

COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2012-198

JASON STIMMEL

APPELLANT

VS. FINAL ORDER
SUSTAINING HEARING OFFICER'S
FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER

TOURISM, ARTS AND HERITAGE CABINET
KENTUCKY HORSE PARK
BOB STEWART, APPOINTING AUTHORITY

APPELLEE

** **

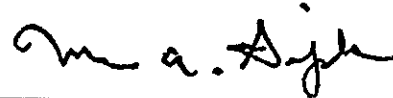
The Board at its regular July 2013 meeting having considered the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer dated June 13, 2013, and being duly advised,

IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer be, and they hereby are approved, adopted and incorporated herein by reference as a part of this Order, and the Appellant's appeal is therefore **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 16th day of July, 2013.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK, SECRETARY

A copy hereof this day sent to:

Hon. Misty Judy
Jason Stimmel

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2012-198**

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VS.

**FINDINGS OF FACT, CONCLUSIONS OF LAW
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This matter came on for an evidentiary hearing on February 8, 2013, at 9:30 a.m., at 28 Fountain Place, Frankfort, Kentucky, before Kim Hunt Price, Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

Appellant, Jason Stimmel, was present at the hearing, and was not represented by legal counsel. Appellee, Tourism, Arts and Heritage Cabinet, Kentucky Horse Park, was present and was represented by the Hon. Misty Judy.

BACKGROUND

1. Appellant, Jason Stimmel, is an employee with status employed as a Mounted Patrol Officer at the Kentucky Horse Park.

2. By letter dated August 31, 2012, a copy of which is attached hereto as **Recommended Order Attachment A**, Appellant was suspended without pay for a period of one day.

3. Appellant filed a timely appeal with the Personnel Board on September 4, 2012, stating:

I'm appealing this suspension because raising my voice to the public in order to take control of a situation is part of my job. Also talking to members of the community is also a part of the community relations aspect of my job when not on an official call and after my patrols at the park. All of my performance evaluations reflect positive on my job performance over the last seven years. This is not acceptable over one complaint in which the complainant was rude and had to be controlled and told what to do, which is part of my job also.

4. Appellant argues that he is a police officer and that pursuant to KRS 15.520 it is required that complaints by citizens against him be handled through an administrative due process procedure. The Appellee argues that Appellant is not a police officer covered by KRS Chapter 15, is afforded due rights under KRS Chapter 18A, and thus is not entitled to separate rights set forth in KRS 15.520.

5. This matter stems from an incident that occurred on July 23, 2012, when Carrie Hilger, Phil Hilger, their children, and her parents, including her father, Alan Combs, were present as guests at the Kentucky Horse Park campground. Their children were ages 11, 9, 7, 5, 3 and 7 months at the time, and they were staying at sites 18 and 19 in the A-Loop of the campground.

6. **Carrie Hilger** testified that they were at their campsite when the officer whizzed by driving really fast and she was astonished because it was a police car. They had been having problems with others speeding throughout their stay. There is a 10 mph speed limit in the campground. As a result of the officer driving by at a high rate of speed, she got on her bike and saw that he had stopped four to five campsites down. She was so upset because of his speed, that she was nervous, shaking and stuttering when she approached him. She asked if he was aware how fast he was going. Her dad and husband then followed her to the site where the officer was and he stated he was aware of his speed. Her dad asked him several times why he was driving fast and Stimmel said that it was "none of his business." Stimmel was asked by them, what if a child was on a bike and, at that point, he became confrontational. At one point he got in her face with his finger and her husband had to step between them. Stimmel told her husband that he was about to go to jail. She wanted to leave and had not intended that the situation would escalate to that level, but just wanted the officer to slow down. She was walking away and encouraged her dad to do so, but he continued to talk to the officer and said he was going to report the incident.

7. Ms. Hilger felt that the officer's demeanor was unprofessional, threatening and rude. All of the complainants testified that their interaction with the officer would influence them to not revisit the Horse Park.

