



**LOUISVILLE METRO POLICE DEPARTMENT  
PROFESSIONAL STANDARDS UNIT  
INVESTIGATOR FINDINGS**

PSU-017  
Revised 10/17

**TO: LIEUTANANT JENSEN GODFREY  
COMMANDER, PROFESSIONAL STANDARDS UNIT**

**FROM: SERGEANT MARY KING  
INVESTIGATOR, PROFESSIONAL STANDARDS UNIT**

**DATE: AUGUST 3, 2021**

**RE: PRELIMINARY FINDINGS AND CONCLUSIONS  
CASE NUMBER: 20-131**

**ACCUSED: OFFICER WILLIAM MAYO #7137**

**COMPLAINANT: CHIEF YVETTE GENTRY**

**PRELIMINARY FINDINGS**

**Officer William Mayo**

- LMPD SOP 5.1.2 Obedience to Rules and Regulations----- **UNFOUNDED**

**CASE SUMMARY**

This case stemmed from an evidentiary hearing in United States District Court, Western District of Kentucky, Louisville Division. The hearing took place October 7, 2019, before the Honorable Joseph H. McKinley United States District Judge. After the hearing, both the Assistant United States Attorney (AUSA) and defense attorney crafted post hearing briefs. Honorable Joseph H. McKinley filed his opinion on January 22<sup>nd</sup>, 2020. In his findings he concluded, in one area (the smell of marijuana), Detective Mayo's suppression hearing score was not credible.



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#### WVS

Detective Mayo's traffic stop of [REDACTED] on October 4, 2018, was recorded on WVS. Other members' WVS footage is included in the file.

#### Evidentiary Hearing

The transcripts of the evidentiary hearing, AUSA post hearing brief, Judge McKinley's Memorandum Opinion and Order, AUSA motion to withdraw findings about credibility, and Judge McKinley's 2<sup>nd</sup> opinion is included in the file under the documentation tab. To gain a full understanding and proper context of Detective Mayo's testimony, reviewers should observe the WVS footage and read the transcripts.

#### Facts Of The Case

- On October 4, 2019, Detective William Mayo, along with other 9th Mobile units, made a traffic stop on a 2006 Maroon Tahoe, KY registration [REDACTED] at Rockford Lane and Teaneck Lane for a seatbelt violation.
- [REDACTED] was the driver of the vehicle, along with two other occupants.
- A warrant for [REDACTED] was found out of Pennsylvania, along with a warrant for the rear seat passenger. [REDACTED] warrant turned out to be non-extraditable.
- Detective Mayo was speaking to [REDACTED] by the trunk of his vehicle when Sergeant King observed an open container on the front passenger seat in plain view, which he understood gave him the right to search the vehicle.
- Sergeant King and Detective Kelly Hannah (now Detective Kelly Goodlett) start to search the vehicle without conferring with Detective Mayo, who was still speaking with [REDACTED] at the rear of the vehicle.
- Sergeant King found a gun inside the pocket of a leather vest located in the backseat of the vehicle.
- Detectives deduced the vest belonged to [REDACTED] due to registration papers for a motorcycle belonging to him in another vest pocket. A small bag of marijuana was also located in the vest.
- Detective Mayo wrote the citation. The citation cited the probable cause for the search of the vehicle, which was the open container Sgt King observed.
- Detective Mayo also wrote an investigative report after the arrest in which he stated he smelled marijuana while speaking with [REDACTED]



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- Detective Mayo and Sergeant King briefly met with AUSA Randy Ream before the evidentiary hearing.
- The evidentiary hearing was held on October 7, 2019, in front of the Honorable Joseph H. McKinley, United States District Judge.
- AUSA Ream submitted a post-hearing brief on October 31, 2019.
- Honorable Joseph H. McKinley submitted his opinion on January 1, 2020, finding in favor of the defense suppressing the firearm. The court concluded that officers would not have inevitably discovered the firearm due to the Court finding Detective Mayo's testimony about smelling the marijuana not credible.
- Detective Mayo was notified of the issue by his Major at the time Major Burbrink.
- Detective Mayo had a meeting with AUSA Monica Wheatly, who apologized and explained to him the mistakes AUSA Ream made in his brief. She explained the search was not valid. An open container is not a crime Kentucky.
- AUSA Ream cited in the post hearing brief two case which upheld the search, but the issue was the cases were from different states which an open container was a crime. Open container is only a violation in the state of Kentucky.
- AUSA Monica Wheatly and Detective Mayo had multiple meetings to dissect the hearing transcripts, briefs, and WVS, eventually filing a 32 page motion to withdraw findings about credibility and other issues in the original brief.
- AUSA Larry Fentress electronically filed a Motion To Withdraw Finding About Credibility In Court Suppression Memorandum, Or In The Alternative, A Motion To Reopen The Suppression Hearing. AUSA Fentress cited multiple issues with AUSA Ream's post-hearing brief and described the hearing as a poorly prosecuted.
- On June 29, 2020, Honorable Joseph H. McKinley filed his 2nd Opinion denying the motion.
- Detective Mayo was notified of the issue by his Major at the time Major Burbrink.
- Late November 2020, Detective Mayo received a phone call from United States Attorney Russell Coleman, apologizing for this situation.
- November 23, 2020, Detective Mayo received a letter of apology from the U.S Department of Justice United States Attorney Russell Coleman. Coleman wrote, "this office accepts full responsibility for the judge's finding. It was our prosecutor's fault, not yours that the judge did not have all of the evidence that would have shown your truthfulness 'on this score.'"



