

AGENDA
POLICE MERIT COMMISSION
Monday, February 24, 2025 9:00 a.m.
Council Chambers

Municipal Building, 229 S. Second Street, Elkhart, IN 46516

<https://signin.webex.com/join>

1-415-655-0001 Meeting Number 2304 182 7230
Password Police25

- 1. Call to Order**
- 2. Roll Call**
- 3. Approve Agenda**
- 4. Approve Minutes- Regular Meeting February 10, 2025**
- 5. Police Department**
 - Change of Status- Cpl. Lauren Adams, Ptl. Matthew Gimson, Ptl. Dane Frieden, Ptl. Aric Chevalier**
- 6. Accept Communication**
 - Order from Elkhart Circuit Court- Affirming PMC Decision Joy Phillips vs. Elkhart Police Merit Commission**
- 7. Public Participation**
- 8. Adjournment**

POLICE MERIT February 10, 2025

President Jim Rieckhoff called a regular meeting of the Police Merit Commission (PMC) to order at 9:00 a.m., Monday, February 10, 2025. Clerk Nancy Wilson called the role. Commissioners Jim Rieckhoff, Brad Billings, Clifton Hildreth and Thomas Barber attended in person. Jean Mayes attended on Webex.

1. APPROVE AGENDA

On motion by Brad Billings, seconded by Clifton Hildreth and carried 5-0, the agenda was approved as presented.

2. APPROVE MINUTES: Regular Meeting January 27, 2025

On motion by Thomas Barber, seconded by Clifton Hildreth and carried 5-0, the minutes from January 27, 2025 were approved.

3. POLICE

Chief Dan Milanese presented a Change of Status for Ptl. Nicholas Ragsdale from 2nd Class to 1st Class Patrolman effective February 13, 2025. Jim Rieckhoff accepted the communication.

Chief Dan Milanese presented a Change of Status for Ptl. Ethan Pasternak from 2nd Class to 1st Class Patrolman effective February 13, 2025. Jim Rieckhoff accepted the communication.

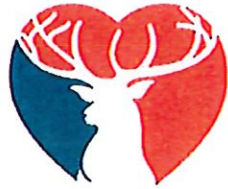
Chief Dan Milanese notified the Commissioners that after 34 years of service to the Elkhart Police Department and the citizens of the Elkhart community Det. D'Andre Biller retired on January 29, 2025. D'Andre was hired on January 8, 1991. She served in the Uniform Division, as a Detective in the Criminal Division, and in 2017, Detective Biller transferred to the Elkhart County Homicide Unit where she finished her career. She was an asset to the Elkhart Police Department and to the Elkhart Community. We thank her for her service and wish her health and happiness in her retirement. She will be missed!

4. ADJOURNMENT

On motion by Clifton Hildreth, seconded by Thomas Barber and carried 5-0, the City of Elkhart, Indiana Police Merit Commission was adjourned at 9:06 a.m.

_____ Jim Rieckhoff, President

Attest: _____ Clifton Hildreth, Secretary



City of Elkhart

Rod Roberson
Mayor

Dan Milanese
Chief

Police Department
175 Waterfall Dr.
Elkhart, IN 46516

574.295.7070
Fax: 574.293.0679

February 10, 2025

Police Merit Commission
229 S. Second Street
Municipal Building
Elkhart, IN 46516

Re: Change of Status
Corporal Lauren Adams #434

Dear Commissioners:

On February 11, 2025, Corporal Lauren Adams will be assigned as Acting Sergeant with the Elkhart Police Department

Respectfully Submitted,

Daniel Milanese
Chief of Police

CC: Personnel File
Payroll



Rod Roberson
Mayor

Dan Milanese
Chief

Police Department
175 Waterfall Dr.
Elkhart, IN 46516

574.295.7070
Fax: 574.293.0679

January 29, 2025

Police Merit Commission
229 S. Second Street
Municipal Building
Elkhart, IN 46516

Re: Change of Status
Ptl. Matthew Gimson #520

Dear Commissioners:

On February 26, 2025, Ptl. Matthew Gimson will complete his first year of service as a police officer with the Elkhart Police Department. His status will be effective from 3rd class to 2nd class on February 26, 2025

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Dan Milanese", is written over the typed name.

