



TENNESSEE  
PEACE OFFICER STANDARDS AND TRAINING COMMISSION

**CHANGE OF STATUS**

NAME: Martin, III, Emmitt  
(Last) (First) (Middle)

DEPARTMENT: Memphis Police Department CERTIFICATION NUMBER: 4834-2715

☐ **SEPARATION:** This is to notify the POST Commission that the named officer is no longer employed by this department as indicated below:

**Type of Separation**

**Effective Date** (mm/dd/yyyy)

☐ Resigned \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

☐ Retired \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

☐ Terminated \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

☐ Discharged \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

☐ Other \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

Reason: \_\_\_\_\_

**New Employer, if known** \_\_\_\_\_

☐ **CHANGE OF NAME/RANK:** From \_\_\_\_\_ to \_\_\_\_\_  
Effective Date of Change: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

☒ **LEAVE:** This officer has been granted leave as indicated:

From: 01/08/2023 To: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

☒ Administrative

☐ Educational

☐ Military

☐ Medical

☐ Maternity

Returned to full time status on: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

☐ **SUSPENSION:** This officer has been suspended for a period of thirty (30) days or more  
From: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ To: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ for the following reason(s) \_\_\_\_\_

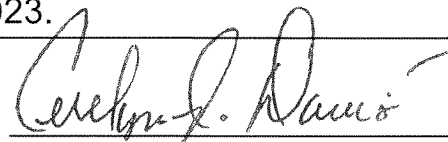
Officer relieved of duty effective January 8, 2023.

**FOR POST USE ONLY**

File \_\_\_\_\_ DOE \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

Card: 4x6 \_\_\_\_\_ 3x5 \_\_\_\_\_ DOB: \_\_\_\_\_

DOC: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ #: \_\_\_\_\_

  
Signature of Agency Head

Cerelyn J. Davis  
Print/Type Name of Agency Head

Memphis Police Department  
AGENCY



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☐ Retired \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

☒ Terminated 01/20/2023

Reason: \_\_\_\_\_

☐ Discharged \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

☐ Other \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

New Employer, if known \_\_\_\_\_

☐ **CHANGE OF NAME/RANK:** From \_\_\_\_\_ to \_\_\_\_\_  
Effective Date of Change: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

☐ **LEAVE:** This officer has been granted leave as indicated:

From: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ To: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

☐ Administrative

☐ Educational

☐ Military

☐ Medical

☐ Maternity

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☐ **SUSPENSION:** This officer has been suspended for a period of thirty (30) days or more

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FOR POST USE ONLY

File \_\_\_\_\_ DOE \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

Card: 4x6 \_\_\_\_\_ 3x5 \_\_\_\_\_ DOB: \_\_\_\_\_

DOC: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ #: \_\_\_\_\_

Signature of Agency Head

Cerelyn J. Davis

Print/Type Name of Agency Head

Memphis Police Department  
AGENCY



## Peace Officer Standards and Training Commission Decertification Request

Agency Requesting Decertification: Memphis Police Department

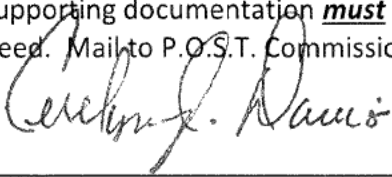
Name of Officer: Emmitt Martin III PSID#: 4834-2715

Address

Please check all that apply:

- ☐ 1. Convicted of any state or by federal government of any crime the punishment which could have been imprisonment in a federal or state prison or institution; or
- ☐ 2. Convicted of or pleaded guilty to or entered a plea of nolo contendere to any felony charge or to any violation of any federal or state laws or city ordinances relating to force, violence, theft, dishonesty, gambling, liquor and other alcoholic beverages, controlled substances, or a sufficient number of misdemeanors to establish a pattern of disregard for the law; or
- ☒ 3. Suspended or discharged 30 days or longer, resign in lieu of termination, resign with disciplinary action pending that could have resulted in termination, or discharged by his/her employing law enforcement agency for disciplinary reasons; or
- ☐ 4. Found to have supplied or acquiesced in false information being supplied to the P.O.S.T. Commission regarding eligibility for certification; or
- ☐ 5. Fail to participate in a 40 hour in-service training program each calendar year; or
- ☐ 6. Fail to maintain pre-employment requirements.

\*All supporting documentation must be attached in order for the P.O.S.T. Commission to proceed. Mail to P.O.S.T. Commission, 3025 Lebanon Rd., Nashville, Tn. 37214



Date: 01 / 25 / 2023

Signature of Law Enforcement Agency Head

Cerelyn J. Davis

Print Name

**City of Memphis**  
**Police Division**  
**Inspectional Services Bureau**

**Memphis Police Dept.**  
**Human Resources**

**JAN 25 2023**

**RECEIVED**

**Case # I2023-001      Statement of Charges**

**Officer's Name:** Martin, Emmitt

**IBM #** 13985

**Rank:** Police Officer II

**Assignment:** OCU/ Scorpion Unit

**Date:** January 14, 2023

Notice is hereby given that you are being charged with violation(s) of policy, law or regulations as shown below:

