

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

IN THE MARION CIRCUIT COURT
CAUSE NO. 49C01-1405-PL-017919

INDIANA DEPARTMENT OF NATURAL)
RESOURCES)

Petitioner)

V.)

DAVID MOSS,)
Respondent,)

FILED

142

MAR 18 2016

Myra A. Eldredge
CLERK OF THE MARION CIRCUIT COURT

ORDER

This matter comes before the Court on remand from the Indiana Court of Appeals. Representing the Petitioner, the Indiana Department of Natural Resources (DNR) is Deputy Attorney General Karen Neiman Szyper. The Respondent, David Moss, is represented by William R. Groth.

I. PROCEDURAL HISTORY AND FINDINGS OF FACTS

1. David Moss was employed as a conservation officer by the DNR's Division of Law Enforcement.
2. In January of 2013, the DNR formally opened a disciplinary investigation of Moss, when it learned that the Columbus, Indiana Police Department suspected him of child molestation. Transcript of the ALJ hearing of 12/5/13 (TR) Zach Matthews pages 8-9.
3. Before his employment with the DNR, Moss served in the United States Armed Forces. For 6 years he served as a military police officer. He attended Vincennes University and it was there that he was recruited by the DNR. TR, Moss, pages 81-82

4. Moss took his oath of office in October of 2009. His first assignment was to District 4 (Howard County) where he served for 2 ½ years. He then transferred to District 6 (Bartholomew County). TR. Moss, page 82
5. Up until the disciplinary actions, which are the subject of this case, Moss's disciplinary record consisted of a letter of consultation for misreporting duty status in January of 2012 and a letter of reprimand in April of that year which concerned tardiness in reporting for duty. Neither of these actions was considered serious. TR, Beaver, pages 55-56
6. Although the child molestation allegations charges could not be substantiated and were eventually abandoned, Moss's conduct during the investigation itself led to an independent disciplinary investigations conducted by Zach Matthews of the Office of Professional Standards of the DNR's Enforcement Division (OPS #1).
7. OPS #1 cited Moss for failure to report to DNR that he was being investigated by the Columbus police. Moss was also accused of failing to keep confidential DNR's investigation and then lying about the improper revelations. He was also cited for off-duty public intoxication. Final Order of the NRC 4/28/14; (Final Order) Respondent's Exhibit 15
8. During the course of the investigation, Moss admitted to the charges in OPS #1, and the ALJ upheld them. For the most part, this Order will not discuss these undisputed findings. Final Order, paragraph 41-63 and Statement of Charges Tr. Exhibit 15.
9. In April 2014, Matthews began a second investigation (OPS #2) resulting ultimately in 3 charges. Charge 1 contended that Moss had violated various state and federal laws as an accessory to his father, thereby violating Procedure 4, Rule 1 of the DNR's Rules of Conduct Count 1 focused on those violation stemming from the Pointing of a Firearm.

Count 2 of the first charge alleged that Moss violated state and federal law by contributing to the possession of firearms at his father's residence. The third count of the first charge contended that Moss contributed to the violation of a domestic protection order, thereby violating Indiana's Invasion of Privacy statute.

10. The second charge was that Moss was deceptive and thereby impeded the investigation in violation of Rules of Conduct procedure 4 Rule 3b.
11. The third charge was that Moss associated with criminal activity his father's, in violation of Rules of Conduct procedure 4 Rule 9a.
12. Unlike the OPS #1 charges, Moss contested all of the OPS #2 charges, and they thus became the principal focus of the administrative appeal and judicial proceedings which followed.
13. The investigations of OPS #1 and 2 led to the convening of a Disciplinary Action Board (DAB) comprised of five senior officers of the Enforcement Division. A statement of Charges and Circumstances based on Matthews' investigation, but prepared by Lt. Tim Beaver and was distributed to each DAB member. TR Beaver, pages 51-52, Exhibit 15
14. The Board was free to seek assistance in understanding the Statement but "the function of the [DAB] then is not to do an investigation, but instead to review the facts which were brought before them as to Statement of Circumstances." Moss, the charging Commander and Lt. Beaver all met with the DAB for clarification and explanation. On June 13, 2014, the DAB unanimously recommended that Moss's employment be terminated. TR Hyndman, page 68, Respondent's Exhibit 17A
15. On July 18, 2013, the Director of the DNR approved the DAB recommendation and proceeded to terminate Moss's employment. Respondent's Exhibit 18