Dan Milanese
Chief of Police

cc: Cpt. Hamlin
Personnel File
Payroll
Ptl. Gimson

Rod Roberson
Mayor

Dan Milanese
Chief



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175 Waterfall Dr.
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January 29, 2025

Police Merit Commission
229 S. Second Street
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Re: Change of Status
Ptl. Dane Frieden #518

Dear Commissioners:

On February 26, 2025 Ptl. Dane Frieden will complete his first year of service as a police officer with the Elkhart Police Department. His status will be effective from 3rd class to 2nd class on February 26, 2025.

Respectfully Submitted,

Dan Milanese
Chief of Police

cc: Cpt. Hamlin
Personnel File
Payroll
Ptl. Frieden

Rod Roberson
Mayor

Dan Milanese
Chief



Police Department
175 Waterfall Dr.
Elkhart, IN 46516

574.295.7070
Fax: 574.293.0679

January 29, 2025

Police Merit Commission
229 S. Second Street
Municipal Building
Elkhart, IN 46516

Re: Change of Status
Ptl. Aric Chevalier #519

Dear Commissioners:

On February 26, 2025 Ptl. Aric Chevalier will complete his first year of service as a police officer with the Elkhart Police Department. His status will be effective from 3rd class to 2nd class on February 26, 2025.

Respectfully Submitted,

Dan Milanese
Chief of Police

cc: Cpt. Hamlin
Personnel File
Payroll
Ptl. Chevalier

STATE OF INDIANA)	IN THE ELKHART CIRCUIT COURT
)SS:	
COUNTY OF ELKHART)	CAUSE NO. 20C01-2309-MI-411
JOY PHILLIPS,)	
)	
Petitioner,)	
)	ORDER
ELKHART POLICE MERIT COMMISSION,)	
)	
Respondent.)	

This cause came on for oral arguments on October 4, 2024, on Petitioner's Verified Petition for Judicial Review. Petitioner Joy Phillips appeared in person and by her attorney Jeffery McQuary. Respondent City of Elkhart Police Merit Commission appeared by Assistant Elkhart City Attorney Rose Rivera. The Court heard arguments from counsel, and took the issues raised under advisement. The parties were ordered to file their respective proposed findings of fact and conclusions thereon by November 26, 2024. By agreement of the parties, the Court was given to and including February 25, 2025, within which to render a decision herein.

Having considered Petitioner's Verified Petition for Judicial Review and Brief in Support, Respondent's Brief in Response, the Record of the administrative proceedings, the findings and Decision of the Elkhart Police Merit Commission, the arguments of counsel, the Parties' Proposed Findings of Fact and Conclusions thereon, and being duly advised in the premises, the Court now finds and Orders as follows.

