

5. The Council Professional Regulation Subcommittee (“Subcommittee”) reviewed and processed the complaint pursuant to 20 VS.A. Chapter 151, Subchapter 2.

6. The Subcommittee determined that the facts established by the investigation of the complaint supported a finding of unprofessional conduct and, by vote on May 24, 2021, concluded that Respondent had engaged in Category B conduct (second offense). The Subcommittee reviewed and reaffirmed its decision on April 04, 2024 after clarifying that the Vermont Criminal Justice Council had mailed Respondent a letter outlining a Category B, first offense, determination for a previous professional regulation case.¹

7. Based on the Subcommittee’s determination, the State specifically alleges that, in July 2019, Respondent engaged in personal business while on his way home but still on duty - in full uniform and in his marked VSP cruiser - which would have interfered with his performance or duties and/or his ability to perform his duties without permission from his supervisor in violation of the following Vermont State Police policies: (1) General Orders 203, Part B, § 3.0 (conduct); (2) General Orders 204, Part C, § 12.0 (neglect of duty); and (3) General Orders 2054, Part C, § 20.0 (violations of rules).

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¹ By vote on May 24, 2021 re: Docket No. PRS 20206YW, Category B (FIRST), the Subcommittee determined that Respondent had engaged in gross unprofessional conduct, Category B (first offense), on August 31, 2019 by providing a friend a ride home outside of his assigned patrol area while the Respondent was on duty, that he activated his cruiser’s blue lights while providing that ride home, and that he was not entirely truthful when questioned about the incident. This behavior violated Vermont State Police policies: (1) General Orders 202, Part A, §§ 8.0 (false reports/false statements) and 14.0 (truthfulness); (2) General Orders 203, Part B, §§ 1.0 (abuse of authority), 3.0 (conduct) and 11.0 (obedience to orders); and General Orders 204, Part C, §§ 1.0 (absence from duty), 12.0 (neglect of duty) and 20.0 (violation of rules). Respondent does not contest that there is evidence to support the Subcommittee’s determination of a Category B (first offense).

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).

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). That specifically includes but is not limited to the following: “(A) sexual harassment involving physical contact or misuse of position; (B) misuse of official position for personal or economic gain; (C) excessive use of force under authority of the State, first offense; (D) biased enforcement; (E) use of electronic criminal records database for personal, political, or economic gain; (F) placing a person in a chokehold; and (G) failing to intervene and report to a supervisor when the officer observes another officer placing a person in a chokehold or using excessive force.” *Id.* § 2401(2)(A)-(G).

10. The State alleges that Respondent engaged in prohibited Category B conduct by substantially deviating from expected professional conduct as defined by Vermont State Police policies when he engaged in personal matters while on duty, without prior approval from a supervisor, interfering with his ability to perform his job duties in violation of the following Vermont State Police policies: (1) General Orders 203, Part B, § 3.0 (conduct); (2) General Orders 204, Part C, § 12.0 (neglect of duty); and (3) General Orders 2054, Part C, § 20.0 (violations of rules).

11. Respondent acknowledges that if this matter were to proceed to a contested hearing, the State could prove 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. Consistent with Respondent’s cooperation with the Council, Respondent acknowledges that if the State were to file charges it could satisfy its burden at a hearing and a finding adverse to Respondent could be entered by the Council 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, and Respondent agrees that this is an adequate basis for the Council actions set forth herein. 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, shall be entered in his permanent Council file, shall constitute an enforceable legal agreement, and may and shall be reported to other authorities, including the International Association of Law Enforcement Standards and Training National Decertification Index. 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.

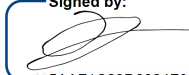
Order

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


1. Respondent's Vermont law enforcement officer certification shall be PERMANENTLY REVOKED effective September 17, 2024, with no option of recertification.
2. Respondent shall provide a complete copy of this Stipulation and Consent Order to any Vermont law enforcement agency 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. Respondent agrees that any failure by him to comply with the terms and conditions of this Stipulation and Consent Order shall constitute Category C conduct under 20 V.S.A. § 2401(3) and may subject Respondent to unprofessional conduct disciplinary action as the Council may deem appropriate.

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DATED at Burlington, Vermont this 13th day of September, 2024.


Signed by:

By: _____
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Darren Kennedy
Respondent

DATED at Pittsford, Vermont, this 10th day of September, 2024.

By: 
Christopher Brickell
Acting Executive Director
Vermont Criminal Justice Council

Approved as to Legal Form:

DATED at Pittsford, Vermont this 10th day of September 2024.

By: 
Kim McManus
Associate General Counsel
Vermont Criminal Justice Council

**AS TO *IN RE*: DARREN KENNEDY, VCJC Docket No. PRS 2020S53:
APPROVED AND ORDERED
VERMONT CRIMINAL JUSTICE COUNCIL**

Signed by:
William Clement
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9/17/2024

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DATED: 9/18/2024 _____

ENTERED AND EFFECTIVE: 9/18/2024 _____