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**BEFORE THE MERIT PROTECTION COMMISSION  
STATE OF OKLAHOMA**

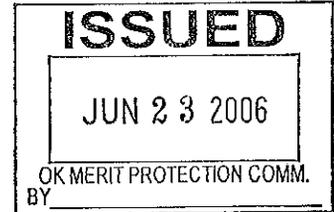
Jason C. Hanlon,  
Appellant,

v.

Department of Public Safety,  
Appellee.

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MPC 06-066



**FINAL ORDER**

Hearing on this matter was held April 19<sup>th</sup>, April 21<sup>st</sup> and May 16<sup>th</sup>, 2006 before the duly appointed, undersigned Administrative Law Judge at the offices of the Oklahoma Merit Protection Commission, Oklahoma City, Oklahoma. Present at this hearing was Appellant, who was represented by attorney Scott Frazee. Present for the Department of Public Safety (hereinafter “DPS” or “Appellee”) was Wellon Poe, General Counsel, and Table Representative, Don Stockton.

Appellant was a permanent classified employee working as a Trooper for the Oklahoma Highway Patrol (hereinafter “OHP”)<sup>1</sup> at the time of his discharge in November 2005 for leaving his duty post without permission or advising his supervisors, dereliction of duty, creating fictitious department reports, untruthfulness, and improper use of his car video recorder.

Whereupon the hearing began and the sworn testimony of witnesses for Appellee and Appellant was presented, along with exhibits, which were admitted and are incorporated herein and made part hereof. Accordingly, after careful consideration of all evidence, testimony and exhibits, the undersigned Administrative Law Judge issues the following findings of fact, conclusions of law, and order.

**FINDINGS OF FACT**

Gary Adams has been with the OHP for 37 years and has been Chief of OHP for nine years. In early 2005, Chief Adams received a complaint from the Chief of Police in Piedmont, Oklahoma

<sup>1</sup> The Oklahoma Highway Patrol is the law enforcement division of the Department of Public Safety

regarding State Troopers who were patrolling within the Piedmont city limits and issuing citations. Chief Adams and the Chief of Police of Piedmont reached an understanding and Chief Adams thereafter thought the matter had been resolved.

On February 4, 2005, Chief Adams was informed that Appellant had left his duty station on the Turner Turnpike and gone to Piedmont for unknown reasons. Appellant's Troop Commander, 1<sup>st</sup> Lieutenant Don Stockton, was informed. He then radioed Appellant and ordered him to return to the patrol office. Thereafter, Chief Adams ordered Assistant Chief Jerry Cason to initiate an investigation as to why Appellant had gone to Piedmont. Assistant Chief Cason directed Lieutenant Stockton and Appellant's immediate supervisor, 2<sup>nd</sup> Lieutenant Sheridan O'Neal, to conduct the investigation.

Five months later on July 16, 2005, at the conclusion of the investigation, Lieutenant Stockton forwarded to his supervisor, Captain Jack Rosenberg, a 170 page Troop Level Investigative Report regarding Appellant.

At this hearing, Lieutenant Stockton testified that upon being directed by Assistant Chief Cason to conduct the investigation, Lieutenant Stockton contacted Appellant and asked that he write a letter setting forth his activity on the date in question and explaining why he had left his patrol area to go to Piedmont. On February 4, 2005, Appellant provided the letter stating that on February 1, 2005 he overheard two Troopers discussing how a Canadian County Trooper was told by the Piedmont Police Chief to stay out of "his town". Appellant further stated in his letter:

