

MAHS Lansing Office
State Police
Register of Actions

Case Number: 12-000544 (Donald B. Cole v Michigan Commission on Law Enforcement Standards)

Parties	Representatives
Donald B. Cole Petitioner	Self Represented
Michigan Commission on Law Enforcement Standards Respondent	Self Represented

RECEIVED
JUL 12 2012
MCOLES

Active Assignments

Judge : Peter L. Plummer
Scheduler: Jackie Peoples
Secretary: Beverly Hague

Action Date	Action	Amount Transaction
4/2/2012	An evidentiary hearing has been scheduled.	Schedule:111480
4/2/2012	A Request for Hearing was received.	Document:136374
4/2/2012	Notice of Hearing with Proof of Service	Document:136373
5/22/2012	#1 Judgment of Sentence Commitment to Jail	Document:141501
5/22/2012	Hearing was completed.	Evt Result:111480
5/22/2012	#2 MCOLES Information and Tracking Network	Document:141502
5/22/2012	A notice of appearance was filed.	Document:141503
6/4/2012	A Proposed Final Decision was issued.	Document:141504
6/4/2012	Decision Issued	Disposition:125345
7/6/2012	Certification of Record	Document:141505

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM**

IN THE MATTER OF:

Docket No.: 12-000544

**Donald B. Cole,
Petitioner**

Case No.: MCO-2011-99

v

Agency: State Police

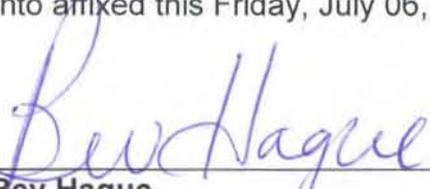
**Michigan Commission on Law
Enforcement Standards (MCOLES),
Respondent**

Case Type: MCOLES

CERTIFICATION OF RECORD

I, Bev Hague hereby certify that the attached Register of Actions constitutes the entire record of the proceedings in the above captioned matter.

In Witness Whereof, I have hereunto set my hand and caused the Seal of the Michigan Administrative Hearing System to be hereunto affixed this Friday, July 06, 2012.



Bev Hague
Michigan Administrative Hearing System

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM**

In the matter of

Donald B. Cole,
Petitioner

v

Michigan Commission on Law
Enforcement Standards (MCOLES),
Respondent

Docket No. 12-000544-MSP

Case No. MCO-2011-99

Agency: State Police

Case Type: MCLES

Filing Type: Sanctions/
License Revocation

Issued and entered
this 4th day of June, 2012
by Peter L. Plummer
Administrative Law Judge

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

This proceeding commenced with the Respondent's issuance of an Order of Summary Suspension and Notice of Intent to Revoke (Notice) the Petitioner's license to act as a law enforcement officer in the State of Michigan. The Michigan Administrative Hearing System (MAHS) issued a Notice of Hearing dated April 3, 2012, scheduling a hearing on the Respondent's Notice for May 22, 2012, beginning at 9:00 a.m. The Notice of Hearing was mailed to the parties' last known address. Further, the Notice of Hearing informed the parties that if either party failed to appear at the scheduled hearing, a default may be entered pursuant to Sections 72 and 78 of the Administrative Procedures Act (APA) of 1969, 1969 PA 306, as amended, being MCL 24.201 *et seq.*

The Notice of Hearing was issued pursuant to allegations by the Respondent contained in the Notice that the Petitioner violated the Commission on Law Enforcement Standards Act (Act), 1965 PA 203, as amended, being MCL 28.601 *et seq* when he entered a plea of guilty to a felony charge making him ineligible to be licensed as a law enforcement officer in Michigan.

The hearing commenced as scheduled on May 22, 2012. John F. Szczubelek, Assistant Attorney General, appeared on behalf of the Respondent. Lawrence Jones, Investigator, MCOLES was present at the hearing, but did not testify. Neither Petitioner, Donald B. Cole, nor an attorney on behalf of Petitioner, appeared at the hearing.

At the hearing, Respondent's counsel requested that the Respondent be allowed to proceed in the Petitioner's absence pursuant to Section 72 of the APA and that a default be granted on behalf of the Respondent pursuant to Section 78 of the APA.

Section 72 of the APA states in pertinent part:

- (1) If a party fails to appear in a contested case after proper service of notice, the agency, if no adjournment is granted, may proceed with the hearing and make its decision in the absence of the party.

Further, Section 78 of the APA states in pertinent part:

- (2) Except as otherwise provided by law, disposition may be made of a contested case by . . . default . . .

The Respondent's motion for default was granted. As a result of the default, the factual allegations contained in the Respondent's Notice dated March 21, 2012, are deemed true and accurate on the record.

EXHIBITS

During the May 22, 2012 hearing, two exhibits were accepted into the record:

Respondent's Exhibit 1

Four pages including a Certified Copy from the 56th Judicial Circuit Court of Eaton County of a document entitled JUDGMENT OF SENTENCE COMMITMENT TO JAIL in Case File No. 11-020393-FH-E listing a "G" to

one felony conviction of Donald Brian Cole, date of birth, 10/14/1977, to the offense of; Count 1 – EMBEZZ PUBLIC OFF OVER \$50, MCL 750.175 [PACC Code for MCL 750.175 Embezzlement by public officer, agent or servant of the value of 50 dollars or upwards] a felony offense punishable by up not more than 10 years or by a fine of not more than \$5,000.00. His plea was accepted by the Circuit Court Judge, the Hon. Thomas S. Eveland.