8. On cross-examination, Ms. Hilger was asked whether her husband lunged at the officer and she stated that he did not do so. She acknowledged that the officer may have told them to step back and lower their voices before threatening to arrest her husband. She also acknowledged that her children were not near the roadway when the officer went by and that they teach them to stay off the roadway at the campground, but she still felt that accidents happen and they were only about 100 feet away from the roadway.

9. **Phillip Hilger**, husband of Carrie Hilger, also testified in conformity with the testimony of Ms. Hilger. He stated that when he and his father-in-law arrived, they did ask why Stimmel was going so fast and what would warrant it, and he told them it was "none of their business, but official business." Mr. Hilger testified that his wife asked Officer Stimmel if he had children, and at that point he stepped toward her, raised his finger in her face and was talking down to her. Hilger intervened to stop Stimmel from talking to his wife that way. At that point,

Officer Stimmel put his hand on his side which Hilger felt would be a gun or a Taser and asked him if he wanted to go to jail; Hilger told him he did not. They continued to talk to Stimmel who said he was aware of his speed and surroundings and could have stopped if he needed to. Hilger and his father-in-law said that they needed to speak with Stimmel's supervisor and got his name. Mr. Hilger stated that he went to make a complaint at the office that night, but Ms. Combs was not there. He had to go back the next morning to make the complaint. He never talked to anyone else at the Horse Park about the matter, other than Ms. Combs. He felt that if an officer was driving too fast and it was not an emergency, it just made others in the campground continue to believe that they could speed.

10. Mr. Hilger did not recall Stimmel asking him to lower his voice, and he denied lunging at Stimmel. He did come between the officer and his wife because he felt the officer was threatening his wife when he stepped toward her and pointed his finger in her face. Mr. Hilger felt that Appellant had threatened bodily harm by grabbing his side arm or holster.

11. **Alan Combs**, who is the grandfather of the children and was also present, testified that there had been a lot of speeding at the campground the entire time they were camping and that they were constantly afraid for the children. The children wanted to ride their bikes, but they would not let them do so alone because of the speeding violations.

12. He verified that he and the parents were upset when the officer went by at a high rate of speed and were amazed that an officer would go so fast in a non-emergency situation. He watched where the officer went, and when he arrived at the campsite everyone there was calm and casual, so it did not appear to be an emergency. He did ask Stimmel why he was going so fast. The officer responded by saying, "I don't have to tell you, I'm an officer of the law."

13. Mr. Combs verified that at the time Officer Stimmel threatened to take his son-in-law to jail, Combs then stepped up and told Stimmel he would have to take all three to jail because they had done nothing wrong; and he said, "Let's leave and we will report this elsewhere." Stimmel did give him his name and badge number when he asked him for it.

14. Mr. Combs' father was a police officer and he respected that and knows that it is a stressful profession. At that point, he still thought that Stimmel was employed by the Kentucky State Police and called and left a message there. However, when he called there a second time they said they did not have an Officer Stimmel and that he would be employed by the Kentucky Horse Park if he was patrolling there. After several attempts, two days later he got in touch with the mounted patrol and also made a complaint to the Park Manager by e-mail on July 28, 2012, which was admitted as Appellee's Exhibit 1. Mr. Combs testified that none of the three threatened any bodily harm or used any profanity and that the officer did not use any profanity. He would have had no problem if the officer had said he was speeding because he had an emergency. But there were no emergency lights on, it did not appear that there was an emergency, and the officer never claimed that there was an emergency. Combs did acknowledge that they were upset and concerned about the children, and he further acknowledged that he does speak loud because he is hard of hearing.

