

BEFORE THE
EMERGENCY MEDICAL SERVICES AUTHORITY
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

ANDREW J. WILGA, EMT-P
License No. P25357

Case No. 11-0008

OAH No. 2011020253

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the CA EMS AUTHORITY as ITS Decision in the above-entitled matter.

This Decision shall become effective 3 May 2011.

IT IS SO ORDERED.

Date: 18 April 2011

Daniel R. Amley

BEFORE THE
EMERGENCY MEDICAL SERVICES AUTHORITY
STATE OF CALIFORNIA

In the Matter of the Accusation against:

ANDREW J. WILGA, EMT-P
License No. P25357

Respondent.

Case No. 11-0008

OAH No. 2011020253

PROPOSED DECISION

Administrative Law Judge Greer D. Knopf, State of California, Office of Administrative Hearings, heard this matter in San Diego, California, on March 9, 2011.

Cynthia L. Curry, Senior Staff Counsel, Emergency Medical Services Authority, represented complainant Sean Trask, Chief of the Personnel Division, Emergency Medical Services Authority, State of California.

Georgiana D'Alessandro, Tosdal, Smith, Steiner & Wax, attorneys at law, represented respondent Andrew J. Wilga who was present at the hearing.

The matter was submitted on March 9, 2011.

FACTUAL FINDINGS

1. Accusation number 11-0008, dated January 14, 2011, was filed by complainant, Sean Trask (complainant), in his official capacity as Chief of the Personnel Division, Emergency Medical Services Authority, State of California (the Authority) against respondent Andrew J. Wilga (respondent). The accusation alleges respondent is subject to disciplinary action after he reported for duty as an Emergency Medical Technician-Paramedic (EMT-P) while in an intoxicated state. Respondent filed a Notice of Defense dated February 1, 2011, requesting a hearing in the matter and the proceeding herein followed

2. Respondent holds EMT-P license number P25357 issued by the Authority on October 3, 2007. Respondent's EMT-P license is due to expire October 31, 2011, unless renewed. On January 14, 2011, pursuant to Health and Safety Code section 1798.202, subdivision (c), the Acting Director of the Authority issued an Order for Temporary Suspension suspending respondent's EMT-P license pending a hearing on the accusation herein.

3. In January 2011, respondent was employed by the San Diego Fire-Rescue Department (the Department) as a firefighter/paramedic. Respondent had worked for the Department since 2003. The duties of a paramedic generally are to go out on medical aid calls and assess the medical situation and render the appropriate treatment at the scene and in the ambulance. The paramedic may be called upon to drive the ambulance or ride in the back with the patient. On January 1, 2011, respondent was scheduled to work and he reported to work in the morning expecting to work a full firefighter/paramedic shift. Respondent's work shifts at the Department typically lasted 24 hours a day for four days at a time where the firefighters sleep at the station.

4. When respondent arrived at work on the morning of January 1, 2011, he appeared to be intoxicated. Respondent's supervisor immediately asked respondent to submit to an alcohol/drug test before beginning work. Respondent provided a urine sample for the drug test and the urine was submitted for testing. The alcohol/drug test results revealed that respondent had a blood alcohol level of .390 percent that morning. This is nearly five times the legal limit of .08 percent under which one is considered too impaired to drive a non-commercial motor vehicle. This is nearly 10 times the legal limit of .04 percent under which one is considered too impaired to drive a commercial motor vehicle. After getting the results of the alcohol testing, respondent's supervisor informed respondent that he would not be permitted to work his shift since he was intoxicated. Someone at the fire station drove respondent home. There was no evidence presented to establish whether respondent had driven himself to work that day; if he did, he put the public in grave danger just by getting behind the wheel to get to work while so intoxicated. Apparently, respondent had been out the night before celebrating New Year's Eve and continued to drink throughout the night even though he knew he had to go to work the next day. Respondent made the extremely poor decision to report to work in an extremely intoxicated state, putting the public in grave danger if his intoxication had gone undetected and he had gone out to answer a call for paramedic assistance.

5. Respondent was initially placed on administrative leave. On January 14, 2011, respondent was served with a temporary suspension order suspending his paramedic's license. Respondent is now back at work at the Fire Department, but assigned to administrative duty in the office. Respondent is no longer providing any patient care and is not assigned to an ambulance or fire truck. All firefighters at the Department are required to hold a license as either a paramedic or an EMT so if respondent loses his paramedic's license, it is likely he would also lose his job as a firefighter. With the exception of this incident, respondent generally has a good work history with the Department for the seven years he has been employed.