FINDINGS OF FACT

1. Petitioner Joy Phillips was hired as a law enforcement officer with the Elkhart Police Department on July 26, 2016.

2. On July 18, 2023, Petitioner was charged with: (1) Neglect or disobedience of orders under Ind. Code § 36-8-3.5-17(b)(2)(C); (2) Conduct unbecoming a member under Ind. Code § 36-8-3.5-17(b)(2)(H); (3) Immoral Conduct under Ind. Code § 36-8-3.5-17(b)(2)(F); and (4) Conduct injurious to the public peace or welfare under Ind. Code § 36-8-3.5-17(b)(2)(G). The aforementioned charges were based on alleged violations of Elkhart Police Policies 320.5.6(a), (b), and (c) which concern unauthorized access and disclosure or use of confidential or protected information; 320.5.8(a), (c), (d), (e) and (i) which concern standards of conduct and performance; 320.5.9(f), (g), (j) and (l) which concern conduct affecting the Department and other members; 422.4.2(a), (b), (c) and (d) which concern accessing BWC/Mobile In-Car Camera Files, and Elkhart City Policy titled "Business Ethics and Conduct." (*Chief's Amended Charging Letter, July 18, 2023*).
3. On August 16-18, 2023, a special hearing of the Elkhart Police Merit Commission ("Merit Commission") was held for the purpose of considering the charges against Petitioner.
4. On August 21, 2023, the Merit Commission found that Petitioner engaged in conduct constituting neglect or disobedience of orders, conduct unbecoming a member, immoral conduct, and conduct injurious to the public peace or welfare; and voted to terminate Petitioner's employment as a law enforcement officer at the Elkhart Police Department. The Merit Commission issued its written Decision formalizing Petitioner's termination on August 28, 2023.
5. On September 11, 2023, Petitioner Joy Phillips, by counsel, filed a Petition for Judicial

Review and Brief in Support of Judicial Review.

6. In her Brief in Support of Judicial Review, Petitioner alleged that she was charged with fourteen (14) offenses, none of which arose from misconduct, but sounded in perjury based on allegedly false statements Petitioner made at a hearing of the Board of Public Safety at which Petitioner contested a three (3) day disciplinary suspension.¹ Petitioner claims that she was terminated in retaliation for contesting that suspension, that she was prejudiced by the Merit Commission's decision to terminate her because the decision was not based on substantial evidence that she committed perjury or intended to deceive, and that the Merit Commission's selection of punishment was arbitrary, capricious and an abuse of discretion.
7. On November 13, 2023, the Merit Commission, by counsel, filed the Record of Proceedings.
8. On May 20, 2024, Petitioner, by counsel, filed a Brief in Support of Petition for Judicial Review.
9. On July 5, 2024, Respondent, by counsel, filed a Response to Petitioner's Brief.
10. On October 4, 2024, the Court held a hearing on Petitioner's Verified Petition for Judicial Review.
11. On November 26, 2024, the Parties filed their respective Proposed Findings of Fact and Conclusions of Law which the Court treats as Proposed Findings of Fact and Conclusions Thereon.

¹ Petitioner was suspended due to interactions she had with other Elkhart Police Department officers in the course of investigating a suspected burglary on July 12, 2022, which resulted in charges of rudeness and insubordination being brought against Petitioner.

STANDARD OF REVIEW

Indiana Code § 36-8-3.5-17(h) sets out the burden of proof required for the Merit

Commission, to-wit:

“A decision to discipline a member may be made only if the preponderance of the evidence presented at the hearing indicates such a course of action.”

So, in other words, the evidence must support that it was more likely than not that Petitioner engaged in conduct constituting at least one of the four charges set out above in paragraph 2 in order for the Merit Commission to be justified in its decision to impose an appropriate sanction.

Judicial review of administrative decisions is very limited. Deference is given by the reviewing court to the expertise of the administrative body, which includes a police merit commission. Simpson v. City of Madison, 213 N.E.3d 530, 541 (Ind. Ct. App. 2023). The discretionary decision of the administrative body should not be reversed absent a showing that the decision was arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with the law. Id. An arbitrary and capricious decision, which the challenging party bears the burden of proving, is a decision which is patently unreasonable, made without any consideration of the facts and in total disregard of the circumstances, and lacks any basis which might lead a reasonable person to the same conclusion. Id. Furthermore, judicial review is limited to determining whether the administrative body adhered to proper legal procedure and made findings based upon substantial evidence. Winters v. City of Evansville, 29 N.E.3d 773, 778 (Ind. Ct. App. 2015). Substantial evidence is that relevant evidence which a reasonable mind might accept as adequate to support a conclusion. Id. A reviewing court should neither reweigh the evidence nor substitute its

judgment for that of the administrative body when no compelling circumstances are present. Id.

