

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH, BUREAU OF
EMERGENCY MEDICAL SERVICES,

Petitioner,

vs.

Case No. 21-2069PL

RYAN ROBERT CENTOFANTI, EMT-P,

Respondent.

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RECOMMENDED ORDER

Pursuant to notice, a final hearing was conducted on November 16, 2021, via Zoom, before Garnett W. Chisenhall, a duly designated Administrative Law Judge of the Division of Administrative Hearings (“DOAH”).

APPEARANCES

For Petitioner: Zachary Bell, Esquire
Department of Health
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265

For Respondent: Ryan Robert Centofanti, pro se
22 Palmyra Lane
Palm Coast, Florida 32164

STATEMENT OF THE ISSUES

The issues are whether Respondent committed the violations alleged in the Administrative Complaint; and, if so, what penalty should be imposed.

PRELIMINARY STATEMENT

The Department of Health (“the Department”) issued an Administrative Complaint on March 23, 2021, alleging that Respondent (“Mr. Centofanti”)

pled nolo contendere, on approximately August 11, 2020, to violating:

(a) section 316.193(4), Florida Statutes (2019), by driving a vehicle while having a blood-alcohol or breath-alcohol level of 0.15 or higher; and

(b) section 790.151, Florida Statutes (2019),¹ by using a firearm while under the influence of alcohol. With regard to the latter violation, the Department alleged that Mr. Centofanti had been observed firing an AR-15 rifle² through a window of his vehicle as he was driving through a residential area. Count I of the Administrative Complaint alleged that Mr. Centofanti had violated section 456.072(1)(c), Florida Statutes, by “[b]eing convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee’s profession.” Count II of the Administrative Complaint alleged that Mr. Centofanti had violated section 456.072(1)(x), by “[f]ailing to report to the board, or the [D]epartment if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.”

Mr. Centofanti responded to the Administrative Complaint by submitting an Election of Rights form disputing the allegations in Counts I and II. The Department referred this matter to DOAH, and the undersigned scheduled a formal administrative hearing for August 13, 2021.

At the Department’s request, the final hearing was rescheduled for November 16, 2021, and was convened as scheduled.

¹ All subsequent statutory references herein shall be to the 2020 version of the Florida Statutes.

² The Department’s Administrative Complaint described an AR-15 rifle as “a popular lightweight, semi-automatic rifle-style firearm with a high capacity magazine and interchangeable components.”

During the final hearing, the Department presented testimony from Officer Gaetano Cozzone of the City of Flagler Beach police department. Petitioner's Exhibits 1 through 9 were accepted into evidence. Petitioner's Exhibit 7 is a deposition taken in lieu of live testimony of the Department's expert witness, James M. Tucker, E.M.T.-P.

Mr. Centofanti testified on his own behalf. With the undersigned's permission, Mr. Centofanti submitted several documents on November 23, 2021, all of which are hereby designed as Respondent's Composite Exhibit 1.

The one-volume final hearing Transcript was filed on January 3, 2022, and the Department filed a timely Proposed Recommended Order that was considered in the preparation of this Recommended Order. Mr. Centofanti did not file a post-hearing submittal.

FINDINGS OF FACT

Based on the oral and documentary evidence adduced at the final hearing, the entire record of this proceeding, and matters subject to official recognition, the following Findings of Fact are made:

The Parties

1. The Department is the state agency responsible for regulating emergency medical services in the State of Florida pursuant to section 20.43, Florida Statutes; chapter 401, Florida Statutes; and chapter 456.
2. At the present time, and at all times relevant to the instant case, Mr. Centofanti held emergency medical technician ("EMT")³ certificate⁴

³ Section 401.23(11) defines an "emergency medical technician" as "a person who is certified by [the Department] to perform basic life support pursuant to this part."

⁴ Section 456.001(15), Florida Statutes, defines a "license" as "any permit, registration, certificate, or license, including a provisional license, issued by the Department."

number EMT 537881 and paramedic⁵ certificate number PMD 526190.

Mr. Centofanti has performed well during his career as an EMT/paramedic.

3. At the time of the final hearing, Mr. Centofanti was not working in the emergency medical services field. Instead, he was working as a “Paramedic III” in pharmaceutical research for Labcorp. That position assists with testing drugs on human subjects in order to ascertain whether those drugs can be administered to humans on a wide basis. Mr. Centofanti’s specific duties include screening subjects for health problems and taking their vitals. While he is not administering any life-saving treatment during his work for Labcorp, he believes he would not be able to retain his position with Labcorp without a paramedic certificate.