6. Since January 1, 2011, respondent has sought help for what he now recognizes as a drinking problem. Respondent went to the employee assistance program where he was referred to a 30-day outpatient chemical dependency rehabilitation program at Kaiser Permanente. Respondent completed the 30-day out-patient program. Respondent also began attending Alcoholics Anonymous (AA) where he has a sponsor who is also an employee at the Department. Respondent testified he is now clean and sober and is working at turning his life around. He testified he attends AA meetings at least once a week and sometimes up to four times a week, but the records indicate that he sometimes goes two weeks without attending a meeting. Respondent claims he is actively working through the 12-step program of AA and is currently on the eighth step that he has found to be a particularly difficult step as it requires him to make amends with people he has hurt while under the influence of alcohol. He has had a few sessions with a psychologist and continues to participate in a program at Kaiser that consists of group meditation and yoga classes. He is not in any ongoing counseling or therapy.

7. Respondent seems to lack insight into the severity of his problem with alcoholism. He testified that he believes alcohol only became a problem in his life in the last six months before January 2011, although he has been drinking since he was 19 years old. The facts of the case belie this claim. It is difficult to believe respondent was able to drink enough alcohol to come to work with .390 percent blood alcohol level in his system without having a rather long-term problem with alcohol. Respondent testified that alcoholism runs in his family and he has learned he has liver damage and possible brain damage due to the large amounts of alcohol he has consumed. However, respondent still does not seem to acknowledge the probable depth of his alcoholism that led him to this point in his life. Respondent's denial of his problem was further demonstrated when he testified that he believed he was only in a "semi-intoxicated state" when he came to work with an extremely high .390 level of alcohol in his system. He claims he only began drinking excessively in mid-2010 when he was suffering from back pain, having financial problems, and he and his fiancé ended their relationship. He was feeling depressed and turned to alcohol. He did seek treatment from the employee assistance program for his depression and excessive drinking in September 2010, but apparently, it was not sufficient to keep him sober at that time. He now claims he is dedicated to the ongoing process of staying sober.

8. Respondent has made some strides towards rehabilitation and he should be commended for his continuous efforts to stay sober, but he is just at the beginning of his difficult journey. Respondent has only been sober for just over three months. Respondent's sobriety is still too new and his apparent drinking problem is a very serious one. Respondent seems to lack true insight into the severity of his problem and therefore he does not appear to be doing everything possible to ensure his ongoing sobriety. Due to his ongoing struggle with drinking, there is simply too much risk that respondent could resort to his old ways of abusing alcohol when confronted with difficult times. The Authority must be able to rely on its licensees who work in life and death situations. Respondent has only been sober for three months and has demonstrated enormously bad judgment when he came to work with an exorbitantly high level of alcohol in his system. Clearly, he hopes to stay sober, but it is not clear yet that he will be successful. He tried once in September 2010 and failed. Given that

the safety of the public is at stake, respondent needs more time to establish a track record as a clean and sober citizen. He should no longer be entrusted with a license as an EMT-P. It is not in the public interest to allow respondent to continue to hold a license as an EMT-P at this time.

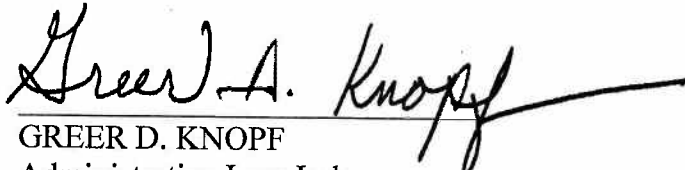
LEGAL CONCLUSIONS

1. Complainant has the burden of proving the allegations herein by clear and convincing evidence to a reasonable certainty (*Ettinger v. Board of Medical Quality Assurance* (1982) 134 Cal.App.3d 853, 855-856).
2. Cause exists to discipline respondent's license as an EMT-P pursuant to Health and Safety Code section 1798.200, subdivisions (b) and (c)(9) and Title 22, California Code of Regulations, section 100174, subdivision (a) in that respondent committed an act that was substantially related to the qualifications, functions and duties of a license, that exhibited an addiction to the excessive use of alcoholic beverages, and that was a very serious threat to the public health and safety, as set forth in Findings 2-8.
3. Cause exists to revoke respondent's license as an EMT-P. The facts and circumstances established in this case include aggravating circumstances and there was an insufficient showing of mitigation to suggest that anything less than the most extreme discipline of revocation is sufficient for the protection of the public, as set forth in Findings 2-8.

ORDER

The Emergency Medical Technician-Paramedic license number P25357 issued to Andrew J. Wilga by the Emergency Medical Services Authority is hereby revoked.

DATED: April 13, 2011


GREER D. KNOFF
Administrative Law Judge
Office of Administrative Hearings