

## Ontario Police Arbitration and Adjudication Commission

In the matter of an Appeal from the Disposition of a Hearing Officer dated May 28, 2025, pursuant to s. 87 of the *Police Services Act* and s. 216 of the *Community Safety and Policing Act, 2019*.

Date: 2026-May-08

Between:

Constable Goran Beric

Appellant

and

Ottawa Police Service

Respondent

### Decision and Order

**Adjudicators:** L. Taylor, L. Hodgson, J. Theoharis

**Participants:** P. Machado, counsel for appellant  
J. Barrow, counsel for the respondent

Held by videoconference: January 15, 2026  
Decision Delivered Electronically: May 8, 2026

## **INTRODUCTION**

- 1) This appeal arises from the decision of Superintendent (retired) M. Elbers, (“the Hearing Officer”) dated May 28, 2025, wherein Constable (Cst.) Beric (“the appellant”) was ordered dismissed from the Ottawa Police Service, effective within seven days unless he resigned before that time. The appellant appeals the penalty decision.
- 2) On March 24, 2025, the appellant pleaded guilty to five counts of misconduct, three counts discreditable conduct and two counts of insubordination contrary to sections 2(1)(a) and 2(1)(b) of the Code of Conduct in Ontario Regulation 268/10, pursuant to the *Police Services Act*, RSO 1990, c P.15 (*PSA*). The findings of misconduct are not an issue in the appeal.
- 3) The appellant seeks an order varying the penalty to demotion or that the matter be remitted for a new penalty hearing.
- 4) This appeal commenced pursuant to s. 87 of the now repealed *PSA*. The appeal is continued pursuant to s. 216 (4) of *the Community Safety and Policing Act*, 2019, S.O. 2019, c., Sched. 1. This panel was appointed to exercise the powers and perform the duties of the Ontario Civilian Police Commission in relation to the appeal as provided for by that section.

## **DECISION**

- 5) For the reasons that follow, the panel finds that the Hearing Officer’s decision on penalty was reasonable. The appeal is therefore dismissed.

## **BACKGROUND**

- 6) The appellant was convicted of the criminal offences of assault and assault with a weapon on October 11, 2023, in relation to his interaction with a member of the public, AA, on August 4, 2021. The appellant then pleaded guilty to five counts of disciplinary misconduct. Two of the misconduct charges related to the criminal convictions and the other three related to the appellant failing to properly note and report the incident. At the penalty hearing, the parties relied on an Agreed Statement of Fact (ASF), which was reproduced in full in the Hearing Officer’s Reasons for Penalty.
- 7) The ASF provides an uncontested account of the pertinent events. The relevant portions, as they relate to the August 4, 2021, incident, are reproduced below:

## CALL FOR SERVICE ON AUGUST 4, 2021

1. At 10:26PM, Cst. Beric was dispatched to attend a call for service at 506C Bronson Avenue along with four other OPS members. The call for service was in relation to AA who was reportedly causing a disturbance by yelling and screaming in the hallway of the apartment building, which was operated by Ottawa Community Housing (“OCH”).
2. AA is a homeless man who, at the time of the call for service, was either suffering from a mental health crisis or was intoxicated by drugs or alcohol. The call for service resulted in the apprehension of AA under the Mental Health Act. In the course of the apprehension, Cst. Beric used force on AA. In the course of this use of force, Cst. Beric deployed his police-issued baton.
3. Upon attendance at the apartment building, AA was located in a bathroom on the first floor of the building. He was covered in blood and was yelling incoherently and not responding to the officers. Officers attempted to communicate with AA for about 2 minutes and 45 seconds.
4. AA then advanced on Cst. Beric and another officer and AA was taken to the ground. At this time, Cst. Beric delivered a baton strike to AA’s leg. Cst. Beric began giving verbal instructions to AA to get him to leave the hallway in an attempt to get him treated by paramedics.
5. AA got up and began walking towards the door but then stopped and stepped towards Cst Beric in a manner that could be perceived as assaultive. At that time, Cst. Beric delivered a front kick to AA’s torso. AA grabbed Cst. Beric’s foot and held his leg in the air. Cst. Beric swung towards AA’s head using a closed fist and his closed baton in hand. The punch did not make contact.
6. Another officer then pushed AA to the ground. AA was held down for approximately 4 minutes and 48 seconds before he was placed in handcuffs.
7. After being pushed to the ground by the other officer, Constable Beric used his closed baton to strike AA in the head area three times. Shortly thereafter, Constable Beric placed his foot on AA’s neck for 2 minutes and 5 seconds to hold him down.