Respondent's Exhibit 2

MCOLES Information and Tracking Network Record – one page. Listed 11/03/1999 as the original license date for Donald Brian Cole and listed his date of birth as 10/14/1977.

No witnesses testified at hearing.

ISSUES AND APPLICABLE LAW

Section 9b of the Act, being MCL 28.609b, allows the Respondent to revoke the Petitioner's certificate. Subsection 1 provides:

- (1) The commission shall promulgate rules that provide for the revocation of certification of a law enforcement officer for 1 or more of the following:
 - a) Conviction by a judge or jury of a felony.
 - b) Conviction by a plea of guilt to a felony.
 - c) Conviction by a plea of no contest to a felony.
 - d) Making a materially false statement or committing fraud during the application for certification process.

Section 2(f) of the Act defines a "felony" as follows:

"Felony" means a violation of a penal law of this state or another state that is either of the following:

- (i) Punishable by a term of imprisonment greater than 1 year.
- (ii) Expressly designated a felony by statute.

The Notice in this case alleges that the Petitioner is in violation of Section 9b as a result of the Petitioner's plea of guilty to a felony level offense as defined by the Act.

FINDINGS OF FACT

Based upon the record, including the pleadings, as well as the exhibits entered into the record, and the fact that a default was granted, I make the following findings of fact:

1. Donald Brian Cole is currently licensed as a law enforcement officer in Michigan and has been so licensed since November 3, 1999.
2. Donald Brian Cole, entered his plea of Guilty on January 20, 2012, to Embezzlement by public officer, agent or servant of the value of 50 dollars or upwards, a felony offense punishable by up not more than 10 years or by a fine of not more than \$5,000.00.
3. Donald Brian Cole's conviction was issued and entered on the dates and in the county stated above.

CONCLUSIONS OF LAW

The principles that govern judicial proceedings also apply to administrative hearings. 8 Callaghan's Michigan Pleading and Practice §60.248, at 230 (2d ed. 1994). The burden of proof is upon the Respondent to prove, by a preponderance of the evidence that grounds exist for the imposition of sanctions upon the Petitioner. Under Section 72 of the APA, there is no requirement to provide a full evidentiary hearing when all alleged facts are taken as true. *Smith v Lansing School District*, 428 Mich 248; 406 NW2d 825 (1987). Based upon the findings of fact and the exhibits offered by the Respondent, the Respondent has established by a preponderance of the evidence that Petitioner was convicted of a felony within the definition in Section 2(f) of the Act. It should be noted that subsection 1 (b) of the act includes a "guilty" plea as sufficient for the purposes of conviction and revocation under the Act. As a result, the Respondent has established that the Petitioner violated Section 9b of the Act.

The Petitioner has been shown to have been convicted of a felony within the meaning of the Act. Until and unless the Petitioner's license is revoked, the Petitioner continues to be certified to act as a law enforcement officer in this state. This possibility

threatens the health and safety of the residents in this state. The Respondent has demonstrated, therefore, that it acted properly in issuing an Order of Summary Suspension and Notice against the Petitioner.

EXCEPTIONS

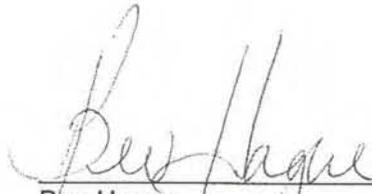
If a party chooses to file Exceptions to this Proposal for Decision, Exceptions must be filed within 15 days after the Proposal for Decision is issued and entered. If an opposing party chooses to file a Response to Exceptions, it must be filed within five days after Exceptions are filed. All Exceptions and Responses to Exceptions must be filed with the MAHS, Department of Licensing and Regulatory Affairs, P.O. Box 30695, Lansing, Michigan, 48909-8195, and served on all parties to the proceeding.



Peter L. Plummer
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by first class mail at their respective addresses as disclosed by the file on the 4th day of June, 2012.



Bev Hague

Michigan Administrative Hearing System

Mr. Donald B. Cole
4399 Lansing Road
Charlotte, Michigan 48813

Mr. John Szczubelek
Michigan Department of Attorney General
106 West Allegan, Suite 600
Lansing, Michigan 48909

Ms. Hermina Kramp
MCOLES
106 West Allegan, Suite 600
Lansing, Michigan 48909

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

(PLEASE PRINT)

DOCKET NUMBER: 12-000544-MSP

IN THE MATTER OF:

Cole v MCOLES

APPEARANCE

My appearance as attorney is filed on behalf of:

Petitioner

Other

Respondent

My appearance as authorized representative is filed on behalf of:

Petitioner

Other

Respondent

NAME:

John F. Szczubelek

FIRM/COMPANY NAME:

AG

ADDRESS:

106 W. Allegan Ste 600

CITY, STATE, ZIP:

Lansing MI 48909

TELEPHONE NUMBER:

322 5435

FAX NUMBER:

322 6439

DATE:

5-22-12

SIGNATURE:

John F. Szczubelek

STATE OF MICHIGAN 56TH JUDICIAL CIRCUIT EATON COUNTY	JUDGMENT OF SENTENCE <input type="checkbox"/> COMMITMENT TO JAIL	CASE NO. 11-020393-FH-E
--	---	----------------------------

ORI MI-230015J Court Address CIRCUIT COURT 1045 INDEPENDENCE BLVD. CHARLOTTE, MI 48813 Court Telephone no. 517-543-7500

Police Report No.