4. Mr. Centofanti also earns money by manufacturing and selling firearms, including AR-15 rifles, from his garage.

Facts Specific to the Instant Case

5. Officer Gaetano Cozzone is a police officer with the City of Flagler Beach, Florida, and was on patrol in his police vehicle during the early morning hours of January 17, 2020. At approximately 2:30 a.m., Officer Cozzone received a call over his police radio about a dark-colored sport utility vehicle (“the SUV”) in the area of Island Estates Parkway, four to five miles north of his jurisdiction. The call reported that gunshots were coming from the vehicle. Officer Cozzone eventually encountered the SUV as it was traveling south at a high rate of speed on North Ocean Shore Boulevard. Officer Cozzone was traveling in the opposite direction and had to turn around and exceed the speed limit in order to catch up to the SUV.

6. Mr. Centofanti was driving the SUV.

⁵ Section 401.23(17) defines a “paramedic” as “a person who is certified by [the Department] to perform basic and advanced life support pursuant to this part.”

7. While Officer Cozzone was following the SUV, he observed flashes, appearing to be gunshots, coming from the driver's side window.⁶ As a result, Officer Cozzone called for backup rather than attempting to execute a traffic stop by himself. When the SUV turned on North 16th Street and into a residential area, Officer Cozzone determined he could not wait for backup due to the danger the SUV posed to bystanders. Accordingly, Officer Cozzone pulled the SUV over, withdrew his sidearm, and ordered Mr. Centofanti to put his hands out the driver's side window.

8. When backup arrived, Officer Cozzone conducted a "felony stop" by ordering Mr. Centofanti to exit the vehicle and walk backwards toward him.⁷

9. Mr. Centofanti appeared to be intoxicated as he exited the vehicle. His eyes were glassed over, he moved slowly, his speech was slurred, and he smelled of alcohol.

10. While inspecting the SUV, Officer Cozzone detected gunpowder or gun smoke emanating from the vehicle's interior. He saw an AR-15 rifle on the back floorboard and several spent shell casings randomly strewn throughout the SUV. Officer Cozzone noted that the AR-15 was hot to the touch as if it had been recently fired multiple times.⁸

11. Officer Cozzone ultimately turned the traffic stop over to the local sheriff's office, and Mr. Centofanti was arrested for driving under the influence ("DUI").

⁶ The flashes were gunshots from Mr. Centofanti's AR-15 rifle. Rather than firing toward a residential area, he was firing east toward the Atlantic Ocean.

⁷ Officer Cozzone had to yell loudly because Mr. Centofanti was having difficulty hearing him. According to Officer Cozzone, one's hearing can be temporarily impaired due to the loud noise that results from discharging a firearm.

⁸ Through his questioning of Officer Cozzone, Mr. Centofanti unsuccessfully attempted to discredit Officer Cozzone's testimony that he witnessed gunshots coming from the SUV. Given the overwhelming evidence that Mr. Centofanti had been firing an AR-15 from the SUV, that line of questioning was pointless. While the Department argues in its Proposed Recommended Order that this indicates Mr. Centofanti has not taken responsibility for his actions on January 17, 2020, one could also conclude that this ill-advised line of questioning resulted from the fact that Mr. Centofanti was appearing *pro se*.

12. On August 11, 2020, Mr. Centofanti pled nolo contendere to: (a) DUI, with a blood-alcohol level or breath-alcohol level of 0.15 or higher, in violation of section 316.193(4); and (b) using a firearm while under the influence of alcohol in violation of section 790.151.

13. On August 13, 2020, the Flagler County Circuit Court adjudicated Mr. Centofanti guilty of the aforementioned violations and sentenced him to 12 months of probation. Also, the circuit court imposed the following special probationary conditions: (a) a drug and alcohol evaluation and subsequent treatment if deemed necessary; (b) payment for drug testing; (c) abstaining from using alcohol and/or illegal drugs and not associating with anyone using illegal drugs or alcohol; (d) random urinalysis testing; (e) completion of 50 hours of community service; (f) completion of an alcohol safety education course; (g) impoundment of his vehicle for ten days; (h) completion of a victim awareness program; (i) installation of an ignition interlock device on his vehicle for six months; and (j) a six-month driver's license suspension.

