

Before the  
Administrative Hearing Commission  
State of Missouri



DIRECTOR OF DEPARTMENT OF PUBLIC SAFETY,  
Petitioner,  
vs.  
CHARLES P. KAUFMAN III,  
Respondent.

No. 13-1066 PO

**ORDER**

Charles P. Kaufman III is subject to discipline because he committed a criminal offense.

Procedure

On June 14, 2013, the Director of the Department of Public Safety (“the Director”) filed a complaint seeking to discipline Kaufman’s peace officer license. On June 21, 2013, Kaufman was served with a copy of the complaint and our notice of complaint/notice of hearing by certified mail. On July 19, 2013, Kaufman filed an answer to the complaint. On October 9, 2013, the Director filed an amended complaint. Kaufman did not file an answer to the amended complaint.

On October 24, 2013, the Director filed a motion for partial summary decision. We notified Kaufman by letter dated October 25, 2013, that he should file his response to the Director’s motion by November 8, 2013. Kaufman did not file a response.

Under 1 CSR15-3.446(6)(A),<sup>1</sup> we may grant summary decision “if a party establishes facts that entitle any party to a favorable decision and no party genuinely disputes such facts.” Those facts may be established by stipulation, pleading of the adverse party, or other evidence admissible under the law.<sup>2</sup>

By failing to respond to the motion for summary decision, Kaufman has failed to raise a genuine issue as to the facts the Director established in his motion.<sup>3</sup> In his answer, Kaufman admitted that he pled guilty to one count of peace disturbance.

Accordingly, the findings of fact are based on the answer and the admissible documents attached to the Director’s motion: business records authenticated by a custodian of records affidavit and certified court documents from the criminal case against Kaufman.

The following facts, based on this evidence, are undisputed.

#### Findings of Fact

1. On April 3, 2002, the Director issued Kaufman a peace officer license. Kaufman’s license has been current and active since that date.
2. On July 1, 2005, Kaufman committed the offense of peace disturbance (first offense).
3. On May 12, 2008, the St. Louis County prosecuting attorney filed an information charging Kaufman with one count of stealing,<sup>4</sup> a class C felony. The alleged crime occurred on July 1, 2005.
4. On January 26, 2009, the prosecuting attorney amended that charge to one count of peace disturbance (first offense),<sup>5</sup> a class B misdemeanor.

---

<sup>1</sup> All references to “CSR” are to the Missouri Code of State Regulations, as current with amendments included in the Missouri Register through the most recent update.

<sup>2</sup> 1 CSR 15-3.446(6)(B).

<sup>3</sup> 1 CSR 15-3.446(6)(B).

<sup>4</sup> § 570.030.1, RSMo Supp. 2005.

<sup>5</sup> § 574.010, RSMo 2000.

5. On January 26, 2009, Kaufman pled guilty to one count of peace disturbance (first offense).
6. The court imposed a \$200 fine on Kaufman.

### Conclusions of Law

We have jurisdiction to hear this case.<sup>6</sup> The Director has the burden of proving that Kaufman has committed an act for which the law allows discipline.<sup>7</sup> The Director alleges that there is cause for discipline under § 590.080.1, which provides:

1. The director shall have cause to discipline any peace officer licensee who:

\* \* \*

(2) Has committed any criminal offense, whether or not a criminal charge has been filed.

A final judgment resulting from a guilty plea collaterally estops a defendant from arguing in a future action that he did not commit the criminal offense.<sup>8</sup> Here, Kaufman pled guilty to one count of peace disturbance (first offense). The court imposed a \$200 fine. A fine is a sentence.<sup>9</sup> A final judgment in a criminal case occurs when a sentence is issued.<sup>10</sup> Thus, there is a final judgment resulting from a guilty plea and Kaufman cannot argue that he did not commit the offense. We find that Kaufman committed the criminal offense of peace disturbance.

### **Summary**

We grant the Director's motion for partial summary judgment and find that the Director has cause to discipline Kaufman's license under § 590.080.1(2).

---

<sup>6</sup> § 590.080.2, RSMo Supp. 2013.

<sup>7</sup> *Missouri Real Estate Comm'n v. Berger*, 764 S.W.2d 706, 711 (Mo. App. E.D. 1989).

<sup>8</sup> *James v. Paul*, 49 S.W.3d 678, 682-83 (Mo. 2001); *Carr v. Holt*, 134 S.W.3d 647, 649 (Mo. App. E.D. 2004).

<sup>9</sup> § 557.011.2(2), RSMo Supp. 2013.

<sup>10</sup> *State v. Williams*, 871 S.W.2d 450, 452 (Mo. 1994); *State v. Famous*, 415 S.W.3d 759 (Mo.App. E.D. 2013); *State v. Paul*, 401 S.W.3d 591, 592 (Mo.App. W.D. 2013).

This case is set for hearing on March 5, 2014. The Director shall notify us by February 28, 2014, whether he intends to pursue the remaining allegations presented in the amended complaint.

SO ORDERED on February 21, 2014.

\s\ Sreenivasa Rao Dandamudi  
SREENIVASA RAO DANDAMUDI  
Commissioner