16. Moss exercised his right to a hearing before an administrative law judge. The ALJ upheld the OPS #1 charges, although she did find mitigating circumstances concerning the public intoxication charges. She rejected, however, all of the OPS #2 charges, except for Moss's deceiving the DNR about whether his father grew marijuana on his property. Moreover, Moss's sanction was reduced from termination to a nine-month suspension without pay.
17. With reference to counts 1 and 2 of the first charge, the ALJ held that the DNR had failed to prove that Moss knew that his father was classified as a "serious, violent felon". Final order, paragraph 95
18. The ALJ also held that the DNR had failed to carry its burden of proof that Moss had in fact stored firearms at his father's residence. Final order, paragraph 96
19. In regard to count 3 of the first charge the ALJ found "that the record was devoid of any explanation as to how the department reached the conclusion that Moss **willfully** (emphasis added) assisted his father in violating the protective order as opposed to concluding that Moss simply acted incompetently." Final order, paragraph 113
20. The ALJ upheld charge 2 as it pertained to Moss acting deceptively in regard to his father's cultivation of marijuana. The ALJ rejected the charge that Moss deceived DNR regarding his father's possession of a firearm.
21. Finally, the DNR rejected the third charge concerning association with criminal activities on the grounds that the charge itself was legally insufficient. The ALJ found that the Rules of Conduct procedure 4, Rule 9a exempted Moss's association with his father as "unavoidable because of family relationships."

22. The ALJ found that: disciplinary action against Moss was appropriate, but that termination was improper concluding that “Moss’s character and reputation is not so utterly tarnished as to justify his termination of employment.” Final Entry, Paragraph 153
23. With minor changes, on April 28, 2014, the NRC adopted the hearing officer’s Findings and Conclusions, including the reduction of the sanction. The NRC also ordered the DNR to reinstate Moss to duty status within thirty days.
24. DNR filed a Petition for Judicial Review and a Motion to Stay on May 30, 2014.
25. On September 18, 2014, this Court denied the Motion for Stay and ordered DNR to immediately reinstate Moss to duty status.
26. DNR offered Moss an administrative position in Indianapolis. When DNR refused Moss’s request for a field position in Columbus, Moss filed a Rule to Show Cause, contending that the offer violated the Court’s Order of Reinstatement. After the parties briefed the issue of whether DNR was in contempt, the Court heard further oral arguments on November 13, 2014, and then took the matter under advisement.
27. On December 22, 2014, the Court granted the Petition for Judicial Review, holding that the NRC decision did not provide adequate Conclusions of Law and, in particular, failed to disclose whether and/or how the “just cause” standard was applied. The Rule to Show Cause was denied as moot.
28. An Appeal was taken by Moss of this Court’s decision.
29. On September 30, 2015, the Court of Appeals vacated this Court’s decision and remanded the case back to this Court to consider any properly preserved issues and to make necessary findings.

30. On December 16, 2015, DNR filed a supplemental brief arguing that it had preserved the argument that the NRC had exceeded its statutory authority by modifying Moss's sanctions. Moss filed his response on January 5, 2016.
31. Any findings denominated as a Finding of Fact, which may also be regarded as a Conclusion of Law, shall be so regarded.
32. Additional findings of fact are contained in the section entitled "Legal Discussion".

II. CONCLUSIONS OF LAW

1. The Petitioner carries the burden of demonstrating the invalidity of the agency action IN Code 4-21.5-5-14(a).
2. An administrative agency's decision may be set aside if it is: 1. arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; 2. contrary to constitutional rights, power, privilege, or immunities; 3. in excess of statutory jurisdiction, authority, limitations, or short of statutory right; 4. without observance of procedure required by law; or 5. not supported by substantial evidence. IN Code 4-21.5-5-14(d).
3. Regarding administrative findings of fact, the judicial standard of review is limited to determining whether those findings are supported by substantial evidence. On the other hand, the Court considers issues of law de novo. Hamilton County Department of Public Welfare v. Smith, 567 N.E. 2nd 165, 168 (In. Ct. App. 1991).
4. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. Only if the agency action is unsupported by substantial evidence or is contrary to law may it be reversed. The Court may not reweigh the evidence and must review it in the light most favorable to the agency

decision. Terkosky v. Indiana Department of Education, 996 N.E. 2nd 832, 842 (In. Ct. App. 2013) to the DNR.