8. After being apprehended under the Mental Health Act, AA was taken to the hospital and was treated for a hand laceration, severed tendon and multiple lacerations to the head. Responding OPS officers later determined that AA had broken a window on the second floor, causing lacerations to his hand. AA's injuries were not attributed to the use of force by Cst. Beric.
  9. AA was not under suspicion of having committed a criminal offence, nor was he apprehended pursuant to the Criminal Code.
  10. On August 5, 2021, two OPS officers brought concerns forward about the level of force used by Cst. Beric in his interactions with AA the previous day.
  11. On August 17, 2021, OPS initiated an internal investigation. It was soon identified that a criminal investigation was required, and the Waterloo Regional Police Service ("WRPS") was tasked with taking over a criminal investigation. Upon completion of its investigation WRPS charged Cst. Beric criminally with one count of assault and one count of assault with a weapon.
- 8) The ASF also detailed the criminal proceedings in which the appellant pled not guilty to the charges of assault and assault with weapon. The appellant was convicted of both counts. The ASF summarized the trial judge's findings of fact. The judge noted that after AA was pushed to the ground by another officer, "Cst. Beric then attempted to restrain AA to search him. AA tried to get up and rose to his hands and knees. Constable Beric then brought his closed baton into contact with AA's head area three times within a 30 second period. A minute and a half later, Cst. Beric used his foot on AA's face and neck area to hold his head to the ground for just over two minutes while another officer stood on AA's feet." The trial judge concluded that the force used by the appellant was not necessary nor proportionate and was therefore unlawful.
  - 9) On January 16, 2024, the appellant received a suspended sentence with thirty months probation. According to the ASF, "Justice O'Brien ruled that Cst. Beric's actions constituted a "callous disregard for [AA] generally, and in particular, his well-being"."
  - 10) The ASF also set out that, following the criminal proceedings, on February 7, 2024, the appellant participated in a compelled interview with respect to these disciplinary proceedings. According to the ASF:

In his compelled interview, Cst. Beric expressed the view that the criminal judgment was wrong in its conclusions. Notwithstanding the criminal

judgment, summarized below, Cst. Beric believes he acted appropriately in respect of AA.

- 11) The ASF sets out the factual basis for the three counts of discreditable conduct and two counts of insubordination contrary to the Code of Conduct under the Act. It indicates that the appellant's criminal convictions for assault (using his foot on the victim's face and neck area) and assault with a weapon (striking the victim in the head with his baton) constitutes two counts of discreditable conduct pursuant to s. 2(1)(a)(ix) of the Code of Conduct, Ontario Regulation 268/10.
- 12) A third count of discreditable conduct, pursuant to s. 2(1)(a)(xi) of the Code of Conduct, related to an incident report prepared by the appellant. The ASF stipulates the report was misleading, incomplete, and not in compliance with OPS Use of Force policy. The ASF quotes the sentencing judge's findings with respect to the appellant's report writing as follows:

It is aggravating that Constable Beric authored a false report regarding this incident. In the report he exaggerated [AA]'s aggressiveness and omitted mention of striking him with the baton and standing on his neck. He made his report before he knew there was a recording, and his report was false.
- 13) With respect to the first insubordination count, the ASF sets out that, the appellant's notes of the incident were minimal, with no reference to the physical interactions that occurred between the appellant and the victim and "do not reveal what occurred during this call for service."
- 14) Lastly, the second count of insubordination related to the appellant failing, as required by OPS Use of Force Policy (flowing from statutory requirements under the Act), to submit a Use of Force Report after using a weapon on another person.
- 15) At the penalty hearing, the respondent sought the appellant's dismissal. The appellant argued that a demotion to third class constable and updated use of force training was appropriate in the circumstances.
- 16) The Hearing Officer considered the submissions made and concluded that dismissal was a fit penalty. He emphasized the seriousness of the misconduct throughout his reasons and concluded that the reputation of the OPS would be damaged with continued employment.