DR 104 Personal Conduct: TERMINATION

DR 108 Truthfulness: TERMINATION

DR 120 Neglect of Duty: TERMINATION

DR 127 Duty to Intervene and Reporting Improper Conduct: TERMINATION

DR 301 Excessive Force/Unnecessary Force: TERMINATION

DR 101 Compliance with Regulations to wit: BWC: 40 DAY SWOP

**Date of Occurrence:** January 7, 2023

**Statement of Particulars:**

On January 7, 2023, you and your partners initiated a traffic stop at E. Raines and Ross Road involving a suspected reckless drive who died at the hospital three days following a use-of-force incident. After your partner forced the driver out of the vehicle, you gained controlled of one of the subject's wrists. You claimed the subject attempted to grab your duty weapon from your holster positioned on the right side. Audio from a body worn camera did not capture the driver using profanity or displaying any violent threats; however, you made assaultive statements such as *"Bitch, put your arm behind your back before I break it"* and *"I'mma knock you ass the fuck out!"* After the subject was placed in custody at Castle Gate Lane and Bear Creek Cove, you and other officers were captured on body worn camera making multiple unprofessional comments such as "that muthafucka made me spray myself", laughing, and bragging about your involvement. Your conversation and lack of concern for the injured subject was witnessed by a civilian who took photographs and cell phone video. The civilian's viewpoint was you and your partners left the injured subject lying on the ground, handcuffed and unattended. The report of the victim's death was broadcasted on both local and national media sites. The release of any digital evidence of you and your partners' actions will shed a bad light on the Department and City of Memphis. Your on-duty conduct

was unjustly, blatantly unprofessional and unbecoming for a sworn public servant. Your actions place you in violation of DR 104 Personal Conduct which states:

**DR 104 PERSONAL CONDUCT**

*The conduct of each member, both on and off-duty, is expected to be such that it will not reflect adversely on other members, the Department, the City of Memphis, or the law enforcement profession. This regulation applies to both the professional and private conduct of all members. It includes not only all unlawful acts by members but also acts which, although not unlawful in themselves, would violate either the Law Enforcement or Civilian Code of Ethics, and would degrade or bring disrespect upon the member or the Department.*

You were required to complete a Response to Resistance form to provide a truthful account of your use of force during your encounter with a suspect. In your incident summary, you reported the subject grabbed your duty weapon before you and your partners placed him on the ground. However, video evidence does not corroborate your statement in the report. During your Garrity statement, you were afforded the opportunity to review your use of force narrative and told ISB investigators that the details were correct. You failed to disclose you punched the subject in the face and kicked him multiple times on Response to Resistance form. Instead, you added to your ISB statement that you gave "body blows." Both your oral and written statement was deemed deceitful. Your actions place you in violation of DR 108 Truthfulness which states:

**DR 108 TRUTHFULNESS**

*A member shall not give any information, either oral or written, in connection with any assignment or investigation that is either knowingly incorrect, false, or deceitful.*

Your use of force behavior caused visible injuries to a non-violent subject who evaded officers on foot for a suspected traffic violation. According to body worn camera footage, you knew the subject was pepper sprayed, tased, struck with an ASP baton, punched and kicked. You failed to recognize the victim's signs of distress and failed to disclose viable information to the responding emergency personnel to render proper medical attention. You and your partners also failed to immediately assist the emergency medical personnel with the request to unhandcuff the subject as his condition changed while left unattended on the ground. Your actions place you in violation of DR 120 Neglect of Duty which states:

**DR 120 NEGLECT OF DUTY**

*A. Each member, because of his or her rank and assignment, is required to perform certain duties and assume certain responsibilities. Failure to properly function in these areas constitutes neglect of duty. This regulation prohibits any omission or failure to act by any member of the Department, whether on-duty or off-duty, when such action is required by the stated policy, goals, rules, regulations, orders, and directives of this Department. It applies to any member who, through carelessness, inefficiency, or design, fails to implement the policy, goals, rules, regulations, orders, training, and directives of this Department.*

*B. A member with supervisory responsibility is required to properly supervise their subordinates in compliance with the above, and the failure of any supervisor to do so through deliberateness, carelessness, neglect, or inefficiency shall be a violation.*

During your encounter with a non-violent subject who was not complying with being handcuffed. You also witnessed another officer excessively strike him with the ASP baton multiple times and another officer kicked the subject who was not being violent. You failed to take reasonable action to stop the excessive and unnecessary use of force as the subject was not armed and only evading arrest on foot for a traffic violation.

### **DR 127 DUTY TO INTERVENE AND REPORTING IMPROPER CONDUCT**

Any member who directly observes another member engaged in dangerous or criminal conduct or abuse of a subject shall take reasonable action to intervene. A member shall immediately report to the Department any violation of policies and regulations or any other improper conduct which is contrary to the policy, order or directives of the Department. For sworn employees this reporting requirement also applies to allegations of uses of force not yet reported.

You were the second contact officer on the traffic stop at which time you assisted another officer to physically force the driver from the vehicle. That person did not display any violence toward you or other officers. He ran from you and two of your partners and was later apprehended Castle Gate Lane and Bear Creek Cove shortly thereafter. As your partners were attempting to handcuff him, you kicked the individual three times in the upper torso area while he was on the ground. You also struck him with a closed fist in his face five times while his arms were being held by two officers. In your Garrity statement, you were unable to provide justification for the physical force and the subject was not armed with a weapon. Your physical force during both encounters was not reasonable. Your actions place you in violation of DR 301 Excessive Force/Unnecessary Force which states:

### **DR 301 EXCESSIVE FORCE/UNNECESSARY FORCE**

*Excessive Force/Unnecessary is defined as the amount of force which is beyond the need and circumstances of the particular event, or which is not justified in the light of all circumstances, as is the case of deadly force to protect property as contrasted with protecting life.*