5. In reviewing decisions of the DNR, the ALJ and the RNC need not defer or give special weight to the findings and conclusions of the DNR, except to the extent that such findings and conclusions constitute evidence admissible and admitted by the administrative law judge at an administrative hearing. Putnam and Hootman v. DNR, 8 CADDNAR 104, 1998
6. An arbitrary and capricious decision is one which is patently unreasonable and is made without consideration of the facts and in total disregard of the circumstances and lacks any basis which might lead a reasonable person to the same conclusion.
7. The NRC is the ultimate authority of the DNR, or the entity vested by law as the final authority of the DNR. In Code 4-21.5-1-15
8. Procedure 4, Rule 1 of the General Rules of Conduct issued by the Department of Natural Resources, Division of Law Enforcement (Rules) states in pertinent part as follows: “officers shall not violate any law or any Division rule, policy, or procedure.”
9. Procedure 4, rule 3 of the Rules provides in pertinent part as follows: “b. officers shall cooperate fully in any internal administrative investigation conducted by the division or other authorized agency, and shall provide complete and accurate information regarding any issue under investigation”.
10. Procedure 4, Rule 9 of the Rules provides in pertinent part as follows: “[An] officer shall not knowingly commence or maintain a relationship with a person who is under criminal investigation, indictments, arrests or incarceration... except as necessary to

the performance of official duties, or where unavailable became of familial relationship”.

11. A violation of Procedure 4, Rule 1 does not require that an officer act with knowledge that his conduct was unlawful. Dewald v. State, 898 N.E. 2d 488, 493 (In. Ct. App. 2008)
12. IN Code 35-47-4-3(b) provides that a person who knowingly or intentionally points a firearm at another person commits a level 6 felony.”
13. 18 USC Sec. 922(g)(1) prohibits the possession of a firearm by a person who has been convicted of crime punishable by imprisonment exceeding one year.”
14. Moss assisted his father in removing his brother Carlus from a daycare center in violation of a protective order obtained by his father’s former wife, Rebecca Moss, against his father. That order provided in pertinent part as follows: “The Respondent is ordered to stay away from the residence and/or place of employment of the Petitioner. The Respondent is further ordered to stay away from the following place that is or are frequented by Petitioner and/or Petitioner’s family or household members: Just friends – adult daycare”. Respondent’s Exhibit 14
15. The intentional or knowing violation of a protective order is a class a misdemeanor. IN Code 35-46-1-15.1
16. “A person engages in conduct intentionally if when he engages in the conduct it is his conscious objective to do so... A person engages in conduct knowingly if when he engages in the conduct, he is aware of a high probability that he is doing so.” IN Code 35-41-2-2

17. Any conclusion herein, which may also be regarded as a finding of fact, shall be so regarded.

III. LEGAL DISCUSSION

Nine issues are addressed in this section. First, the Court will address whether the DNR preserved its contention that the NRC exceeded its statutory authority by modifying the DNR's sanction of termination. Secondly, the Court will discuss whether the NRC must defer to or give special weight to the DNR's findings of facts. Sections 3-7 take up the issues peculiar to Charge 1, Count 1, Charge 1, Count 2, Charge 1, Count 3, Charge 2; and Charge 3 respectively. Section 8 concerns whether the NRC's modification of the DNR termination was supported by substantial evidence. Moss's Motion for a Rule to Show Cause will be resolved by section 9.

1. **Did the DNR preserve the issue of whether the NRC exceeded its statutory powers of review?**

In order to demonstrate that the above issue was preserved before the RNC, DNR attached 2 documents to its December 16, 2015 Supplemental Brief in Opposition to Respondent's Claim of Waiver: DNR's Objections to Findings of Fact, Conclusion of Law..." and Minutes of the AOPA committee of the NRC for April 23, 2014.

The cited documents do not support DNR's position. At no point did the DNR state or imply to the RNC that modification was beyond the RNC's statutory powers of review. Instead, DNR argued that the RNC should have given greater weight to the opinions of the Director and the DAB. NRC's modification was described as "inappropriate" rather than "illegal". Both in its written and oral presentations, DNR relied exclusively on the ALJ's alleged under-appreciation and misunderstanding of the evidence and arguments it presented. It failed, however, to present

argument that the ALJ's recommended modification of the sanction exceeded her and the RNC's statutory authority.

