

DOCKET NO. HHB-CV-24-5036819-S

SUPERIOR COURT

C.J. MOZZOCHI, Ph.D.

: JUDICIAL DISTRICT OF NEW BRITAIN

V.

: TAX AND ADMINISTRATIVE APPEALS SESSION

FREEDOM OF INFORMATION COMMISSION

: APRIL 27, 2026

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MEMORANDUM OF DECISION

The plaintiff C.J. Mozzochi¹ has brought this administrative appeal under General Statutes § 1-206² of the Freedom of Information Act (FOIA), § 1-200 *et. seq.*, and pursuant to the

¹ The plaintiff's complaint and filings with both the commission and Glastonbury Police Department identify him as having a Ph.D. degree.

² General Statutes § 1-206 provides in relevant part as follows: "(a) Any denial of the right to inspect or copy records provided for under section 1-210 shall be made to the person requesting such right by the public agency official who has custody or control of the public record, in writing, within four business days of such request, except when the request is determined to be subject to subsections (b) and (c) of section 1-214, in which case such denial shall be made, in writing, within ten business days of such request. Failure to comply with a request to so inspect or copy such public record within the applicable number of business days shall be deemed to be a denial. b) (1) Any person denied the right to inspect or copy records under section 1-210 or wrongfully denied the right to attend any meeting of a public agency or denied any other right conferred by the Freedom of Information Act may appeal therefrom to the Freedom of Information Commission, by filing a notice of appeal with said commission. . . . (2) In any appeal to the Freedom of Information Commission under subdivision (1) of this subsection or subsection (c) of this section, the commission may confirm the action of the agency or order the agency to provide relief that the commission, in its discretion, believes appropriate to rectify the denial of any right conferred by the Freedom of Information Act. . . . (d) Any party aggrieved by the decision of said commission may appeal therefrom, in accordance with the provisions of section 4-183." Section 4-183 provides in turn as follows: "General Statutes Section 4-183 provides as follows: "(a) A person who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision may appeal to the Superior Court as provided in this section. . . . (j) The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court shall affirm the decision of the agency unless the court finds that substantial rights of the person appealing have been prejudiced because the administrative findings, inferences, conclusions, or decisions are: (1) In violation of constitutional or statutory provisions; (2) in excess of the statutory authority of the agency; (3) made upon unlawful procedure; (4) affected by other error of law; (5) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or (6) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. If the

(continued...)

Electronic service sent to counsel for FOIC (Marybeth Sullivan) and mailed to Plaintiff at address of record. A. Jordanopoulos, Ct Officer 4/27/26. 126

Uniform Administrative Procedures Act (UAPA), § 4-183 *et seq.*, from a final decision of the defendant Freedom of Information Commission.³ Before trial, the commission filed the administrative record, and the plaintiff and the commission both filed written briefs. The parties appeared for hearing on the appeal on March 3, 2026. For the following reasons, the appeal is dismissed.

The plaintiff's original complaint to the commission was that the Glastonbury police department had not provided him with copies of body video camera recordings of interviews conducted by Glastonbury police officers with the plaintiff and another individual. See ROR, item #1, R1- R6, Complaint and attachments.⁴ That complaint stated that there was "considerable evidence that . . . requested information" had been "deliberately withheld" from him, contained two letters to the Glastonbury chief of police requesting certain records and information and a letter to the Glastonbury town manager referring to litigation he intended to bring, but did not identify which records he was claiming had been withheld. See *id.*

² (...continued)

court finds such prejudice, it shall sustain the appeal and, if appropriate, may render a judgment under subsection (k) of this section or remand the case for further proceedings. For purposes of this section, a remand is a final judgment."

³ As required by Practice Book § 14-7A (b) and (c), the commission filed both a certified list of the papers in the record and the record itself. The return of record (ROR) consists of thirty-two numbered items. Each page in the record contains its own unique sequential Bates number. References in this decision to a portion of the record will include the ROR item and Bates numbers and, when applicable, a description of the document and page number within that document. Subsequent references will include only the ROR item and Bates numbers and, when applicable, document and page number. The record contains three different transcripts, for the first day of the contested case hearing on December 21, 2023; for the second day of the contested case hearing on April 26, 2024; and for the commission's regular meeting held on June 26, 2024. Citations here to any of those transcripts will identify the particular proceeding transcribed except where context makes such a reference unnecessary.