## ISSUES ON APPEAL

The issues to be analyzed can be outlined as follows:

1. Did the Hearing Officer fail to properly consider the appellant's rehabilitative potential?
2. Did the Hearing Officer fail to apportion proper weight to mitigating and aggravating factors?
3. Did the Hearing Officer fail to consider the principle of progressive discipline and impose a disproportionate penalty of dismissal?
4. Did the Hearing Officer fail to consider the relevant precedents?

## STANDARD OF REVIEW

17) The standard of review in a penalty appeal is reasonableness. The Commission owes deference to the Hearing Officer's decision (*Kobayashi v. Waterloo Regional Police Service*, 2015 ONCPC 12 at paras. 32 & 33).

18) In *Karklins v. Toronto (City) Police Service*, 2010 ONSC 747 at para. 10, the Divisional Court confirmed the role of the Ontario Civilian Police Commission (the predecessor to this Commission) on a penalty appeal, noting the following:

The role of the Commission on penalty is well established. Our function is not to second guess the Hearing Officer or substitute our opinion. Rather, it is to assess whether or not the Hearing Officer fairly and impartially applied the relevant dispositional principles to the case before him or her. We can only vary a penalty decision where there is a clear error in principle or relevant material facts are not considered. That is not something done lightly.

19) In *Dunsmuir v. New Brunswick*, 2008 SCC 9, at para. 47, the Supreme Court of Canada stated that the purpose of reasons is to demonstrate "justification, transparency and intelligibility."

20) Even if this Commission would have come to a different conclusion, it will not interfere with the penalty decision unless there has been an error in principle or relevant factors have been ignored. The Commission's role is to determine whether the Hearing Officer's decision was reasonable in the circumstances (*Kobayashi v. Waterloo Regional Police Service*, supra at para. 33; *Gould v. Toronto Police*, 2018 ONSC 4074 (CanLII) (Div. Ct.) at para. 6).

## ANALYSIS

### **The Hearing Officer Appropriately Considered the Appellant's Rehabilitative Potential**

- 21) The appellant submits that the Hearing Officer failed to appropriately consider his prospect of rehabilitation. The appellant suggests that the Hearing Officer failed to engage with his "specific, structured, rehabilitative plan on the record," failed to properly assess the appellant's credibility and did not consider his 15 years of service, positive performance evaluations, and character references. The appellant further asserts that, when considering the appellant's rehabilitation potential, the Hearing Officer failed to appropriately consider his remorse.
- 22) The Hearing Officer fairly considered the appellant's rehabilitative potential. We do not accept that there was a "specific, structured, rehabilitative plan on the record." The appellant requested a demotion, updated Use of Force training and "any other training the Ottawa Police deem appropriate." The Hearing Officer recognized this submission in the reasons for penalty acknowledging that the ASF set out that the appellant had recently received and completed Use of Force training just four months prior to the incident. In the circumstances, the appellant's penalty submission alone does not constitute a "structured rehabilitative plan."
- 23) More generally, we find the Hearing Officer appropriately considered the appellant's rehabilitative potential within the context of the other considerations relating to penalty. The Hearing Officer properly set out the key considerations when imposing penalty: the seriousness of the misconduct, the ability to reform or rehabilitate the officer, and the impact to the reputation of the police service that will occur if the officer remains a member of the police service (*Williams and Ontario Provincial Police*, December 4, 1995 (OCCPS)). The Hearing Officer also details and considers, to varying degrees, the full list of disposition factors as set out in the jurisprudence (*Krug v. Ottawa Police Service*, 2003, CanLII, 85816 ONCPC at para. 69).
- 24) The appellant submits that the Hearing Officer erred by conflating concerns with the appellant's credibility and his rehabilitative potential as a police officer. We do not agree. The appellant's credibility and integrity are central to his role as a police officer and to his ability to be rehabilitated and reintegrated into the police service. On a complete reading of the decision, we do not find that the Hearing Officer focused on speculative conclusions with respect to the appellant's rehabilitation and likelihood of recidivism.