On the same date as above, at approximately 1350 hours I came in contact with a Debbie Campbell. Ms. Campbell was at a Love's gas station located at NE 122<sup>nd</sup> and I-35. I had walked by her vehicle and smelled an odor which I believed to be marijuana coming from an open window. I asked Ms. Campbell if she was smoking pot, she stated "No, but had earlier." I placed Ms. Campbell in my vehicle and proceeded to talk to her. I informed her that I was going to have to take her to jail for possession of marijuana. She begged me to let her go and not take her to jail. I told her if she could provide me with a "bigger fish" I would let her leave. She asked me if I had ever heard of Toby Odom. I acted like I did not know anything about him, although I knew him to be a meth dealer from the Yukon area. Ms. Campbell told me that she knew where Toby was "cooking" his

product since he had been getting in so much trouble in Yukon. She informed me that Toby was "hanging out" approximately 2 miles North and 2.25 miles West of Piedmont. She also told me he had changed cars, he was now driving a greenish Chev or Olds vehicle. So, on 02/04/05 I decided to see if I could locate Mr. Odom.<sup>2</sup>

Based on this statement made by Appellant, Lieutenant Stockton and Lieutenant O'Neal began gathering information in order to verify Appellant's information.

Lieutenant O'Neal began by retrieving the DPS Contact Report submitted by Appellant on Debbie Campbell and reviewed the name, identification number, license plate number and date of birth entered on the Contact Report by Appellant. Lieutenant O'Neal utilized the statewide intelligence network (SINS)<sup>3</sup> and was unable to locate Debbie Campbell. In addition, the identification number written by Appellant on the Contact Report had been issued to a male, not a female.

On the Contact Report, the license plate number was written down as Tag 154-FDT. Lieutenant O'Neal had the license plate number checked on the database with all combinations of the numbers and the letters and found nothing which matched the license plate number to Debbie Campbell. The Oklahoma Tax Commission, Motor Vehicle Division, in response to Lieutenant O'Neal's inquiries, reported "This plate has not been made yet" in response to Oklahoma plate 154-FDT. This was especially interesting since Appellant had told Lieutenant O'Neal that he [Appellant] had visually seen the license plate and written that license plate number down.

Lieutenant O'Neal cross-checked the license plate number with the name Campbell and that search came up negative. Lieutenant O'Neal was also unable to verify any Debbie Campbell with the birth date written down by Appellant on the Contact Report. In summary, Lieutenant O'Neal was unable to verify any of the information on the Contact Report.

<sup>2</sup> This was the first of two written statements given by Appellant to Lieutenant Stockton. The second statement was given on May 28, 2005.

<sup>3</sup> The SINS network is a database which can match information from all Oklahoma Department of Motor Vehicle fields. This is one of many databases which OHP uses to locate individuals.

Lieutenant O'Neal testified that Appellant admitted he did not see Ms. Campbell's license and simply wrote down the identification number and address number which she verbally gave him. Lieutenant O'Neal found this unusual because Appellant had interacted with Ms. Campbell initially believing she was a drug suspect.

Lieutenant O'Neal next contacted the United States Postal Service in an attempt to verify Ms. Campbell's address which was listed as P.O. Box 417-A, Yukon, Oklahoma. Lieutenant O'Neal was notified by a Postal Service supervisor that they did not have a P.O. Box or "anything close to the numbers" listed on the Contact Report at the Yukon Post Office. In addition, the zip code given on the Contact Report of 73099 was for street addresses, whereas the zip code used for P.O. Boxes was 73085. Lieutenant O'Neal closed with "the 417-A does not exist".

Lastly, Lieutenant O'Neal found that the video camera in Appellant's vehicle was turned off and therefore did not video tape the stop or interaction with Ms. Campbell.

Lieutenant O'Neal continued his investigation checking the Appellant's next Contact Report on a Kourteny E. Hager, 17253 W. Britton, Oklahoma City. Lieutenant O'Neal ran the name, date of birth and drivers license number through SINS and found that the drivers license number entered by Appellant had been issued to a male, not a female. Also, there was no license plate on file with the number written on the Contact Report because that plate had been taken out of the system and was considered no longer valid. This information was in direct contradiction to Appellant's statement that he had actually seen Ms. Hager's drivers license and license plate and written those numbers down on the Contact Report.