⁴ His complaint to the commission also referred to requests the plaintiff claimed to have made to the Glastonbury police department for copies of certain telephone conversations, but the plaintiff did not pursue that claim before the commission or this court.

In January 2023 the plaintiff had made a complaint to the Glastonbury police department about statements made by a person named Kathy Denisiewicz about him. Glastonbury police officers interviewed both the plaintiff and Ms. Denisiewicz. The plaintiff later requested copies of the body camera video footage of those interviews recorded by the officers and filed his complaint with the commission after the department did not provide him with body camera video recordings of an interview officer that Kenneth Lee conducted with him on March 11, 2023, and of an interview that officer Ian Maloney conducted of Ms. Denisiewicz on January 12, 2023. He asked the commission to impose a civil penalty on the department.

Pursuant to its enabling statute⁵ and regulations issued thereunder,⁶ the commission designated a hearing officer to conduct a contested case hearing, which was held over two days. The hearing officer later issued a proposed final decision finding that the Glastonbury police had violated the FOIA by not providing one of those body camera recordings but declining to impose any civil penalties. The plaintiff's UAPA appeal is based on the denial of a motion he filed to

⁵ General Statute § 1-205 provides in pertinent part as follows: "(d) The commission shall, subject to the provisions of the Freedom of Information Act promptly review the alleged violation of said Freedom of Information Act and issue an order pertaining to the same. Said commission shall have the power to investigate all alleged violations of said Freedom of Information Act and may for the purpose of investigating any violation hold a hearing, administer oaths, examine witnesses, receive oral and documentary evidence, have the power to subpoena witnesses under procedural rules adopted by the commission to compel attendance and to require the production for examination of any books and papers which the commission deems relevant in any matter under investigation or in question."

⁶ Section 1-205-8 of the Regulations of Connecticut State Agencies provides in pertinent part as follows: "(a) The commission, by its executive director or his or her designee, may designate a member of the commission or any other person authorized by statute to be a hearing officer for the purpose of conducting any contested case or other proceeding the commission conducts under the Freedom of Information Act. (b) By such designation the hearing officer shall be empowered to exercise on behalf of the commission all of the authority to conduct a contested case, including the reopening of a hearing, investigation, or other proceeding delegated to the commission under the Freedom of Information Act and the Uniform Administrative Procedure Act. . . ."

reopen the contested case hearing to allow him to present additional evidence, a letter from the Town of Glastonbury Chief of Police Marshal Porter. His complaint, docket entry number 100.31, thus states as follows: “The FOIC misinterpreted the law or made an incorrect factual finding by not granting my Motion to Reopen” and “My right due process rights were violated during the FOIC proceedings, by the denial of the right to present new evidence vis-a-vis my Motion to Reopen.” He claimed to the commission that the letter would show perjury on the part of Chief Porter and thus provide additional basis for imposing a civil penalty against the town. He makes many different legal claims about that denial but all ultimately fail for the reasons discussed below and the plaintiff’s appeal is thus dismissed.

Under the applicable commission regulation, the hearing officer’s responsibilities included conducting the hearing and submitting “a proposed final decision . . . which . . . shall contain the hearing officer’s findings of fact, conclusions of law and recommended order.” See Regs., Conn. State Agencies § 1-205-8 (b) (2). That hearing was held over two days, on December 21, 2023, and March 21, 2024. On the first day of the hearing, Dr. Mozzochi testified, as did Chief Porter. By agreement of the parties, certain documents were also introduced into evidence as exhibits. During the course of the hearing, it became apparent that most of the plaintiff’s interactions with the department requesting records were with police Lieutenant Kevin Szydlo, who was not present at the first day of the hearing, and that Chief Porter’s knowledge about the facts of this matter was also based primarily on what he had been told by Lieutenant Szydlo, whom the chief said was in charge of the department’s records unit. ROR, item #15, R073, transcript of contested case hearing on December 21, 2023, p. 26. At the end of the first day of the hearing, Hearing Officer Hyde requested an affidavit from Szydlo, and after later

receiving that affidavit the hearing officer scheduled the second day of hearing, when both Szydlo and the plaintiff testified.

