

On or about April 18, 2024, the Police Officer Standards and Training Commission (“POST”) received a Notification of Employment Status Change from the Delaware State Police (hereinafter “DSP”) indicating that Christopher Sutton (“Sutton”) had retired from DSP and that by his conduct or reputation, may be subject to potential action by the POST. Subsequently, Sutton was notified in writing of the existence of grounds for decertification and of his right to a hearing prior to such decertification. Sutton, by and through his legal counsel, requested such a hearing and, on Tuesday, May 28, 2024, a hearing was held in accordance with 11 *Del.C.* §8404A at the Delaware State Police Headquarters in Dover, Delaware for the determination whether it is appropriate to suspend or revoke the certification of Sutton under 11 *Del.C.* §8404(a)(4)e.2. The Hearing Board consists of Executive Director Jeffrey Horvath (Presiding Officer), Chief Thomas Johnson, and Education Associate Rosalie Morales.

FINDINGS

Sutton was a Delaware State Police Trooper holding the rank of Sergeant. Sutton became the subject of an administrative investigation in connection with an allegation of harassment. The facts of the alleged harassment were substantiated and a Decision of the Lieutenant Colonel, dated January 26, 2024, was issued. The discipline imposed by the Decision of the Lieutenant Colonel was: 160 hours suspension with the option to forfeit vacation; and Reduction to the rank of Master Corporal. Sutton waived his right to request a Trial Board or Superintendent’s Hearing and any and all other rights and remedies available and, accordingly, accepted the discipline imposed. Also on January 26, 2024, Sutton exercised his option to retire, with his retirement to be effective after the conclusion of the investigation, final discipline administered, and hours deducted from his vacation allotment. At the hearing before this Board, it was determined that Sutton’s retirement

did not occur while he was under investigation but, rather, after the investigation had ended, findings of fact had been entered, and the discipline had been imposed.

CONCLUSIONS OF LAW

11 *Del. C.* § 8404(a)(4)e.2. provides that the POST shall suspend or revoke certification where an officer has received an administrative hearing under Chapter 92 of Title 11 or has knowingly and voluntarily waived that individual's right to such a hearing, and has retired or resigned prior to the entry of findings of fact concerning an alleged breach of internal discipline for which the individual could have been legitimately discharged had the individual not retired from or resigned that individual's position prior to the imposition of discipline by the employing agency.

Because the undisputed evidence and information provided to this Board established that Sutton's retirement did not occur while he was under investigation but, rather, after the investigation had ended, findings of fact were entered, and the discipline had been imposed, POST is precluded from acting further with respect to Sutton's Delaware certification. Therefore, this Hearing Board must recommend to the full Commission that no action be taken regarding Sutton's certification.

Remainder of this page intentionally left blank.

RECOMMENDATION

Based on the Hearing Board’s findings of fact, the Board unanimously recommends to the full POST that no action be taken in this matter.

/s/ Jeffrey Horvath
Executive Director Jeffrey Horvath
Presiding Officer

/s/ Thomas A. Johnson, Jr.
Chief Thomas Johnson
Member

/s/ Rosalie Morales
Education Advisor Rosalie Morales
Member

Dated: June 3, 2024