*Control may be achieved through advice, warnings, and persuasion, or by the use of physical force. While the use of reasonable physical force may be necessary in situations which cannot be otherwise controlled, force may not be resorted to unless other reasonable alternatives have been exhausted or would clearly be ineffective under the particular circumstances. Officers should consider the facts and circumstances known at the time of the confrontation when determining the amount of force to use, including: the severity of the subject's crimes, the immediate threat posed by the subject to the safety of others, and whether the subject exhibits active aggression or is actively resisting arrest. Officers are permitted to use whatever force that is necessary and reasonable to protect others or themselves from bodily harm.*

*Officers shall never use force or violence that is unprovoked, needless, or not required during performance of their duties when making an arrest or in dealing with a prisoner or any person.*

You failed to activate your body worn camera during the first encounter with the involved citizen on the traffic stop. Your body worn camera was functioning properly and did not

record the use of force incident in its entirety. At some point, you also took the body worn camera off your duty vest and placed it in your unmarked vehicle. Your actions place you in violation of DR 101 Compliance with Regulations to wit: BWC which states:

***DR 101 COMPLIANCE WITH REGULATIONS***

*Disciplinary action may be taken for, but not limited to, violations of the stated policy, rules, regulations, orders, or directives of the Department.*

***B. Use of BWC During the Shift***

- 1. An officer shall at all times during his/her shift have BWC equipment ready to record police interactions with those they may encounter. This state of readiness includes having the BWC on and in standby mode. Officers shall attempt to maintain a clear, level, and unobstructed forward-facing view. Officers shall attempt to keep the microphone portion of the device unobstructed in order to accurately record audio.*
- 2. Officers shall activate their BWC when responding to all calls for service prior to making the scene of a dispatched call. In the event that recording was not started prior to making the scene of a dispatched call, an officer will activate the device as soon as reasonably possible.*
- 3. Officers shall record all law-enforcement encounters and activities. Calls for service, self-initiated events (specials), and citizen contacts while not engaged in police activity are to be documented via BWC. It is not necessary for an officer to record in a constant state, but is required when his/her duties are being performed and allowed when otherwise prudent. It should be understood that under no circumstance shall an officer's safety be compromised in an effort to record an event.*
- 4. Unless unsafe, impractical, or impossible, officers shall inform subjects that they are being recorded at the beginning of the contact (e.g. "Ma'am/Sir, I am advising you that our interaction is being recorded").*
- 5. It should be understood that even when individuals are in various stages of undress, medically incapacitated, or in a location where video would otherwise be prohibited, BWC recording should continue. Videos will be redacted in a manner to reasonably protect privacy.*
- 6. Once a recording event begins, the BWC shall remain activated until the event has concluded in order to conserve the integrity of the recording. Once an event has concluded, an officer will mark the conclusion of the recording verbally after clearing the call/special. In cases of arrest, an officer shall continue recording until custody is transferred.*

**Exceptions:** *Should an officer have an activated BWC and respond to a call inside of a location that is out of view of the ICV system, the officer may discontinue the ICV recording (e.g. indoor report calls, crime scenes, and other police related events). Should the call progress back towards the car and contact with another individual is made, the event should be recorded by the ICV system.*

- 7. Officers will document the fact that a BWC video was or was not captured on all incident reports, arrest tickets, misdemeanor citations, summons, and traffic citations. This documentation will be referenced by the Computer Aided Dispatch number written on/in the document. In the event that the BWC was not activated, terminated early, or*

otherwise interrupted, a supervisor will be immediately notified.

#### **D. OCU Procedures**

Members of the Criminal Apprehension Team (CAT) and Gang Response Team (GRT) will utilize the Body Worn Camera (BWC) when performing daily enforcement.

1. The BWC will not be activated for the following:

- The BWC/ICV will not be used to knowingly record confidential informants or undercover officers.
- Officers will not record any type of tactical briefings, IE Search Warrants, Rips, Reversals, Prostitution Stings, etc.
- Officers will not record any aspects of training, unless specifically requested to do so by the OCU Commander.
- The BWC will not be used during undercover operations.

2. OCU Personnel Working Non-OCU related details:

Any OCU officer working overtime in a Uniform Patrol Station, Special Event Detail, Blue Crush Detail, or a THSO Detail will be acting as a Uniform Officer and will be governed under the Memphis Police Department's Uniform Patrol Body Worn Camera policy.

OCU officers will store their BWC cameras inside the MPD approved BWC cabinet that is located within their assigned workstation. Whenever OCU officer(s) choose to work a Non-OCU related detail, it is the officers' responsibility to notify his/her immediate supervisor, **in advance**, in order to pick up his/her assigned BWC. When an officer takes control of his /her BWC for a detail, he/she should ensure the camera is taken to a work station to be docked until the camera is ready to be utilized.

Officers working in an undercover capacity will not utilize the BWC.

(The officer's disciplinary resume will be reviewed and become a part of this file)

Written Response Ordered?

☐ Yes ☒ No

J. P. D. M. #18204  
Issuing Officer

Sgt. D. Craig #4164  
Charging Officer



I acknowledge receipt of this notice and understand that further investigation may result in additional charges, amendment of the above charges, or dismissal of these charges. I further understand that a written response to these charges at this time is at my discretion unless specifically instructed to file same by the issuing officer.

Signature of Officer: 13685

Was officer relieved of duty?