15. **Christy Combs** was the Campground Manager at the Kentucky Horse Park for five and a half years. Her duties include overseeing the operations. She introduced the campground map which included the rules and regulations as Appellee's Exhibit 2. Rule #12 specifically states that patrons shall, "Obey speed limits and stop signs due to the high volume of children in the area." She also introduced several photographs of the area marked as Appellee's Exhibit 3, showing the 10 mph posted speed limit at the location of the site where this matter occurred.

16. She received this complaint on the morning of July 24, 2012, when she came into work. Mr. Hilger came there at 8:00 a.m. and said a state police had driven quickly around the site and that they had an altercation with him. Mr. Hilger explained that he had to step between the officer and his wife. She told him that she would speak to the supervisors and that they would contact the state police.

17. About an hour later, Mr. Combs came and told her the same story and said the officer's name was Stimmel. That is when she knew he was one of her officers and she said that she would address it with her supervisor.

18. Ms. Combs testified that she informed Mr. Combs how to send a statement to her supervisors Michael Scales and John Nicholson. She also called George Atwood, the Mounted Patrol Captain, and told him about it and asked him to look into it. Atwood said it was the patrons' word against the officer's and did not seem concerned, so she sent an e-mail on to her supervisor, Michael Scales, which was introduced as Appellee's Exhibit 4.

19. According to Ms. Combs, a second issue came up concerning that of a campground host. These are individuals who stay at the park and volunteer their services in exchange for free campsites. They help her with things she needs at the campground. In July 2012 they had four on-site hosts and three actually stayed there. Stimmel was on duty from 4:00 p.m. to midnight and she worked days, so there was not much overlap. However, concerns had been voiced to her about Stimmel hanging out at the one campsite. He acknowledged he would go by, but said that he was not drinking with them. She was never at the site while there were people there. As a result of these inquiries, she did look at the site and Appellee's Exhibit 5 was introduced, which was a photograph she took of a chair at the site marked "Stimmel's Throne." This indicated to her that the Appellant was spending a great deal of time at the site, but she did not speak to Stimmel about it. She had not received any other complaints concerning Stimmel speeding, and he was always quick to respond to concerns.

20. Ms. Combs acknowledged on cross-examination that she was not aware that Captain Atwood would have spoken to Appellant about this matter and asked him to do a report. Further, in her testimony she cited that the campground host site that was of concern was on a corner in a highly traveled area and that the only way to come in and out of the campground was to pass that site. Rob Wagner was the host who made the complaint concerning the site in question, and he had made other complaints that were not true according to the people who he complained against.

21. **Michael Scales**, the Horse Park's Deputy Executive Director since June of 2011 and the Director of Support Services from August 1991 until that time, has the duties of managing the Horse Park and communicating and problem solving. He divides oversight with John Nicholson who is over the entire park. Scales is in charge of the Mounted Police department and disciplinary action for same.

22. On July 24, Scales testified that Christy Combs contacted him concerning a complaint of Stimmel speeding. He talked with Ms. Combs and discussed who had complained and spoke with Stephanie Gibson and they discussed the matter with Mr. Nicholson. He approached Captain Atwood concerning the matter and asked him for an incident report within a day or two of the incident.

23. With regard to socializing at the host sites, Combs told him that Stimmel frequented a host site and that Rob Wagner had said that he was there for hours every day. As a result, Scales spoke to Rob Wagner at length. Atwood volunteered to stakeout the situation because he was not aware of it and to see if it was true. In fact, it seemed that Atwood wanted to prove that it was not true. In early August, Atwood said that he had observed Stimmel at the site for longer than one hour. The host site was not being kept clean, but had been cleaned up some due to a complaint. No one was at the site when the picture was taken of the chair and no one explained the words on it.