THE PEOPLE OF The State of Michigan

V

Defendant name, address, and t
 DONALD BRIAN COLE
 7399 LANSING ROAD
 CHARLOTTE, MI 48813

CTN/TCN	SID	DOB
231100526101	4359109M	10/14/77



THE COURT FINDS:

1. Defendant was found guilty on 1/20/12 of the crime(s) as stated below:
 Date

Count	CONVICTED BY Plea* Court Jury	DISMISSED BY*	CRIME	CHARGE CODE(S) MCL citation/PACC code
1	G		EMBEZZ PUBLIC OFF OVER\$50	750.175

*For plea: insert "G" for guilty plea, "NC" for nolo contendere, or "MI" for guilty but mentally ill. For dismissal: insert "D" for dismissed by court or "NP" for dismissed by prosecutor/plaintiff.

2. Defendant represented by an attorney: MAURER, JOHN DOUGLAS,
 advised of right to counsel and appointed counsel and knowingly, intelligently, and voluntarily waived that right.
3. Conviction reportable to Secretary of State.
 Defendant's driver's license number is _____.
4. Sanctions reportable to State Police. Revoked. Suspended _____ days. Restricted _____ days.
5. HIV testing and sex offender registration is completed.
6. Defendant has been fingerprinted according to MCL 28.243.

IT IS ORDERED:

7. Probation is revoked.
8. Deferred status is revoked. HYTA status is revoked.
9. Defendant is sentenced to jail as follows: Report at 9 A m. 2-17-12 To Barry Co.

Count	Date Sentence Begins	Sentenced		Credited		To Be Served		Release Authorized for the Following Purpose	Release Period	
		Mos.	Days	Mos.	Days	Mos.	Days		From	To
1	2-16-12		15					<input type="checkbox"/> Upon payment of fine/costs <input type="checkbox"/> To work or seek work..... <input type="checkbox"/> For attendance at school.. <input type="checkbox"/> For medical treatment..... <input type="checkbox"/> Other _____		
	(work release)		1AM - 10AM							
			Sunday - Sunday							

10. Defendant shall pay:
 \$ 794 RESTITUTION
 \$ 10/mo OTHER COSTS SPF
 \$ 68 STATE MINIMUM
 \$ 200 COURT COSTS @ 10/mo
 \$ _____ TOTAL
 \$ 130 CRIME VICTIM
 \$ _____ ATTORNEY FEES

The due date for payment is _____. Fine, costs, and fees not paid within 56 days of the due date are subject to a 20% late penalty on the amount owed. Only the fine and some costs may be satisfied by serving time in jail. Defendant shall serve _____ days in jail beginning _____ for failure to pay on time.

11. Defendant shall be placed on probation for 24 months and abide by the terms of probation. (See separate order.)
12. Defendant shall complete the following rehabilitative services.
 Alcohol Highway Safety Education
 Treatment (outpatient, inpatient, residential, mental health).
 Specify:
13. The vehicle used in the offense shall be immobilized or forfeited. (See separate order.)

STATE OF MICHIGAN 56TH JUDICIAL CIRCUIT EATON COUNTY	JUDGMENT OF SENTENCE <input type="checkbox"/> COMMITMENT TO JAIL	CASE NO. 11-020393-FH-E
--	---	----------------------------

- 14. The concealed weapon board shall suspend for _____ days permanently revoke the concealed weapon license, permit number _____, issued by _____ County.
- 15. Other:

COUNTY OF EATON)
STATE OF MICHIGAN) SS

I, M. Frances Fuller, Clerk of the Circuit Court for said County of Eaton, Do hereby certify that the foregoing is a true copy of a record now remaining in the office of the Clerk of said County and Court.

In Testimony Whereof, I have hereunto set my hand, and affixed the seal of said Court and County, at the City of Charlotte this 2 day of March A.D. 2012

By *[Signature]* Dep. Clerk

2-16-12
Date

(SEAL)

[Signature]
Judge/Magistrate THOMAS S. EVELAND 13253
Bar no.

STATE OF MICHIGAN 56th Circuit Court - Eaton County	ORDER OF PROBATION	CASE NO. 11-393-FH
--	--------------------	-----------------------

ORI: MI230015J Court Address: Eaton County Courthouse, 1045 Independence Blvd. Charlotte Michigan 48813 Court Telephone: (517)543-7500

THE PEOPLE OF THE STATE OF MICHIGAN Eaton County	V	Defendant's name, address and telephone no. COLE, Donald Brian 4399 Lansing Road Charlotte Michigan 48813 (517)645-7809								
		<table border="1"> <tr> <td>CTN</td> <td>TCN</td> <td>SID</td> <td>DOB</td> </tr> <tr> <td>23-11005261-01</td> <td></td> <td>4359109M</td> <td>10/14/1977</td> </tr> </table>	CTN	TCN	SID	DOB	23-11005261-01		4359109M	10/14/1977
CTN	TCN	SID	DOB							
23-11005261-01		4359109M	10/14/1977							

Probation Officer: DONALD G STOCKEN	Term: 2 years Beg. 2/16/2012
Offenses: (1) 750.175 - Embz-Public Officer, Agent, Servant	

<input type="checkbox"/> Judgment of guilt is deferred under:	<input type="checkbox"/> MCL 333.7411, Controlled Substance Act	<input type="checkbox"/> MCL 750.350a, Parental Kidnapping Act
	<input type="checkbox"/> MCL 762.14, Youthful Trainee Status	<input type="checkbox"/> MCL 600.1070, Drug Treatment Court