Yes



No

Reviewed by: ☒ Assistant Chief



Deputy Chief



Work Station Commander

Delegated to: ☒ Deputy Chief



Station/Bureau

D/C Michael Hardy  
Major/Lt. Colonel/Colonel

☒ A Chief

AC Come / D.C. Hardy

**City of Memphis  
Police Division  
Inspectional Services Bureau**

**Administrative Summons**

**Memphis Police Department VS.  
Martin, Emmitt IBM: 13985**

**Date: January 14, 2023  
ISB Case #: I2023-001**

**I. Allegation**

You used excessive and unnecessary physical force to apprehend a non-violent subject following a traffic stop where the person sustained critical injuries and later expired. Your on-duty conduct was unprofessional, and you neglected your duty to render aid and provide viable details to the emergency medical personnel. You also had a duty to intervene when you observed the excessive force conducted by a member of your team. You failed to record the vehicle stop on your body worn camera and you provided an untruthful report and oral statement.

**II. Rules, regulations or orders violated.**

**DR 104 Personal Conduct  
DR 120 Neglect of Duty  
DR 127 Duty to Intervene and Reporting Improper Conduct  
DR 108 Truthfulness  
DR 301 Excessive Force/Unnecessary Force  
DR 101 Compliance with Regulations to wit: BWC/ICV**

**III. Hearing**

**Date:** *Friday, January 20, 2023*  
**Place:** *2714 Union Ave Ext Suite 700*  
**Time:** *9:00 a.m.*

**You are entitled to representation during this hearing.**

**Served by:**

*Lt J.K. Morris #1846*

**Name/Rank/Assignment/IBM**

**Date:**

*1/14/23*

**Time:**

*8:30 a.m.*

**Signature of Officer:**

*[Signature]* *13985*

**YOUR ATTENDANCE AT THE HEARING NOTICED HEREIN IS REQUIRED, UNLESS EXCUSED DUE TO A MEDICAL EMERGENCY. FAILURE TO ATTEND WILL BE CONSTRUED BY THE HEARING OFFICER AS A**

**WAIVER OF YOUR RIGHT TO BE HEARD. ATTENDANCE WILL BE EXCUSED DUE TO A MEDICAL EMERGENCY IN THE SOLE DISCRETION OF THE HEARING OFFICER, AND ONLY IF YOU HAVE DELIVERED, OR CAUSED TO BE DELIVERED, TO THE HEARING OFFICER, PRIOR TO THE HEARING DATE, A WRITTEN STATEMENT OF MEDICAL CONDITION, PREPARED AND SIGNED BY THE YOUR TREATING PHYSICIAN, DESCRIBING YOUR MEDICAL CONDITION AND ADVISING THAT YOU ARE NOT ABLE TO ATTEND THE HEARING AS A RESULT OF SAID CONDITION.**

# HEARING SUMMARY FORM

#I2023-001

**Hearing:**

January 20, 2023  
Date

0900 hrs  
Time

Location: 2714 Union Ave Ext, Suite 700

Attended by: PII Emmitt Martin #13985  
Lt. Essica Cage-Rosario #1705

Hearing Officer: Deputy Chief M. Hardy #3581

**Statement of Hearing Officer:** On Friday, January 20, 2023, at 0900 hrs., an Administrative Hearing was conducted for Officer Martin 13985, resulting from a Statement of Charges issued to Officer Martin by the ISB for violations of DR 104 Personal Conduct, DR 108 Truthfulness, DR 120 Neglect of Duty, DR 127 Duty to Intervene and Reporting Improper Conduct, DR 301 Excessive Force/Unnecessary Force and DR 101 Compliance with Regulations to wit: BWC.

**Action Ordered:**

- DR 104 Personal Conduct: SUSTAINED and TERMINATION is ordered.
- DR 108 Truthfulness: SUSTAINED and TERMINATION is ordered.
- DR 120 Neglect of Duty: SUSTAINED and TERMINATION is ordered
- DR 127 Duty to Intervene and Reporting Improper Conduct: SUSTAINED and TERMINATION is ordered.
- DR 301 Excessive Force/Unnecessary Force: SUSTAINED and TERMINATION is ordered.
- DR 101 Compliance with Regulations to wit: BWC: SUSTAINED and a 40 Day suspension is ordered.

  
Hearing Officer

Any employee holding a position not exempted from the provisions of Article 34 Civil Service, and not in the initial probationary period, who has been suspended in excess of ten, (10) days, terminated, or demoted, may appeal to the Civil Service Commission within ten, (10) calendar days after notification in writing of such action. In the event of multiple suspensions, only that suspension which causes the total number of days suspended to exceed five, (5) days within a six month period, and any subsequent suspension within said period shall be appeal able to the Commission. If the disciplinary action is 10 days or less, the officer may submit to a grievance procedure or an internal appeal, but not to both.


In addition Chapter I Section 5 page 4 states in part: "Commissioned police officers with a status of suspension, probation, non-enforcement, relieved of duty, or leave of absence are not permitted to engage in any Secondary Employment and/or any Off Duty Security Employment where the officer's status is dependant on his/her state commissioned status. No commissioned police officer is permitted to engage in any Secondary Employment and/or Off duty Security Employment for a period of thirty (30) days after the final disposition of (1) any sustained Statement of Charges for violation of the Sick Abuse policy or (2) any sustained Statement of Charges resulting in a suspension and/or reduction in rank" Notification will be made to the Secondary Employment Office regarding this suspension. Violation of the above listed policy could result in additional charges.