- 25) The appellant relies on the Hearing Officer's statement, "Short of dismissal it is unknown to the Tribunal or the Ottawa Police Service whether this conduct will continue by this officer," to support their argument that the Hearing Officer relied on speculation and uncertainty in his analysis. The context of this statement is important; the Hearing Officer had made a finding that the appellant's credibility was "in serious doubt and if left employed by the Service may at some point jeopardize an investigation or cause further risk management issues for the Service."
- 26) This conclusion was reasonably open to the Hearing Officer based on the evidence and submissions before him. The appellant's credibility issues were highlighted in the ASF which noted the appellant's report following the incident was "misleading and incomplete" and that the sentencing judge found it to be aggravating that the appellant authored a "false report" that "exaggerated [AA]'s aggressiveness and omitted mention of striking him with the baton and standing on his neck." Further, in submissions to the Hearing Officer, the respondent set out how the appellant's criminal conviction could impact his future participation in OPS investigations. When considered as a whole, and in the context of the evidence, the Hearing Officer reasonably concluded that the appellant's credibility issues were a factor in his rehabilitation.
- 27) It was reasonably open for the Hearing Officer to conclude that the appellant's credibility impacted his ability to effectively reintegrate and be rehabilitated within a police service. Where credibility is at issue, it is reasonable to conclude that meaningful rehabilitation and reintegration may be negatively impacted.
- 28) The appellant also asserts that, in assessing rehabilitation potential, the Hearing Officer failed to appropriately consider the appellant's positive work history and character references. In our view, the Hearing Officer aptly summarized and acknowledged the appellant's 15-year positive employment history and character references.
- 29) The decision directly referenced a witness for the respondent, conceding that an officer with "lived experience" is valuable and a witness for the appellant describing him as a well-respected, calm officer who would assist officers in completing their reports. Additionally, the Hearing Officer specifically noted, the "glowing accolades for him on and off duty roles in volunteering for the community and the Service. Performance reviews and character reference letters speak about his cool, calm collected personality when dealing in volatile situations."
- 30) The Hearing Officer properly considered the appellant's employment history as

mitigating but also noted that his skills and leadership were not evident on the day of the incident:

Constable Beric is a seasoned veteran of the Service. His performance evaluations indicate that he is an officer that helps his subordinates is calm and acts extremely well in MHA situations. This should have been a situation where he showed leadership to the parties present. Constable Beric did not exhibit the skills and knowledge that his evaluations through his supervisors have articulated. This is extremely evident due to the complaint lodged by two officers that were present for this incident.

- 31) The Hearing Officer, while clearly alive to the appellant's positive employment history, ultimately and reasonably concluded that the misconduct demonstrated a fundamental character flaw that could not be corrected by rehabilitation. The Hearing Officer quoted *Williams and Ontario Provincial Police*, December 4, 1995 (OCCPS), page 15, wherein the Commission confirmed the penalty of dismissal - "These actions, afforded the opportunity of reasoning, indicate a serious lack of moral and judgmental qualities required in a police officer. It is doubtful that an opportunity for rehabilitation would correct what would appear to be a fundamental character flaw." The Hearing Officer here, then found, "This statement might well be echoed for the behaviour exhibited by Cst. Beric in my opinion." It was open to the Hearing Officer to conclude that, the character demonstrated in the misconduct behaviours at issue was not offset by his prior work history and character references.
- 32) Lastly, with respect to assessing rehabilitation, the appellant submits that the Hearing Officer failed to appropriately consider the appellant's recognition of the seriousness of the offence. The appellant suggests that the Hearing Officer failed to recognize the appellant pled guilty to the misconduct charges and placed too great emphasis on the appellant pleading not guilty to the criminal offences.
- 33) We agree that the Hearing Officer's assessment of the appellant's recognition of wrongdoing or remorse could have been clearer. However, when the reasons are read as a whole, it is evident that the Hearing Officer considered both mitigating and conflicting evidence on this issue and the lack of clarity does not undermine the reasonableness of the decision. We would note here, that the Hearing Officer's reasons can not be assessed against a standard of perfection and the reasons are to be read in accordance with this Hearing Officer's experience. Administrative decision makers cannot always be expected to deploy the same array of legal techniques that might be expected of a lawyer or judge

*(Canada (Minister of Citizenship and Immigration) v Vavilov, 2019 SCC 65 at para 91 and 93).*

34)The Hearing Officer recognized some acceptance of responsibility by the appellant, as the proceedings progressed:

Cst. Beric through this Hearing and his Criminal proceeding has recognized and I believe has accepted responsibility for his behavior. Initially he believed he did nothing wrong but after these two processes the Criminal Trial and this Tribunal I believe he now knows his actions was [sic] wrong.