DNR urges this Court to consider Indiana Horse Racing Com'n v. Martin, 990 N.E.2d 498 (Ind. Ct. App. 2013). In the above case, the Court of Appeals entertained an argument which was not explicitly presented to the Indiana Horseracing Commission. That case is distinguishable, however, from the instant case, in that the nature of the argument made by respondents to the Racing Commission implied the issue raised on appeal. In this case, the DNR did not construe IN Code 4-21-5.5-2 or for that matter cite or refer to it in the proceedings before the RNC. It thereby failed to provide the RNC with notice of the issue and waived presenting it to this Court.

2. Did the NRC err by failing to defer or give special weight to the opinions of the DNR director and his DAB?

The DNR accused the ALJ of substituting her judgment for the DNR's. In a sense she did, but in doing so, she did not err, but rather was complying with her statutory obligations under IN Code 4-21.5 and 312 IAC 3-1. "The administrative law judge is required to conduct de novo review of evidence presented at administrative hearing, weighing evidence and reaching conclusions rather than deferring to the initial determinations of the NRC". DNR v. United Refuse Company, 615 N.E.2nd 100 (IND. 1993)

While it is true that the DNR furnished Moss with several opportunities to explain his conduct, E.g. DAB review, Director's pre-deprivation hearing, these informal reviews did not obviate Jensen's statutory obligation to conduct an independent, adversarial hearing and to base her decision solely on the admitted evidence.

3. Was the NRC's finding that in providing a gun to his father, Moss did not violate applicable state and federal laws supported by substantial evidence and in accordance with applicable law?

The DNR mentioned four laws which were violated by Roger and David Moss in the gun-pointing incident.¹ DNR contended that Roger committed and David contributed to the violation of the crime of intimidation, the Indiana crime prohibiting pointing a firearm, a federal law prohibiting possession of a firearm by a felon and another Indiana law prohibiting possession of a firearm by a serious, violent felon.

The parties do not disagree as to the basic facts surrounding the pointing at Roger's former wife Rebecca Moss. David admitted that while in the company of Rebecca, David handed his father, Roger, an unloaded firearm. Roger then pointed the gun at Rebecca. David immediately retrieved the gun. Final order, paragraph 69

IN CODE 25-47-4-9(B) provides that a person who knowingly or intentionally points a firearm at another person commits a class 6 felony, except if the firearm was unloaded, the crime is a class A misdemeanor. David's provision of the firearm made him an accessory to his father's crime.

The crime of pointing a firearm requires that the Defendant act intentionally or knowingly. Did David know or have reason to know that a likely consequence of his provision of the firearm to his father would result in his father pointing the gun at Rebecca? The record is silent on this issue, but the ALJ could have reasonably inferred from David Moss's reaction that he did not know and did not expect his father, Roger Moss, to point the gun at Rebecca. Accordingly, ALJ

¹ Charge 1 generally describe the laws which Moss allegedly violated, but does not provide their respective citations. This omission calls into question whether Charge 1 was sufficiently specific to pass constitutional muster. Since neither Moss nor the ALJ/NRC referred to this issue, the Court will not discuss it further.

Benson was correct in finding that there was a failure of proof by the DNR on this portion of charge one, count 1.

18 USC Sec. 992 (g)(1) prohibits a person convicted of a crime punishable by imprisonment in excess of one year from possessing a firearm. Prior to this incident, Roger had been convicted of the class B felony for dealing controlled substances. He served more than one year in prison for that crime. Final Order, paragraph 84. David was aware of Roger's status as a felon before the incident took place. Final Order 92. By handing over the gun to his father, David "aided and abetted" his father's violation of federal law.

The question remains whether David's actions were accompanied by the requisite level of culpability. That issue has been addressed by several federal courts. In US vs. Nichols 21 F.3rd 1016, 18 and 19 (CA 10th Cir. 1994) Cert. Den. 1994 U.S. Lexis 8112 the Court held that 18 USC 922(g)(1), required general, as opposed to specific intent. US v. Huet 665 F.3rd 588, 596 (U.S.C.A. 3rd Cir. 2012) held that criminal liability for aiding and abetting would attach, if the party delivering a gun knew or had reason to know that the recipient was a felon.