IT IS ORDERED that the defendant be placed on probation under the supervision of the above named probation officer for the term indicated, and the defendant shall:

- Not violate any criminal law of any unit of government.
 - Not leave the state without the consent of this court.
 - Make a truthful report to the probation officer monthly, or as often as the probation officer may require, either in person or in writing, as required by the probation officer.
 - Notify the probation officer immediately of any change of address or employment status.
 - Pay the following to the court:

Fine.....	\$
Costs.....	\$200.00
Restitution.....	\$794.00
Crime Victim Assessment.....	\$130.00
Attorney Fee.....	\$
State Costs.....	\$68.00
Drug Court Fee.....	\$
Other.....	\$
TOTAL.....	\$1,192.00
 - a. The due date for payment is _____.
 - b. Total amount due may be paid in installments of \$ _____ per _____ starting on _____ and paid in full by the due date stated on the judgement of sentence or by _____.
- Fines, costs and fees not paid within 56 days of the date owed or of any installment payment date are subject to a 20% late penalty on the amount owed.
- Pay a supervision fee to the Department of Corrections in the amount of \$ 240.00 The fee is payable immediately.
 Total amount due may be paid in installments of \$ 10.00 per month starting on _____ payable to the State of Michigan.
 - 03.4 You must complete the Gamblers Anonymous program.
 - 04.9 You must not participate in gambling or gaming activities or enter gambling or gaming establishments unless you first obtain written permission from the field agent.
 - 08.0 You must serve jail time as follows: **15 days in the Barry County Jail , with credit for zero days served.**
 - 08.1 You must pay restitution in the amount of \$ 794.00 as follows: Payable, via Eaton County Clerk, and paid on date of sentence . You must execute a wage assignment to pay restitution if you are employed and miss two regularly scheduled payments.
 - 08.18 You must pay \$ 68.00 State Cost as ordered by the Court.
 - 08.2 You must pay a crime victim's assessment in the amount of \$ 130.00 as ordered by the Court.
 - 08.4 You must pay court costs of \$ 200.00 as ordered by the Court. These costs may be paid at the rate of \$10.00 per month.
 - 09.01 Work Release, daily, 1:00 a.m. - 10:00 a.m.

Failure to comply with this order may result in a revocation of probation and incarceration.

If the judgment of guilt is deferred as stated above, the clerk of the court shall advise the Michigan State Police Criminal Justice Information Center of the disposition as required under MCL 769.16a.

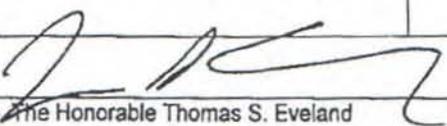
CC 243a (3/06) ORDER OF PROBATION MCL 600.4803, MCL 769.1a, MCL 771.1 et seq., MCL 775.22, MCL 780.826, MCR 6.445, 18 USC 922(g)(8)(c) COLE, Donald Brian- 830265 02/17/2012 09:54:25

STATE OF MICHIGAN, COUNTY OF EATON
FILED
MAR 05 2012

M. FRANCES FULLER
CLERK

STATE OF MICHIGAN 56th Circuit Court - Eaton County	ORDER OF PROBATION	CASE NO. 11-393-FH
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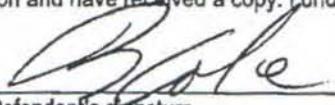
2/21/12
Date


Judge, The Honorable Thomas S. Eveland

P13253
Bar No.

I have read or heard the above order of probation and have received a copy. I understand and agree to comply with this order.

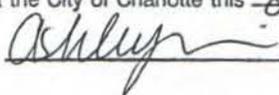
3-5-12
Date


Defendant's signature

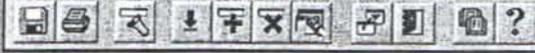
COUNTY OF EATON)
STATE OF MICHIGAN) SS

I, M. Frances Fuller, Clerk of the Circuit Court for said County of Eaton, Do hereby certify that the foregoing is a true copy of a record now remaining in the office of the Clerk of said County and Court.

In Testimony Whereof, I have hereunto set my hand, and affixed the seal of said Court and County, at the City of Charlotte this 8 day of March A.D. 2012

By  Dep. Clerk

REFERENDUM'S EXHIBIT 2



JONESLJ
COMP_SUPP

MCOLES Information and Tracking Network
Add/Update Personal License

12/15/2011
10:23 AM

General Information

License Code: Law Enforcement Officers Type: LEO Law Enforcement Officer SSN: 382-06-7547

Last Name: COLE Birth Date: 10/14/1977 Driver's License #: C400149098790 Authority: MI

First Name: DONALD Name Prefix: Foreign ID:

Middle Name: BRIAN Name Suffix: Deceased: Title:

Also Known As (Maiden, etc.): DONALD COLE Gender: Male E-Mail:

Education	Training/Employment Application	Exams	Inspections	Comments
License Details	Personal Information	License History	Relationships	Complaints

Number: 35419 Method: Basic Training Print?: No License Status: Inactive

Original License Date: 11/03/1999 Renewal Date: Expiration Date: 12/31/2050 Print Dup: Dup Date:

Specialties/Endorsements/Disciplines

Display to Public	Type	Start Date	Print	C/E Due Dt	Status	Credentialed By	Stop Dt	Certific
<input checked="" type="checkbox"/>	Speed Measurement Certi	11/2/30/1999	<input type="checkbox"/>		A	EATON RAPIDS POLICE D		F0008
<input type="checkbox"/>			<input type="checkbox"/>					

