

**Department of Public Safety Standards and Training
(DPSST or the Department)
Memo**

Date: April 26, 2023

To: DPSST Officer File

From: Melissa Lang-Bacho
Professional Standards Case Manager

Subject: **Applicant Review Committee Decision – No Action**
Joseph Brawley; DPSST No. 63454

Reason for Discretionary Review:

Joseph Brawley's agency submitted an Application for Training (F5) and a Criminal History Reporting Form (F28), reporting a pre-employment criminal disposition for *Driving Under the Influence of Intoxicants*, occurring in 2018. Upon review of the reported disposition, Brawley was also charged with *Reckless Driving* in the same incident. On March 22, 2019, Brawley entered a plea of guilty to both *Driving Under the Influence of Intoxicants (DUII)* and *Reckless Driving*.

Applicant Review Committee (ARC) Decision:

The ARC, in a unanimous vote, decided to take **NO ACTION** against Brawley's Application for Training and subsequent Application for Certification.

Committee Review:

The committee considered the following moral fitness violations and factors in making their decision.

Moral Fitness Violations:

- Dishonesty: The ARC did not identify elements of dishonesty.
- Gross Misconduct: Brawley was reckless and caused significant harm to property when he drove under the influence of intoxicants and recklessly damaged landscaping during an accident. Brawley was also reckless and could have caused significant harm to persons when he drove recklessly and was intoxicated.

Aggravating Factors:

- Brawley had a high Breath Alcohol Content (BAC), measuring 0.17% BAC when tested.
- Brawley left the scene of the accident.

Mitigating Factors:

- Brawley completed all the obligations associated with his court case.
- Brawley was honest with the police officer, considering the circumstances.
- At the time of the incident, Brawley was not employed in public safety.
- Brawley provided a mitigation letter from the arresting officer, who had no concerns that the incident would happen again.

Information Used in Determination:

- ARC Staff Report, with exhibits

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Memo

Date: April 26, 2023

To: Applicant Review Committee

From: Melissa Lang-Bacho
Professional Standards Case Manager

Subject: **Staff Report – Pre-Employment Criminal**
Joseph Brawley; DPSST No. 63454

Reason for Discretionary Review

Joseph Brawley's agency submitted an Application for Training (F5) and a Criminal History Reporting Form (F28), reporting a pre-employment criminal disposition for *Driving Under the Influence of Intoxicants*, occurring in 2018. Upon review of the reported disposition, Brawley was also charged with *Reckless Driving* in the same incident. On March 22, 2019, Brawley entered a plea of guilty to both *Driving Under the Influence of Intoxicants (DUII)* and *Reckless Driving*.

The Department determined that the criminal disposition or the underlying conduct being reviewed violates the Board's pre-employment moral fitness standards. Through the case review process, the committee will affirm, modify or negate the below identified elements of pre-employment moral fitness violations and make a determination on the disposition of this case:

Dishonesty: The Department did not identify elements of dishonesty.

Gross Misconduct: Brawley was reckless and caused significant harm to property when he drove under the influence of intoxicants and recklessly damaged landscaping during an accident. Brawley was also reckless and could have caused significant harm to persons when he drove recklessly and was intoxicated.

Material Events and Conduct

Police reporting from the Astoria Police Department (APD) from December 15, 2018, indicates that officers responded to a single-vehicle crash. While en route to the crash, an officer saw a man, identified as Joseph Brawley, walking away from the area of the crash. The officer noted that he was stumbling, appeared dirty, and was carrying papers and items in his hands. Brawley admitted to crashing and leaving the scene and stated that "he was just walking home." When Brawley got into the back of the patrol vehicle and closed the door, the officer could smell a very strong odor of alcohol in the car.

Reporting also indicates that based on the tire tracks it appeared that Brawley had failed to turn with the road and went straight into the yard of a residence. The yard of the residence had very

large decorative boulders, which Brawley collided with and prevented him from hitting the home.

Brawley damaged the yard and boulders at the residence. The charging document lists the amount of damage in excess of \$500.00.

A Sergeant with the APD was also on the scene and interviewed Brawley. The Sergeant told the reporting officer that Brawley denied consuming alcohol. When asked by the reporting officer how many drinks he had he stated, "Maybe like 3 mixed drinks and 2 Vortex...Fort George". One hour later, Brawley provided a breath sample which measured 0.17% Blood Alcohol Content (BAC). No report from the Sergeant was available.

Brawley was criminally charged with the following:

- *Driving Under the Influence of Intoxicants*, a misdemeanor, ORS 813.010.
- *Reckless Driving*, a misdemeanor, ORS 811.140.
- *Criminal Mischief in the Second Degree*, a misdemeanor, ORS 164.354.
- *Failure to Perform the Duties of a Driver*, a misdemeanor, ORS 811.700.

On March 22, 2019, Brawley entered a plea of guilt for *DUII* and *Reckless Driving* and petitioned for diversion in his *DUII* case. In the petition to plea paperwork for the *Reckless Driving charge*, it indicates that upon successful completion of a *DUII* diversion program, and 12 months of probation, the *Reckless Driving charge* will be dismissed with prejudice.

On March 22, 2019, the court issued a Deferred Entry of Judgment – Probation Without Entry of Judgment of Guilt for the *Reckless Driving* charge. The Deferred Entry of Judgment reports that the charges for *Criminal Mischief in the Second Degree*, and *Failure to Perform the Duties of a Driver* were dismissed pursuant to a plea negotiation.

Brawley was placed on bench probation for a period of 12 months in association with the Deferred Judgment and was given a set of conditions to comply with which included: not possessing weapons, or firearms, to pay the fines, fees, and restitution associated with the case and obey all laws.

Court paperwork indicates that the amount of restitution would be set by the District Attorney within 90 days. No additional information related to restitution was available in the records.

Relevant Circumstances for Consideration

Brawley was not employed in a certifiable position at the time of the conduct.

Brawley has been hired by the Astoria Police Department who are aware of the criminal disposition.

The F28 also reported speeding tickets and moving violations which are not considered violations of a criminal law that would require the Department or Committee review.

Exhibits Reference

F28 Criminal History Reporting	A2
Astoria Police Report	A3
Register of Actions (eCourt)	A4
Charging Document (DA Information)	A5
Petition to Plead Guilty – <i>Reckless Driving</i>	A6
Petition to Plead Guilty – <i>DUII</i>	A7
Diversion Order	A8
Deferred Entry of Judgment – <i>Reckless Driving</i>	A9
Motion and Order to Dismiss – <i>DUII</i>	A10
Dismissal Order - <i>Reckless Driving</i>	A11
Mitigation Information Sent to Brawley	A12
Mitigation Received on Behalf of Brawley	A13