Appeal: ☐ Will ☒ Will Not Be Filed

Grievance: ☒ Will ☐ Will Not Be Filed

I understand that by requesting the grievance procedure that I am waiving my right to recourse through the Internal or Civil Service Commission Appeal Process.

1/20/23  
Date

  
Employee Signature

Em

Hearing participants were Officer Emmitt Martin, Lt. Essica Cage-Rosario (MPA) and Deputy Chief M. Hardy (Hearing Officer). Prior to this hearing, Officer Martin had been made aware of the pending charges by being served an Administrative Summons on January 16, 2023, which he did sign acknowledging receipt and was provided with a copy.

The charges stem from a complaint regarding allegations that on January 7, 2023, you and your partners initiated a traffic stop at E. Raines and Ross Road involving a suspected reckless driver who died at the hospital three days following a use-of-force incident. After your partner forced the driver out of the vehicle, you gained control of one of the subject's wrists. You claimed the subject attempted to grab your duty weapon from your holster positioned on the right side. Audio from a body worn camera did not capture the driver using profanity or displaying any violent threats; however, you made assaultive statements such as "*Bitch, put your arm behind your back before I break it*" and "*I'mma knock you ass the fuck out!*" After the subject was placed in custody at Castle Gate Lane and Bear Creek Cove, you and other officers were captured on body worn camera making multiple unprofessional comments such as "that muthafucka made me spray myself", laughing, and bragging about your involvement. Your conversation and lack of concern for the injured subject was witnessed by a civilian who took photographs and cell phone video. The civilian's viewpoint was you and your partners left the injured subject lying on the ground, handcuffed and unattended. The report of the victim's death was broadcasted on both local and national media sites. The release of any digital evidence of you and your partners' actions will shed a bad light on the Department and City of Memphis. Your on-duty conduct was unjustly, blatantly unprofessional and unbecoming for a sworn public servant. Your actions place you in violation of **DR 104 Personal Conduct** which states:

#### ***DR 104 PERSONAL CONDUCT***

*The conduct of each member, both on and off-duty, is expected to be such that it will not reflect adversely on other members, the Department, the City of Memphis, or the law enforcement profession. This regulation applies to both the professional and private conduct of all members. It includes not only all unlawful acts by members but also acts which, although not unlawful in themselves, would violate either the Law Enforcement or Civilian Code of Ethics, and would degrade or bring disrespect upon the member or the Department.*

You were required to complete a Response to Resistance form to provide a truthful account of your use of force during your encounter with a suspect. In your incident summary under this form, you reported the subject grabbed your duty weapon before you and your partners placed him on the ground. However, video evidence does not corroborate your statement in the report. During your Garrity statement, you were afforded the opportunity to review your use of force narrative and told ISB investigators that the details were correct. You failed to disclose you punched the subject in the face and kicked him multiple times on the Response to Resistance form. Instead, you added to your ISB statement that you gave "body blows." Both your oral and written statement was deemed deceitful. Your actions place you in violations of **DR 108 Truthfulness** which states:

#### ***DR 108 TRUTHFULNESS***

*A member shall not give any information, either oral or written, in connection with any assignment or investigation that is either knowingly incorrect, false, or deceitful.*

Em

Your use of force behavior caused visible injuries to a non-violent subject who evaded officers on foot for a suspected traffic violation. You knew the subject was pepper sprayed, tased, struck with an ASP baton, punched, and kicked. You failed to recognize the victim's signs of distress and failed to disclose viable information to the responding emergency personnel to render proper medical attention. You and your partners also failed to immediately assist the emergency medical personnel with the request to unhandcuff the subject as his condition changed while left unattended on the ground. Your actions place you in violation of **DR 120 Neglect of Duty** which states:

***DR 120 NEGLECT OF DUTY***

*A. Each member, because of his or her rank and assignment, is required to perform certain duties and assume certain responsibilities. Failure to properly function in these areas constitutes neglect of duty. This regulation prohibits any omission or failure to act by any member of the Department, whether on-duty or off-duty, when such action is required by the stated policy, goals, rules, regulations, orders, and directives of this Department. It applies to any member who, through carelessness, inefficiency, or design, fails to implement the policy, goals, rules, regulations, orders, training, and directives of this Department.*

*B. A member with supervisory responsibility is required to properly supervise their subordinates in compliance with the above, and the failure of any supervisor to do so through deliberateness, carelessness, neglect, or inefficiency shall be a violation.*

During your encounter with a non-violent subject who was not complying with being handcuffed. You also witnessed another officer excessively strike him with the ASP baton multiples times and another officer kicked the subject who was not being violent. You failed to take reasonable action to stop the excessive and unnecessary use of force as the subject was not armed and only evading arrest on foot for a traffic violation. Your actions place you in violation of **DR 127 Duty to Intervene and Reporting Improper Conduct** which states:

***DR 127 DUTY TO INTERVENE AND REPORTING IMPROPER CONDUCT***

*Any member who directly observes another member engaged in dangerous or criminal conduct or abuse of a subject shall take reasonable action to intervene. A member shall immediately report to the Department any violation of policies and regulations or any other improper conduct which is contrary to the policy, order or directives of the Department. For sworn employees this reporting requirement also applies to allegations of uses of force not yet reported.*

You were the second contact officer on the traffic stop at which time you assisted another officer to physically force the driver from the vehicle. That person did not display any violence toward you or other officers. He ran from you and two of your partners and was later apprehended at Castle Gate Lane and Bear Creek Cove shortly thereafter. As your partners were attempting to handcuff him, you kicked the individual three times in the upper torso area while he was on the ground. You also struck him with a closed fist in his face five times while his arms were being held by two officers. In your Garrity statement, which is included in the ISB File and incorporated herein, you were unable to provide justification for the physical force upon the subject who was not armed with a weapon. Your physical force during both encounters was not reasonable. Your actions place you in violation of **DR 301 Excessive Force/Unnecessary Force** which states:

Em

**DR 301 EXCESSIVE FORCE/UNNECESSARY FORCE**

*Excessive Force/Unnecessary* is defined as the amount of force which is beyond the need and circumstances of the particular event, or which is not justified in the light of all circumstances, as is the case of deadly force to protect property as contrasted with protecting life.