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**Detective William Mayo**

Detective Mayo described the traffic stop that leads to the evidentiary hearing. He explained he was with the 9th Mobile Division at the time and the traffic stop was for a seatbelt violation. He initially was the cover officer while another Detective made contact with [REDACTED]. While the investigation was furthered, Detective Mayo returned to the vehicle and made contact with [REDACTED]. He stated, *"I eventually walked up to the car and started talking to the defendant and got a little odor-odor of marijuana."* (Mayo-page 4 line 16.) Detective Mayo described the initial conversation as "not very cordial" and characterized [REDACTED] behavior as "passive-aggressive." Detective Mayo tried to deescalate [REDACTED] behavior with verbal judo and tactically attempted to avoid a fight. He told investigators [REDACTED] did have a warrant for arrest, but they did not know if the warrant was extraditable. Once Detective Mayo got [REDACTED] to the rear of the vehicle, [REDACTED] started to tell him a story about the warrant. While [REDACTED] was telling his story, Detective Mayo stated, *"Sergeant King who's now Lieutenant King saw an open container of alcohol, began a search without conferring with me whatsoever and very quickly after that he found a gun, found weed in the vest, um, and the stop progressed."* (Mayo-page 4 line 29.)

Detective Mayo stated he wrote [REDACTED] citation and an investigative report after the traffic stop and arrest was made. When investigators asked if there was any mention of smelling marijuana in the citation, he responded, *"No, I did not. And the reason for that is, um, that wasn't the P.C. for the search. So I was taught in the academy and all of my PTOs that you itemize the citation for the facts, the probable cause, and what happened in the stop. So when I lo- when I went and wrote the citation it was a seat belt violation. The car was searched per open container, um, the gun was found, marijuana was found, and I proceeded that way. That night - 'cause it was a big case. It was two convicted felons and a gun, um, I sat down at my desk. I wrote the investigative letter, and, again, through my experience or through my training, um, and what I was taught when I wrote investigative letters, that I extrapolated and I added more detail. And in the course of that investigative letter I clearly wrote I smelled marijuana on that day. Um, and thought nothing of it. It's not unusual for me to write investigative letters that way and citations that way."* (Mayo- page 5 line 7.) Investigators started to ask another question when Detective Mayo asked to say something. He stated, *"And, um, our SOP, Standard Operating Procedures 7.12.5 says that in the citation to - in the post-arrest complaint to establish proper probable cause for the search. To which I did. And at that time, based off the happenings of Sergeant (King), who is now Lieutenant (King), the car was searched for open container, prior to me being able to talk to anybody. And that's irrefutable on body cam."* (Mayo-page 5 line 27.)



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LMPD SOP 7.12.5 does state, Officers issuing a citation will complete the “Post-Arrest Complaint” narrative of the Kentucky Uniform Citation. The officer will specify the offense(s) being charged and enter a detailed statement of probable cause in the narrative section of the Kentucky Uniform Citation. The statement of probable cause must sufficiently describe the actions of the accused that the officer relied on to meet the elements of the offense(s). Merely re-stating the charges or making a reference to an incident report number is not sufficient for establishing probable cause or meeting the elements of the offense (refer to Kentucky Rules of Criminal Procedure [(RCr) 3.02(2)]).

Detective Mayo stated he was taught through his training that getting consent only strengthens the case. *“It's what I've always been told, especially when I got up to 9th Mobile. Consent is better. You can have a P.C. hearing and get thrown away. You can't really throw away consent. This is not the first time that I've smelled marijuana and asked for consent. This is - th- th- I've done this before. I've always been told, hey, man, if you can get multi-layered - mul- multi-different layers of consent, probable cause, it strengthens your case.”* (Mayo-page 12 line 37.)