Lieutenant O'Neal had the dispatcher check the license plate number for possible cross references: there were none. Lieutenant O'Neal also again had the license plate number checked on the database with all combinations of the numbers and the letters and found nothing which matched the license plate number to Kourtney Hager.

Again, Lieutenant O'Neal was unable to verify any information listed on the Hager Contact Report filled out by Appellant.

Lieutenant O'Neal reviewed Pike Pass records to ascertain if it were possible for Appellant to travel from his assigned location on the Turner Turnpike to the location of Love's Country Store on NE 122<sup>nd</sup> and I-35 where he claimed to have met Debbie Campbell. Pike Pass records indicated

Appellant was not on the turnpike at the time Appellant claimed to be. Regarding the contact with Ms. Campbell, Appellant claimed that contact with Ms. Campbell was after he left Ms. Hager. However, there was no reading on the Pike Pass supporting that Appellant had gone from the location of Ms. Hager to the location of Ms. Campbell. Had the contacts taken place, there would have been two additional readings listed on the Pike Pass records for Appellant's Pike Pass number.

Lieutenant O'Neal also found that there were no calls made by Appellant to the OHP Communication Center requesting an information check on Ms. Hager or Ms. Campbell.

Lieutenant O'Neal reviewed the 7-day report of the weekly activity and Appellant did not indicate any criminal investigations of Mr. Odom or drug contacts with Ms. Campbell on that report although policy requires any criminal intelligence information be submitted with the 7-day reports.

Lieutenant O'Neal reviewed the video camera and tape from Appellant's vehicle. Lieutenant O'Neal contacted DPS Communications and Electronics Services Division and was told that the setting for the lock function (or "record lock") on the video camera was set to "Yes". Accordingly, Appellant would have to go into the video program and physically change the lock to allow the video tape in his vehicle to be taped over. When Lieutenant O'Neal asked Appellant why there was no video tape of his encounters with Ms. Campbell and Ms. Hager, Appellant admitted taping over portions of the video tape in order to erase the conversation with Lieutenant Stockton which he had while driving from Piedmont back to the patrol station on February 4, 2005.

Lieutenant Stockton also assisted in parts of the investigation because of his concern that by being in Piedmont, Appellant was 15 miles out of his assigned area and had left his assigned area without contacting his Captain requesting permission, or advising his Captain or local authorities that he was looking for a drug suspect.<sup>4</sup> Lieutenant Stockton was also concerned that the Piedmont Chief of Police was again complaining about Troopers being in his area.

Regarding the Contact Report on Ms. Campbell, Lieutenant Stockton testified that he personally contacted the post office and looked in the telephone book and was unable to find anyone by that name at the address listed on the Contact Report. Regarding the Contact Report on Ms. Hager, Lieutenant Stockton drove to the address listed on the Contact Report: it was an empty field

<sup>4</sup> Testimony at this hearing established that 3 of the last 4 Troopers killed in the line of duty died while investigating drug suspects.

in Yukon (not Oklahoma City).

Regarding the video camera, Appellant told Lieutenant Stockton that as far as he knew the video camera record lock setting was in that setting when he got the car. However, a December 8, 2004 Supervisor log entry by 2<sup>nd</sup> Lieutenant Leann Spears, who was then Appellant's supervisor, stated:

Spoke with Jason about his video camera. He was advised to make sure his video camera was activated on all his stops and to ensure that his body mike was on and working. He also was told to let a Supervisor know when he was having video problems and the Communications Center.

On July 16, 2005, Lieutenant Stockton sent the 177 page Trooper Level Investigative Report to Captain Jack Rosenberg who reviewed the report and submitted it to his supervisor, Major Mike Grimes. Thereafter, Captain Rosenberg and Major Grimes recommended to Assistant Chief Cason that the matter be set for hearing before a Review Board. After reviewing the entire report and Appellant's progressive discipline file, Assistant Chief Cason directed Captain Rosenberg to conduct a Level II Review Board hearing into allegations of untruthfulness by Appellant.<sup>5</sup>

The Review Board was convened on September 15, 2005 and consisted of Captain Rosenberg as Chairman and four Troopers. At the time of the Review Board, Appellant did not object to any of the board members. In addition, although Appellant had the opportunity to call witnesses and at the beginning of the Review Board stated he might call witnesses, he did not do so. During the course of the Review Board, Appellant admitted being away from his assigned duty area, failing to turn on his video camera and erasing video footage.

