

BEFORE THE  
EMERGENCY MEDICAL SERVICES AUTHORITY  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

ADAM E. JOHNSON,

Respondent.

Case No. 16-0244

OAH No. 2018070200

**ORDER OF DECISION**

**DECISION**

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Emergency Medical Services Authority as its Decision in the above-entitled matter.

This Decision shall become effective on Mar 26, 2019.

IT IS SO ORDERED this 26 day of February 2019.

By: Edward Baker  
Director

BEFORE THE  
EMERGENCY MEDICAL SERVICES AUTHORITY  
STATE OF CALIFORNIA

In the Matter of the First Amended  
Accusation Against:

ADAM E. JOHNSON,

Emergency Medical Technician-Paramedic  
License No. P35498,

Respondent.

Case No. 16-0244

OAH No. 2018070200

**PROPOSED DECISION**

This matter was heard before Timothy J. Aspinwall, Administrative Law Judge, Office of Administrative Hearings, State of California, on January 14, 2019, in Sacramento, California.

Cynthia Curry, Staff Counsel, represented Sean Trask (complainant), Chief of the Emergency Medical Services Personnel Division of the Emergency Medical Services Authority (EMSA).

Jonathan C. Turner, Attorney at Law, represented Adam E. Johnson (respondent) who was present.

Evidence was received, the record was closed, and the matter was submitted for decision on January 29, 2019.<sup>1</sup>

**FACTUAL FINDINGS**

1. On October 9, 2015, the EMSA issued Emergency Medical Technician-Paramedic (EMT-P) License No. P35498 (license) to respondent. Respondent's license is in full force and effect and will expire on October 31, 2019, unless renewed or revoked.

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<sup>1</sup> The record was held open until January 29, 2019, for the parties to submit hearing briefs, which were timely submitted. Complainant's brief and reply were marked as Exhibits 12 and 13, and respondent's brief and reply were marked as Exhibits D and E for identification.

Complainant seeks to revoke respondent's license based on allegations of two misdemeanor convictions for battery and sexual battery, and respondent's underlying conduct.

*Disposition of Criminal Charges*

2. On March 22, 2018, in Yolo County Superior Court, Case No. 16-5355, respondent was convicted on his plea of no contest of a misdemeanor violation of Penal Code section 242, simple battery, a lesser included offense of Count 1 of the criminal allegations, which alleged a felony violation of Penal Code section 289, subdivision (d), willful and unlawful anal or genital penetration by foreign object when the victim (J.S.)<sup>2</sup> was unconscious. On March 22, 2018, as a consequence of respondent's no contest plea, the court suspended imposition of sentence and placed respondent on summary probation for a period of 36 months, with terms and conditions including that he pay a fine of \$1,065, complete 80 hours of community service, not possess or consume alcohol, attend 30 Alcoholics Anonymous (AA) meetings, submit to any search or test of his person for drugs or alcohol, abide by the terms and conditions of a protective order (terms not specified in court minute order), abide by an unspecified 10-year restriction on his right to bear firearms, and attend 16 counseling sessions.

3. On March 22, 2018, in the same case, respondent entered a plea of no contest to a misdemeanor violation of Penal Code section 243.4, subdivision (e)(1), sexual battery, as alleged in Count 2 of the criminal allegations that respondent willfully and unlawfully touched an intimate part of the victim, J.S., when the touching was against the victim's will and for the purposes of sexual arousal, sexual gratification, or sexual abuse. Respondent entered his no contest plea with the agreement and on the conditions that the court defer entry of judgment, and that the charges in Count 2, sexual battery, be dismissed if respondent complies with all terms of probation and successfully completes probation imposed as a consequence of his no contest plea to a violation of Penal Code section 242, simple battery. The court accepted respondent's no contest plea on these terms.

4. On January 10, 2019, in the same case, the court granted respondent's request to withdraw his no contest plea entered on March 22, 2018, to a misdemeanor violation of Penal Code section 243.4, subdivision (e)(1), sexual battery. The court then accepted the district attorney's (DA) motion to dismiss the charge of sexual battery as alleged in Count 2 of the criminal allegations. The disposition of the charge of Penal Code section 243.4, subdivision (e)(1), does not constitute a conviction, as set forth in Legal Conclusion 4.

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<sup>2</sup> J.S. is referenced in the police reports as "\*\*\*\*\*" to protect her identity. The criminal accusation filed by the Yolo County District Attorney refers to J.S. as the victim.