Specialty History

Specialty Practice Areas

SC

Continuing Education

CE Required CE Required By Date: CPA CE

CE Requirement Met Grace Period

Certificate number
Record: 1/1

<OSC> <DBG>

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM**

DATE NOTICE MAILED: 4/03/2012

IN THE MATTER OF:

Donald B. Cole,
Petitioner

v

Michigan Commission on Law
Enforcement Standards,
Respondent

Docket No.: 12-000544-MSP

Case No.: MCO-2011-99

Agency: State Police

Case Type: MCOLES

Filing Type: Sanctions/License
Revocation

NOTICE OF HEARING

You are hereby notified that a formal administrative hearing under the jurisdiction of the 1965 PA 203 has been scheduled before an Administrative Law Judge on:

Date: Tuesday, May 22, 2012
Time: 9:00 AM
ALJ: Peter L. Plummer
Location: Lansing Hearing Room F
611 W. Ottawa
Lansing, MI 48933

Issue: Petitioner entered a guilty plea to a felony charge, making him ineligible to be licensed as a law enforcement officer in Michigan.

The case will be conducted in accordance with procedures applicable to the trial of contested cases under the Administrative Procedures Act, 1969 PA 306, as amended, MCL 24.201 et seq. At the discretion of the Administrative Law Judge, a pre-hearing conference may be held among the parties at the beginning of the hearing.

All pleadings and motions shall be filed with the **Michigan Administrative Hearing System at P.O. Box 30695, Lansing, Michigan 48909**; or by facsimile at **(517) 335-6696**. You must send a copy of everything you file to the opposing party as listed on the proof of service accompanying this Notice.

If the opposing party files a motion, you must respond within seven days after you receive it, unless the Administrative Law Judge sets a different time for response.

12-000544-MSP

Page 2

You are further notified that you may be represented by an attorney or representative; law permitting, at the hearing. You may present evidence or call witnesses. If you wish to offer any document(s) into evidence at the hearing, you must bring the document to introduce into the record, your own copy, and a copy for the opposing party. The Michigan Administrative Hearing System is not responsible for photocopying your documents.

In the event that you fail to appear at the hearing as scheduled, a default judgment or decision may be entered against you pursuant to the Administrative Procedures Act.

All hearings are conducted in a barrier free location and are in compliance with the 1990 Americans with Disabilities Act. A disabled individual requiring accommodation for effective participation in a hearing should call the Michigan Administrative Hearing System at: (517) 335-2484 to make arrangements. To ensure the availability of accommodations, a request should be made at least one week in advance.

All hearing attendees must present picture identification to gain access to State Office Buildings. Failure to present picture identification will result in denial of access.

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed below this 3rd day of April, 2012.

Jacquelyn R. Peoples

Jacquelyn R. Peoples
Michigan Administrative Hearing System

John Szczubelek
Michigan Department of Attorney General
106 West Allegan, Suite 600
Lansing, MI 48909

Hermina Kramp
Michigan Commission on Law
Enforcement Standards
106 West Allegan, Suite 600
Lansing, MI 48909

Donald B. Cole
4399 Lansing Road
Charlotte, MI 48813

REQUEST FOR HEARING

RECEIVED

MAR 26 2012

MICHIGAN ADMINISTRATIVE
HEARING SYSTEM

1. IN THE MATTER OF

Donald B. Cole

v.

Michigan Commission on Law Enforcement Standards

2. ISSUE

Petitioner entered a guilty plea to a felony charge making him ineligible to be licensed as a law enforcement officer in Michigan.

3. INITIATING AGENCY'S FILE NUMBER

MCO-2011-99

4a. STATUTORY START DATE

4b. DAYS ALLOWED

5. AGENCY

Michigan Commission on Law Enforcement Standards

6. DIVISION

7. ACT/ CODE OF LAW

Act 203, P.A. 1965, as amended

8. PROVISION OF LAW

MCL 28.609b

9. CHAPTER/ SECTION OF LAW

Section 9(1)(b)