Control may be achieved through advice, warnings, and persuasion, or by the use of physical force. While the use of reasonable physical force may be necessary in situations which cannot be otherwise controlled, force may not be resorted to unless other reasonable alternatives have been exhausted or would clearly be ineffective under the particular circumstances. Officers should consider the facts and circumstances known at the time of the confrontation when determining the amount of force to use, including: the severity of the subject's crimes, the immediate threat posed by the subject to the safety of others, and whether the subject exhibits active aggression or is actively resisting arrest. Officers are permitted to use whatever force that is necessary and reasonable to protect others or themselves from bodily harm.

Officers shall never use force or violence that is unprovoked, needless, or not required during performance of their duties when making an arrest or in dealing with a prisoner or any person.

You failed to activate your body worn camera during the first encounter with the involved citizen on the traffic stop. Your body worn camera was functioning properly and did not record the use of force incident in its entirety. At some point, you also took the body worn camera off your duty vest and placed it in your unmarked vehicle. Your actions place you in violation of **DR 101 Compliance with Regulations to wit: BWC** which states:

**DR 101 COMPLIANCE WITH REGULATIONS**

*Disciplinary action may be taken for, but not limited to, violations of the stated policy, rules, regulations, orders, or directives of the Department.*

**B. Use of BWC During the Shift**

1. *An officer shall at all times during his/her shift have BWC equipment ready to record police interactions with those they may encounter. This state of readiness includes having the BWC on and in standby mode. Officers shall attempt to maintain a clear, level, and unobstructed forward-facing view. Officers shall attempt to keep the microphone portion of the device unobstructed in order to accurately record audio.*
2. *Officers shall activate their BWC when responding to all calls for service prior to making the scene of a dispatched call. In the event that recording was not started prior to making the scene of a dispatched call, an officer will activate the device as soon as reasonably possible.*

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3. *Officers shall record all law-enforcement encounters and activities. Calls for service, self-initiated events (specials), and citizen contacts while not engaged in police activity are to be documented via BWC. It is not necessary for an officer to record in a constant state, but is required when his/her duties are being performed and allowed when otherwise prudent. It should be understood that under no circumstance shall an officer's safety be compromised in an effort to record an event.*
4. *Unless unsafe, impractical, or impossible, officers shall inform subjects that they are being recorded at the beginning of the contact (e.g., "Ma'am/Sir, I am advising you that our interaction is being recorded").*
5. *It should be understood that even when individuals are in various stages of undress, medically incapacitated, or in a location where video would otherwise be prohibited, BWC recording should continue. Videos will be redacted in a manner to reasonably protect privacy.*
6. ***Once a recording event begins, the BWC shall remain activated until the event has concluded in order to conserve the integrity of the recording.** Once an event has concluded, an officer will mark the conclusion of the recording verbally after clearing the call/special. In cases of arrest, an officer shall continue recording until custody is transferred.*

***Exceptions:** Should an officer have an activated BWC and respond to a call inside of a location that is out of view of the ICV system, the officer may discontinue the ICV recording (e.g. indoor report calls, crime scenes, and other police related events). Should the call progress back towards the car and contact with another individual is made, the event should be recorded by the ICV system.*
7. *Officers will document the fact that a BWC video was or was not captured on all incident reports, arrest tickets, misdemeanor citations, summons, and traffic citations. This documentation will be referenced by the Computer Aided Dispatch number written on/in the document. In the event that the BWC was not activated, terminated early, or otherwise interrupted, a supervisor will be immediately notified.*

#### **D. OCU Procedures**

*Members of the Criminal Apprehension Team (CAT) and Gang Response Team (GRT) will utilize the Body Worn Camera (BWC) when performing daily enforcement.*

1. *The BWC will not be activated for the following:*
  - *The BWC/ICV will not be used to knowingly record confidential informants or undercover officers.*

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- Officers **will not** record any type of tactical briefings, IE Search Warrants, Rips, Reversals, Prostitution Stings, etc.
- Officers **will not** record any aspects of training, unless specifically requested to do so by the OCU Commander.
- The BWC **will not** be used during undercover operations.

2. OCU Personnel Working Non-OCU related details:

*Any OCU officer working overtime in a Uniform Patrol Station, Special Event Detail, Blue Crush Detail, or a THSO Detail will be acting as a Uniform Officer and will be governed under the Memphis Police Department's Uniform Patrol Body Worn Camera policy.*

*OCU officers will store their BWC cameras inside the MPD approved BWC cabinet that is located within their assigned workstation. Whenever OCU officer(s) choose to work a Non-OCU related detail, it is the officers' responsibility to notify his/her immediate supervisor, **in advance**, in order to pick up his/her assigned BWC. When an officer takes control of his /her BWC for a detail, he/she should ensure the camera is taken to a work station to be docked until the camera is ready to be utilized.*

**Officers working in an undercover capacity will not utilize the BWC.**

During the Administrative Hearing on January 20, 2023, **Officer Emmitt Martin** was informed by the Hearing Officer that he is now afforded the opportunity to make a statement. Officer Martin responded, "No", indicating that he did not wish to make a statement.