35)Also, in his reasons when elaborating on the penalty consideration “Recognition of Seriousness of the Misconduct” the Hearing Officer notes:

I am under the firm belief that Cst. Beric does not fully understand how his actions have affected himself and the organization to this day. I say this because he believes he has done nothing wrong and his use of force was justified. He disagrees with the Justice O`Brien findings in the criminal proceedings. I believe he does accept that his note taking, occurrence reports relating to this incident was lacking in content and accuracy. Cst. Beric`s reasoning for not detailing a fulsome report for the incident and blaming his supervisor was incredible. I understand he was concerned over the blood of AA however he acted alone without accessing the support that was present.

36)There was little evidence of remorse before the Hearing Officer, and it was reasonable for the Hearing Officer to conclude that the appellant’s acceptance of responsibility was limited. The ASF specifically sets out: “In his compelled interview, Cst. Beric expressed the view that the criminal judgment was wrong in its conclusions. Notwithstanding the criminal judgment...Cst. Beric believes he acted appropriately in respect of AA.”

37)We also cannot find that the Hearing Officer conflated the appellant’s right to defend himself and his plea of not guilty to the criminal charges with a lack of remorse. With respect to the criminal proceedings, the Hearing Officer did note that there was some mitigation as the appellant, “did show remorse at his criminal trial as stated by Justice O’Brien.” In oral submissions, counsel for the Appellant explained that remorse at the criminal trial amounted to the appellant acknowledging his actions were not in accordance with his training and stating

that he was not perfect. There is no indication that the Hearing Officer inappropriately considered the appellant's plea of not guilty in the criminal proceedings.

- 38) Lastly, we do not agree that the Hearing Officer failed to consider the appellant's guilty plea to the charges of misconduct when considering his potential rehabilitation. The appellant pled guilty at the disciplinary proceedings following his criminal convictions. The Hearing Officer notes the plea multiple times in his decision but also reflects that, in his view, the appellant still does not fully understand the impact of his actions. The Hearing Officer points to the appellant's prior denial of responsibility, his belief that his use of force was justified, and his disagreement with the findings of the trial judge, as set out in his compelled interview.
- 39) A guilty plea does not result in automatic and unqualified mitigation. It was open to the Hearing Officer to conclude that any expressions of remorse expressed through a guilty plea did not sufficiently offset evidence which suggested the officer did not fully appreciate his actions and, as a result, may not possess sufficient rehabilitative potential.
- 40) Ultimately, the Hearing Officer was required to assess rehabilitative potential considering all the evidence, including for instance, the seriousness of misconduct, the appellant's credibility, and his level of insight.
- 41) Read as a whole, we find it reasonable for the Hearing Officer to conclude the appellant could not be rehabilitated. There was no specific rehabilitation plan presented, and the Hearing Officer appropriately considered the appellant's general rehabilitative potential within the context of the other penalty considerations. Any imprecision in the Hearing Officer's assessment of remorse, in the context here, does not render the decision unreasonable. The Hearing Officer's conclusion that rehabilitation was not a viable outcome falls within a reasonable range.

### **The Hearing Officer Did Not Fail to Apportion Proper Weight to Mitigating and Aggravating Factors**

- 42) The appellant submits that the Hearing Officer apportioned too much weight to the seriousness of the misconduct and public interest concerns, while giving minimal weight to mitigating factors such as his employment history, remorse and willingness to retrain.