10. CASE TYPE

Sanctions

11. CASE SUB-TYPE

License Revocation

12. GEOGRAPHICAL AREA

13. PREPARED BY

Hermína Kramp

PHONE NUMBER

(517) 322-5621

FAX NUMBER

(517) 322-6439

DATE PREPARED

March 22, 2012

14. Refer to Request for Hearing Instructions.

15. COMMENTS

For Michigan Administrative Hearing System Use Only

DATE RECEIVED

3-26-12

DATE COMPLETED

COMPLETED BY

JRP

DOCKET NUMBER

12-000544

ALJ ASSIGNED

Plummer

COMMENTS

Tue. 5-22-12 9:00 AM F-D SZCZUBELEK

RECEIVED

MAR 26 2012

MICHIGAN ADMINISTRATIVE
HEARING SYSTEM

PERSONS INVOLVED WITH THE REQUEST FOR HEARING

1. IN THE MATTER OF Donald B. Cole v. Michigan Commission on Law Enforcement Standards				2. AGENCY FILE NUMBER MCO-2011-99		3. MAHS DOCKET NUMBER		
4. CHECK ONE (X) <input type="checkbox"/> Petitioner <input checked="" type="checkbox"/> Respondent <input type="checkbox"/> Intervenor <input type="checkbox"/> Department <input type="checkbox"/> Petitioner Attorney <input type="checkbox"/> Respondent Attorney <input type="checkbox"/> Intervenor Attorney <input type="checkbox"/> Petitioner Non-Attorney <input type="checkbox"/> Respondent Non-Attorney <input type="checkbox"/> Intervenor Non-Attorney								
5. NAME Hermina Kramp								
6. FIRM Michigan Commission on Law Enforcement Standards (MCOLES)								
7. ON BEHALF OF MCOLES								
8. STREET ADDRESS / P.O. BOX 106 West Allegan, Suite 600								
9. CITY Lansing			10. STATE MI	11. ZIP CODE 48909	12. PHONE (517) 322-5621		13. FAX (517) 322-6439	
4. CHECK ONE (X) <input type="checkbox"/> Petitioner <input checked="" type="checkbox"/> Respondent <input type="checkbox"/> Intervenor <input type="checkbox"/> Department <input type="checkbox"/> Petitioner Attorney <input type="checkbox"/> Respondent Attorney <input type="checkbox"/> Intervenor Attorney <input type="checkbox"/> Petitioner Non-Attorney <input type="checkbox"/> Respondent Non-Attorney <input type="checkbox"/> Intervenor Non-Attorney								
5. NAME John Szczubelek								
6. FIRM Michigan Department of Attorney General								
7. ON BEHALF OF MCOLES								
8. STREET ADDRESS / P.O. BOX 106 W. Allegan, Suite 600								
9. CITY Lansing			10. STATE MI	11. ZIP CODE 48909	12. PHONE (517) 322-5435		13. FAX (517) 322-6439	
4. CHECK ONE (X) <input checked="" type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Intervenor <input type="checkbox"/> Department <input type="checkbox"/> Petitioner Attorney <input type="checkbox"/> Respondent Attorney <input type="checkbox"/> Intervenor Attorney <input type="checkbox"/> Petitioner Non-Attorney <input type="checkbox"/> Respondent Non-Attorney <input type="checkbox"/> Intervenor Non-Attorney								
5. NAME Donald B. Cole								
6. FIRM								
7. ON BEHALF OF								
8. STREET ADDRESS / P.O. BOX 4399 Lansing Road								
9. CITY Charlotte			10. STATE MI	11. ZIP CODE 48813	12. PHONE		13. FAX	
4. CHECK ONE (X) <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Intervenor <input type="checkbox"/> Department <input type="checkbox"/> Petitioner Attorney <input type="checkbox"/> Respondent Attorney <input type="checkbox"/> Intervenor Attorney <input type="checkbox"/> Petitioner Non-Attorney <input type="checkbox"/> Respondent Non-Attorney <input type="checkbox"/> Intervenor Non-Attorney								
5. NAME								
6. FIRM								
7. ON BEHALF OF								
8. STREET ADDRESS / P.O. BOX								
9. CITY			10. STATE	11. ZIP CODE	12. PHONE		13. FAX	

STATE OF MICHIGAN
MICHIGAN COMMISSION ON LAW ENFORCEMENT STANDARDS

In the Matter of

Donald B. Cole
License No. 35419

Agency File Number: MCO-2011-99

ORDER OF SUMMARY SUSPENSION
AND NOTICE OF INTENT TO REVOKE LAW ENFORCEMENT OFFICER LICENSE

The Michigan Commission on Law Enforcement Standards, by David L. Harvey, Executive Director, orders the Summary Suspension and provides Notice of Intent to Revoke the law enforcement officer license of Donald B. Cole, based on the following:

1. The Michigan Commission on Law Enforcement Standards, hereafter "MCOLES," is an administrative agency established by the Commission on Law Enforcement Standards Act, 1965 PA 203, MCL 28.601 *et seq.*, hereafter "the Act."
2. Section 9b(1) of the Act, MCL 28.609b(1), provides that MCOLES shall promulgate rules for the revocation of a license of a law enforcement officer for conviction by a plea of no contest to a felony.
3. Section 2(f) of the Act defines a felony to include a violation of the penal law of this State that is punishable by imprisonment greater than 1 year, or expressly designated a felony by statute.
4. 1999 AC, R 28.14604 provides that MCOLES shall issue an order of summary suspension and notice of intent to revoke if an investigation discloses that a licensed law enforcement officer has been convicted of an offense defined in MCL 28.602(f).
5. Donald B. Cole is currently licensed as a law enforcement officer in the State of Michigan, and has been so licensed since November 3, 1999. (Attachment A)
6. On January 20, 2012, in the Eaton County Circuit Court, Donald B. Cole, upon a plea of guilty, was convicted of the offense of Embezzlement by Public Officer Over \$50, MCL 750.175. (Attachment B)
7. On February 16, 2012, in the Eaton County Circuit Court, Donald B. Cole was sentenced to 15 days of imprisonment for the offense. (Attachment B)
8. MCL 750.175 provides that a defendant convicted of the offense of Embezzlement by Public Officer Over \$50 shall be guilty of a felony, punishable by imprisonment of not more than 10 years.

COUNT I

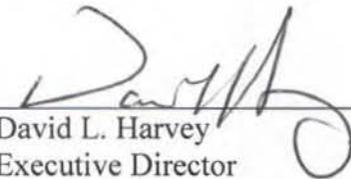
The offense of Embezzlement by Public Officer Over \$50, MCL 750.175, to which Donald B. Cole pled guilty to, constitutes a felony for which license revocation under MCL 28.609b is warranted.

This Order and Notice is based on files and records maintained by MCOLES through an investigation conducted by MCOLES staff and a certified copy of the judgment of sentence.