### *Complainant's Evidence*

5. Complainant introduced into evidence West Sacramento Police Department case reports (police reports)<sup>3</sup> as its sole evidence regarding the events underlying the criminal allegations against respondent in Yolo County Superior Court Case No. 16-5355. On September 18, 2016 at approximately 3:45 a.m., West Sacramento Police Officer Asaro (Officer Asaro), heard on the police radio that other officers were responding to a report that a man (respondent) had been going to houses knocking on doors, asking for help. A second caller, M.D., from the same area reported that respondent had assaulted his friend's girlfriend, J.S. Officer Asaro responded to the area and prepared a written report, which is summarized in Factual Findings 6 through 9, below.

6. Officer Asaro responded to a street corner where respondent was located with other police officers, including Officer Lombardo. Officer Asaro observed that respondent had dried blood on his face, a swollen upper lip, and appeared to have been in a fight. Officers Asaro and Lombardo then went to a second location where reporting person M.D., a male of approximately six feet in height and weighing approximately 230 pounds, with a large number of tattoos on his arms, was located in front of his residence. Officer Asaro noticed M.D. appeared to be very upset and animated. M.D. stated that he had been drinking and was intoxicated. Officer Asaro interviewed M.D., who stated that he had been at the Sail Inn Bar drinking alcohol with his friend S.D. and S.D.'s girlfriend, J.S. At the bar, he introduced himself to respondent who said that he worked for the Sacramento Metro Fire District (Sac Metro) as a paramedic. After a few drinks at the bar, they left and went to M.D.'s house. M.D., S.D., and respondent sat on the front porch in folding chairs drinking beer. J.S. had enough to drink for the night, and went inside the house to sleep on a couch in the front room. After they had been drinking for a while, respondent went inside M.D.'s house to use the bathroom. From where he sat on the front porch, M.D. saw the bathroom light turned on and a short time later turned off. Respondent did not come back outside immediately, so after approximately one minute M.D. looked inside his house through the open front door and saw respondent standing over J.S. who was sleeping on the couch. He had his hand up her shorts from underneath, and was moving his hand back and forth. M.D. could not believe what he was seeing, and said something like "What the hell." S.D. then ran over to the door and looked inside the house from the front door. Respondent heard them and ran out the back door, around the side of the house, and back out front. M.D. and S.D. tried to stop respondent, but could not catch him. J.S. ran out of the house, and M.D. did not

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<sup>3</sup> The West Sacramento Police Department case reports were admitted into evidence pursuant to *Lake v. Reed* (1997) 16 Cal.4th 448. Accordingly, the percipient observations of the reporting police officers and the admissions of respondent were admitted as direct evidence; the statements of third parties, including witnesses and the alleged victim, were admitted as administrative hearsay under Government Code section 11513, subdivision (d), which states in relevant part as follows: "Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions."

know where she went. Officers Asaro and Lombardo then left M.D.'s residence to look for J.S.

7. A short time later M.D. called the police department and asked that officers contact him regarding the location of J.S. Officers Asaro and Lombardo went to M.D.'s location, where he was with J.S. Officer Asaro observed that J.S. was very upset, with makeup running down her cheeks from crying. She was dressed in a spaghetti style tank top and loose fitting short pants. Officer Asaro asked M.D. to step away so he could interview J.S. in private. J.S. told Officer Asaro that she had been at the Sail Inn Bar with M.D. and S.D., where they met respondent. She had a lot to drink at the bar, and when they came back to M.D.'s house she went inside and fell asleep on the couch. As she was sleeping on the couch, she was awoken by someone putting his finger in her vagina. She thought it was her boyfriend, but when she looked she did not recognize the man standing over her. She screamed, and he put up both hands with his palms out and motioned as if he was trying to tell her not to say anything. She got up and ran out of the house, because she was scared. She ran down the street and around the corner to where her sister lives, because she knew she would be safe there. Officer Asaro asked J.S. if she would be willing to come with him for an in-field show-up at a location where respondent was being detained. J.S. appeared to be very scared and was still crying. She was reluctant to see respondent and fearful that he might be able to see her. Officer Asaro assured her that she would be safe, and that respondent would not be able to see or harm her. J.S. agreed to go with Officer Asaro, and he took her in his patrol car to where respondent was detained. When J.S. saw respondent from a distance of approximately 40 feet, she became hysterical. She started shaking and crying and asked if they could please go away. Officer Asaro asked J.S. whether respondent was the person who had sexually assaulted her, and she said "yeah" indicating that respondent was a positive match for the suspect. Officer Lombardo prepared a supplemental report stating that he conducted an in-field show-up with M.D., and that M.D. identified respondent as the suspect who had sexually assaulted J.S.