- 43) Ultimately, the appellant is asking us to reweigh the disposition factors. That is not our role. Our function is not to second-guess the weight a Hearing Officer assigns to any particular factor, nor are we permitted to re-weigh relevant disposition factors nor substitute our own view as to penalty (*Kobayashi* supra, at para 32 and 33). Absent an error in principle or an unreasonable outcome, the weighing of mitigating and aggravating factors is entitled to deference.
- 44) As noted, the Hearing Officer properly cited the 13 disposition factors for consideration, recognizing that not all were relevant to the case before him. At the outset of his decision, the Hearing Officer provided an overview of the disposition factors listing those he found aggravating and those that he found mitigating. As set out above, he fully canvassed the appellant's work history, character references, remorse and rehabilitative potential. The Hearing Officer ultimately concluded that the seriousness of the misconduct and the resulting public interest concerns outweighed the other factors. The conclusion was amply supported by the evidence presented to him.
- 45) The misconduct was serious. Throughout the reasons the Hearing Officer fairly highlighted the seriousness of the misconduct which involved the assault of a vulnerable person, breach of public confidence and an abuse of police authority. It resulted in criminal convictions for assault and assault with a weapon. The Hearing Officer properly relied on the specific findings of the criminal trial judge that the appellant's actions constituted "callous disregard for AA generally, and in particular his wellbeing" and that it was aggravating that the appellant later authored a misleading and/or false report.
- 46) The Hearing Officer was entitled to characterize the misconduct as serious. In assessing the seriousness of the misconduct, the Hearing Officer held that, "Cst Beric's conduct was unprofessional and he abused his authority. He in my mind performed actions totally against all the morals, principles and integrity of a police officer. His misconduct is serious as he now has placed himself in the position of being found guilty in a criminal court of Assault and Assault with a Weapon. Her Honour in the trial judgement and sentencing reflected that she did not believe the evidence of Cst. Beric." The Hearing Officer specifically noted the conduct was fundamentally inconsistent with the core values of policing, including professionalism, integrity and restraint.
- 47) The Hearing Officer appropriately considered the impact to the public interest. He understood the notion that policing is impacted by public confidence, especially in circumstances involving the use of force against vulnerable members of the public, as well as noting that police officers will exercise their

authority with integrity, honestly, with restraint and sound judgment, The Hearing Officer reasonably noted that:

Cst. Beric is a police officer and as such the public expects him to investigate criminal activity in a professional and thorough manner. This type of behavior displayed by Cst. Beric on the day in question is not tolerable. ...Cst. Beric was the senior officer on the scene. Instead of showing leadership to the subordinates and Ottawa Housing security officers present he exhibited aggression and [sic] not assessing the situation as dynamics were evolving.

48) The Hearing Officer also recognized that the "Ottawa Police Service must deliver a penalty that not only prevents recurrence, but also adequately protects the public." In his decision, the Hearing Officer noted that a police assault of an arrestee is a crime against the community and the justice system.

49) The Hearing Officer was entitled to conclude that the appellant's actions not only were reflective of the appellant, but the police service as a whole. In terms of the appellant's actions impacting the reputation of the police service, the Hearing Officer highlighted the media coverage, which included a video of the assault, and the resulting criminal convictions, which would undermine the reputation of other officers and erode the confidence in the administration of justice. He noted the appellant's behaviour "tarnishes the images of the active members who wear the uniform of the Ottawa Police Service."

50) The appellant submits that, among other things, the Hearing Officer overstated the public reaction because "he further referenced "protests," "anger," and "fractured relationships" in the community as evidence that the officer's continued employment would undermine trust." We do not accept that the Hearing Officer overstated the public reaction or interest. His reference to community "protests", public anger and a 'fractured relationship' was when he summarized the evidence of Superintendent Zackrias who testified about the community's reaction to Cst. Beric's aggressive behaviour. In his analysis, the Hearing Officer fairly noted that, based on this evidence, he could surmise that Cst. Beric's behaviour was "widely known by residents" and that "[t]he demonstration of this conduct by this officer and the knowledge of the community, impacts directly on the reputation of the Ottawa Police Service and its public image." As he noted, misconduct of this nature impacts the individual officer as well as the police service as a whole.

