
**BEFORE THE VILLAGE OF KEWASKUM
POLICE AND FIRE COMMISSION**

In Re: The Discipline of Chief Thomas Bishop

**RESPONDENT CHIEF THOMAS BISHOP'S REPLY BRIEF IN
SUPPORT OF MOTION TO DISMISS CHARGES**

INTRODUCTION

President Martin's opposition brief confirms, rather than refutes, the grounds for dismissal. His brief makes three critical admissions that are fatal to these charges: (1) the charges do not identify any specific policy provision that Chief Bishop violated; (2) the officer hired is performing his duties well and has a spotless record; and (3) Chief Bishop has served this community for 19 years without a single mark against his record. These are not contested factual disputes. They are concessions — and they are dispositive.

Martin's response to these concessions is to argue that a hearing should proceed so that the Complainant can fill in the blanks he left out of his charging document. That is not how due process works and Wis. Stat. § 62.13(5)(em) works. And it is not how this Commission works. The charges must stand or fall on what they say — not on what Martin hopes to develop at a show trial designed to salvage his public relations campaign. This Commission has already properly exercised its authority to entertain a motion to dismiss. The charges fail on their face. They should be dismissed.

ARGUMENT

I. THE COMMISSION HAS AUTHORITY TO DISMISS — AND MARTIN CANNOT AVOID THAT CONCLUSION.

Martin argues that Wis. Stat. § 62.13 contains no motion to dismiss procedure. But this Commission has already ruled otherwise by entertaining this motion — a ruling that was entirely

within its inherent authority as a quasi-judicial tribunal to control proceedings before it and prevent unfair or baseless charges from proceeding. Wis. Stat. Sec. 62.13(5)(g); see also *State ex rel. Richey v. Neenah Police & Fire Com.*, 48 Wis. 2d 575 (1970). Moreover, the seven just-cause factors of § 62.13(5)(em) expressly require the Commission to evaluate whether the charges are supported by sufficient facts at every stage of the proceeding — including before a full hearing. A charging document that fails to identify any specific rule violation does not become valid simply because a hearing is scheduled.

II. MARTIN'S CONCESSION THAT NO SPECIFIC POLICY VIOLATION IS IDENTIFIED IS FATAL — AND HE CANNOT FIX IT AT HEARING.

The most revealing aspect of Martin's opposition is what it does not say. He does not dispute that Paragraph 14 — the central charge — fails to identify any specific provision of Policy 3.01 that was violated. He does not dispute that Paragraph 23 names no officer, no date, and no specific incident. Instead, he argues that these details can be supplied through testimony at hearing.

That argument defeats itself. Due process requires that an employee know what he is accused of before being compelled to mount a defense — not after. *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 546 (1985). A charge that says "you violated department policy" without identifying which policy, which provision, or what was actually wrong does not provide notice — it provides a framework for a fishing expedition. The just-cause factor requiring that the charging authority identify the specific rule or order allegedly violated, Wis. Stat. § 62.13(5)(em)2., exists precisely to prevent this. Martin cannot satisfy that requirement retroactively at a hearing.

III. MARTIN'S CONCESSION THAT THE OFFICER HAS PERFORMED WELL IS A DISPOSITIVE ADMISSION.

Martin does not dispute — because he cannot — that the officer hired through this process has served the Kewaskum Police Department without a single complaint, disciplinary issue, or

problem of any kind. His response is that "process standards are designed to prevent risk" regardless of outcome.

That argument turns the just-cause framework on its head. A hiring decision is a judgment call. The standard for evaluating Chief Bishop's judgment is not whether every step was perfectly documented — it is whether the decision he made was professionally reasonable. The officer's unblemished service record is the definitive answer to that question. The theoretical harm that Martin predicated these charges upon has not materialized. The charge rests on a premise — that a dangerous, unqualified officer was hired through a fatally flawed process — that the undisputed facts disprove.

IV. MARTIN'S FAILURE TO ADDRESS CHIEF BISHOP'S 19-YEAR RECORD IN THE CHARGES IS INDEPENDENTLY FATAL.

Martin concedes that Chief Bishop has a spotless and commendable 19-year career with the Kewaskum Police Department. Yet the charges are entirely silent on this critical fact. Under Wis. Stat. § 62.13(5)(em)6., the Commission is required to consider whether the level of discipline is proportionate to the violation. A charging document that seeks the most severe sanction available — termination — without even acknowledging the employee's record has not made the showing that proportionality requires.

This is not a remedy question, as Martin suggests. It is a pleading deficiency. To sustain termination charges, the charging document must at minimum acknowledge and address the employee's service record so that the Commission can evaluate whether the punishment fits the alleged conduct. Charges that are simply silent on this factor do not satisfy the statutory framework and cannot proceed to hearing as written. A charging authority who seeks career termination cannot simply ignore 19 years of exemplary service.

V. MARTIN'S FACEBOOK POST HAS PERMANENTLY CORRUPTED THESE PROCEEDINGS AND ELIMINATES ANY CLAIM OF OBJECTIVITY.

Martin's brief largely sidesteps the most damaging fact in this case: while these proceedings were actively pending, Martin publicly declared that Chief Bishop and everyone who supports him is in the "pro hiring-pedophiles camp." He did this under his own name, in a public community forum, without any criminal conviction to support it, and without any pretense of restraint or fairness.

Martin's response — that the Commission is presumed impartial — misses the point entirely. The issue is not whether the Commission members are biased. The issue is whether the charging authority *himself* acted with the fairness and objectivity that Wis. Stat. § 62.13(5)(em)4. and (5)(em)6. independently require. Those provisions ask whether the investigation was "fair and objective" and whether discipline is being applied "fairly and without discrimination." A charging authority who publicly labels the accused officer's supporters as "pro-pedophile" while proceedings are pending has answered both questions definitively — and not in his favor.

The term "pedophile" is not an expression of opinion about a hiring policy dispute. It is a deliberate and inflammatory characterization chosen for maximum destructive effect. Martin's conduct is not consistent with any legitimate employment disciplinary purpose. It is evidence of extreme personal animus that the statutory just-cause framework cannot accommodate.

Martin's argument that defamation is a civil tort question, not a Commission question, misframes the issue. Respondents are not asking the Commission to adjudicate a defamation claim. They are asking the Commission to recognize that the charging authority's conduct confirms the absence of the objectivity and good faith that § 62.13 requires — and that it has permanently compromised this proceeding.

CONCLUSION

Martin's brief confirms what Chief Bishop's motion established: the charges are vague, the process was unfair, the central factual premise has been disproven by the officer's own performance, the charging document ignores Chief Bishop's 19-year record, and the charging authority has publicly demonstrated a level of personal animus and bad faith that forecloses any claim of objectivity. These are not factual disputes to be resolved at hearing. They are deficiencies that appear on the face of the charges themselves.

Chief Bishop respectfully requests that this Commission grant the Motion to Dismiss and dismiss all charges with prejudice.

Dated this 29th day of May day 2026.

Respectfully submitted,

Electronically signed by Robert M. Mihelich

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