8. Respondent was placed under arrest and transported to the West Sacramento Police Department. Officer Asaro contacted respondent in the pre-booking area and read respondent his Miranda rights. Respondent acknowledged his rights and told Officer Asaro that he would like to make a statement. Respondent told Officer Asaro the following. Respondent was at the Sail Inn Bar earlier in the night where he met a guy who had a lot of tattoos on his arms, M.D., and a second guy who was very big with a large beard, S.D. They were with a woman, J.S., who respondent described as a very pretty blonde girl with beautiful eyes and a nice figure. Respondent said he thought she was S.D.'s girlfriend. Respondent had two beers and was going to leave, but M.D. said he should come with them back to his house. He said M.D. was trying to get respondent to rent a room in his house, and bought respondent a beer and a shot of whiskey. M.D. practically forced respondent to go with him. They got into M.D.'s truck and went to his house. Respondent said he did not remember much of what happened after that. He said S.D. and J.S. were in an argument at the Sail Inn Bar, and that she did not come to M.D.'s house. Before they got to M.D.'s house, M.D. and S.D. started threatening respondent. As soon as they pulled up to M.D.'s house, respondent got out of the truck and ran away. M.D. and S.D. chased respondent and

caught up with him. They started punching him and knocked him down. He got up and ran a second time, jumping over several fences. He was scared and confused.

9. Officer Asaro questioned respondent further, and his story changed. Respondent told Officer Asaro that after leaving the bar, they went to M.D.'s house. Respondent was sitting on a lawn chair in the front yard. S.D. had two cases of beer and they were drinking. Respondent said he never saw J.S. at the house. After respondent had been at M.D.'s house for a while, respondent went inside to use the restroom. When he came back outside he got into a physical altercation with both M.D. and S.D., and they started punching him. He did not know why they were punching him. He was scared so he ran away and hid in the bushes.

#### *Respondent's Evidence*

10. Testimony of respondent: Respondent is 27 years of age. He is employed by Exeter District Ambulance as a paramedic field training officer and shift lead, which includes responding to emergency calls. Respondent has always been interested in public service as a first responder. Respondent's father and his uncles were employed at the Bakersfield City Fire Department (BCFD), and respondent grew up with the children of other firefighters. He was a Boy Scout and Explorer (a vocational extension of the Boy Scouts) with BCFD. In 2010, respondent completed a five-month Firefighter Academy through BCFD, after which he began serving as a volunteer reservist with BCFD for a minimum of 48 hours per month. In 2013, respondent began paramedic school at Bakersfield Community College. He decided to pursue para-medicine because he had a couple of mentors who were paramedics, and he is interested in medicine. He worked for AMR Ambulance as an emergency medical technician (EMT) for approximately two years, and as a paramedic for approximately one year. In May 2016, he transferred to Sac Metro, where he attended the single role EMT/Paramedic Academy, after which he started work as a paramedic for Sac Metro. Respondent left his employment at Sac Metro because of the criminal allegations related to this matter.

11. Respondent's recollection of events on September 17 and 18, 2016, which led to his arrest, are as follows. On September 17, 2016, at 7:00 p.m., respondent finished a 36-hour shift with Sac Metro. He does not know how much sleep he had during his shift. He stopped at the Sail Inn Bar on his way home to have a beer. He was at first drinking alone inside the bar, then went out onto the patio where he met two males, M.D. and S.D., and one female, J.S. They invited him to their table, where he had two more beers and a shot of whiskey. They asked if he wanted to go have drinks with them at their home. Respondent accepted the invitation and rode with M.D. to M.D.'s home. They sat on lawn chairs on M.D.'s driveway where respondent drank approximately three more beers. M.D. and respondent were alone in the driveway. S.D. was also at the house. Respondent went inside M.D.'s house to use the bathroom a couple of times, and does not remember seeing J.S. at the house at any time. Respondent fled M.D.'s house after he had a physical altercation with M.D. and S.D. He is smaller and was able to run faster than M.D. and S.D., and was able to get away from them. Respondent then began knocking on doors asking for assistance

because his cell phone had lost power. Respondent does not know how the altercation began.

