

Petition for Review

Row 28

Created 06/17/23 3:59 PM

OALP Cause Number

Intake Determination Filed

Timely? Yes

Assigned DHS Attorney Hillary Egan

Assigned Attorney Status Open

Individual Name Troy Dulaney - BFPSE

Business Name

Phone Number

Email Address

Mailing Address

Are you represented by an attorney? No

Attorney Name

Attorney Firm

Attorney Phone Number

Attorney Email Address

Attorney Mailing Address

Order Number 2023-01

Facility | Device | Boiler ID

Date Order 06/05/23

Received

How did you receive the order? Email Mail

Entity Issuing Order Board of Firefighting Personnel Standards and Education

Entity Name

Was this order specifically directed to you? Yes

How is the order specifically directed to you? The subject Order initiating this Petition for Appeal, Order Number 2023-01, was specifically directed to me, Troy Dulaney, by name, address, email and PSID. The Order named me personally as the "Respondent" throughout and began with an itemized account of my current firefighting certifications and corresponding expiration dates and continued with a multitude of paragraphs describing conduct allegedly attributable to me, personally. Furthermore the Order concluded with the finding that I, Troy Dulaney, as Respondent, personally "utilized" my position as a Captain, instructor and proctor to pressure students into memorizing fire and EMS test questions, which the order concludes, resulted in students being able to pass exams based on memorization of the test questions rather than learning the material.

Aggrieved or adversely affected by the order? Yes

How have you been aggrieved/adversely affected? As a result of this Order revoking all of my firefighter certifications, and in conjunction with the Department of Homeland Security's previous Order revoking all of my EMS certifications, I have been put on inactive status pending the completion of the Appeals process, with anticipation of immediate termination should the permanent revocation of all certifications withstand all appeals. Presently the Mayor and the Fire Department Chief are calling for my termination in various media outlets and the Muncie Fire Merit Commission is having an Executive Session to discuss the circumstances on June 21, 2023. Should I be terminated, despite nearly nineteen and a half years of service, in which I have had perfect attendance, never missing a day or arriving late, having obtained more certifications and training than any other member of my department, including being awarded EMT of the year in 2020 and Firefighter of the Year 2012, and having never been the subject of disciplinary action, I will lose my retirement pension, which would be matured and vesting as of March 2024, less than a year from now. Outside of the catastrophic financial impact this will have on myself and my family, I will also be losing a career that I love and am proud of. I have diligently served my community for nearly twenty years for no other reason than my pure and absolute desire to help people. This passion, which led me to leave a higher paying factory job to become a fireman to begin with, has provided both purpose and meaning to my everyday life, the loss of which could never be quantified. Unfortunately I could write an eon long of the ways in which I have been adversely affected by this Order, however, I will conclude with the mention of one final adverse impact, that being the perceived loss of integrity, respect and

standing in my community. As a result of the wanton allegations and haphazard investigation, resulting in this Order, I have been publicly blasted in news segments, various state and national articles, and on social media alike. I have been branded as incompetent in my duties to the community, a responsibility I take all so seriously, and have suffered countless acts of libel and slander which have resulted in an incorrect and unjustified personal image portraying me as a malicious cheater and scam artist, selfishly wishing to help certify anyone and everyone so that I may personally gain answers to exams in exchange (again, the purpose of which I am still not certain) and yet great detriment to the community I serve. This portrayal is quite literally the opposite of who I am, what I stand for, and the high standards and expectations I have attempted to hold myself and my department to. The impact on my career, livelihood, personal relationships, mental and emotional well being, even my physical health have been astronomical. I am not being facetious to say that this allegation has ruined my life to such an extent I couldn't begin to anticipate how it is to be repaired and truly no words do justice to the damage I and my family have sustained.

I request review of the entire order described Yes

What is the scope of your request?