Based on the investigation and testimony of the witnesses, and upon consideration of Appellant's past discipline, the Review Board concluded that the Contact Reports were totally fabricated in order to give Appellant an excuse to be in Piedmont on February 4, 2005. The Review Board also found that Appellant had violated various OHP policies and voted unanimously to recommend termination of Appellant.

<sup>5</sup> A Level II Review Board is made up of officers and peers of the Trooper and is only convened for the most serious of allegations.

At the conclusion of the Review Board hearing, Captain Rosenberg sent the Review Board Report to Major Grimes and Chief Adams. Chief Adams review the Report, along with the Trooper Level Investigative Report, and Appellant's Certificate of Discipline.<sup>6</sup>

Chief Adams testified that he was concerned that Appellant had admitted to altering the video tape in his vehicle, speeding back to the patrol station, and being out of his assigned area. Chief Adams was also extremely concerned that Appellant had fabricated the Contact Reports on Ms. Campbell and Ms. Hager. In addition, Chief Adams was concerned that Appellant first denied dubbing over his video tape in his vehicle, then admitted it. Also, Appellant had first made the statement that he was unaware of any conflict with the Chief of Police in Piedmont, and then later admitted he was aware of the conflict.

Chief Adams found overwhelming evidence that Appellant had been untruthful and testified at this hearing that truthfulness is the pinnacle of behavior for OHP Troopers. In fact, other Troopers who had gone to Piedmont who were truthful had received discipline, but were not discharged because of their truthfulness. Chief Adams forwarded the Trooper Level Investigative Report, the Level II Disciplinary Review Board Report and Appellant's past disciplinary file<sup>7</sup> to Kevin Ward, Commissioner for DPS.

Commissioner Ward, who has been in law enforcement since 1980, has been the Commissioner for DPS since 2004. Upon review of the investigative file, Commissioner Ward found that Appellant had submitted two written statements containing false information<sup>8</sup> and when questioned by Lieutenant Stockton, Lieutenant O'Neal and 2<sup>nd</sup> Lieutenant Bryan Bosworth, made untruthful statements concerning the contact with Ms. Campbell and Ms. Hager in an attempt to

<sup>6</sup> It is uncontroverted that Appellant had the highest number of disciplinary actions of any Trooper listed in the OHP database. In addition, Appellant was the only Trooper seen by the Department Psychologist who had been required to undergo two "Fit for Duty" evaluations.

<sup>7</sup> Past discipline of Appellant included a February 1998 extended probationary period, a March 1998 written reprimand, a March 1998 letter of admonishment, a March 1998 written reprimand, an October 2000 letter of admonishment, a September 2001 25-day suspension without pay, a November 2002 30-day suspension without pay, a June 2004 corrective interview, and an April 2005 written reprimand.

<sup>8</sup> The two written statements were supplied by Appellant on February 4, 2005 and May 28, 2005 to Lieutenant Stockton.

cover up his true purpose for being in Piedmont. Commissioner Ward found that neither of the two Contact Reports on Ms. Campbell and Ms. Hager had any valid information which corroborated Appellant's story and that Appellant failed to video tape either contact.

Commissioner Ward stated that after reading the Trooper Level Investigative Report, Appellant's personnel file, the Level II Review Board file, and the recommendation of Chief Adams, he made the determination to terminate Appellant.