14. Mr. Centofanti received a letter dated September 7, 2021, from the Department of Corrections indicating that he had successfully completed his probation.

Expert Testimony

15. James Tucker is a firefighter-paramedic and an engineer for Fernandina Beach, Florida. He has been a paramedic since 2010 and is a certified paramedic. He is qualified to provide expert testimony on emergency medical technicians and paramedics.

16. Mr. Tucker explained that good judgment is important for EMTs and paramedics “[b]ecause we are entrusted with the public, where we’re given charge of their care and treatment when they’re vulnerable and when they – they are in need.” He also testified that a patient can be harmed if a

paramedic or EMT fails to exercise good judgment. In sum, good judgment is an essential aspect of being an EMT or paramedic.⁹

Ultimate Findings

17. The Department has clearly and convincingly proven that Mr. Centofanti violated section 456.072(1)(c), by “[b]eing convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee’s profession.”

18. An EMT or paramedic failing to exercise good judgment constitutes a danger to the public health or welfare. The acts of driving under the influence and discharging a firearm while intoxicated are the antithesis of good judgment. Thus, the Department has clearly and convincingly demonstrated

⁹ When asked why his convictions do not relate to being an EMT or a paramedic, Mr. Centofanti offered the following testimony:

I was – I feel that I was not working as a paramedic at the time, and my – that – the worst decision of my life I made was to get behind that wheel that night, and I feel that it does not have any impact on my ability to practice medicine whatsoever. I’ve never had a clinical error. I’ve never misdosed somebody. I’ve never not responded to a call for help. I’ve never been disciplined for breaking protocol or anything like that. And that was a decision I made in my personal life that was the wrong decision, and I have suffered greatly for that decision, but I do not feel that it has any bearing or any weight on my ability to practice, and I feel I’ve demonstrated – this happened almost two years ago, and since then, a company hired me, knowing the facts of that case, running my background check, and they still, you know, granted me under them, you know, to work as a paramedic. And same with Labcorp. When I applied, they knew the facts of the case. Obviously, it came up in my background. And both of those companies did not feel that I was a threat to the public, and if I was, they never would have hired me in the beginning.

that those offenses directly relate, in a negative manner, to the practice of being an EMT or a paramedic.¹⁰

19. Mr. Centofanti does not dispute the Department's allegation that he did not report his nolo contendere plea to the Department in writing within 30 days of its entry.¹¹

CONCLUSIONS OF LAW

20. Pursuant to section 120.57(1), Florida Statutes, DOAH has jurisdiction over the parties and subject matter of this proceeding.

21. A proceeding, such as this one, to impose discipline upon a licensee, is penal in nature. *State ex rel. Vining v. Fla. Real Estate Comm'n.*, 281 So. 2d 487, 491 (Fla. 1973). Accordingly, the Department must prove the charges against Mr. Centofanti by clear and convincing evidence. *Dep't of Banking & Fin., Div. of Sec. & Inv. Prot. v. Osborne Stern & Co.*, 670 So. 2d 932, 933-34 (Fla. 1996)(citing *Ferris v. Turlington*, 510 So. 2d 292, 294-95 (Fla. 1987)); *Nair v. Dep't of Bus. & Pro. Regul., Bd. of Med.*, 654 So. 2d 205, 207 (Fla. 1st DCA 1995).

¹⁰ Mr. Centofanti explained that his actions on January 17, 2020, resulted from the trauma he experienced after treating a mother who had committed suicide in front of her young children in March of 2019. Following that incident, Mr. Centofanti experienced substantial difficulty accessing mental health treatment and was unable to do so until he began treating with a psychiatrist in October of 2019.

¹¹ With regard to not reporting the convictions to the Department, Mr. Centofanti offered the following testimony:

So I – you know, not reporting it when that happened, I was not in a good place. The last thing I was thinking was, hey, I need to report this to the Department of Health. Should I have done, and is that what is in the policy and procedure? Yeah, I should have reported that, but at that time, it didn't even occur to me that that's something I needed to do, you know. We probably went over that in 2012 in paramedic school, but it was not something that crossed my mind. So it wasn't something that I intentionally decided not to [do]. I just had a lot of other things going on at that time.

