coworker complaints, a "sting" operation was conducted, observing Appellant's prospective behavior from December 12, 2018, through January 31, 2019. The investigation spanned four pay periods (Appellee's Exhibit 2) and documented 21 separate instances of false time reporting by Appellant as well as one instance of failing to secure his work computer (Appellee's Exhibit 6). Appellant had falsely claimed time for approximately 70 hours that he has admitted he did not work.

13. Captain Rogers approved Appellant's timesheets for pay periods December 1-15, 2018, January 1-15, 2019, and January 16-31, 2019, as to form and substance, with full knowledge each time that such reporting by Appellant was false (admitted by Rogers during his testimony).

14. Then-Sergeant Sandusky approved Appellant's timesheet for the pay period of December 16-31, 2018, as to form and substance, with full knowledge that such timesheet reporting by Appellant was false. (Admitted by Lt. Sandusky during his testimony.)

15. The Hearing Officer asked Rogers how many instances of false time reporting would have been sufficient to issue a Request for Major Disciplinary Action. Rogers testified it was done at the proper time, meaning, after four pay periods.

16. The timesheets were each transmitted to Human Resources and Appellant was paid in full, including the hours to which he made a false claim.

17. Beth Roark, Human Resources Branch Manager, and Honor Barker, Human Resources Staff Assistant, spoke with Captain Rogers and expressed reservations at the time of a superior signing and approving a timesheet while knowing the reporting thereon was incorrect. As it was a "short term" investigation, such timesheets were paid, but Rogers was told the records were to be corrected immediately after completion of the investigation. To the date of the evidentiary hearing, those records were never corrected and it appears such monies, in all likelihood, will never be recovered by the Commonwealth.

18. The acts of the Appellant in falsely reporting time worked from December 12, 2018, though January 31, 2019, as well as his failure to properly secure his work computer

during that same time, were violations of KRS 18A.145(4), Kentucky State Police General Order AM-B-1, Code of Ethics, and Kentucky State Police General Order AM-E-5, Disciplinary System, and constituted lack of good behavior pursuant to 101 KAR 1:345, Section 1.

19. Appellee, under the circumstances of this case, and in view of having on two previous occasions terminated employees for falsification of time records, had justifiable discretion to issue termination and was not compelled to issue lesser discipline contained in the progressive disciplinary scheme.

20. Appellee has proven by a preponderance of evidence that there was just cause to dismiss the Appellant, William Coy-Geeslin, from his position as Internal Policy Analyst III with the Department of Kentucky State Police, Intelligence Branch, and that such penalty was neither excessive nor erroneous.²

RECOMMENDED ORDER

The Hearing Officer recommends to the Personnel Board that the appeal of **WILLIAM COY-GEESLIN V. JUSTICE AND PUBLIC SAFETY CABINET, DEPARTMENT OF KENTUCKY STATE POLICE (APPEAL NO. 2019-095)** be **DISMISSED**.

NOTICE OF EXCEPTION AND APPEAL RIGHTS

Pursuant to KRS 13B.110(4), each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file exceptions to the Recommended Order with the Personnel Board. In addition, the Kentucky Personnel Board allows each party to file a response to any exceptions that are filed by the other party within five (5) days of the date on which the exceptions are filed with the Kentucky Personnel Board. 101 KAR 1:365, Section 8(1). Failure to file exceptions will result in preclusion of judicial review of those issues not specifically excepted to. On appeal a circuit court will consider only the issues a party raised in written exceptions. See *Rapier v. Philpot*, 130 S.W.3d 560 (Ky. 2004).

Any document filed with the Personnel Board shall be served on the opposing party.

² While the Hearing Officer is troubled that Appellant's coworkers observed and became concerned about Appellant's behavior, disappearances from work, and his physical appearance at work, well before Appellant's supervisors, and that none of the supervisors observed anything amiss until mid-December 2018, such did not create mitigating circumstances sufficient to excuse Appellant's self-admitted violations or lessen the degree of discipline.

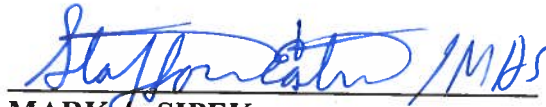
The Hearing Officer is also troubled by the fact that it took four pay periods and, according to Appellee's briefs, 70 false hours, to determine Appellant had falsified his time records. Would not falsification over one pay period have been sufficient? The rationale to allow such behavior to continue over such time period was never adequately explained by Appellee and, most likely, has resulted in payment of monies that will never be recovered.