Over the two days of the hearing, the plaintiff testified about two different sets of interactions he had with Glastonbury police officers about a complaint he made to the Glastonbury Police Department about “some very terrible false statements about me” that Ms. Denisiewicz had made to Glastonbury police officer Bona (see ROR, item #15, R58, transcript of contested case hearing on December 21, 2023, p. 11):

- Dr. Mozzochi first testified that he “filed a request with the police department that . . . [Ms.] Denisiewicz be arrested for giving false statements to a police officer and also committed perjury. And I met with Glastonbury police officer Kenneth Lee.” Id., R56-R57, transcript, p. 9-10.⁷

⁷ Dr. Mozzochi’s testimony was as follows:

DR. MOZZOCHI: . . . I had filed a request with the police department that Cassie -- Cathy (sic) Denisiewicz be arrested for giving false statements to a police officer and also committed perjury. And I met with this officer that I mentioned here. Let’s see, what was his name?

HEARING OFFICER: There’s Glen Bona, Ian Maloney --

DR. MOZZOCHI: No, no, not him.

HEARING OFFICER: Kenneth Lee?

DR. MOZZOCHI: The, the other one, the, the officer that I met with in the department. He’s mentioned here. I’ll try to find it. (Pause.)

HEARING OFFICER: Is it Maloney?

DR. MOZZOCHI: No.

HEARING OFFICER: Lee?

DR. MOZZOCHI: Okay. This -- Officer Kenneth Lee.

ROR, item #15, R56-57, transcript of hearing, p. 9-10.

- Dr. Mozzochi also testified that the police Officer “Maloney was assigned to investigate” his complaint. Id., R58, transcript, p. 11. Dr. Mozzochi testified that officer Maloney “came to my office and he spent almost an hour with me with his body cam on, discussing my complaint. And then he immediately went over to the Spicy Green Bean Restaurant and discussed my complaint with Ms. Denisiewicz. And then he immediately came back to my office and spent about another half hour discussing with me what, you know, what he did when he spoke with Ms. Denisiewicz.” Id.

Dr. Mozzochi also testified about two requests he made for the body camera video recordings relating to those two sets of interactions:

- First, after describing his meeting with officer Lee, he testified that he “made a request for his [officer Lee’s] body cam interview with me.” Id., R57, transcript, p. 10.
- Second, after describing officer Maloney’s three sets of interviews (with him, with Ms. Denisiewicz, and then with him), the plaintiff testified that he “made a request for a copy of, of everything he [officer Maloney] did that day. In other words, the body cam of his entire operation that day, speaking to me, speaking to her, and then coming back and speaking to me.” ROR, item #26, R134, transcript of contested case hearing on April 26, 2024, p. 15.

In his testimony at the hearing, Dr. Mozzochi did not provide a date for any of these interactions with the police officers or the dates on which he made the requests for the various body cam video footages. Certain exhibits that Dr. Mozzochi introduced into evidence, however, identified the dates of the various encounters and who was involved in each one. Those exhibits also showed dates on which he made written requests for the body camera recordings.

Complainant’s exhibit A was a copy of a letter that Dr. Mozzochi sent to Chief Porter on June 5, 2023, requesting:

- a copy of body camera video footage of officer Bono’s interview of Ms. Denisiewicz on November 18, 2023;

- a copy of body camera video footage of officer Maloney’s two interviews of the plaintiff and one interview of Ms. Denisiewicz on January 12, 2023; and
- a copy of body camera video footage of officer Lee’s meeting with the plaintiff on March 11, 2023.

(He acknowledged at the hearing that the department did provide him with copies of the body camera recordings of officer Maloney’s interviews with him on January 12. See ROR, item #15, R69, transcript of contested case hearing on December 21, 2023, p. 22.) That letter also requested a “[c]opy of telephone call with [officer] Lee ‘about two weeks later’” and “[c]opies of all telephone calls with Pagliughi from 1-1-23 to 6-5-23, ‘in particular the conversation of 5-5-23.’” ROR, item #7, R38. Complainant’s exhibit B was a copy of a letter he sent to Chief Porter on July 7, 2023, requesting the body camera footage of officer Lee’s interview with him on March 11, 2023. ROR, item #8, R39. Complainant’s exhibit D was a letter he sent to Chief Porter on August 24, 2023 requesting the body camera video footage of officer Maloney’s interview with Ms. Denisiewicz “last winter.” ROR, item #11, R43. There does not appear to be any dispute about the dates of these various interactions between the plaintiff and the police officers to whom he referred or of the interactions between Ms. Denisiewicz and the officers identified above. There is no legal dispute that body camera video footage is subject to FOIA disclosure requirements. The court notes that only written requests for records trigger FOIA disclosure obligations.⁸

⁸ General Statutes 1-210 provides in pertinent part as follows: “(a) Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to . . . (3) receive a copy of such records in accordance with section 1-212.” General Statutes 1-212 provides in turn and in pertinent part as follows: “(a) Any person applying in
(continued...)