I request a stay of effectiveness Yes

What is the basis of your challenge? Without doubt the basis of my challenge stems from the way in which this investigation was conducted. Based on what little evidence or conclusions I have been presented, the investigation was at best irresponsible, inconsistent, and biased and at worse reckless and wanton in it's disregard for the many lives grievously impacted and the grave damage done to the Department and the Community to which we serve. At no point in the investigation was I ever permitted to know the specific allegations against me, nor was I permitted to see the so called evidence forming the basis of the allegations and the resulting Order. Where demonstrating the absence of anything is already difficult, it is incomprehensible how I was to wage a defense, the basis of which being the absence of cheating and the lack of malicious intent, without knowing the basis of the allegations from which to begin. While the Department of Homeland Security did not find it prudent to provide me with a copy of their Investigative Summary and Board Recommendation, copy seems to have been provided to various news outlets. While I have avoided the vast coverage accusing me of being a reprehensible cheater, my friends, family and colleagues were able to obtain a copy of the findings. I don't presume what I read in the media to be the gospel, but to the extent the Summary is genuine and was provided by the Department of Homeland Security, as having formed the basis of their decision to indefinitely revoke all of my fire certifications, I will address the allegations and conclusions therein contained and in so doing simultaneously demonstrate the basis of my very just criticism of this investigation and Order. (See Attachment A. Channel 13 Investigates, News Article including Department of Homeland Security Investigation Summary Findings and Recommendation). (See Attachment B. Department of

Homeland Security Fire Investigation Summary Findings and Recommendations). Beginning in chronological order with the accusations regarding the 2018 FOST course examination from which the summary states were obtained "6 pages of photographs of test questions" taken "likely via cell phone camera" and showing the name of Muncie Fireman "Sean Burcham, at the top of the screen" reflecting the use of the Acadis computer system to facilitate the test. The summary then goes on to declare that Sean Burcham was on vacation and Captain Dulaney, as proctor of the exam, had access to Burcham's PSID and test code and thus "deductive reasoning suggest that Dulaney used his position and access as proctor to log in student (sic) Sean Burcham's Acadis testing portal to view the questions on this exam and used his cell phone camera to take the images." Deductive reasoning may have led this investigator to conclude that I, in my desire to cheat, logged into, my then supervisor, Lieutenant Sean Burcham's exam, however deductive reasoning led me to check records surrounding the alleged incident. Those records revealed that Lieutenant Burcham's FOST course exam was administered on March 25, 2018 via the Acadis testing portal. Records, including Department scheduling and numerous run reports, also revealed Lieutenant Burcham was in fact on duty on March 25, 2018, not on vacation as alleged. (See Attachment C. Lt. Burcham FOST Transcript)(See Attachment D. Run Report from March 25, 2018). When taking an exam in Acadis it should be noted that once a student begins an exam that student must finish said exam within two hours. Once an exam has been submitted it cannot be reopened. This would mean that to successfully attribute photos of Lieutenant Burcham's exam to me, Lieutenant Burcham, who was allegedly on vacation, either did not take this test himself and the allegation must be that I, utilizing my position as proctor, and unbeknownst to Lieutenant Burcham, took the exam myself pretending to be Lieutenant Burcham on this date. However, please note that this version of events would also require Muncie Fire

What is your desired outcome?

My every decision and action as a Captain of the Muncie Fire Department is, and has been, aimed at furthering the knowledge, skill and work ethic of my subordinates. Never would I wish for them to cut corners or cheat to obtain certification as opposed to learning the knowledge properly, especially where I have been a main proponent in pushing that all Muncie Fireman should be forced to undergo training and further certification beyond that which is required of us by the Department. I have pushed this agenda because I want our employees to be as best prepared to provide the care required of them as can be. Having lost multiple family members in recent years as a result of what I consider (and prior to the tragic incidents, had pointed out) as inadequacies of the Muncie Fire Department, I by no means take for granted that everyday lives are at stake when we are called to a scene and our training and knowledge are crucial in these moments, often serving literally as the difference between life and death. For what purpose would I consistently pursue an agenda that would force all personnel to undergo training and further testing and certification but then turn around and attempt to cheat said certification? This narrative is illogical and I believe easily disputed, if not by my having the most certifications on the department (a clear indicator of the emphasis I put on the importance of training) than by the countless witnesses, merit meetings, and exhibits, including the evaluations and standards I have proposed for the Department, that I am prepared to produce, as compiled from many years, to demonstrate my

commitment to personnel training, knowledge and certification, both fire and EMS. Keeping this in mind, should a neutral trier of fact, after hearing all of the supposed evidence, find my conduct worthy of punishment, I would humbly request that the punishment not diminish the fact that I have rightfully earned all of the certifications and thus not deprive me of my ability to serve those around me and my community, which has always been my only goal. Furthermore, to the extent practicable, I would like for there to be some sort of retraction of the allegations and false depictions, if not of myself, than at least those of the numerous Muncie Fire Department personnel who have worked hard to serve our community but who have been wrongfully blasted as incompetent and ill prepared as a result of these allegations.