Thereafter, on October 18, 2005, a pre-termination hearing was held to allow Appellant to present any mitigating circumstances surrounding the February 1, 2005 incident. On November 1, 2005, Appellant was sent a Notice of Termination finding that Appellant's actions of February 1, 2005 put him in violation of Department of Public Safety Operations Manual:

Chapter 1, Subchapter 2, Section 1.2.3.B.22, **Rules of Conduct, Leaving duty post:**

Members shall not leave assigned duty posts, absent themselves from any duty, except when authorized by proper authority or required in performance of duty. Members shall be cognizant of the fact that their primary enforcement responsibility is to their assigned detachment area.

Chapter 1, Subchapter 2, Section 1.2.3.B.41, **Rules of Conduct, Department Reports:**

Members shall make/submit all necessary required reports on time and in accordance with established Patrol procedures or otherwise directed by proper authority. Reports, either written or oral, made or submitted by members of the Patrol shall be truthful and complete.

Chapter 4, Subchapter 2, Section 1.2.3.B.46, **Rules of Conduct, Truthfulness:**

Upon the order of the Chief, the Chief's designee or supervisor officer, members shall truthfully answer all questions specifically directed and narrowly related to the scope of employment and operations of the Department which may be asked of them.

Chapter 4, Subchapter 14, Section 4.14.1.A, **Policy regarding In Car Video Recorders:**

The use of recording devices will assist in the collection and preservation of evidence, protection of departmental personnel and collection of training material. Use of any "in car video recording device," either privately owned or department owned shall be in strict compliance...

Chapter 4, Subchapter 14, Section 4.14.4.A.6, **General Use and Operations:**

Officers shall not secretly record the activities of another member without authorization from command personnel.

Chapter 1, Subchapter 2, Section 1.2.3.B.27.b, **Dereliction of Duty, Unsatisfactory Performance:**

... the following will be considered *prima facie* evidence of unsatisfactory performance: repeated poor evaluations or a written record of repeated infractions of rules, regulations or orders of the Department which govern the Patrol.

At this hearing, Appellant presented six witnesses to testify on his behalf. The first witness was Mr. Tobyas Odom, the alleged drug dealer that Appellant claimed to be searching for while in Piedmont in February 2005. Mr. Odom presented the Appellant's one and only exhibit at this hearing. This exhibit was an Affidavit stating in pertinent part, "I personally had received information from various sources that Trooper Jason Hanlon had contacted friends and associates of mine attempting to pin a dope lab on me from January 15, 2005 through March 15, 2005." Mr. Odom also admitted that he had been convicted of concealment of stolen property and possession of a controlled dangerous substance.

Appellant's next witness was Trooper Mark Dlugokinski. Trooper Dlugokinski had know Appellant for over five years and acknowledged they were good friends. Trooper Dlugokinski testified that if he leaves his duty post and goes less than a half mile out of his area, he does not get permission from his supervisor. However, he does stay in contact with his supervisor. Trooper Dlugokinski also testified that he would never go 15 to 20 miles off his duty post without first getting

permission from his supervisor.

Appellant's next two witnesses gave testimony which actually supported the Appellee's position. 2<sup>nd</sup> Lieutenant Leann Spears has been with the OHP for 15 years and, at one time, was Appellant's direct supervisor. When asked about Appellant's truthfulness, Lieutenant Spears testified that there was one situation regarding Appellant where she could not prove or disprove that Appellant was being truthful and she was not sure if Appellant was trying to "cover something up". Lieutenant Spears also testified that she was uncomfortable being Appellant's supervisor because of his past disciplinary record and his constant need for supervision. In addition, Lieutenant Spears stated that Appellant needed more supervision than other Troopers and that Appellant would "say what you wanted to hear and not be up front with you".

2<sup>nd</sup> Lieutenant Joe Coakly, a member of the Review Board, testified that during the review hearing, he believed Appellant was lying about the incident regarding the video tape in Appellant's vehicle.

The last witness which Appellant wanted to present was himself. However, Appellee objected because Appellee had no notice that Appellant was going to testify. While in most cases, the parties would expect that Appellant, at some point during the hearing, would take the stand on his/her own behalf, this case is different.