22. Regarding the standard of proof, the court in *Slomowitz v. Walker*, 429 So. 2d 797, 800 (Fla. 4th DCA 1983), stated that:

[C]lear and convincing evidence requires that the evidence must be found to be credible; the facts to which the witnesses testify must be distinctly remembered; the testimony must be precise and explicit and the witnesses must be lacking in confusion as to the facts in issue. The evidence must be of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established.

23. The Florida Supreme Court later adopted the *Slomowitz* court's description of clear and convincing evidence. *See In re Davey*, 645 So. 2d 398, 404 (Fla. 1994). The First District Court of Appeal has also followed the *Slomowitz* test, adding the interpretive comment that “[a]lthough this standard of proof may be met where the evidence is in conflict, . . . it seems to preclude evidence that is ambiguous.” *Westinghouse Elec. Corp. v. Shuler Bros., Inc.*, 590 So. 2d 986, 988 (Fla. 1st DCA 1991).

24. Penal statutes must be construed in terms of their literal meaning and words used by the Legislature may not be expanded to broaden the application of such statutes. Thus, the provisions of law upon which this disciplinary action has been brought must be strictly construed, with any ambiguity in favor of the one against whom the penalty would be imposed. *Elmariah v. Dep’t of Pro. Regul., Bd. of Med.*, 574 So. 2d 164, 165 (Fla. 1st DCA 1990); *see also Griffis v. Fish & Wildlife Conser. Comm’n*, 57 So. 3d 929, 931 (Fla. 1st DCA 2011); *Beckett v. Dep’t of Fin. Servs.*, 982 So. 2d 94, 100 (Fla. 1st DCA 2008); *Whitaker v. Dep’t of Ins. & Treas.*, 680 So. 2d 528, 531 (Fla. 1st DCA 1996); *Dyer v. Dep’t of Ins. & Treas.*, 585 So. 2d 1009, 1013 (Fla. 1st DCA 1991).

25. Count I of the Department’s Administrative Complaint alleged that Mr. Centofanti violated section 456.072(1)(c), which subjects licensees to

discipline for “[b]eing convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee’s profession.”¹²

26. “Several cases demonstrate that, although the statutory definition of a particular profession does not specifically refer to acts involved in the crime committed, the crime may nevertheless relate to the profession.” *Doll v. Dep’t of Health*, 969 So. 2d 1103, 1106 (Fla. 1st DCA 2007). Moreover, “Florida courts have construed the statutory language ‘relating to’ the practice of a licensee’s profession under section 456.072(1)(c), broadly to encompass conduct that constitutes a danger to the public health or welfare.” *Dep’t of Health, Bd. of Nursing v. Karim, C.N.A.*, Case No. 14-1972PL (Fla. DOAH Dec. 5, 2014; Fla. DOH Mar. 17, 2015); *see also Dep’t of Health, Bd. of Dentistry v. Moye, D.D.S.*, Case No. 18-659PL (Fla. DOAH June 14, 2018; Fla. DOH Sept. 14, 2018)(concluding that the Department proved that a dentist violated section 456.072(1)(c) “as a result of his driving under the influence of alcohol.”).

27. The Department clearly and convincingly proved that Mr. Centofanti violated section 456.072(1)(c).

28. EMTs and paramedics must exercise good judgment. If they fail to do so, then the public health and welfare are endangered. The acts of driving under the influence and discharging a firearm while intoxicated are the antithesis of good judgment. Thus, the Department has clearly and convincingly demonstrated that those offenses directly relate, in a negative manner, to the practice of being an EMT or a paramedic.

¹² Chapter 401, Part II, Florida Statutes, sets forth provisions that apply specifically to EMTs and paramedics. However, EMTs and paramedics are also subject to chapter 456. *See* § 20.43(3)(g), Fla. Stat. (establishing the Division of Medical Quality Assurance (“the Division”) within the Department and making the Division responsible for EMTs and paramedics); § 456.001(7), Fla. Stat. (defining “profession” as “any activity, profession, or vocation regulated by [the Department] in the [Division].”); § 456.002, Fla. Stat. (providing that chapter 456 “applies only to the regulation by [the Department] of professions.”).

29. Count 2 of the Department’s Administrative Complaint alleged that Mr. Centofanti violated 456.072(1)(x), which subjects licensees to discipline for failing to report to the Department “in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.”