The ALJ notes that David was unsure of the legality of his father possessing firearms. David testified that Roger had consulted with an attorney who assured Roger that Roger could lawfully possess firearms. Whether David was certain or not about the legality of his father possessing a firearm is, however, irrelevant to the issue at hand. Ignorance of the law is no defense. What is relevant is whether David knew or had reason to know that he was placing a firearm into the possession of a felon.

The answer is obviously yes. David Moss knew that what he was handing over was a firearm, that the recipient was his father and that his father was a felon. The Court therefore concludes

that the ALJ's finding that Moss did not violate 18 US Code 922(g)(1) is not supported by substantial evidence and misapplies applicable federal law.

The ALJ did not explicitly rule on count 1's general allegations that David Moss contributed to the violations of Indiana's laws against intimidation. Ind. Code 35-45-2-1 provides in pertinent part "(a) A person who communicates a threat to another person with the intent:

- (1) that the other person engage in conduct against the other person's will;
 - (2) that the other person be placed in fear of retaliation for a prior lawful act..."
- commits intimidation a Class A misdemeanor"

The above statute requires proof that the Defendant intended to compel the victim to act against her will or that the Defendant acted in retaliation for the victims prior lawful act. The record is silent on what Roger's intent was. Was he joking as the victim suggests? Nor does the record indicate the factual context of the incident. For example, did the pointing occur shortly after a demand for custody of Roger and Rebecca's son Carlus or on the issuance of a Protective Order? Assuming arguendo that the pointing communicated a threat within the meaning of the above statute, the failure to prove the requisite intent, is fatal to the DNR's contention that David Moss committed the crime of being an accessory to the crime of Intimidation.

The last statute relied on by DNR was IN Code 35-47-4-5 law prohibiting the possession of a firearm by a "serious, violent felon". Although, Moss knew that his father was a felon, this Court agrees with the ALJ's assessment that there was no evidence that David Moss was aware that his father had the status of a serious, violent felon. Final Order, Paragraph 147

4. Did Moss deceive the DNR as to Moss's storage of firearms?

Charge 2 Count II alleged that Moss misled the DNR as to his father's cultivation of marijuana and to the storage of firearms at the father's home. The ALJ upheld the second charge

as to the marijuana cultivation, but rejected the charge as it pertained to the storage of firearms. In that Moss did not ask this Court to review the findings as to the marijuana cultivation, the ALJ's finding stands.

As to the storage of firearms, the DNR relied on what it termed as Moss's admission." The "admission" was based on an interview of Moss by Zach Matthews and a conversation Moss had with a Mr. Harry, a polygraph operator. The ALJ listened to the audio tape of Harry's conversation with Moss and reviewed the interview with Investigator Matthews. The ALJ found that no admission had been made regarding the storage of guns and that Moss had not engaged in deception. This Court concurs with the ALJ's conclusions. Since the DNR had no evidence other than the "admission", the Court finds that the ALJ's rejection of the gun storage charge should be and is affirmed. Final Order, paragraph 72-79

5. Was the NRC's finding that Moss did not assist his father in the violation of a protective order supported by substantial evidence?

This is another issue on which the relevant facts are not in material dispute. On November 13, 2012, the Monroe County Circuit Court issued a protective order. Respondent's Exhibit 14. The order was issued at the request of Rebecca Moss against her former husband, Roger Moss. At that time, Roger and Rebecca were struggling over the custody of David's younger brother Carlus.

Roger decided to remove Carlus from his adult day care center (Just Friends). David accompanied his father to pick up Carlus from Just Friends. "[A]s a matter of fact, my dad's lawyer is the one who told him to go over there and pick Carlus up; he said he had every right to see him... and, that's why I went over there with him". Tr. Moss, page 86

Upon arriving at Just Friends, Moss was provided a copy of the protective order by the facility staff. He identified himself as a conservation officer. He acknowledged quickly reviewing the document in particular for references to his brother Carlus as a protected person. He concluded that his father removing Carlus from Just Friends was not a violation of the protective order". Final order, paragraph 101.

The Protective Order was directed solely at Roger Moss. In addition to prohibiting Roger Moss from committing acts of violence, making threats of violence or communicating with Rebecca Moss, Roger Moss was ordered to stay away from Rebecca's residence, her place of employment and "Just Friends -- adult day care".

"Moss maintains that it was not his intent to allow his father to violate a protective order, insisting instead that he did not understand the dictates of the protective order." Final Order, paragraph 107

It is difficult for this Court to credit Moss's statement. The order is clear. It should not have been difficult for a law enforcement officer with more than 3 years experience as a conservation officer and at least 12 years of formal education to interpret it correctly.