51) We do not agree, as the appellant asserts, that there was an overwhelming

emphasis on the seriousness of the offence and the public interest. In the circumstances here the seriousness of these multiple misconducts was appropriately highlighted by the Hearing Officer. As noted by the Commission in *Krug v. Ottawa Police Service*, supra at para. 70, “There is no requirement that any one factor be given more weight than another. The seriousness of the offence alone may justify dismissal. Aggravating factors can serve to diminish the weight of any mitigating factors.”

52) The Hearing Officer fairly and expressly assessed the appropriate mitigating and aggravating factors. It was open to the Hearing Officer to conclude that the seriousness of the offence and resulting harm to public interest and police reputation significantly outweighed any mitigating factors, particularly in light of the criminal convictions as well as the impact to public confidence.

53) We cannot reweigh the factors simply because a different balance might have also been open on the evidence presented. In our view, the conclusion reached by the Hearing Officer falls within a range of reasonable outcomes.

54) We find the Hearing Officer did not err in principle or in the misapprehension of the evidence in his assessment of the disposition factors. The Hearing Officer’s conclusion that the aggravating factors significantly outweighed the mitigating factors was reasonable and as such is entitled to deference. Therefore, there is no basis for us to interfere.

**The Hearing Officer did not err in his treatment of the principle of progressive discipline when imposing a penalty of dismissal.**

55) The appellant submits that the Hearing Officer failed to consider progressive discipline when imposing the penalty of dismissal. The appellant argues that a lack of prior discipline requires a lesser penalty. We do not accept this submission. The seriousness of the misconduct, can, in certain cases, justify dismissal without progressive discipline.

56) There is no legal principle that requires progressive discipline in every case (*Agostino v. Gary Bean Securities LTD.*, 2015 ONCA 49). The appropriateness of progressive discipline depends on the nature of the misconduct. Where misconduct is serious, dismissal may be justified notwithstanding a positive record. Given the seriousness of the misconduct noted above, it was open to the Hearing Officer to conclude that, regardless of the appellant having no prior discipline history, dismissal was appropriate.

57)The misconducts here are unquestionably serious. They involve use of force against a vulnerable individual, an abuse of police power, and resulting criminal convictions. Speaking of the offence of assault bodily harm, in *Groot and Peel Regional Police* (2002), CanLII 63879 (OCPC), the Commission noted, “It must be made clear to the few who engage in such misconduct that serious penalties are likely to follow proof of such an event. *Absent significant mitigating factors, such conduct can warrant dismissal.*” [emphasis added]. The Commission has held repeatedly that “...in certain cases, one event, or one instance of a lack of judgment justifies termination” (*Bovell and Toronto Police Service*, 2012 ONCPC 10 (CanLII) at para 56).

58)The Divisional Court in *Galassi v. Hamilton (City) Police Service*, 2005 CanLII 20789 (ON SCDC) para 32 outlined:

...In a system of progressive discipline, an employer applies increasingly serious sanctions to employee misconduct in an effort to correct the employee’s behaviour. Nevertheless, even in such a system, the particular misconduct of an employee may be so serious that dismissal is warranted, despite the absence of prior warnings or disciplinary action.

59)The Hearing Officer was clearly aware of the test for dismissal, referring to the three key disposition factors outlined in *Williams and Ontario Provincial Police*, supra. The Hearing Officer concluded that, “[t]he nature of the behaviour is such that without significant mitigating circumstances, his dismissal would be the most appropriate cause of action.” It is clear from the reasons for penalty as a whole that the Hearing Officer did not find the mitigating factors warranted a lesser penalty. The conclusion was reasonably open to him on the record.

60)The appellant also suggests that because the appellant was not immediately suspended and continued to work in a restricted role until his criminal convictions, that this demonstrates his ongoing usefulness to the Service. The appellant submits that the Hearing Officer failed to consider whether the appellant could have continued to contribute in a modified role with restricted duties.

61)Respectfully, we do not agree. When assessing the penalty imposed, the Hearing Officer did consider the appellant’s continued employment with the Service prior to his criminal conviction. The Hearing Officer noted that the appellant “was off the road and had no contact with the public which I believe is the correct procedure. After the criminal conviction the Service suspended this officer with pay. I do not see any issue with this position either as the Service proceeded with

their Police Act investigation.”