ANALYSIS

The issues before the Court are: (1) whether the Merit Commission's findings that Petitioner engaged in conduct that constituted neglect or disobedience of orders, engaged in conduct unbecoming a member, engaged in immoral conduct, and engaged in conduct injurious to the public peace or welfare were arbitrary and capricious; and (2) whether the Merit Commission's sanction of dismissal was arbitrary and capricious.

Petitioner alleges that there were actually fourteen (14) charges against her which she argues all sound in perjury, not misconduct, to-wit: (1) that Petitioner lied about what Detective Denise Houser told her regarding being written up for conduct, (2) that Petitioner disobeyed Sergeant Dustin Young's request that she report to work on July 12, 2022 to assist with a suspected burglary investigation and to write a search warrant, (3) that Petitioner wrongfully challenged on-call guidelines requiring her to come in during the aforementioned burglary investigation because the incident was not a crime, (4) that Petitioner was the only detective who refused to write a search warrant and received reprimand, (5) that Petitioner accused Sergeant VanScoik of lying in his police report about forcing a locked door open during the suspected burglary investigation, (6) that Petitioner wrongfully concluded that consent to search a Cadillac vehicle involved in the suspected burglary ultimately obtained by officers was invalid, (7) that Petitioner misrepresented that she was subject to six (6) or seven (7) Captain's Review Boards which showed she was being targeted, (8) that Petitioner misrepresented that she had never been advised on any

issues with her performance, (9) that Petitioner alleged Chief Seymore violated policy and the Officer Bill of Rights by threatening to take her to the Merit Commission if she did not accept the three-day suspension, (10) that Petitioner alleged Chief Seymore told her he contacted Prosecutor Vicki Becker and was assured Petitioner would not be a “Brady Giglio” officer, (11) that Petitioner provided conflicting information to Lieutenant James Wrathell during a Professional Standards investigation regarding how much of a body-cam video she and her supervisor watched before the deletion of that video, (12) that Petitioner misrepresented that there was nothing on the aforementioned video that would have been of evidentiary value related to any on-going investigation because the content of that video was not within the duty of her job as she was off duty, driving home and conversing with her husband, (13) that Petitioner distributed materials related to an on-going criminal investigation that were not authorized to be distributed to unauthorized persons, including her husband and her private attorney, and (14) that Petitioner disobeyed direct orders to hand over a personal recording device and refused to wait for additional information and direction regarding leaving the Elkhart Police Department when she was placed on administrative leave.

The Court hereby finds, contrary to Petitioner’s argument, that the fourteen (14) accusations Petitioner contends were official charges against her are more appropriately characterized as specific offenses relevant to and resulting in the four (4) substantive formal charges brought against Petitioner. The Court further finds that the decision to be reached by the Merit Commission was not simply based on alleged perjury. Therefore, Petitioner’s argument that the Merit Commission’s decision was arbitrary and capricious

because there was insufficient evidence to support a finding that Petitioner lied or intended to deceive when she merely interpreted guidelines and opined as to her beliefs about what happened is without merit. In other words, the inquiry into the Merit Commission's action is not limited only to the truth or falsity of allegations or statements Petitioner made.

Rather, the appropriateness of the Merit Commission's decision turns on the totality of the evidence before it, including not only Petitioner's testimony, interpretation or version of the events, but the evidence as a whole.