The plaintiff testified at the hearing that he requested the body camera video of the interview with Ms. Denisiewicz at the same time he requested the videos of the interviews with him. ROR, item #11, R69, transcript of contested case hearing on December 21, 2023, p. 22. He never explicitly said that the first requests he made for those body cam videos were in writing, but he did testify that he sent “follow-up letters later about how come there’s -- there was no production of Maloney and so on.” Id. Chief Porter testified that Lieutenant Szydlo told him that the plaintiff’s January requests were oral, by voice mail, and only for recordings of the department’s interviews with the plaintiff, and that the first written request that the department received from the plaintiff regarding any of these interactions was in June.⁹ Chief Porter testified

⁸ (...continued)
writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.” See also *Planning & Zoning Commission of Town of Pomfret v. Freedom of Information Commission*, 130 Conn. App. 448, 456–57, 23 A.3d 786, 791 (2011), stating as follows: “The language of § 1–212 (a) clearly and unambiguously requires that an individual seeking to receive a copy of a public record, such as in the present case, must reduce the request to writing in order for the request to be enforceable by the commission. In its memorandums of decision, however, the court noted that the commission found that no written requests were made. Thus, the record clearly establishes that Fay, Boster and Hennen, by making only oral requests for the documents at issue, failed to satisfy the express requirement of § 1–212(a) that requests for documents be reduced to writing. Accordingly, because the requests to receive copies of the documents at issue did not comport with § 1–212 (a), we conclude that the court correctly determined that the plaintiff did not violate the promptness requirement of § 1–212 (a).” (Citation omitted.)

⁹ Chief Porter testified as follows at the first day of the contested case hearing as follows:

“Dr. Mozzochi requested on two separate occasions back in January the interviews between himself and Officer Maloney. He didn’t request the Officer Maloney’s interview with Ms. Denisiewicz until I believe it was in June or later. Yeah.

“So back in -- on January 23rd and January 24th, Dr. Mozzochi communicated with our records staff requesting specifically body cam video between Officer Maloney and the conversations that Dr. Mozzochi had with Officer Maloney. And, and those were provided with him at that time. And it wasn’t until the, I think the June correspondence where he requested –

HEARING OFFICER: Was that, was that -- were those requests made in writing?

THE WITNESS [Chief Porter]: The initial -- the January requests were not. I believe or they
(continued...)

that by then the Denisiewicz video of officer Maloney's interview with her on January 12, 2023, had been purged in accordance with the department's 90-day purge policy¹⁰ before the department received the plaintiff's first written request for it. ROR, item #11, R63, transcript p. 16. At the second day of the contested case hearing, Lieutenant Szydlo testified that June 11th was the first time he received a written request from the plaintiff for the body camera video footage of the police interview with Ms. Denisiewicz. ROR, item #26, R126-R127, transcript, p. 7-8.¹¹

⁹ (...continued)

were by voice mail. But you can see in the June 5th exhibit, it's a -- it, it appears to be an initial request for, for records, most of which were provided to him.

HEARING OFFICER: He says January 24th.

THE WITNESS [Chief Porter]: January 23rd and 24th he -- on the 23rd he had requested a copy of a conversation that he had with Officer Maloney. And then I believe on the 24th, he noted or he called and, and indicated that there was a second conversation between he and Officer Maloney that had not been provided. So they then provided him with, with that conversation.

ROR, item #11, R67-R68, transcript p. 20-21. Later in that first day of the hearing, the hearing officer asked Chief Porter the following question and Chief Porter gave the following answer:

"HEARING OFFICER: Chief Porter, when you testified that the Complainant on January 23rd and January 24th only requested his video, how do you come to that conclusion?"

"THE WITNESS: Through conversations with Lieutenant Szydlo."