At the prehearing in this matter held December 23, 2005, the undersigned and the parties were all made aware that when Appellant was terminated in November 2005, it was for violation of DPS Policy and for violations of Title 21 O.S., Chapter 13, Section 451 and 453 of the Oklahoma Statutes. Specifically, those statutes state in part:

**Section 451. Offering False Evidence:**

Any person who, upon any trial, proceeding, inquiry or investigation whatever, authorized by law, offers in evidence as genuine, any book, paper, document, record, or other instrument in writing, knowing the same to have been forged or fraudulently altered, shall be guilty of a felony and shall be punished in the same manner as the foregoing or false alternation of such instrument is made punishable by the provisions of this title.

**Section 453. Prepare False Evidence:**

Any person guilty of falsely preparing any book, paper, record, instrument in writing, or other matter or thing, with intent to produce it, or allow it to be produced as genuine upon any trial, proceeding, or inquiry whatever, authorized by law, shall be guilty of a felony.

Accordingly, at the prehearing, Appellee informed the Court and Appellant that it had referred the matter to the District Attorney for Oklahoma County for review. Discussions were held at the prehearing as to whether the hearing should be postponed pending the District Attorney's decision whether or not to prosecute Appellant. Discussions were also held regarding whether Appellant would want to testify on his own behalf at a Merit Protection Commission hearing if criminal charges were filed and pending against him in Oklahoma County. No decision was made by Appellant at that time and Appellee was ordered to contact the District Attorney's office to ascertain if criminal charges had been filed against Appellant.<sup>9</sup>

On December 29, 2005, Appellee submitted a letter stating that the District Attorney was continuing to review Appellant's file and had not made any decision regarding the filing of criminal charges.

On February 21, 2006, Appellee's attorney sent a letter to Appellant's attorney dated March 2, 2006 regarding various matters in this case and attaching a Notice to take Deposition of a witness. The undersigned called a status conference regarding the matters listed in Appellee's letter and on March 15, 2006 that status conference was held.

During the course of the 45 minute status conference, numerous matters were discussed, including depositions, affidavits, witnesses and polygraph examinations. However, at no time did Appellant address the issue of whether or not he would testify at the hearing. Appellee was again directed to contact the District Attorney to ascertain the status of possible charges against Appellant.

On March 21, 2006, Appellee provided a letter stating that the District Attorney was continuing to review the file and had not made any decision whether to file criminal charges against Appellant.

<sup>9</sup> It should be noted at the prehearing the Appellee and Appellant both presented an initial list of witnesses and neither party listed the Appellant as a witness.

On April 3, 2006, Commissioner Ward received a March 31, 2006 letter from the District Attorney stating in part that while the District Attorney had serious concerns about Appellant's explanations of the events as he described them and doubts regarding his recitation of the events, that office had determined that there was insufficient evidence to prove a criminal offense against Appellant.<sup>10</sup> On April 7, 2006, Appellee provided the undersigned and Appellant with a copy of the District Attorney's letter.

At no time after receipt of the March 31, 2006 letter from the District Attorney did Appellant put Appellee on notice that Appellant was going to testify at the Merit Protection Commission hearing. Further, when the hearing convened at the Merit Protection Commission on April 19, 2006, Appellant did not put Appellee on notice that Appellant was going to testify. When the hearing reconvened for the second day on April 21, 2006, Appellant did not put Appellee on notice that Appellant was going to testify. It was not until the day before the third and last day of hearing on May 16, 2006 that Appellant told Appellee that he was going to testify at the hearing. At that time, Appellee objected.