The Court has read the entire Record which establishes that the Merit Commission heard, weighed and considered not only Petitioner's testimony, but also that of all witnesses concerning the charges against Petitioner in making its decision. Specifically, the Merit Commission heard the testimony of Sergeant Michael VanScolk, whose testimony contradicted Petitioner's accusation that Sgt. VanScolk lied in his police report about forcing a locked door open during a suspected burglary investigation (*Transcript, Elkhart Police Merit Commission Board Hearing, Day 1, August 16, 2023, 34:14-21; 35:8 – 37:2*); the testimony of Lieutenant James Wrathell, who presented extensive evidence contradicting Petitioner's grievances before the Board of Public Safety on October 11 and 25, 2022 (*Transcript, Elkhart Police Merit Commission Board Hearing, Day 1, August 16, 2023, 71:9-229:21*); the testimony of Assistant Chief Andrew Whitmyer, who testified regarding the inaccuracy of Petitioner's allegation that there was no probable cause for a search warrant during the investigation of a suspected burglary (*Transcript, Elkhart Police Merit Commission Board Hearing, Day 1, August 16, 2023, 246:16-250:4*); the testimony of Cydney Howard, a certified forensic investigator, who testified about her investigation of

digital evidence that Petitioner had downloaded and forwarded law enforcement files to others (*Transcript, Elkhart Police Merit Commission Board Hearing, Day 1, August 16, 2023, 251:24-275:2*); and, the testimony of Sergeant Scott Claybaugh regarding his investigation into an accusation that Petitioner was sending ongoing criminal records outside the police department, Sgt. Claybaugh's personal knowledge that Petitioner violated other department policies, that Petitioner failed to follow direct orders from her superiors, that Petitioner recorded her interactions at work on a personal recording device and that Petitioner had a past discipline history (*Transcript, Elkhart Police Merit Commission Board Hearing, Day 1, August 16, 2023, 275:21-297:1*).

Additionally, Vicki Elaine Becker, Elkhart County Prosecutor, testified that she learned from the Elkhart City Attorney that Petitioner was the subject of a Board of Safety disciplinary hearing being held on October 11, 2022. Ms. Becker testified that she was concerned that Petitioner may have disseminated confidential evidence from an underlying criminal case to the public; therefore, Ms. Becker decided to attend the disciplinary hearing to observe the proceedings. (*Transcript, Elkhart Police Merit Commission Board Hearing, Day 2, August 17, 2023, 42:8-18*). Ms. Becker further testified that after hearing testimony from Petitioner and various law enforcement officers, she was prompted to write a letter to Chief Seymore regarding her concern that Petitioner had a reputation of dishonesty that was articulated by the officers at the hearing, which could impact Petitioner's credibility as a future witness. (*Transcript, Elkhart Police Merit Commission Board Hearing, Day 2, August 17, 2023, 51:2-52:5*). Also, Assistant Chief Andrew Whitmyer further testified that Petitioner misrepresented that there were no witnesses to the suspected burglary on July

12, 2022, therefore, Petitioner did not report for duty as requested by her superior officer when there actually were witnesses to interview. (*Transcript, Elkhart Police Merit Commission Board Hearing, Day 2, August 17, 2023, 116:21-14*). Sergeant Brandon Roundtree testified that Petitioner's opinion that there was insufficient information for a search warrant was based on Petitioner's insubordination, uncooperativeness, and unwillingness to learn all the facts of the case, and that Petitioner blatantly refused to follow a direct order from a supervising officer. (*Transcript, Elkhart Police Merit Commission Board Hearing, Day 2, August 17, 2023, 183:16-23*). Sergeant Roundtree further testified that Petitioner was the only detective who ultimately refused to write a search warrant because even though others initially may have questioned the circumstances, after learning more, they did begin the task of doing so. (*Transcript, Elkhart Police Merit Commission Board Hearing, Day 2, August 17, 2023, 219:10-13*).

August 18, 2023, day three (3) of the Merit Commission hearing, opened with Petitioner's testimony, which initially consisted of her playing audio recordings of a Captain Review Board meeting from February 19, 2000 (Ex. 51). At the conclusion of that recording, Petitioner's attorney asked her to explain how the recording related to a discussion Petitioner had with then Sergeant Denise Houser; however, Petitioner did not respond to that request. (*Transcript, Elkhart Police Merit Commission Hearing, Day 3, August 18, 2023, 25:25-26-1*). Rather, Petitioner played another audio recording about an incident of abuse she allegedly suffered. At that point, the Commission President stopped Petitioner and said that he "failed to see the relevance of these audios," and a short time later the President said, "I'm still not sure how this ties into the charges that are pending."