ROR, item #15, R73, transcript of hearing on December 21, 2023, p. 26.

¹⁰ The record includes a email from Lieutenant Szydlo to the plaintiff that "[a]ll video is retained for a minimum of 90 days"; ROR, item #13, R. 49, Complainant's Exhibit G; and numerous references to the department's 90-day purge policy in Chief Porter's testimony at the hearing. See, e.g., ROR item #15, R61, testimony of Chief Porter at first day of hearing, p. 14; R73-R74, transcript p. 26-27.

¹¹ Lieutenant Szydlo's affidavit, which he read aloud on the second day of the contested case hearing, stated that "about June 11th of 2023, I received a written request from Mr. Mozzochi for Officer Maloney's interaction with Cathy Denisiewicz . . ." See ROR, item #14, R47, Respondent's Exhibit I, affidavit of Lieutenant Szydlo, second page; see also ROR item #26, R126, transcript of hearing on April 26, 2024, p. 7. Szydlo was specifically asked by at the hearing: "But the only written request that you received for Officer Maloney's interaction with Cathy (sic) Denisiewicz is what's reflected in paragraph 8?" And his answer was "Correct." Id., R127, transcript p. 8. Lieutenant Szydlo also testified that he had received "prior requests for Mr. Mozzochi's interaction with Officer Maloney." Id., R126, transcript p. 7.

(continued...)

The hearing officer later issued a Proposed Final Decision (PFD) dated May 30, 2024, which was transmitted to the parties on June 3, 2024. Although the PFD addressed several factual issues, only certain findings are pertinent to this appeal.

First, the hearing officer found that on March 11, 2023, officer Kenneth Lee interviewed the plaintiff; that on June 5, 2023, the plaintiff made a written request for a copy of the video camera footage of that interview; and that on or about June 9, 2023, four days after the plaintiff's written request for that footage, the Glastonbury police department destroyed that video without providing a copy to the plaintiff. The hearing officer also found that the failure to provide this video to the plaintiff because of its destruction violated the Freedom of Information Act. When asked at the hearing whether any "corrective action" had been taken, Chief Porter had answered as follows: "So it's a relatively new technology, our body cam video and when I realized that the body cam video had been purged a few days after the request, I sent an email to my records staff ensuring that they change the way they do business to ensure that when they receive a body cam request, that they take action to prevent it from being purged so this didn't happen in the future." ROR, item #11, R62, transcript p. 15. The Hearing Officer also heard testimony that the plaintiff had made many prior records requests to the department and that Lieutenant Szydlo had been cooperative in the past. In later explaining his subsequent recommendation that the commission exercise "its discretion" to decline imposing a civil penalty against the respondents, the hearing officer told the commission that "the Respondents, they said that that was done accidentally.

¹¹ (...continued)

When specifically asked by the hearing officer whether "in your initial interactions in January with the Complainant, Dr. Mozzochi only requested videos of his own interactions with police officers in question," Lieutenant Szydlo had answered "That's it, as I recollect it, yes." Id., R127, p. transcript 8.

They took steps to ensure that wouldn't happen again." ROR, item #31, R163, transcript of commission meeting, p. 10.

Second, the hearing officer found that the plaintiff made two written requests for the body camera video footage of the police interview with Ms. Denisiewicz, in letters dated June 5, 2023, and August 24, 2023. The hearing officer found that the plaintiff's January requests for body cam videos were all made orally. Acknowledging conflicting testimony between the plaintiff and Lieutenant Szydlo on whether the January oral requests were for both the interviews with the plaintiff and with Ms. Denisiewicz, the hearing officer found that Lieutenant Szydlo had understood the January oral requests only to be for the videos of the police interviews with the plaintiff and not the one with Ms. Denisiewicz and that the department had purged the Denisiewicz video in accordance with its 90- policy. The officer then found that the department did not violate the FOIA by not disclosing the Denisiewicz video.