62) We see no error here. The Hearing Officer recognized the appellant’s continued employment in a restricted role prior to his criminal convictions was appropriate. The interim measure being precautionary and administrative in nature. This does not mean the Hearing Officer was then required to examine non-operational or restricted roles the appellant could perform following his convictions and findings of disciplinary misconduct. As noted by the respondent, this was not a human rights analysis in which the duty to accommodate is dominant.

63) As already noted, the Hearing Officer ultimately and reasonably concluded that the appellant did not remain suitable for continued employment as a police officer. The Hearing Officer considered the nature of the misconduct, and the implications for credibility, integrity, and public trust. Moreover, the Hearing Officer found that the appellant’s behaviour demonstrated a fundamental character flaw that was incompatible with his continued service. Based on the record before him, the Hearing Officer was entitled to conclude that based on the disposition factors, the misconduct was so serious and the potential impact to the Service’s reputation so great, that dismissal was an appropriate penalty. This decision was reasonable and within the possible range of outcomes.

**The Hearing Officer did not err in considering relevant precedents**

64) The appellant submits that the Hearing Officer failed to properly consider comparable jurisprudence and disregarded cases where lesser penalties were imposed. The appellant submits that this is a violation of the doctrine of parity and fairness in discipline.

65) We see no error in the Hearing Officer’s consideration of the case law. In his reasons for penalty, the Hearing Officer repeatedly indicated that he had reviewed all of the cases provided. He outlined that, although he would not cite the cases provided in totality, he had “read and considered the cases...provided by Counsel. As learned Counsel have stated, there are no cases found which parallel the case that is before me at present.” Further, the Hearing Officer stated, “I have read each and every case submitted to me by Counsel and considered their position.” He noted, “the cases supplied by Counsel are for the most part dated. A number of the cases submitted were quite outdated and considering this is 2025, times have changed and so have penalties in Police Services Act cases. This being said I still looked at the cases as instructive in my disposition considerations...There are salient pieces that I have been able to extract and implement them into my decision making process”.

- 66) Citing numerous cases provided by the appellant, the Hearing Officer did specifically assess *Woodstock Police Service v. Dopf*, Decision on Penalty of Superintendent M.P.B. Elbers dated February 6th, 2025, noting that it had the most similarities to the current matter. The Hearing Officer fully reviewed this case, finding it distinguishable because of significant mitigating circumstances. This demonstrates that he did not disregard potentially relevant precedent but assessed it in light of the factual differences.
- 67) The Hearing Officer was not required to review each case he was provided particularly when it was noted none were “parallel” and many were dated. The presence of cases involving lesser penalties is not determinative. The Hearing Officer, in addressing the temporal context of authorities, observed that many of the cases were dated and that discipline outcomes may evolve over time. Assessments of appropriate penalties are fact-specific, and they may shift over time (*Orser v. Ontario Provincial Police*, 2018 ONCPC 7). The Hearing Officer stated that he read them all and extracted “salient pieces”. The mere existence of cases imposing lesser penalties does not establish that dismissal in this case was unreasonable.
- 68) We find no error in the Hearing Officer’s consideration of the case law or his conclusion that dismissal was within the range of appropriate penalties.

## **CONCLUSION**

- 69) While the Hearing Officer’s reasons are not perfect, when read as a whole, they meet the test for reasonableness. The reasons contain a line of analysis that is coherent, transparent and intelligible, and disclose a rational chain of analysis founded on evidence and applicable legal principles. The Hearing Officer considered the evidence presented, assessed the relevant disposition factors, considered relevant jurisprudence and reached a reasonable conclusion.
- 70) The Hearing Officer’s decision falls within a range of possible acceptable outcomes that are defensible in respect of the facts and the law. The Hearing Officer made no error in principle. Our role is not to reweigh the evidence or substitute our own view of an appropriate remedy. We see no basis to interfere with his decision.

**ORDER**

71)The appeal is dismissed and the Commission confirms the decision of the Hearing Officer.

“Lisa Taylor”  
Lisa Taylor

“Laura Hodgson”  
Laura Hodgson

“Jeanie Theoharis”  
Jeanie Theoharis