24. Scales learned that Appellant had previously received a written reprimand and, therefore, no less than a one-day suspension was appropriate under progressive discipline. He was present at the meeting with Gibson, Atwood and Haun when the suspension was given and Stimmel did not deny driving over the speed limit, but did not believe that the people had a clear judgment on how fast he was driving. Stimmel did not show remorse and Scales was surprised at his attitude. Stimmel stated he was a certified officer and trained on the risk of children and was able to handle driving fast around the children. With regard to the host site, Stimmel said he was there on occasion for ten to fifteen minutes and when Atwood addressed that he has seen him there for more than an hour, Stimmel seemed surprised, and then said he was there more in the winter months than in the summer months. Further, Stimmel never said he would change his behavior, which was also surprised Scales. Scales was present at the time the suspension was given. Stimmel was quite upset and when he left, Scales felt threatened when Stimmel stated, "Things will change, I'm going to start upholding the law and people better look out." He felt personally threatened by this because Stimmel carries a gun. He and Gibson talked about this

and he spoke to Officer Haun and Nicholson right after that and based on that feeling of threat, Stimmel was moved from evening to dayshift for about two weeks.

25. On cross-examination, Scales verified that the written reprimand to Appellant was a totally different type of complaint and was for internet use which was a policy violation.

26. He acknowledged that no notice was given to the officer before he and Gibson met and that no copies of the complaint were given to Stimmel at the meeting.

27. **Stephanie Gibson**, the Human Resource Manager at the Kentucky Horse Park since 1990, takes care of all disciplinary action recommendations amongst other things. She testified that this matter came to her attention on July 24 when Combs and Scales told her of the allegations of speeding and the confrontation with the campers. She asked Atwood for statements and Stimmel's Daily Activity Report, which was introduced as Appellee's Exhibit 6 and showed a complaint concerning speeding from sites 18 and 19 around 8:15. She also received Stimmel's handwritten statement which was introduced as Appellee's Exhibit 7, wherein he admitted to speeding 30 to 35 mph. She felt that the situation with the visitors could have been handled differently. Stimmel could have deescalated the matter and apologized and diffused the situation without it getting out of control.

28. On August 14, she, Haun, Atwood and Scales met with Stimmel and he said he felt like he had control at driving at that speed. She pointed out that officers are held to a higher standard than most employees. He showed absolutely no remorse for the speeding. Stimmel felt that the people were rude. She felt that he should not have said it was "none of their business." It was also discussed with him at that meeting about him staying at the host site in excess of an hour and on numerous other occasions. She also testified that during this period of time there were a lot of theft and speeding complaints in the campground and that Appellant should have been patrolling rather than staying in one location for an extended period of time. She did review Appellant's evaluations and personnel file and because of the written reprimand in February 2011 a suspension of one day occurred.

29. Gibson testified that when the suspension letter was given to Appellant he was very argumentative and stated that he would start enforcing the law, which she took as a threat. She told him that he could not retaliate because of the suspension. He wanted to know who told her he stayed at the site for a long period of time and she did not tell him that. Due to his tone and because he was a police officer with a lot of power the situation upset her. She felt that it was in the best interest of the Park for him to be on dayshift for a period of time so that he could be supervised more closely.

30. During cross-examination, it was acknowledged that on the occasion when Appellant was viewed at the campsite for more than an hour, he did stay by his car the whole time and he was never observed sitting in the chair shown in the photograph that was introduced. She also acknowledged that the Combs' complaints were not signed or sworn to and that there was no 72 hour notice given to Stimmel of the complaint. She did not feel she needed to do so. She also acknowledged that neither Combs nor the Hilgers were present at the August 14 meeting.

31. Appellant, **Jason Stimmel**, testified that on July 23 he was driving higher than the speed limit, was trying to help multiple campers, and had four calls at the same time. A campsite needed equipment to move a camper because it was rented and one of the other hosts had the equipment to remove it and he was helping with that. There was also a theft report from a few days before while that was being done and a phone call complaint from sites 18 and 19 concerning the driving complaint. A few minutes after that, all three people approached him at the campsite. He was standing outside of his car at the time. Mr. Combs was agitated and Stimmel felt all three of them had raised their voices. He asked them to lower their voices. Stimmel stated that the men were on either side of him and the woman was on a bike and he did not remember any statement to her. He did tell them to lower their voices and he felt that Mr. Hilger had lunged toward him and said, "Don't yell at my wife." He did advise him to back up and lower his voice and he did tell them that where he was going was "none of their concern." He told them repeatedly to lower their voices and leave, but they did not. He did not feel it was his job to take abusive behavior and he had been trained to raise his voice in order to control a situation.