Due to the serious nature of the felony convictions and the potential threat to public health, safety, and welfare, MCOLES invokes section 92(2) of the Administrative Procedures Act of 1969, MCL 24.292(2) and summarily suspends the law enforcement officer license of Donald B. Cole and gives notice of an administrative hearing to adjudicate revocation of his license.

A hearing will be scheduled under the Administrative Procedures Act of 1969, MCL 24.201 *et seq.*

Dated: 3.21.12



David L. Harvey
Executive Director

JONESLJ COMP_SUPP MCOL Information and Tracking Network Add/Update Personal License 12/15/2011 10:23 AM

General Information

License Code: Law Enforcement Officers Type: LEO Law Enforcement Officer SSN: 382-06-7547

Last Name: COLE Birth Date: 10/14/1977 Driver's License #: C400149098790 Authority: MI

First Name: DONALD Name Prefix: Foreign ID:

Middle Name: BRIAN Name Suffix: Deceased: Title:

Also Known As (Maiden, etc.): DONALD COLE Gender: Male E-Mail:

Education	Training/Employment Application	Exams	Inspections	Comments
License Details	Personal Information	License History	Relationships	Complaints

Number: 35419 Method: Basic Training Print?: No License Status: Inactive

Original License Date: 11/03/1999 Renewal Date: Expiration Date: 12/31/2050 Print Dup.: Dup. Date:

Specialties/Endorsements/Disciplines

Display to Public	Type	Start Date	Print C/E Due Dt	Status	Credentialed By	Stop Dt	Certific
<input checked="" type="checkbox"/>	Speed Measurement Certi	12/30/1999		A	EATON RAPIDS POLICE D		R0008
<input type="checkbox"/>							

Specialty History

Specialty Practice Areas

SC

Continuing Education

CE Required CE Required By Date: CPA CE

CE Requirement Met Grace Period

STATE OF MICHIGAN 56TH JUDICIAL CIRCUIT EATON COUNTY	JUDGMENT OF SENTENCE <input type="checkbox"/> COMMITMENT TO JAIL	CASE NO. 11-020393-FH-E
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ORI MI-230015J Court Address CIRCUIT COURT 1045 INDEPENDENCE BLVD. CHARLOTTE, MI 48813 Court Telephone no. 517-543-7500
Police Report No.

THE PEOPLE OF The State of Michigan

V

Defendant name, address, and telephone no.
DONALD BRIAN COLE
7399 LANSING ROAD
CHARLOTTE, MI 48813
CTN/TCN 231100526101 SID 4359109M DOB 10/14/77

THE COURT FINDS:

1. Defendant was found guilty on 1/20/12 Date of the crime(s) as stated below:

Count	CONVICTED BY Plea* Court Jury	DISMISSED BY*	CRIME	CHARGE CODE(S) MCL citation/PACC code
1	G		EMBEZZ PUBLIC OFF OVER\$50	750.175

*For plea: insert "G" for guilty plea, "NC" for nolo contendere, or "MI" for guilty but mentally ill. For dismissal: insert "D" for dismissed by court or "NP" for dismissed by prosecutor/plaintiff.

2. Defendant represented by an attorney: MAURER, JOHN DOUGLAS,
 advised of right to counsel and appointed counsel and knowingly, intelligently, and voluntarily waived that right.
3. Conviction reportable to Secretary of State.
Defendant's driver's license number is _____.
4. Sanctions reportable to State Police. Revoked. Suspended _____ days. Restricted _____ days.
5. HIV testing and sex offender registration is completed.
6. Defendant has been fingerprinted according to MCL 28.243.

IT IS ORDERED:

7. Probation is revoked.
8. Deferred status is revoked. HYTA status is revoked.
9. Defendant is sentenced to jail as follows: Report at 9 A m. 2-17-12 To Barry Co.

Count	Date Sentence Begins	Sentenced		Credited		To Be Served		Release Authorized for the Following Purpose	Release Period	
		Mos.	Days	Mos.	Days	Mos.	Days		From	To
1	2-16-12		15		0			<input type="checkbox"/> Upon payment of fine/costs <input type="checkbox"/> To work or seek work..... <input type="checkbox"/> For attendance at school.. <input type="checkbox"/> For medical treatment..... <input type="checkbox"/> Other _____		
	(work release)		1AM - 10AM							
			Sunday - Sunday							

10. Defendant shall pay: \$ 68 STATE MINIMUM \$ 130 CRIME VICTIM
\$ 794 RESTITUTION \$ 200 COURT COSTS @ 10/mo \$ _____ ATTORNEY FEES
\$ 10/mo OTHER COSTS SPF \$ _____ TOTAL

The due date for payment is _____. Fine, costs, and fees not paid within 56 days of the due date are subject to a 20% late penalty on the amount owed. Only the fine and some costs may be satisfied by serving time in jail. Defendant shall serve _____ days in jail beginning _____ for failure to pay on time.

11. Defendant shall be placed on probation for 24 months and abide by the terms of probation. (See separate order.)
12. Defendant shall complete the following rehabilitative services.
 Alcohol Highway Safety Education
 Treatment (outpatient, inpatient, residential, mental health).
Specify:
13. The vehicle used in the offense shall be immobilized or forfeited. (See separate order.)

Approved, SCAO

STATE OF MICHIGAN
56TH JUDICIAL CIRCUIT
EATON COUNTY

JUDGMENT OF SENTENCE
 COMMITMENT TO JAIL

CASE NO.
11-020393-FH-E

- 14. The concealed weapon board shall suspend for ____ days permanently revoke the concealed weapon license, permit number _____, issued by _____ County.
- 15. Other:

COUNTY OF EATON)
STATE OF MICHIGAN) SS

I, M. Frances Fuller, Clerk of the Circuit Court for said County of Eaton, Do hereby certify that the foregoing is a true copy of a record now remaining in the office of the Clerk of said County and Court.