**Additional
Information in
Support of Request**

In addition to my challenges as delineated in response to the questions above, I wish to address one additional point; the allegations, as outlined against me, simply don't make sense. While I fervently wish for all Muncie Firemen to have advanced training and knowledge, I have no reason to wish for other personnel to hold certifications. Neither I, nor the community I serve, benefit from the mere obtainment of additional certifications where the proper knowledge has not been acquired. Within the department I have been a driving force of pushing to require all personnel to hold advanced certifications solely because I want all personnel to provide the highest care and acquiring advanced certifications requires personnel to advance their knowledge, skill and training in order to do so. I receive no additional compensation for training or teaching students, nor do I receive additional compensation for the passing of certification exams. Simply put, the cheating scheme I have been accused of orchestrating, would go against all rational decision making. For what purpose would I risk my career and livelihood by cheating so that another individual, with no direct benefit to me at all, could receive a certification, mind you a certification that I have long already held without any suggestion I obtained certifications unjustly. This narrative, while nonsensical, to my knowledge was sadly never questioned in the course of the investigation, nor was I provided an opportunity to explain what I believe to be the true motives behind these allegations. The same claims being herein investigation, were brought to the fire chief prior to any other proceedings and were summarily dismissed as unfounded. Weeks later, and uncoincidentally, they were submitted to news outlets and then to the Indiana Department of Homeland Security and the NREMT, following an important meeting of the Muncie Fire Department Merit Board regarding the decision to begin our internal promotional process. It is my fervent belief that these allegations stem from a group of individuals whom wish to prevent me from taking part in the current promotional process. I am not alone in my belief that the allegations stem from political unrest within the department regarding the promotional process. I have heard from multiple sources who would be willing to testify under oath to this same belief. Promotional lists within the department are considered active for a period of two years at which point the Merit Board must vote to extend the list or must decide to begin a new promotional process to obtain a replacement list. On March 9th of this year, our Merit Board elected to begin the currently ongoing promotional process, as the standing active list will have reached two years of age by the time the current process concludes. To the extent it is relevant, under the current active promotional list, I had foregone the opportunity to test for the rank of Battalion Chief and elected to test only for the rank of

Captain, which I have attained, having finished number 1 in the previous promotional process. The Merit Board's decision to begin another promotional process, as opposed to voting to extend the current active list, affords me the opportunity, and I have elected, to engage in the promotional process to promote to the rank of Battalion Chief, a position expected to be opened in early 2024. I am not alone in my belief that the allegations being relayed against me are a result of this decision. The allegations being presented to the Department of Homeland Security, and, more troubling, to the media, on March 10th, specifically following the March 9th Merit Board decision to begin a new promotional process, demonstrates the need to question the timing and possible motives behind the submission. I humbly request and hope that the adjudicatory body understands my hesitation in mentioning any factor, belief, etcetera outside of those factual circumstances related specifically

Comments

Valarie Caskey (vcaskey1@dhs.in.gov) | July 13, 2023 9:09 AM

Opened matter in HighQ.

Valarie Caskey (vcaskey1@dhs.in.gov) | July 13, 2023 7:15 AM

Refiled Petition for Review on today's date.

Valarie Caskey (vcaskey1@dhs.in.gov) | July 13, 2023 6:46 AM

This matter was filed on 6/28/2023 with OALP (see attached email). OALP claims not to have received this, even though I have proof they did, so we are refiling per JG.

Valarie Caskey (vcaskey1@dhs.in.gov) | July 5, 2023 6:49 AM

Initial Prehearing Conference set for 8/1/23 at 1pm (EST) via zoom teleconference.

Valarie Caskey (vcaskey1@dhs.in.gov) | June 28, 2023 10:12 AM

Opened matter for HE in HighQ.