Hearing Officer asked Officer Martin did he give TBI a verbal statement? Officer Martin responded, "No". Hearing Officer asked Officer Martin did he give TBI a written statement. Officer Martin responded, "No". Hearing Officer asked Officer Martin if he wished to make any further statement, and Officer Martin declined to make a statement.

**Lt. Cage-Rosario** (MPA Representative) was asked if she would like to make a statement. Lt. Cage-Rosario read a written statement which will be included in the Administrative File, "To Whom it May Concern, The Memphis Police Association (MPA) objects to the Memphis Police Department's decision to proceed with the administrative hearing for Officer Emmitt Martin prior to the conclusion of the Administrative investigation and/or TBI's investigation. Per Article 14 (MOU Between the MPA and the COM), 'A reasonable amount of time to review the statement of charges (**including all proof to be relied upon by the hearing officer**) is to be given to the representative prior to the administrative hearing. Upon review, several pieces of proof were either omitted from the file, or incomplete at this time. Body worn camera video, which was referenced multiple times in the statement of charges, was NOT provided to the MPA representative, nor were statements from other principal and witness officers. These are only a few examples of the GROSS violations of this officers' right to due process. Not only is this a right under the MOU, but it is a right guaranteed by federal law. See *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985) where the Court provided that a public employee with a property right to his or her employment must be provided

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notice of charges against them and a hearing to provide them with an opportunity to defend themselves against the charges against them. Additionally, that hearing must be a meaningful one. See *Wagner v. City of Memphis*, 971 F. Supp 308 (W.D. Tenn 1997). In *Wagner*, Mayor Herenton predetermined the outcome of the hearing and the court said there was no due process.

This will serve as the MPA's statement for this administrative hearing.

**Hearing Officer convened the hearing on 01/20/2023 at 0915 hrs, without rendering a decision. Hearing reconvened on 01/20/2023 at 1645 hrs. In attendance were Officer Emmitt Martin, Lt. Essica Cage-Rosario (MPA) and Deputy Chief M. Hardy (Hearing Officer).**

**In conclusion**, the Hearing Officer carefully reviewed all documents related to each alleged violations of the listed DRs by Officer Martin, including the Garrity statements of all the charged officers and the Response to Resistance forms. The Garrity statements made by you and the other charged officers are not consistent with each other and are not consistent with the publicly known injuries and death of Mr. Nichols. Hearing Officer additionally considered the statement made by Lt. Cage-Rosario.

Upon review of the evidence as it relates to **DR 104 Personal Conduct**, which states in part: **The conduct of each member, both on and off-duty, is expected to be such that it will not reflect adversely on other members, the Department, the City of Memphis, or the law enforcement profession.** This regulation applies to both the professional and private conduct of all members. It includes not only all unlawful acts by members but also acts which, although not unlawful in themselves, would violate either the Law Enforcement or Civilian Code of Ethics, and would degrade or bring disrespect upon the member or the Department.

**The Hearing Officer finds that Officer Emmit Martin did violate DR 104 Personal Conduct, therefore the charge is SUSTAINED and TERMINATION is ordered.**

Upon review of the evidence as it relates to **DR108 Truthfulness**, which states in part: **A member shall not give any information, either oral or written, in connection with any assignment or investigation that is either knowingly incorrect, false, or deceitful.**

**The Hearing Officer finds that Officer Emmit Martin did violate DR108 TRUTHFULNESS, therefore the charge is SUSTAINED and a TERMINATION is ordered.**

Upon review of the evidence as it relates to **DR 120 Neglect of Duty**, which states in part: **A. Each member, because of his or her rank and assignment, is required to perform certain duties and assume certain responsibilities. Failure to properly function in these areas constitutes neglect of duty.** This regulation prohibits any omission or failure to act by any member of the Department, whether on-duty or off-duty, when such action is required by the stated policy, goals, rules, regulations, orders, and directives of this Department. It applies to any member who, through carelessness, inefficiency, or design, fails to implement the policy, goals, rules, regulations, orders, training, and directives of this Department.

**The Hearing Officer finds that Officer Emmit Martin did violate DR 120 NEGLECT OF DUTY, therefore the charge is SUSTAINED and a TERMINATION is ordered.**

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Upon review of the evidence as it relates to **DR 127 Duty to Intervene and Reporting Improper Conduct**, which states in part: **Any member who directly observes another member engaged in dangerous or criminal conduct or abuse of a subject shall take reasonable action to intervene. A member shall immediately report to the Department any violation of policies and regulations or any other improper conduct which is contrary to the policy, order or directives of the Department. For sworn employees this reporting requirement also applies to allegations of uses of force not yet reported.**

**The Hearing Officer finds that Officer Emmit Martin did violate DR 127 DUTY TO INTERVENE AND REPORTING IMPROPER CONDUCT, therefore the charge is SUSTAINED and TERMINATION is ordered.**

Upon review of the evidence as it relates to **DR 301 Excessive Force/Unnecessary Force**, which states in part: **Excessive Force/Unnecessary** is defined as the amount of force which is beyond the need and circumstances of the particular event, or which is not justified in the light of all circumstances, as is the case of deadly force to protect property as contrasted with protecting life.