In Testimony Whereof, I have hereunto set my hand, and affixed the seal of said Court and County, at the City of Charlotte this 8 day of March A.D. 2012

By *[Signature]* Dep. Clerk

2-16-12
Date

(SEAL)

[Signature]
Judge/Magistrate THOMAS S. EVELAND

13253
Bar no.

STATE OF MICHIGAN 56th Circuit Court - Eaton County	ORDER OF PROBATION	CASE NO. 11-393-FH
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ORI: MI230015J Court Address: Eaton County Courthouse, 1045 Independence Blvd. Charlotte Michigan 48813 Court Telephone: (517)543-7500

THE PEOPLE OF THE STATE OF MICHIGAN Eaton County	V	Defendant's name, address and telephone no. COLE, Donald Brian 4399 Lansing Road Charlotte Michigan 48813 (517)645-7809			
		CTN 23-11005261-01	TCN	SID 4359109M	DOB 10/14/1977

Probation Officer: DONALD G STOCKEN	Term: 2 years Beg. 2/16/2012
Offenses: (1) 750.175 - Embz-Public Officer, Agent, Servant	

<input type="checkbox"/> Judgment of guilt is deferred under:	<input type="checkbox"/> MCL 333.7411, Controlled Substance Act	<input type="checkbox"/> MCL 750.350a, Parental Kidnapping Act
	<input type="checkbox"/> MCL 762.14, Youthful Trainee Status	<input type="checkbox"/> MCL 600.1070, Drug Treatment Court

IT IS ORDERED that the defendant be placed on probation under the supervision of the above named probation officer for the term indicated, and the defendant shall:

- Not violate any criminal law of any unit of government.
 - Not leave the state without the consent of this court.
 - Make a truthful report to the probation officer monthly, or as often as the probation officer may require, either in person or in writing, as required by the probation officer.
 - Notify the probation officer immediately of any change of address or employment status.
 - Pay the following to the court:

Fine.....	\$
Costs.....	\$200.00
Restitution.....	\$794.00
Crime Victim Assessment.....	\$130.00
Attorney Fee.....	\$
State Costs.....	\$68.00
Drug Court Fee.....	\$
Other.....	\$
TOTAL.....	\$1,192.00
 - a. The due date for payment is _____
 - b. Total amount due may be paid in installments of \$ _____ per _____ starting on _____ and paid in full by the due date stated on the judgement of sentence or by _____
- Fines, costs and fees not paid within 56 days of the date owed or of any installment payment date are subject to a 20% late penalty on the amount owed.
- Pay a supervision fee to the Department of Corrections in the amount of \$ 240.00 The fee is payable immediately.
 Total amount due may be paid in installments of \$ 10.00 per month starting on _____ payable to the State of Michigan.
 - 03.4 You must complete the Gamblers Anonymous program.
 - 04.9 You must not participate in gambling or gaming activities or enter gambling or gaming establishments unless you first obtain written permission from the field agent.
 - 08.0 You must serve jail time as follows: **15 days in the Barry County Jail , with credit for zero days served.**
 - 08.1 You must pay restitution in the amount of \$ 794.00 as follows: Payable, via Eaton County Clerk, and paid on date of sentence . You must execute a wage assignment to pay restitution if you are employed and miss two regularly scheduled payments.
 - 08.18 You must pay \$ 68.00 State Cost as ordered by the Court.
 - 08.2 You must pay a crime victim's assessment in the amount of \$ 130.00 as ordered by the Court.
 - 08.4 You must pay court costs of \$ 200.00 as ordered by the Court. These costs may be paid at the rate of \$10.00 per month.
 - 09.01 Work Release, daily, 1:00 a.m. - 10:00 a.m.

Failure to comply with this order may result in a revocation of probation and incarceration.

If the judgment of guilt is deferred as stated above, the clerk of the court shall advise the Michigan State Police Criminal Justice Information Section the disposition as required under MCL 769.16a.

CC 243a (3/06) ORDER OF PROBATION MCL 600.4803, MCL 769.1a, MCL 771.1 et seq., MCL 775.22, MCL 780.826, MCR 6.445, 18 USC 922(g)(8)(c)
COLE, Donald Brian- 830265 02/17/2012 09:54:25

STATE OF MICHIGAN, COUNTY OF EATON
FILED
MAR 05 2012
M. FRANCES FULLER
CLERK

STATE OF MICHIGAN 56th Circuit Court - Eaton County	ORDER OF PROBATION	CASE NO. 11-393-FH
--	--------------------	-----------------------

2/21/12
Date

[Signature]
Judge, The Honorable Thomas S. Eveland

P13253
Bar No.

I have read or heard the above order of probation and have received a copy. I understand and agree to comply with this order.

3-5-12
Date

[Signature]
Defendant's signature

COUNTY OF EATON)
STATE OF MICHIGAN) SS

I, M. Frances Fuller, Clerk of the Circuit Court for said County of Eaton, Do hereby certify that the foregoing is a true copy of a record now remaining in the office of the Clerk of said County and Court.

In Testimony Whereof, I have hereunto set my hand, and affixed the seal of said Court and County, at the City of Charlotte this 8 day of March A.D. 2012

By [Signature] Dep. Clerk