(Transcript, Elkhart Police Merit Commission Hearing, Day 3, August 18, 2023, 50:8-9; 51:25-52-1). Petitioner's attorney again asked Petitioner to focus her attention on the statement she made that Sergeant Denise Houser was "made to write her up" which was relevant to the first charge against Petitioner. Petitioner responded by playing another audio recording she characterized as the "supervisory counseling Denise audio," and said "Yes, I cleaned that audio up." *(Transcript, Elkhart Police Merit Commission Hearing, Day 3, August 18, 2023, 53:16-20)*. At places in the recording where Sgt. Houser is noted as talking, the transcript references (Inaudible), and the substance of her comments is not discernable.

For instance, at one point Sgt. Houser says "I -- yeah. I wanted to talk to you." Then later Sgt. Houser says "Yeah. It's a -- I will tell you that the thing with me is very minor." Then after Petitioner says to Sgt. Houser "you said that I falsified documentation and misrepresented facts," Sgt. Houser's reply is "No, I---." Later Sgt. Houser says "my thing was supposed to be a supervisor counseling." *(Transcript, Elkhart Police Merit Commission Hearing, Day 3, August 18, 2023, 54:7-8; 56:9-10; 56:16-18; and 57:2-3)*. At that point, the Merit Commissioner President spoke and said "Let me observe that the audio is mostly unintelligible. Do you have a transcript of that," to which Petitioner replied "I don't have a transcript. I have, well, I have it written out, actually that I wrote out, but not an official transcript." *(Transcript, Elkhart Police Merit Commission Hearing, Day 3, August 18, 2023, 57:8-13)*. Essentially, there was nothing in the Record to establish that Sgt. Houser ever told Petitioner that she was made to write up Petitioner; rather, these were Petitioner's own words as stated in her testimony before the Merit Commission. *(Transcript, Elkhart Police*

Merit Commission Hearing, Day 3, August 18, 2023, 57:22-25).

The testimony of Petitioner continued with counsel asking Petitioner to move on to Count 2 and explain a conversation she had with Sergeant Dustin Young on July 12, 2022, when Sgt. Young called and asked Petitioner to come in to assist with a suspected burglary. Petitioner testified that Sgt. Young did not provide her with sufficient information, including among other things, the names of the occupants of a vehicle involved; and that as Petitioner proceeded to ask Sgt. Young various questions about the suspected burglary, he hung up on her. (*Transcript, Elkhart Police Merit Commission Hearing, Day 3, August 18, 2023, 59:15-61:21*). Petitioner then testified regarding her rendition of what the on-call guidelines say about when a detective should or should not come in. (*Transcript, Elkhart Police Merit Commission Hearing, Day 3, August 18, 2023, 62:21-63:14*). At that point, counsel asked Petitioner if reasonable police officers can disagree about the circumstances about whether a detective should or should not come in, to which Petitioner replied, "Most definitely, especially when they know the officers you're dealing with." The Merit Commission President then stopped Petitioner and asked her to say the last few words again, and Petitioner repeated "especially when you know the officers that you're dealing with." The President then said, "Still don't get it," "Just the last words." Petitioner provided no further explanation. (*Transcript, Elkhart Police Merit Commission Hearing, Day 3, August 18, 2023, 63:15-64-2*).