12. Respondent started attending AA meetings three to four times per week after this incident, and before having been ordered to do so by the court. Respondent complied with the conditions of probation requiring that he pay a fine of \$1,065, complete 80 hours of community service, attend 30 AA meetings, and attend a minimum of 16 counseling sessions. Respondent attended approximately 30 counseling sessions, more than the court required, and continues to occasionally attend AA meetings. Respondent feels he has made significant changes since September 2016. He has moved away from alcohol abuse, and is now more focused on family and friends. He feels that he has a good support network with his family and his “brothers and sisters” in the emergency medical response profession. Respondent’s paramedic license is important to him because it is the most meaningful work he has done. He likes working with his colleagues who are like family, and he appreciates the little victories that they have. He is remorseful for his actions, and the pain and heartache he has caused. He does not blame anyone else. He chose to go to the Sail Inn Bar, went home with M.D. and S.D., and put himself in the situation. To his knowledge, he did not touch anyone sexually against their will.

13. Albert Johnson’s testimony: Mr. Johnson is respondent’s father. He is retired from BCFD, following 30 years of service. To his observation, respondent loved being involved with the fire department from an early age. He was an Explorer with BCFD, later transferring to the reserves. He was an example of a really good recruit. Respondent’s paramedic license is very important to him, as he has worked his entire life to reach this position. Mr. Johnson has seen respondent do the right thing in making hard choices, and even though respondent has occasionally stumbled he has always acknowledged and corrected his problems. Mr. Johnson is aware that respondent was accused of assaulting an unconscious woman, and feels that this would be very out of character for him.

14. Testimony of Christopher Pike: Mr. Pike is a paramedic with Sac Metro. He has known respondent since 2016. He and respondent attended the Sac Metro Academy in the same class. He has worked in the same station with respondent, but never on the same shift. He has, however, observed respondent on the job many times, and believes that respondent is a very competent paramedic. He believes that respondent is hard-working, dedicated, honest, and that he possesses good moral character. Respondent told him that the charges in this matter relate to allegations he was drinking with some people, that a fight broke out, and he was charged with simple battery. Respondent did not tell Mr. Pike that he had been arrested for sexually assaulting an unconscious woman, rather he said he had been arrested for fighting.

15. Testimony of Brayton Vanni: Mr. Vanni is a firefighter paramedic with the Cosumnes Fire Department, and previously worked for Sac Metro. He has known respondent since 2016. He and respondent attended the Sac Metro Academy in the same class. Respondent always tried to be helpful to others in the Academy. Mr. Vanni has worked a few shifts with respondent, and observed that respondent is extremely proficient

and compassionate as a paramedic. Respondent told him that the reason for this hearing is that respondent had gone out drinking alcohol with some other individuals, an altercation ensued, and he was convicted of battery. Respondent did not tell Mr. Vanni that he had been arrested for sexually assaulting a woman.

16. Testimony of Sheyenne Capella: Ms. Capella has known respondent since August 2016. She is respondent's girlfriend, and they have lived together since May 2018. She works as a nursing assistant at Bakersfield Memorial Hospital. In her experience, respondent has a very caring attitude and puts the needs of others before his own. He is very honest with her, and respectful of her feelings and body. She is aware that he was accused of sexually assaulting an unconscious woman. This allegation does not change her opinion of him.

17. Letters of Support: Respondent submitted 21 letters of support, six of which were unsigned including three which were also undated. None of the letters were signed under penalty of perjury. The letters were written by people who have known respondent in various contexts. The letter writers include retired firefighters from BCFD, coworkers at Exeter Ambulance, godparents, family friends, and others. Taken together, the letters of support portray a young man who has from his early years been committed to working as a first responder, and has a true sense of calling to work as a paramedic. The letters say that respondent is highly competent and compassionate in his work as a paramedic. They also clearly state that respondent consistently behaves in a way that is both trustworthy and helpful. Several of the letters ask that respondent be given a second chance, and that it would be a public loss for him to lose his paramedic license.

### *Discussion*

18. Officer Asaro's personal observations and respondent's statements to him, both recorded in Officer Assaro's written report credibly establish the following: respondent met M.D., S.D., and J.S. at the Sail Inn Bar where they drank some alcoholic beverages together; M.D. invited respondent to go to his house to drink some more alcoholic beverages; respondent accepted the invitation and rode with M.D. to his house; respondent had a physical altercation with M.D. and S.D. which resulted in bruising and swelling to respondent's face; respondent knocked on the front door of at least one residence asking for assistance; Officer Asaro responded to M.D.'s residence, and observed M.D. to be very angry at respondent; Officer Asaro went looking for J.S., and during the same morning responded to a call from M.D. to meet him with J.S.; Officer Asaro observed J.S. to be very upset, with makeup running down her face from crying, and dressed in a spaghetti style tank top and loose fitting short pants; J.S. agreed to accompany Officer Asaro to view respondent at an in-field show-up, and when she saw respondent from approximately 40 feet she became hysterical, shaking and crying, and asked Officer Asaro if they could please go away. The statements made by M.D. and J.S. to Officer Asaro as recorded in his report are consistent with and supplement this credible evidence.