Detective Mayo stated he meet with AUSA Randy Reem before the hearing. He described the meeting as “very short and very brief.” He continued, *“We did not review moment of body cam. Um, he showed me two pictures. We talked briefly about the open container. We spoke almost nothing - very briefly about marijuana, and that was it. This was my first federal suppression hearing. This was my first time in federal court. I didn't think anything different. It was short and sweet. To him it was an open and shut case. To me it was an open and shut case, and that was it.”* (Mayo-page 6 line 26.) Detective Mayo described the hearing itself as “confusing.” The defensive attorney asked multiple questions about WVS, which Detective Mayo concedes he did not watch prior to the hearing. WVS was not something AUSA Ream went over with Detective Mayo in their brief meeting prior to the hearing. Detective Mayo acknowledges he was unprepared for the evidentiary hearing. Looking back, he realized he should have been more prepared.

Detective Mayo described to investigators the hardship this finding has had on him, his family, and his job. He was transferred out of the unit; he feels his reputation has been tarnished and is embarrassed about the whole situation. He further explained he is broken; his confidence is broken to the point he is in therapy, working through everything. He told investigators he was raised with the understanding your reputation and your word are all you have. This whole situation has mentally destroyed him.



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## CONCLUSION

This investigator respects the court's decision, although has a differing conclusion regarding Detective Mayo's credibility. One reason the court concluded this finding, Judge McKinley stated, *"Because [REDACTED] does not challenge the United States' argument that Detective Mayo would have probable cause to search the vehicle if he smelled the odor of unburnt marijuana, the only question for the Court to determine is whether to credit Detective Mayo's testimony that he did in fact smell such an odor. In this instance, the body camera footage as well as the arrest citation written by Detective Mayo himself do not support the position the Detective Mayo smelled marijuana at any point during the stop."* Judge McKinley further states, *"If Detective Mayo had truly detected the odor of marijuana before asking [REDACTED] to step out of his vehicle, as he testified, this exchange would likely have been different."* This investigator finds that opinion presumptuous and not a defined conclusion.

This investigator finds the citation coupled with the WVS concludes the opposite. His honesty, integrity, and credibility go to documenting what truly transpired during the traffic stop. Sergeant King was already searching the vehicle due to the open container he observed before communicating with Detective Mayo. Detective Mayo never had the chance to relay to his findings (smelling the marijuana) with other detectives due to him speaking with [REDACTED]. Even though Detective Mayo smelled the odor of fresh marijuana, that was not the basis for the vehicle search. The citation reflects the probable cause at the time of the search. Furthermore, Detective Mayo filled out an investigative report that same evening documenting his findings during the traffic stop. He wrote, *"As Detective Mayo continued his communication with [REDACTED] [REDACTED] he began to get a strong odor of marijuana coming from inside the vehicle."*

Not only does the documentation exhibit moral and ethical work, but the United States Department of Justice also crafted an apology letter to Detective Mayo on November 23, 2020. In the apology letter, United States Attorney Russell Coleman stated, *"After our internal office review, we strongly disagree with the judge's mistaken conclusion. Moreover, this office accepts full responsibility for the judge's finding. It was our prosecutor's fault, not yours that the judge did not have all the evidence that would have shown your truthfulness 'on this score.'"*



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LMPD SOP 5.1.2 Obedience to Rules and Regulations states “All members will abide by the Standards of Ethical Conduct located in the Louisville Metro Government Personnel Policies. (Section 1.5)”

#### 1.5 Standards of Ethical Conduct

Louisville-Jefferson County Metro Government represents the collective voice of the community, leading and acting for the common good. **Our Core Values – honesty and integrity, leadership and teamwork, responsiveness to citizens, and focus on results – are the principles that guide our behavior.** Louisville Metro Government is dedicated to ensuring the proper performance of government business and maintaining the confidence of the community it serves by adhering to the highest standards of honesty, integrity, responsibility, and impartiality by employees and agents throughout its daily operations. The Standards of Ethical Conduct can be found in Personnel Policies 1.5 through 1.7.

#### Ethics: Principles of Behavior

1.5(5) Louisville Metro Government expects its employees to follow the principles set forth below in their conduct and behavior. Any violation of these principles shall constitute grounds for disciplinary action up to and including termination of employment.

- a) Employees shall deal with co-workers and the public in a respectful and courteous manner.
- b) Employees shall act in a manner consistent with the trust inherent in public employment.
- c) Employees shall perform their work with honesty and integrity.**
- d) Employees shall strive to perform their work at a consistently high level of quality and quantity.
- e) Employees shall obey and uphold the laws of the United States, the Commonwealth of Kentucky and political subdivisions and jurisdictions thereof, and Louisville Metro Government.

This investigator finds Detective William Mayo truthful, honest, ethical, and a man of integrity. Therefore, a preliminary finding of *Unfounded* is offered as it relates to Obedience to Rules and Regulations.

#### **DISCIPLINE TO BE CONSIDERED PURSUANT TO SCHEDULE OUTLINED IN CBA**

19-067 WVS PROCEDURE/SPECIAL CIRCUMSTANCES SUSTAINED 2 DAYS