

OCCPS Decision # 08-09

CONSTABLE WENDY GARDNER
Appellant

AND

ONTARIO PROVINCIAL POLICE
Respondent

Presiding OCCPS Members:

David Edwards, Member
Hyacinthe Miller, Member

Appearances:

Theresa R. Simone, for the Appellant
Christine Perruzza, for the Respondent

Heard:

September 18, 2008

Date of Decision:

October 31, 2008

PROCEDURAL ISSUES - Rules of practice - Appeal from conviction on one count of discreditable conduct and from penalty of 40 hours - Parties submitting motion on consent asking Commission to revoke Hearing Officer's decisions on the merits and on penalty - Counsel not filing any evidence on the motion, written argument or factums, contrary to Commission's Rules of Practice - Commission obligated to assess reasonableness of the relief requested - Counsel required to file supporting material.

JURISDICTION - Appeal from conviction for discreditable conduct and penalty - Parties submitting motion on consent asking Commission to revoke Hearing Officer's decisions - Parties not addressing issue of Commission's jurisdiction with respect to a consent motion - Parties also failing to file supporting material - Motion to be dismissed unless supporting material and written argument on jurisdictional issue filed.

SENTENCING - Joint submissions - Parties filing motion on consent seeking revocation of conduct and penalty decisions - Grounds described as turning on fresh evidence - Commission, like Hearing Officer, may not simply rubber stamp a joint submission - Parties directed to file material in support of relief sought as well as jurisdiction of Commission with respect to a consent motion.