19. Respondent gave Officer Asaro inconsistent accounts of his physical altercation with M.D. and S.D. In his first statement to Officer Asaro, respondent said that M.D. and S.D. started threatening him on the way from the Sail Inn Bar, and that he got out of the truck and ran away as soon as they pulled up to M.D.'s house. Respondent said that M.D. and S.D. chased him and caught up with him, then started punching him and knocked him to the ground before he got up and ran away again. In his second statement to Officer Asaro, respondent said that his physical altercation with M.D. and S.D. occurred after they had been at M.D.'s house drinking for a while, and that they started punching him for no apparent reason when he came out of M.D.'s house after using the bathroom. Respondent testified at the hearing that the physical altercation occurred after he had been drinking at M.D.'s house for a while, and he does not know why the altercation occurred. Respondent's statements regarding the altercation between himself and M.D. and S.D. are not credible for two reasons. First, he gave inconsistent accounts, and second there is no evidence tending to prove that M.D. and S.D. would attack respondent for no reason after having purchased drinks for him at the Sail Inn Bar, and inviting him to M.D.'s house for more drinks.

20. Respondent's testimony and statements to Officer Asaro that he did not see J.S. after he left the Sail Inn Bar also lack credibility. Officer Asaro observed that J.S. became panicked when he took her for an in-field show-up to view respondent. There is no plausible reason why J.S. would become so panicked if she did not have any contact with respondent after he left the Sail Inn Bar. It is also significant that Officer Asaro observed J.S. to be wearing loose fitting short pants, which would leave her vulnerable to precisely the type of sexual assault that both she and M.D. described.

21. Respondent testified that he is remorseful for his actions, and the pain and heartache that he has caused everyone. He has been trying to make it better since this happened. He does not blame anyone else, as he chose to go to the bar, went home with these people, and put himself in the situation. He testified that to his knowledge he did not touch anyone sexually against their will. Respondent did not describe what he is remorseful about, other than the fact that he put himself in a situation where he became involved in a physical altercation. Given respondent's lack of credibility regarding events leading to his conviction of simple battery, and his lack of clarity regarding the reasons for his stated remorse, it cannot be said that respondent has fully come to grips with his conduct. As the California Supreme Court stated in *Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940, "Fully acknowledging the wrongfulness of [one's] actions is an essential step towards rehabilitation."

22. Respondent has engaged in some rehabilitation. He has complied with the terms of his criminal probation, including that he pay a fine of \$1,065, complete 80 hours of community service, and attend 30 AA meetings. Respondent is still on criminal probation, which is not scheduled to end until March 2021. (See, *In re Gossage* (2000) 23 Cal.4th 1080, 1099 [little weight is given to person's good behavior while on probation because such conduct is expected].) A truer indication of rehabilitation is demonstrated by sustained conduct over an extended period of time. (*In re Menna* (1995) 11 Cal.4th 975, 991.) Respondent continues to voluntarily attend AA meetings occasionally. He does not have a

sponsor. On this evidence, it is not clear whether respondent has achieved a lasting and durable recovery from the alcohol consumption patterns that were a factor in his arrest and conviction.

23. Respondent presented witness testimony and many letters of support, all of which convincingly speak to his loyalty as a friend and member of his community, and his commitment and competence as a paramedic. It is a great asset in life to have these attributes and such broad support, but such attributes and support do not substitute for the steps one must take to achieve meaningful rehabilitation.

24. Licensure is a public trust. Respondent broke that trust when he committed acts leading to his conviction of battery. A person is not defined by his or her worst moment, and renewal is part of the human story. It is, however, respondent's responsibility to demonstrate such a degree of rehabilitation that the breach of public trust can be repaired, and the public safety ensured. He has not done so. For this reason, and based on the evidence as a whole, it would be inconsistent with the public safety to allow respondent to retain his paramedic license at this time. Consequently, his license must be revoked.

