

Petition for Review



Row 25

Filed June 28, 2023

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OALP Cause Number

Intake Determination

Timely? No

Assigned DHS Attorney Hillary Egan

Assigned Attorney Status Open

Individual Name Troy Dulaney

Business Name n/a

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 S0027-2023

Facility | Device | Boiler ID

Date Order 05/26/23

Received

How did you receive the order? Email Mail

Entity Issuing Order Indiana Department of Homeland Security

Entity Name

Was this order specifically directed to you? Yes

How is the order specifically directed to you? The subject Order initiating this Request for Appeal, Order Number S0027-2023, 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 EMS certifications and corresponding expiration dates and continued with eleven (11) paragraphs of conduct allegedly attributable to me, personally. Furthermore the Order concluded with the finding that I, Troy Dulaney, as Respondent, personally, with "no official role in the EMS training institution for Muncie Fire Department" was responsible for coordinating an alleged "cheating attempt within Muncie Fire Department."

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 EMS certifications, I have been put on inactive status pending the completion of the Appeals process, with anticipation of immediate termination should the seven year revocation of all certifications withstand all appeals. It is the policy of Muncie Fire Department that all personnel must hold at minimum an EMR certification to serve as a Muncie Fireman. Should this Order stand, I will fail to meet this requirement and will thus be terminated, a position the Department Chief is presently pushing despite my appeals having not yet been exhausted. Upon termination, 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 appeal 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 certify anyone and everyone as an EMT at any cost, to no personal gain whatsoever 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 damage 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?

There are many facets of this Order, and the investigation upon which it was founded, to which I take challenge. In deference and respect to the time of the adjudicatory body tasked with reviewing this petition for appeal, however, I shall limit myself to my two core challenges, namely, the way in which the investigation was conducted and the merits of the harsh punishment rendered, particularly where the statutory code necessitates elucidation where the department's sanctions significantly deviate in severity from those routinely dispensed for similar conduct. My largest challenge to this Order stems from what I consider the reckless and irresponsible manner in which the investigation was conducted. While I understand there are few, if any, evidentiary rules dictating the conducting of administrative investigations, having received little to no details regarding the claims against me or the investigation itself, I am forced to question the reliability of the findings therein. I have been afforded no opportunity to challenge or dispute the reliability of the evidence used to make the determination or the character and motives of witnesses relied upon. I can think of no rationale or justification necessitating the absolute lack of transparency and cloud of secrecy surrounding this investigation, especially where the results of which have such catastrophic impact on the accused. To date, more than three months since the start of this investigation, I have not been presented with a scintilla of tangible evidence indicating the occurrence of the alleged years long cheating scheme, and certainly no evidence that I utilized my role as a Captain to facilitate said scheme. As opposed to being confronted with the claimed evidence, including a multitude of text messages referenced in the Order, in the lone, and what felt combative, interview I was granted with investigator Zach Mathews, I was only ever presented with statements of hearsay and accusations, nothing more. These statements of hearsay, which already lack the credibility in most instances to be admissible in a court of law, are further lacking any degree of credibility based on their having been obtained from sources that remain

anonymous to me, depriving me of any opportunity to challenge the credibility of said witnesses. As pertains to statements allegedly attributable to me, I was provided no context or specificity with which to allow me to understand or explain to any degree. From the onset I have felt that this investigation, rather than a neutral fact finding expedition, has been founded in preconceived notions of guilt and conducted so as to substantiate these preconceived notions, as opposed to determining the validity of such notions; a belief I mentioned as much in my interview with Investigator Zach Mathews. In speaking with Mr. Mathews I felt he had committed himself to the narrative that a long, protracted and deliberate cheating scandal occurred and was uninterested in hearing or exploring any evidence that did not support this narrative. Despite the lack of transparency surrounding the investigation, with what little information I have been able to gleam, there are several gaping realities in support of this conviction. To start, key personnel within the Muncie Fire Department associated specifically with training and instruction were never questioned by Mr. Mathews. Such key personnel include for example Battalion Chief, Scott Hahn. BC Hahn is one of only two Primary Instructors, or "PI's" within the Muncie Fire Department who is tasked with coordinating and conducting EMT certification courses for the Department. All EMS state certification courses, including the 2023 Probationary Recruit Emergency Medical Technician Basic Course, EMT0130, which was specifically mentioned in the Order and ran from January to February 2023, are conducted under the supervision of one, or both, of the two PI's. EMT0130 was administered and ran by Primary Instructors, EMS

**What is your
desired outcome?**

My desired outcome would be to be afforded an opportunity to fully know and be apprised of the accusations and supposed "evidence" against me, and to know those persons whom I am being accused by so that I am able to adequately defend myself. In an investigation that has the ability to do so much damage to the faith and trust of the community, to personal reputations and careers, and to the livelihood and wellbeing of entire families I see no reason why investigative standards should be accepted that are any less than would be afforded in the Court of law. I deserve to be presented with my accuser(s) and to know the "evidence" being used against me, especially where such allegations have been brought forth to those closest to the training and instruction and were dismissed as groundless. Once provided a proper opportunity to defend myself, should a neutral trier of fact determine my conduct unbecoming, I would like for the punishment to fit the crime. If I was inadvertently violating any state codes or ethical standards, there was absolutely no ill intent or motive behind my actions. My every decision and action as a Captain 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, namely only an EMR. 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, particularly EMS certification. 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 of both myself and 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 medical 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 first 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 solely 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. I would also be happy to be afforded the opportunity to call Merit Board President, Andrew Dale, to testify to his beliefs regarding the allegations being brought forth as a result of the Merit Boards March 9th decision to begin a new promotional process to update the current active promotional list. 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, the 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 Lieutenant, 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. 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 media on March 10th, a date confirmed via a local radio broadcast, prior to submission to the Indiana Department of Homeland Security, which according to the investigation su

 Comments

Valarie Caskey (vcaskey1@dhs.in.gov) | June 23, 2023 10:08 AM

This was not timely filed; closed matter per JG.