

5. The Council's Professional Regulation Subcommittee ("Subcommittee") reviewed and processed the complaint pursuant to 20 V.S.A. Chapter 151, Subchapter 2.

6. The Subcommittee determined that the facts established by the investigation of the complaint conducted by the Brattleboro Police Department supported a finding of unprofessional conduct and, by vote on October 05, 2023, concluded in relevant part that Respondent had engaged in Category B conduct (second offense).¹

7. Based on the Subcommittee's determination, the State specifically alleges that on February 13, 2022 Respondent followed a vehicle into New Hampshire and executed a traffic stop, including the search of the vehicle, with full knowledge that he had crossed into New Hampshire. Respondent did not have the legal authority to conduct or continue the traffic stop in New Hampshire based on the facts and circumstances of the motor vehicle stop. The State alleges that Respondent's conduct was in violation of Brattleboro Police Department's General Order 210: Professional Conduct and Responsibility.

Conclusions of Law

8. Vermont law sets forth three categories of law enforcement officer unprofessional conduct: Category A, Category B and Category C. *See* 20 V.S.A. § 2401(1)-(3) (categories defined).

¹ By vote on June 16, 2022, re: Docket No. PRS 2020HL1 the VCJC Professional Regulation Subcommittee determined that Officer Penniman engaged in Category B (first offense) unprofessional conduct due to gross professional misconduct as defined by the Brattleboro Police Department's General Order: Professional Conduct and Responsibility, and Ethics. The conduct included sworn testimony and reporting in a case that was contradicted by video evidence. Pursuant to VCJC Professional Regulation Subcommittee Procedures, § 8.1.1, the VCJC Executive Director delivered a notice letter, dated September 25, 2023, to Ofc. Penniman, via certified mail, return receipt requested, which was received by Ofc. Penniman on October 07, 2023. The letter provided Ofc. Penniman notice that, consistent with the Brattleboro Police Department's internal investigation, the Subcommittee concluded that Category B unprofessional conduct had occurred due to a violation of Brattleboro Police Department policy, but that because it was the first such offense, no sanction could be imposed by law. The matter in said Docket No. 2020HL1 was closed with no sanction. However, the September 25, 2023 notice letter specifically provided, in part: "Please be aware that any future instance of Category B conduct, or any other unprofessional conduct defined in 20 V.S.A. § 2401, may subject you to Council sanction, up to and including permanent revocation of your Vermont law enforcement officer certification, after notice and an opportunity for hearing."

9. As relevant to this matter, Category B conduct is defined as “gross professional misconduct amounting to actions on duty or under authority of the State, or both, that involve willful failure to comply with a State-required policy or substantial deviation from professional conduct as defined by the law enforcement agency’s policy or if not defined by the agency’s policy, then as defined by Council policy.” *Id.* § 2401(2).

10. The State alleges that Respondent engaged in prohibited Category B conduct by virtue of continuing a traffic stop in New Hampshire without the legal right to do so, a substantial deviation from professional conduct as defined by his law enforcement agency’s policy.

11. Respondent acknowledges that if this matter were to proceed to a contested hearing, the State has relevant evidence that, if accepted by the Council, could adequately support the conclusion that Respondent engaged in prohibited Category B conduct. See 20 V.S.A. § 2401(2) (Category B conduct defined to include “gross professional misconduct amounting to actions on duty or under authority of the State, or both, that involve. . . substantial deviation from professional conduct as defined by the law enforcement agency’s policy”).

12. Respondent's participation in this stipulated agreement is not an admission of wrongdoing, but rather an acknowledgement that the State could satisfy its burden at a hearing and that the Council could enter a finding against him pursuant to 20 V.S.A. § 2401, § 2405-2407 and 3 V.S.A. § 812.

13. In the interest of resolving this matter, the Respondent and the State agree to enter this Stipulation and Consent Order, in lieu of proceeding to hearing.

14. The Council adopts as its facts and conclusions in this matter Paragraphs 1 through 7 above. Any representation by Respondent herein is made solely for the purposes set forth in this agreement.

15. Therefore, in the interest of Respondent's desire to fully and finally resolve the matter presently before the Council, Respondent has determined that Respondent shall enter into this agreement with the Council. Respondent enters no further admissions here, but to resolve this matter without further time, expense, and uncertainty Respondent has concluded that this agreement is acceptable and in the best interest of the parties.

16. Respondent agrees and understands that by executing this document Respondent is waiving any right to challenge the jurisdiction and continuing jurisdiction of the Council in this matter, to be presented with a specification of charges and evidence, to cross-examine witnesses, to offer evidence of his own to contest any allegations by the State or to appeal from this Stipulation and Consent Order.

17. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order

18. The parties agree that upon the Council's acceptance of this Stipulation and Consent Order, and pursuant to the terms herein, the above-captioned matter shall be resolved by the Council. Thereafter, the Council will take no further action as to this matter absent non-compliance with the terms and conditions of this document by Respondent.

19. This Stipulation and Consent Order is conditioned upon its acceptance by the Council. If the Council rejects any part of this document, the entire agreement shall be considered void. Respondent agrees that if the Council does not accept this agreement in its current form, Respondent shall not assert in any subsequent proceeding any claim of prejudice

from any such prior consideration. If the Council rejects any part of this agreement, none of its terms shall bind Respondent or constitute an admission of any of the facts of the alleged misconduct, it shall not be used against Respondent in any way, it shall be kept in strict confidence, and it shall be without prejudice to any future unprofessional conduct disciplinary proceeding and the Council's final determination of any charge against Respondent.

20. Respondent acknowledges and understands that this Stipulation and Consent Order shall be a matter of public record and shall be entered in his permanent Council file. In exchange for the actions by the Council, as set forth herein, Respondent expressly agrees to be bound by all terms and conditions of this Stipulation and Consent Order.

21. The parties therefore jointly agree that should the terms and conditions of this Stipulation and Consent Order be deemed acceptable by the Council, it may enter an order implementing the terms and conditions herein.

Order

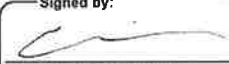
WHEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, and based on the consent of Respondent, it is hereby ORDERED that:

1. Respondent is issued a **written warning**;
2. Respondent shall provide a complete copy of this Stipulation and Consent Order to any Vermont law enforcement agency for which he works or to any prospective Vermont law enforcement agency to which he makes application for employment, as well as to any state regulatory body or other certification authority related to law enforcement officers in any location or jurisdiction where he may apply for law enforcement officer employment, for so long as this Stipulation and Consent Order remains in effect.

3. Respondent shall bear all costs of complying with the terms and conditions of this Stipulation and Consent Order.

4. Respondent agrees to be bound by all terms and conditions of this Stipulation and Consent Order.

work 7 November
DATED at _____, Vermont this ____ day of _____, 20²⁴.


Signed by:
By: 
Bradley Pennington
Respondent

Approved as to Legal Form:

DATED at ~~Pittsford~~, Vermont, this ~~5th~~ day of ~~Nov~~, 20~~24~~ 

By: _____, Esq.
Counsel for Respondent

DATED at Pittsford, Vermont, this 8th day of Nov., 2024

By: 
Christopher Brickell
Executive Director
Vermont Criminal Justice Council

Approved as to Legal Form:

DATED at Pittsford, Vermont this 8th day of November 2024

By: *Kim McManus*
Kim McManus
Associate General Counsel
Vermont Criminal Justice Counsel