The question of whether Appellant would testify on his own behalf has been a prominent issue from the time of the prehearing in December 2005 and no one involved in this matter, even Appellant himself, was clear whether he would testify on his own behalf. The determination to not file charges by the District Attorney was made 19 days before the hearing convened and at any time during that period of time, Appellant could and should have put Appellee on notice of his intent to testify, thereby giving Appellee the opportunity to question or depose Appellant prior to the hearing. Appellant also had additional time when he could have notified Appellee from the beginning of the hearing date on April 19<sup>th</sup> until the final day of the hearing on May 16<sup>th</sup>. Appellant failed to do so. Accordingly, the undersigned sustained Appellee's objection and did not allow Appellant to testify.

<sup>10</sup> The standard of proof for such a case is beyond a reasonable doubt.

## CONCLUSIONS OF LAW

1. The Oklahoma Merit Protection Commission has jurisdiction over the parties and subject matter in the above entitled cause.
2. Any finding of fact which is properly a conclusion of law is so incorporated herein as a conclusion of law.
3. The burden of proof in this case was placed on the Appellee, as the Appointing Authority, pursuant to OAC 455:10-19-2 and Appellee has met its burden.
4. OAC 455:10-11-14 states in pertinent part that any employee in the classified service may be discharged for misconduct, insubordination, inefficiency, habitual drunkenness, inability to perform the duties of the position in which employed, willful violation of the Oklahoma Personnel Act or the rules prescribed by the Oklahoma Office of Personnel Management or by the Oklahoma Merit Protection Commission, conduct unbecoming a public employee, conviction of a crime involving moral turpitude, or any other just cause.
5. Oklahoma Highway Patrol Policy states:

Chapter 1, Subchapter 2, Section 1.2.3.B.22, **Rules of Conduct, Leaving duty post:**

Members shall not leave assigned duty posts, absent themselves from any duty, except when authorized by proper authority or required in performance of duty. Members shall be cognizant of the fact that their primary enforcement responsibility is to their assigned detachment area.

Chapter 1, Subchapter 2, Section 1.2.3.B.41, **Rules of Conduct, Department Reports:**

Members shall make/submit all necessary required reports on time and in accordance with established Patrol procedures or otherwise directed by proper authority. Reports, either written or oral, made or submitted by members of the Patrol shall be truthful and complete.

Chapter 4, Subchapter 2, Section 1.2.3.B.46, **Rules of Conduct, Truthfulness:**

Upon the order of the Chief, the Chief's designee or supervisor officer, members shall truthfully answer all questions specifically directed and narrowly related to the scope of employment and operations of the Department which may be asked of them.

Chapter 4, Subchapter 14, Section 4.14.1.A, **Policy regarding In Car Video Recorders:**

The use of recording devices will assist in the collection and preservation of evidence, protection of departmental personnel and collection of training material. Use of any "in car video recording device," either privately owned or department owned shall be in strict compliance...

Chapter 4, Subchapter 14, Section 4.14.4.A.6, **General Use and Operations:**

Officers shall not secretly record the activities of another member without authorization from command personnel.

Chapter 1, Subchapter 2, Section 1.2.3.B.27.b, **Dereliction of Duty, Unsatisfactory Performance:**

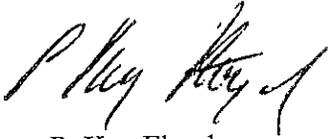
... the following will be considered *prima facie* evidence of unsatisfactory performance: repeated poor evaluations or a written record of repeated infractions of rules, regulations or orders of the Department which govern the Patrol.

6. Appellee, Department of Public Safety, has shown by a preponderance of the evidence presented at this hearing that just cause existed for the discharge of Appellant and that such discipline was proper. Furthermore, it is the conclusion of the undersigned that the discharge of Appellant did not constitute an abuse of discretion by Appellee under the facts and circumstances of this case.

**ORDER**

It is therefore **ORDERED, ADJUDGED** and **DECREED** by the undersigned Administrative Law Judge that the appeal of *Jason C. Hanlon v. Department of Public Safety*, MPC 06-066, be **DENIED**.

Dated this 21<sup>st</sup> day of June, 2006.



P. Kay Floyd  
Administrative Law Judge  
Oklahoma Merit Protection Commission  
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