32. Concerning the issue of being at the host site too much, he did acknowledge that he was there over an hour, but never left the side of his vehicle or the main road. He was asking about the host's wife who was receiving chemo treatments. Also, the son that was at the site is a seasonal employee and there were other seasonal employees there.

33. Appellant stated that he had worked at the Horse Park for nearly eight years and that he had a four-year BS degree in criminal justice and attended the Police Academy for 21 weeks.

34. Kentucky Horse Park Officer **Robert Poindexter** had been a Mounted Police Unit Sergeant for three years; primarily on the second shift. He supervised Stimmel. He verified that officers must observe the speed limit unless there is an emergency and then they must use their emergency equipment. It would never be appropriate to drive 30-35 mph in a 10 mph zone without an emergency.

35. According to Poindexter, how an officer would handle an agitated or yelling guest would depend on why the person was upset. If the individual had complained concerning an officer's behavior, it would not be inappropriate to tell them why you were on a call was "none of their business" and to lower their voice.

36 On cross-examination he acknowledged that it was possible he had gone over the 10 mph speed limit in the campground on occasion himself. He stated that if three subjects had approached him in a hostile manner, yelling at him, he might have asked them to lower their voices and if one had lunged at him and he had felt threatened physically, he might have threatened to arrest them. He did not feel that yelling louder than other people was a way to get people to calm down. He felt that officers should be an example of exemplary behavior.

FINDINGS OF FACT

1. The Appellant, Jason Stimmel, did speed on July 23 between 30 – 35 mph in the campground with a posted speed limit of 10 mph and in a situation that was not an emergency situation.

2. The Hilger family did approach Appellant concerning the matter and rather than deescalate the situation he escalated it by speaking to them rudely and not addressing the problem.

3. 101 KAR 1:345, Section 1, states as follows:

Appointing authorities may discipline employees for lack of good behavior or the unsatisfactory performance of duties.

4. Appellant was present at a host camp site for over an hour on one occasion without any incident being reported at that site which required his work attention. During this period of time there have been multiple thefts and speeding complaints for which his time could validly had been used.

5. KRS 15.520(1) states in pertinent part:

In order to establish a minimum system of professional conduct of the **police officers of local units of government** of this Commonwealth, the following standards of conduct are stated as the intention of the General Assembly to deal fairly and set administrative due process rights for **police officers of the local unit of government** and at the same time providing a means for redress by the citizens of the Commonwealth for wrongs allegedly done to them by police officers covered by this section. [Emphasis added.]

6. KRS 15.420(1) and (2), states as follows:

(1) "Local unit of government" means any city or county, combination of cities and counties, state or public university, or county sheriff's office of the Commonwealth.

(2) "Police officer" means a full-time member of a lawfully organized police department of county, urban-county or city government, a sheriff or full-time deputy sheriff, including any providing court security or appointed under KRS 70.030, or a state or public university police officer who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but does not include Department of Kentucky State Police, any sheriff who earns the maximum constitutional salary for this office, any special deputy sheriff appointed under KRS 70.045, any constable, deputy constable, district detective, deputy district detective, special local peace officer, auxiliary police officer, or **any other peace officer not specifically authorized in KRS 15.410 to 15.510.** [Emphasis added.]