**The Hearing Officer finds that Officer Emmit Martin did violate DR 301 EXCESSIVE FORCE/UNNECESSARY FORCE, therefore the charge is SUSTAINED and a TERMINATION is ordered.**

Upon review of the evidence as it relates to **DR 101 Compliance with Regulations**, which states in part: *Disciplinary action may be taken for, but not limited to, violations of the stated policy, rules, regulations, orders, or directives of the Department.*

***B. Use of BWC During the Shift***

*1. An officer shall at all times during his/her shift have BWC equipment ready to record police interactions with those they may encounter. This state of readiness includes having the BWC on and in standby mode. Officers shall attempt to maintain a clear, level, and unobstructed forward-facing view. Officers shall attempt to keep the microphone portion of the device unobstructed in order to accurately record audio.*

**The Hearing Officer finds that Officer Emmit Martin did violate DR 101 COMPLIANCE WITH REGULATIONS TO WIT: BWC, therefore the charge is SUSTAINED and a 40 Day suspension is ordered.**

DR 104 Personal Conduct: SUSTAINED and TERMINATION is ordered.

DR 108 Truthfulness: SUSTAINED and TERMINATION is ordered.

DR 120 Neglect of Duty: SUSTAINED and TERMINATION is ordered

DR 127 Duty to Intervene and Reporting Improper Conduct: SUSTAINED and TERMINATION is ordered.

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DR 301 Excessive Force/Unnecessary Force: SUSTAINED and TERMINATION is ordered.  
DR 101 Compliance with Regulations to wit: BWC: SUSTAINED and a 40 Day suspension is ordered.

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*Memphis Police  
Association*



Essica Cage-Rosario, President

Matt Cunningham, Vice President

Jeremy White, Secretary/Treasurer

John Covington, Chief Steward

Shannon Bowen, Sergeant at Arms

January 20, 2023

To Whom It May Concern:

The Memphis Police Association (MPA) objects to the Memphis Police Department's decision to proceed with the administrative hearing for Officer **Desmond Mills Jr.** prior to the conclusion of the Administrative investigation and/or TBI's investigation.

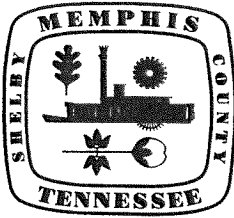
Per Article 14 (MOU Between the MPA and the COM) " A reasonable amount of time to review the statement of charges **(including all proof to be relied upon by the hearing officer)** is to be given to the representative prior to the administrative hearing". Upon review, several pieces of proof were either omitted from the file, or incomplete at this time. Body worn camera video, which was referenced multiple times in the statement of charges, was NOT provided to the MPA representative, nor were statements from other principal and witness officers. These are only a few examples of the GROSS violations of this officers' right to due process.

Not only is this a right under the MOU, but it is a right guaranteed by federal law. See *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985) where the Court provided that a public employee with a property right to his or her employment must be provided notice of charges against them and a hearing to provide them with an opportunity to defend themselves against the charges against them. Additionally, that hearing must be a meaningful one. See *Wagner v. City of Memphis*, 971 F. Supp 308 (W.D. Tenn 1997).

In *Wagner*, Mayor Herenton predetermined the outcome of the hearing and the court said there was no due process.

This will serve as the MPA's statement for this administrative hearing.

LT Essica Cage-Rosario  
President  
Memphis Police Association  
638 Jefferson Ave.  
Memphis, TN 38105



# MEMPHIS POLICE DEPARTMENT MEMORANDUM



**To: Assistant Chief Don Crowe      Subject: Hearing Status**

**From: Deputy Chief Hardy**

**Date: 01/20/2023**

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Assistant Chief Crowe,

On January 20, 2023 at 1645 hrs, the Administrative hearing for Officer Emmitt Martin #13985 was held. Deputy Chief Hardy #3581 was the Hearing Officer. **The charges for DR 104 Personal Conduct, DR 108 Truthfulness, DR 120 Neglect of Duty, DR 127 Duty to Intervene and Reporting Improper Conduct, and DR 301 Excessive Force/Unnecessary Force were SUSTAINED and TERMINATION was ordered for all.**

**The charge for DR 101 Compliance with Regulations to wit: BWC was SUSTAINED and a 40 Day suspension is ordered.**

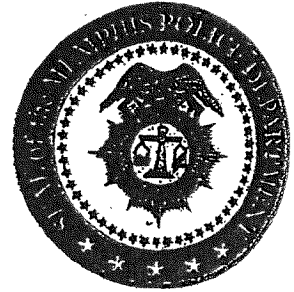


## Disciplinary Chart #13985 Martin, Emmitt

[illegible]



MEMPHIS POLICE DEPARTMENT  
DEPUTY DIRECTOR'S OFFICE



RECEIPT OF SOC'S

NAME/IBM #

Warren, Emmitt - #13985

SOC #

\_\_\_\_\_

IAB FILE #  
(if applicable)

12023-001(C)

SECURITY SQUAD FILE #  
(if applicable)

\_\_\_\_\_

Allen Washington  
A/C's Office (received)

1/25/2023  
Date

Deputy Chief's Office

Allen Washington  
A/C's Office (after hearing)

1/25/2023  
Date

Carl Osborn  
MPD Human Resources

1-25-2023  
Date

IAB/Security Squad

\_\_\_\_\_  
Date

PDR