## LEGAL CONCLUSIONS

1. The standard of proof in an administrative action seeking to suspend or revoke a certificate that requires substantial education, training, and testing is "clear and convincing evidence." (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) Clear and convincing evidence requires a finding of high probability, or evidence so clear as to leave no substantial doubt; sufficiently strong to command the unhesitating assent of every reasonable mind. (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 594.) Substantial education, training, and experience is required to apply for a paramedic license in California. On this basis, the clear and convincing standard of proof applies in this disciplinary proceeding.

2. Pursuant to Health and Safety Code section 1798.200, subdivision (c)(5), the EMSA may discipline an EMT-P license if the licensee has committed "any fraudulent, dishonest, or corrupt act . . ." The evidence demonstrated that respondent committed simple battery. (See *Arneson v. Fox* (1980) 28 Cal.3d 440, 449 [proof of a conviction "stands as conclusive evidence of [his] guilt of the offense charged."].) Simple battery is not a corrupt act. Sexual battery is a corrupt act. However, the evidence did not establish by the necessary quantum of proof that that respondent committed sexual battery. The evidence tending to support that allegation was admitted as administrative hearsay under Government Code section 11513, subdivision (d), which states that "[h]earsay evidence may be used for the purpose of supplementing or explaining other evidence but . . . shall not be sufficient in itself to support a finding . . ." For these reasons, and based on the evidence as a whole, cause does not exist to discipline respondent's license pursuant to section 1798.200, subdivision (c)(5).

3. Pursuant to Health and Safety Code section 1798.200, subdivision (c)(6), the Authority may discipline an EMT-P license if the licensee has been convicted of “any crime which is substantially related to the qualifications, functions, and duties of prehospital personnel.” In such case, the “record of conviction or a certified copy of the record shall be conclusive evidence of the conviction.” (*Ibid.*) California Code of Regulations, title 22, section 100175 provides that a “crime or act shall be considered to be substantially related to the qualifications, functions, or duties of a paramedic if to a substantial degree it evidences present or potential unfitness of a paramedic to perform the functions authorized by her/his license in a manner consistent with the public health and safety.” The elements of simple battery, as set forth in the California Judicial Council Criminal Jury Instructions include willfully touching another person in a harmful or offensive manner. (CALCRIM No. 960 (2017).) The crime of simple battery is substantially related to the qualifications, functions, or duties of a paramedic because “it evidences present or potential unfitness of a paramedic to perform the functions authorized by her/his license in a manner consistent with the public health and safety.” For these reasons, and based on the evidence as a whole, cause exists to discipline respondent’s license pursuant to section 1798.200, subdivision (c)(6).

4. California Code of Regulations, title 22, section 100174, subdivision (b)(4), provides that the EMSA “shall” revoke a paramedic license if the licensee has been convicted of two misdemeanors within the preceding five years for any offense relating to force, violence, threat, or intimidation. California Code of Regulations, title 22, section 100175, subdivision (b), defines “conviction” as “the final judgment on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere.” Based on this definition, respondent was convicted of simple battery, as he pled no contest and the court entered a final judgment. With respect to the charge of sexual battery, respondent pled no contest and the court deferred entry of judgment, and pursuant to the plea agreement subsequently allowed respondent to withdraw his no contest plea and dismissed the charge pursuant to the D.A.’s motion. Based on these facts and the EMSA’s definition of “conviction” respondent was not convicted of sexual battery. Because respondent was convicted of only one misdemeanor, cause does not exist to discipline respondent’s license pursuant to section 100174, subdivision (b)(4).

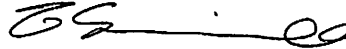
5. California Code of Regulations, title 22, section 100174, subdivision (a)(1), provides that the EMSA “shall” revoke a paramedic license if the licensee has “committed any sexually related offense specified under Section 290 of the Penal Code.” As set forth in Legal Conclusions 2 and 4, the evidence did not establish by the required quantum of proof that respondent committed a sexually related offense. For these reasons, and based on the evidence as a whole, cause does not exist to discipline respondent’s license pursuant to section 100174, subdivision (a)(1).

6. Complainant established that respondent’s license is subject to discipline based on his conviction of simple battery. As set forth in Factual Findings 10 through 24, respondent did not submit sufficient evidence of rehabilitation to demonstrate that it would be consistent with the public safety to allow him to retain his EMT-P license. Respondent’s license must therefore be revoked.

ORDER

Emergency Medical Technician-Paramedic License No. P35498 issued to respondent Adam E. Johnson is REVOKED.

DATED: February 22, 2019

DocuSigned by:  
  
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TIMOTHY J. ASPINWALL  
Administrative Law Judge  
Office of Administrative Hearings