7. KRS 15.310(8) states as follows:

(8) "Law enforcement officer" means a member of a lawfully organized police unit or police force of county, city or metropolitan government who is responsible for the detection of crime and the enforcement of the general criminal laws of the state, as well as sheriffs, sworn deputy sheriffs, campus security officers, law enforcement support personnel, public airport authority security officers, other public and federal peace officers responsible for law enforcement, and special local peace officers licensed pursuant to KRS 61.360.

8. KRS 148.290(1) states in pertinent part:

. . . If authorized to do so by the commission and subject to KRS 61.300, the executive director may commission employees of the park as patrol officers. These patrol officers shall have all the powers of peace officers upon the property of the State Horse Park and the public property and roads traversing or immediately adjacent thereto.

9. KRS 446.010(31) states:

'Peace officer' includes sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, and other persons with similar authority to make arrests.

CONCLUSIONS OF LAW

1. Appellant's actions in speeding for a non-emergency purpose constitute unsatisfactory performance of duties and lack of good behavior.
2. Appellant's action in escalating, rather than deescalating, a confrontation between Park visitors and himself constitutes unsatisfactory performance of duties and lack of good behavior.
3. Appellant is a peace officer or law enforcement officer under the gamut of KRS Chapter 15 and KRS 446.010. He is not a police officer of a local unit of government as the Kentucky Horse Park is a state entity and not a local unit of government. Accordingly, Appellant is not entitled to administrative due process rights provided to police officers in KRS Chapter 15.
4. Further, there is no harm to Appellant in not having received KRS Chapter 15 due process as he has received a full due process hearing under KRS Chapter 18A.

RECOMMENDED ORDER

The Hearing Officer recommends to the Personnel Board that the appeal of **JASON STIMMEL VS. TOURISM, ARTS AND HERITAGE CABINET, KENTUCKY HORSE PARK (APPEAL NO. 2012-198)** 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).

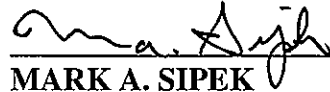
Any document filed with the Personnel Board shall be served on the opposing party.

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 Kim Hunt Price** this 13th day of June, 2013.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK
EXECUTIVE DIRECTOR

A copy hereof mailed this date to:

Hon. Misty Judy
Jason Stimmel



KENTUCKY HORSE PARK

Steven L. Beshear
GOVERNOR

Marcheta Sparrow
SECRETARY

John Nicholson
EXECUTIVE DIRECTOR

August 31, 2012

Jason Stimmel

Dear Mr. Stimmel,

Pursuant to 18A.095 you are notified that you are suspended from duty and pay for a period of one day, effective Tuesday, September 4, 2012 for the following reasons:

July 23, 2012 Incident

On Tuesday, July 24, 2012, Christy Combs, Administrative Section Supervisor of the Campground, received a complaint from Mr. Phil Hilger who was camping at the campground. Mr. Hilger stated that on Monday, July 23, 2012, a Kentucky Horse Park police cruiser driven by you was observed driving approximately 40 mph around the "A" loop where the camp sites are located at the campground. Mr. Hilger further stated that he and other campers stopped your police cruiser to inform you that you were driving too fast and that children were playing around the sites. Mr. Hilger stated that this conversation led to a confrontation between you and the campers. Mr. Hilger stated that you were rude and uncooperative.

On your daily activity report for July 23, 2012, you stated that you received a complaint from sites 18 and 19 regarding your driving. You were asked by Captain George Atwood, your immediate supervisor, to submit an incident report. On your incident report you stated that at approximately 7:30 p.m. you were in the "A" loop of the camp sites, assisting a camper that had parked on the wrong site. You indicated that you went to locate some towing components so this camper could move to a correct site. On your report you indicate that you were driving

RECOMMENDED ORDER ATTACHMENT A

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approximately 30-35 mph. You stated on your report that the weather was clear and sunny with very few campers along the "A" loop.