Petitioner further testified about her characterization of the incident on July 12, 2022 being an accident, not a crime (*Transcript, Elkhart Police Merit Commission Hearing, Day 3, August 18, 2023, 65:12-66-16*); that she was one of four detectives asked to write a search

warrant and all refused (*Transcript, Elkhart Police Merit Commission Hearing, Day 3, August 18, 2023, 66:17-68:14*); Petitioner's recollection of what she observed Sergeant VanScoik doing at the suspected burglary scene with regard to forcing a door open (*Transcript, Elkhart Police Merit Commission Hearing, Day 3, August 18, 2023, 69:9-7-70:8*); Petitioner's conclusion that the consent officers obtained to search a Cadillac at the burglary scene was invalid (*Transcript, Elkhart Police Merit Commission Hearing, Day 3, August 18, 2023, 71:7-73:4*); Petitioner's estimate of how many times she came before the Captain's Review Board, and Petitioner's belief that she had no performance history (*Transcript, Elkhart Police Merit Commission Hearing, Day 3, August 18, 2023, 74:4-75:25*).

Petitioner also testified that she believed whether she did or did not accept a three (3) day disciplinary suspension, the result would be an appearance before the Merit Commission; therefore, Petitioner said that she deemed Chief Seymore's email (Exhibit 24) to be a threat whether it was or was not actually a threat (*Transcript, Elkhart Police Merit Commission Hearing, Day 3, August 18, 2023; 76:7-79:20*); Petitioner's confusion about being the subject of a conversation between Chief Seymore and Prosecutor Becker discussing a "Brady cop" (*Transcript, Elkhart Police Merit Commission Hearing, Day 3, August 18, 2023, 82-83:16*); Petitioner's explanation of what portion of a body-cam video was viewed and deleted and why she believed there was no evidentiary value to the video (*Transcript, Elkhart Police Merit Commission Hearing, Day 3, August 18, 2023, 83:17-88:3*); and Petitioner's opinion that there is no reason for Prosecutor Becker to question Petitioner's integrity or credibility (*Transcript, Elkhart Police Merit Commission Hearing, Day 3, August 18, 2023, 90:6-91:18*). Also, Petitioner admitted that she distributed materials

related to an on-going criminal investigation that were not authorized to be distributed to unauthorized persons, including her husband and her private attorney; however, Petitioner justified her actions as her only opportunity for a defense (*Transcript, Elkhart Police Merit Commission Hearing, Day 3, August 18, 2023, 91:19-93:1*). Petitioner further explained why she felt that she was justified in forcing her way out of the police department with her personal recording devices, and escaping what she deemed to be forty-two (42) minutes of unlawful detention after she was placed on administrative leave. (*Transcript, Elkhart Police Merit Commission Hearing, Day 3, August 18, 2023, 96:19-97:15*).

CONCLUSION

The Court carefully reviewed the Record in considering the validity of the Merit Commission's decision and applied the appropriate limited standard of review as to the facts addressed and the conclusions reached by the Commission. The Record in this case was lengthy covering a three (3) day hearing, and extensive evidence was presented, including abundant testimony and copious exhibits. The Court hereby concludes that the Police Merit Commission's decision that Petitioner Joy Phillips engaged in conduct constituting neglect or disobedience of orders, conduct unbecoming a member, immoral conduct, and conduct injurious to the public peace or welfare was neither arbitrary nor capricious. The decision of the Merit Commission was supported by the totality of the evidence and was sufficient to support the Commission's findings that not only did Petitioner violate pertinent merit system disciplinary statutes, but also various Elkhart Police Policies.

Furthermore, the Court concludes that the Merit Commission's sanction of

termination was neither arbitrary nor capricious, and the Court declines to modify that disciplinary penalty imposed by the Merit Commission. The Merit Commission properly considered testimony and other evidence of all witnesses in making its decision, and Petitioner failed to show that there was any violation of her due process rights by the hearing process.

IT IS THEREFORE **ORDERED, ADJUDGED and DECREED** that the decision of the Elkhart Police Merit Commission is hereby **AFFIRMED** in all respects and the relief sought by Petitioner in her Verified Petition for Judicial Review is hereby **DENIED**.

DATED AT GOSHEN, INDIANA THIS 17th DAY OF FEBRUARY 2025.



Michael A. Christofeno

Michael A. Christofeno, Judge
Elkhart Circuit Court