The Personnel Board also provides that each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file a Request for Oral Argument with the Personnel Board. 101 KAR 1:365, Section 8(2).

Each party has thirty (30) days after the date the Personnel Board issues a Final Order in which to appeal to the Franklin Circuit Court pursuant to KRS 13B.140 and KRS 18A.100.

ISSUED at the direction of **Hearing Officer Roland P. Merkel** this 24th day of March, 2020.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK
EXECUTIVE DIRECTOR

A copy hereof this day mailed to:

Hon. Alea Amber Arnett
Hon. Michael D. Kalinyak



Received

MAY - 1 2019

Matthew G. Bevin
Governor

KENTUCKY STATE POLICE

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Personnel Board

John C. Tilley
Secretary

Richard W. Sanders
Commissioner

March 11, 2019

Mr. William Coy-Geeslin

Personnel Number:

Dear Mr. Coy-Geeslin:

In a letter dated February 19, 2019 you were advised of my intent to dismiss you from your position as an Internal Policy Analyst III with the Department of Kentucky State Police (KSP) Intelligence Branch. In accordance with KRS 18A.095, the previous notification offered you the opportunity to meet with me personally, with or without counsel, within the context of a pre-termination hearing in order to respond to the charges outlined. You hand delivered your pre-termination hearing request form on February 27, 2019 noting your desire to meet without counsel, after which several unsuccessful attempts were made to contact you by phone to schedule your requested hearing.

On March 6, 2019 you emailed a written statement to me proclaiming that "In lieu of a hearing in person, I decided it would save time for me to submit this written statement instead." You were advised in the aforementioned letter that "failure to attend a hearing you request, will result in your waiver of a hearing" and therefore you are deemed to have waived your right to a hearing.

However, I will respond in brief to the assertions made in your letter simply to say that great care was taken to ensure fair and proper investigation of the circumstances in your case and no laws, policies or procedures were breached. The legal theories you cited are not applicable to your case nor are the citations with regard to performance review guidelines. Most importantly, you did not refute the charges made against you and for that reason, the decision to terminate your employment is sustained.

Therefore, in accordance with KRS 18A.095, you are hereby notified that you are officially dismissed from duty and pay effective beginning of business March 12, 2019. You are being dismissed from your position pursuant to 101 KAR 1:345, Section 1, which authorizes disciplinary action for lack of good behavior or for unsatisfactory performance of duties and for direct violation of KRS 18A.145(4) which states "No person shall make any false statement, record, or report regarding hours, days, or other time worked by any employee."

Due to numerous reports of your absence without explanation and questionable reporting of time, your time records were examined in concert with badge entries, computer logins, supervisory observation, and video surveillance records available for your work location. Inasmuch as you are not authorized to work remotely and were not at your work location, the following discrepancies are indicative of instances upon which you claimed to have worked but in fact did not.

- On December 12, 2018 you arrived to work at 1:34 p.m. however you claimed 7.5 hours worked.
- On December 13, 2018 you left the office at 8:15 a.m. and returned at 1:40 p.m. however you claimed 7.5 hours worked.
- On December 17, 2018, you failed to report for work or give notice yet claimed to have worked an entire 7.5 hour day.
- On December 18, 2018 you arrived to work at 12:45 p.m. however you claimed 7.5 hours worked.
- On December 27, 2018 you left the office at 9:30 a.m. and returned at 4:15 p.m. however you claimed 7.5 hours worked.
- On December 28, you were a no show/no call however you claimed 7.5 hours of sick leave without proper authorization.
- On January 4, 2019 you left the office at 8:30 a.m. and returned at 4:10 p.m. but claimed 7.5 hours worked.
- On January 7, 2019 you left the office at 9:30 a.m. and returned at 1:25 p.m. but claimed 7.5 hours worked.
- On January 8, 2019 you arrived to work at 11:36 a.m. but claimed 7.5 hours worked.
- On January 9, 2019 you left the office at 9:30 a.m. and returned at 1:30 p.m. but claimed 7.5 hours worked.
- On January 11, 2019 you arrived to work at 12:58 p.m. but claimed 7.5 hours worked.
- On January 16, 2018, you arrived to work at 8:00 a.m., logged into your computer, exited the building at 9:00 a.m., walked to your vehicle, and drove away. Captain Rogers followed you to where you pulled into the garage of your residence. You returned to the office at 12:45 that afternoon but claimed 7.5 hours worked.
- On January 17, 2019 you arrived to work at 12:37 p.m. but claimed 7.5 hours worked.
- On January 18, 2019 you were a no show/no call but claimed 7.5 hours annual leave without proper authorization.
- On January 23, 2019 you left the office at 9:00 a.m. and returned at 1:00 p.m. but claimed 7.5 hours worked.
- On January 24, 2019 you arrived to work at 12:48 and left at 4:42 but claimed 7.5 hours worked.
- On January 25, 2019 you arrived to work at 2:00 p.m. and left for the day at 4:40 p.m. but claimed 7.5 hours worked.
- On January 28, 2019 you arrived to work at 8:00 a.m., left at 9:15 a.m. and returned at 12:45 p.m. but claimed 7.5 hours worked.
- On January 29, 2019 you arrived to work at 9:55 a.m. but claimed 7.5 hours worked.