Furthermore, why didn't Moss confirm his interpretation with the lawyer whom Roger consulted or better still, the issuing Court before removing Carlus, especially in view of his limited familiarity with such orders. See Chavers v. State, 991NE 2nd 148 (Ind. Ct. App. 2013)

The issue before this Court, however, is not whether this Court would have decided the issue of Moss's intent differently than ALJ Benson, but rather whether there was substantial evidence in support of her conclusion. David Moss's testimony constituted substantial evidence as to his intent, if the finder of fact determined it to be credible. ALJ Benson found Moss's testimony credible based not only on his words, but also on her observations of Moss during a lengthy

hearing. In reviewing decisions of administrative agencies, reviewing courts are admonished not to reweigh the evidence. Keeping in mind the above limitations, this Court upholds the ALJ's finding that Moss did not knowingly violate the protective order.

6. The second charge

The second charge was that Moss misled the DNR as to his father's cultivation of marijuana and to the storage of firearms at the father's home. The ALJ upheld the second charge as to the marijuana cultivation, but rejected the charge as it pertained to the storage of firearms. In that Moss did not ask this Court to review the finding as to the marijuana cultivation, the ALJ's finding stands.

As to Moss misleading the DNR regarding the storage of firearms, this topic was addressed in section 4 above. In that there was no credible evidence that Moss stored a firearm at his father's residence, the allegation that he deceived the DNR about the existence of such firearm must also fail.

7. Was the third charge legally sufficient?

The prohibition against "maintaining relationships with any person who is under criminal investigations, indictment, arrest, or incarceration" is subject to the following exception "except as necessary to the performance of official duties, or where unavoidable because of familiar relationships". The ALJ noted that contact between David Moss and his father was infrequent, especially after his father informed his son of his cultivation of Marijuana. Furthermore, the ALJ found that any relationships Moss would have had with his father fell under the familial exception. Final Order, paragraph 123-131

The Court finds the ALJ's interpretation and application of Procedure 4 Rule 9 (a) to be reasonable and therefore upholds the ALJ's rejection of the third charge.

8. Was the commutation of the sanction supported by substantial evidence?

Moss points out correctly that just cause requires that sanctions be proportionate to the employee's misconduct. Defendant Moss was terminated based on the misconduct alleged in the charges. In that the NRC rejected all but one of the more serious charges, reconsideration of the sanction was warranted.

The RNC might have considered the relatively unblemished disciplinary record of Moss during the first 3 years of his employment. It might also have noted the mitigating circumstances identified by the ALJ. E.g. Final Order, paragraph 45 (regarding not reporting child molestation investigation); 53-55 (public intoxication). In sum, this Court finds that there was substantial evidence supporting the commutation of the sanction, based on the findings made by the ALJ.

9. Did the DNR Violate this Court's order of September 19, 2014, requiring the immediate reinstatement of Moss to full employment status?

Moss contends that the DNR violated this Court's Order that he be reinstated to full employment status by its offer of reinstatement which reassigned him to Indianapolis with administrative responsibilities, rather than fieldwork duties.

To find DNR in contempt, the Court must determine that the DNR violated its Order and that in doing so, it acted willfully. On its face, the Order does not prescribe the duties to be performed or where such duties are to be performed. The Order did not put the DNR on notice that the reinstatement terms DNR offered were prohibited. Accordingly, the Court finds the DNR not in contempt.

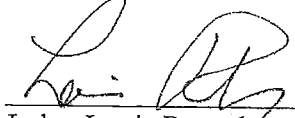
ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and Legal Discussion, the decision of the NRC is vacated and remanded to the Commission for further proceedings

consistent with this opinion. In particular, the Commission is to reconsider its decision as to sanctions in light of this Court's finding that Moss contributed to the commission of the crime of possession of a handgun by a felon per 18 US Code Section 922(g).

In lieu of reinstatement, the DNR shall continue its current compensation of Moss, until the NRC issues its final order herein. If said order continues Moss's employment as a conservation officer, the NRC shall prescribe terms of reinstatement, including whether Moss may be placed in an administrative position.

ALL IS SO ORDERED this 18th day of March, 2016.



Judge Louis Rosenberg, Senior Judge
Marion Circuit Court

Distribution:

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