30. Mr. Centofanti does not dispute that he failed to report his plea of nolo contendere and the resulting adjudication of guilt to the Department within 30 days as required by section 456.072(1)(x).

31. As for the penalty to be imposed on Mr. Centofanti for the violations discussed above, section 456.072(2) sets forth the penalties that can be imposed by the Department if any person is found guilty of the grounds set forth in section 456.072(1). Given the circumstances of the instant case, the undersigned recommends that the Department place Mr. Centofanti on probation and restrict his EMT and/or paramedic practice to his present work with Labcorp until he undergoes an evaluation coordinated through the Professionals Resource Network (“PRN”)¹³ or an evaluation by a PRN-approved evaluator.¹⁴ That restriction should remain in place until it is determined by PRN or a PRN-approved evaluator that Mr. Centofanti is safe

¹³ PRN manages the Department’s impaired practitioner program for EMTs and paramedics. See § 456.076(1)(d), Fla. Stat. (defining “impaired practitioner program” as “a program established by [the Department] by contract with one or more consultants to serve impaired and potentially impaired practitioners for the protection of the health, safety, and welfare of the public.”); Fla. Admin. Code R. 64B31-10.001(2)(designating PRN as an “Approved Impaired Practitioner Program”).

¹⁴ Section 456.072(2)(c) provides that the Department can impose a “[r]estriction of practice or license, including, but not limited to, restricting the licensee from practicing in certain settings, restricting the licensee to work only under designated conditions or in certain settings, restricting the licensee from performing or providing designated clinical and administrative services, restricting the licensee from practicing more than a designated number of hours, or any other restriction found to be necessary for the protection of the public health, safety, and welfare.” Section 456.072(2)(f) provides in pertinent part that the Department may place the licensee “on probation for a period of time and subject to such conditions as the board, or [the Department] when there is no board, may specify. Those conditions may include, but are not limited to, requiring the licensee to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy the terms which are reasonably tailored to the violations found.”

to treat patients as an EMT and paramedic. The aforementioned restriction, rather than a suspension of Mr. Centofanti's certificates, is the least restrictive means necessary to ensure the public's protection.

32. Mr. Centofanti shall provide a copy of the evaluation report to the Department and may then petition the Department to lift the restriction on his EMT and paramedic certificates.

33. The Department should also reprimand Mr. Centofanti's EMT and paramedic certifications.

34. In addition, Mr. Centofanti should be required to successfully complete, within six months following issuance of a final order: (a) three hours of continuing education covering the law and rules governing EMTs and paramedics in the State of Florida; and (b) three hours of continuing education in the area of ethics. The aforementioned continuing education hours are to be in addition to the continuing education hours normally required for renewal of EMT and paramedic certificates.

35. No additional disciplinary action, such as certificate suspension and/or an administrative fine, are necessary to protect the public. *See* § 456.072 (providing that "[i]n determining what action is appropriate, the board, or [the Department] when there is no board, must first consider what sanctions are necessary to protect the public or to compensate the patient."). Moreover, because section 456.072(4) mandates that the Department "shall assess the costs related to the investigation and prosecution of the case," the imposition of an administrative fine seems unduly punitive.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Department of Health enter a final order: (a) finding that Mr. Centofanti violated sections 456.072(1)(c) and 456.072(1)(x); (b) placing Mr. Centofanti on probation and restricting his EMT and/or paramedic practice to his present work with Labcorp until he undergoes an

evaluation coordinated through PRN or an evaluation by a PRN-approved evaluator; (c) maintaining Mr. Centofanti on probation and restricting his EMT and/or paramedic practices until it is determined by PRN or a PRN-approved evaluator that Mr. Centofanti is safe to treat patients as an EMT and paramedic; (d) requiring Mr. Centofanti to provide a copy of the evaluation report to the Department and then petition the Department to lift the restriction on his EMT and paramedic certificates; (e) reprimanding Mr. Centofanti's EMT and paramedic certifications; (f) requiring Mr. Centofanti to successfully complete, within six months following issuance of a final order, three hours of continuing education covering the law and rules governing EMTs and paramedics in the State of Florida; and (g) requiring Mr. Centofanti to complete three hours of continuing education in the area of ethics.

DONE AND ENTERED this 31st day of January, 2022, in Tallahassee, Leon County, Florida.

Garnett Chisenhall

G. W. CHISENHALL
Administrative Law Judge
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Filed with the Clerk of the
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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.