- On January 30, 2019 you were a no show/no call but claimed 7.5 hours annual leave without proper authorization.
- January 31, 2019, you arrived at work at 8:00 a.m., entered your time and then departed at 8:30 a.m., not returning until 1:00 that afternoon. Your timecard reflects a full day worked.

The aforementioned represents only that which has been substantiated amid current time constraints and with readily available resources. However, inasmuch as a clear pattern exists with late arrivals to work and extended periods of absence during work days, the noted figures are firmly believed to be a small fraction of hours fraudulently reported for which you have been compensated. Compounding the matter, you often failed to safeguard sensitive information with which you have been entrusted when leaving your computer unlocked and accessible during a number of the noted instances.

On January 31, 2019, with findings of the investigation in hand, Captain Rogers and Sergeant Sandusky met with you to discuss the situation. You confessed to the noted occurrences and acknowledged understanding that it was unauthorized leave and theft by false reporting of time. While you offered an apology for your offenses, you also attempted to justify your actions by stating that you felt that your role in the organization was viewed as insignificant and that no one paid attention to you. You further stated that you have sleep problems and the situation started by you going home at lunch to take a nap and developed into what it is now. Nevertheless, these acts were deliberate and purposeful and it is this willful act of fraud and deception that has led to my distrust in your abilities to effectively serve the public or otherwise serve in this agency.

Your conduct in this matter is particularly bothersome in that it depicts a lack of care for the integrity of our mission and is a flagrant disregard for the policy directives and statutory requirements listed below.

- **KRS 18A.145 (4)** No person shall make any false statement, record, or report regarding hours, days, or other time worked by any employee. No person shall falsely prepare any payroll document or record relating to the pay for any employee.
- **KSP General Order AM-B-1, Code of Ethics, Agency Vision, Mission, and Goals**, which states "the agency has been entrusted with the authority and responsibility to preserve, protect, and defend people and property, and maintain social order within the Commonwealth. This public trust mandates that members exemplify the highest standard of conduct both on-duty and off-duty, work to uphold the agency's mission and vision, and strive to achieve the agency's goals and objectives. Agency personnel shall uphold all laws and function in an ethical, courteous, impartial, and professional manner, while respecting the rights and dignity of all persons. All employees shall comply with those statutes in Chapter 16, Chapter 18A, and other appropriate statutes of the Kentucky Revised Statutes."
- **KSP General Order AM-E-5, Disciplinary System, Chapter 18A Personnel**, which states that "due to the nature of the trust placed in the employees of the Kentucky State Police by the citizens of the Commonwealth, it is imperative that all employees exercise due care to insure that their personal as well as their professional conduct is above reproach."

It is important that you understand that your conduct not only violated policy, but is an affront to the core values of our organization. KSP is dedicated to promoting and maintaining a standard of excellence and your lack of regard for your coworkers, agency leadership, the organization, and the citizens we serve, is unacceptable as we strive to maintain the highest of standards. Your bad behavior, poor decisions, and lack of commitment to your responsibilities and this agency have gone beyond that which can reasonably be managed and therefore your dismissal is necessary in order to preserve the integrity of our workforce.

Pursuant to KRS 18A.032, you will not be certified on future registers for employment within the agency unless the agency so requests.

In accordance with KRS 18A.095, you may appeal this action to the Personnel Board within sixty (60) days after receipt of this notice, excluding the date notification is received. Such appeal must be filed in writing using the attached appeal form and in the manner prescribed on the form.

Sincerely,



Richard W. Sanders
Commissioner

Encl: Appeal Form

cc: Thomas B. Stephens, Secretary, Personnel Cabinet
Lieutenant Colonel Jeremy Slinker, Operations Division Commander
Major Kevin Minor, Operations Division
Captain Michael Rogers, Intelligence Branch