You further stated on your report that three individuals approached you with raised voices and yelled at you questioning why you were driving above the speed limit. You stated that you responded with a raised voice in an attempt to control the situation and told the three individuals to lower their voices or you would arrest them. You stated that they continued to raise their voices questioning your job and how you performed it. You further stated in your report that regardless of your calls, which was not their business that you drive in a safe manner observing not only the road but what's off the road to include what can be seen around and even under the vehicles and campers. You stated at this point you were tired of arguing and dealing with these individuals who refused to speak in a calm manner and told them to return to their sites.

The Kentucky Horse Park management received another complaint on July 28, 2012 via email from Alan Combs regarding vehicles driving too fast in the campground to include your driving of your police cruiser too fast. Mr. Combs stated that he was one of the three individuals who approached you on July 23, 2012. Mr. Comb's stated that you were threatening, rude, unprofessional, uncooperative and unconcerned about their situation and in fact contributed to their fear by driving so fast yourself.

While investigating this incident that occurred on July 23, 2012, it was reported to KHP management that you spend a lot of your work hours at David McManigle (campground host) site that is located in the electric primitive at the campground. Since it was reported to KHP management that you spend time at this site, Captain Atwood made the decision to observe this site on August 5 and 6, 2012. On August 6, 2012, Captain Atwood observed you at the McManigle site for an hour and fifteen minutes not performing your job duties as a Mounted Patrol Officer. You had no official business to conduct at this site.

On August 14, 2012, Captain Atwood, Sergeant Dan Haun, Mike Scales, Deputy Executive Director and I met with you regarding the incident that occurred on July 23, 2012. During this meeting you admitted that on July 23, 2012 you were driving approximately 30-35 mph in the "A" loop of the camp sites. The speed limit is 10 mph and signs are posted throughout the Campground. You refused to admit that driving 30-35 mph was too fast to be driving even though the speed limit is 10 mph.

You were further asked if you spend time at the McManigle site that is located in the electric primitive while you are working. You stated that you stop by there for 10 to 15 minutes when you are working. You were informed that Captain Atwood had observed you on August 6, 2012 at the McManigle site from 9:00 p.m. to 10:15 p.m. (one hour and fifteen minutes). During this time you were not performing your job duties as a Mounted Patrol Officer. Your duties as a

Mounted Patrol Officer include, but are not limited to, providing law enforcement patrol services throughout the park, taking reports regarding incidents, interviewing witnesses and taking their statements, responding to emergencies, promoting and maintaining positive customer relations. After being made aware of Captain Atwood's observation on August 6, 2012, you admitted that you would spend more hours at that site during the winter than in the summer months. By staying at this site during work hours rather than performing your official patrol duties, you failed to provide law enforcement patrol services for the park in order to ensure the safety of our visitors and horses and secure the grounds and buildings.

Conclusion

Your driving 30-35 mph on July 23, 2012 and not adhering to the 10 mph speed limit may have endangered the safety of campers. Furthermore, your inappropriate and unprofessional behavior toward guest that was making a complaint regarding speeding is in violation of 101 KAR 1:345 Section 1, lack of good behavior as a Mounted Patrol Officer. Your staying at a camp site for a hour and fifteen minutes and not performing your job duties as a Mounted Patrol Officer is in violation of 101 KAR 1:345 Section 1, unsatisfactory work performance.

Your personnel record indicates a written reprimand on February 1, 2011 for violation of the Internet and E-mail Acceptable Use Policy (CIO-060).

For your information, the Kentucky Employee Assistance Program (KEAP) is a voluntary and confidential assessment and referral service for state employees. This service may help you with any personal problems that may be affecting your job performance. KEAP can be reached at 1-800-445-5327 or 502-564-5788.

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,



Stephanie Gibson
Human Resource Manager

Attachment: Appeal Form

CC: Secretary Tim Longmeyer, Personnel Cabinet

Executive Director, John Nicholson, Kentucky Horse Park

Executive Director of Legal Affairs, William Dexter, Tourism, Arts and Heritage Cabinet

Personnel File