The transmittal notice was dated May 30, 2024, and informed the parties that the commission would consider the Hearing Officer's Proposed Final Decision for disposition at its upcoming regular meeting on June 26, 2024. The notice instructed the parties that they could submit written briefs no later than June 14 and offer oral argument at the commission hearing. The notice also said that "no new evidence may be presented." See ROR, item #27, R. 141. On June 20, 2024, Dr. Mozzochi submitted his written "Motion to Reopen Hearing," to which the town filed a written objection. See ROR, item #28, R147, and item #29, R 149. In his motion, Dr. Mozzochi requested that the hearing be reopened to enter into evidence a letter to him dated August 29, 2023, from Chief Porter. His motion stated that the letter had been "recently located." The text of that letter stated as follows:

I received your letter dated August 24, 2023, in which you are requesting Officer Maloney's body camera footage from an incident that occurred "late last winter." I believe you are referring to case 29-923 from January 12, 2023.

I understand that you have already requested this information from our Records Unit on multiple occasions, and they have advised you that the record does not exist. I have searched myself and confirm that the record does not exist.

ROR, item #28, R148. The motion stated that the letter "will establish that Marshall Porter and Kevin Szydlo committed perjury. . . ." Id., R147. The respondents filed an objection stating that "[t]here is nothing contained in said letter that contradicts the facts in the established record."

ROR, item #29, R151. A day later, the commission issued a "Ruling on Motion to Reopen" denying that motion. ROR, item #30, R. 153.

Although the plaintiff made many claims to the hearing officer and commission, the sole issue presented by the plaintiff in this appeal is his claim that the Hearing Officer and, ultimately, the commission through its acceptance and adoption of the Hearing Officer's Proposed Decision, committed error in not granting the motion to reopen. The Appellant's Brief in support of Appeal thus asserts that "this appeal arises from the denial of the . . . of Appellant's request to have the full commission review the portion of the original evidentiary hearing at which the Appellant moved for a civil penalty against the Chief of Police for alleged perjury." That brief's description of the "factual background" of the appeal includes the following assertions:

3. During the hearing, the Appellant presented evidence and made a motion requesting that the Hearing Officer impose a civil penalty . . . against the Chief of Police, asserting that the Chief knowingly presented false testimony under oath.
4. The hearing officer denied the motion without adequate findings or explanation.
5. At the subsequent hearing before the full FOIC, Appellant requested that the commission review the relevant portion of the hearing transcript or audio recording concerning the motion.

(Emphasis in original omitted.) Pl.'s brief, p. 1-2. His brief later asserts that the "issue presented" was whether "the FOIC acted arbitrarily, capriciously, and in violation of statutory and constitutional due process requirements by refusing the review the relevant portion of the evidentiary hearing concerning Appellant's motion for civil penalties. . . ." Id., p. 1. Neither the plaintiff's complaint nor his brief identifies the factual basis for his claim that Chief Porter had committed perjury, but the plaintiff did explain that assertion in his oral argument to the court as follows:

"The reason why I wanted them to review the whole section of that transcript was to see why that letter is a crucial component of this whole situation." FTR,¹² 2:29:51 p.m. - 2:30:03 p.m.;

"The chief said under oath I never asked for the um body cam of the officer when he talked to the lady and in that letter it clearly indicates that . . . that . . . I made that request {inaudible} so he point blank lied under oath." FTR, 2:29:04 p.m. - 2:29:23 p.m.

As the commission's brief correctly points out, the plaintiff's motion was filed at a late date and in contravention of the commission's notice and regulations; see id., § 1-21j-40 (b); that no new evidence would be considered at the commission meeting. But the record shows that hearing officer did consider and reject the substance of the plaintiff's claim in that motion, and explained his reason for doing so to the commission. After the plaintiff's presented his argument to the commission at its meeting, the commission chair asked the hearing officer to comment on the Motion to Reopen. Part of the hearing officer's response was that "[t]he proffered letter does not establish what the Complainant claims it establishes." ROR, item #31, R162, transcript of commission meeting, p. 9. The hearing officer told the commission that the witnesses for the

¹² FTR, or "For The Record," is software used by the court monitor that digitally records court proceedings and notes the hour, minute and second of each recorded statement.

respondents testified about previous requests made by the plaintiff for the missing Denisiewicz body cam footage. *Id.*, R162-R164, transcript p. 9-11. The transcript of the contested hearing in the record does in fact show, contrary to what the plaintiff told the commission and claimed in his oral argument to the court, that Chief Porter specifically testified about requests the plaintiff made for the body camera video footage of the interview with Ms. Denisiewicz, See, e.g., ROR, item #15, R67 and R74, transcript of contested case hearing on December 21, 2023, p. 20¹³ and p. 27.¹⁴ Thus, even if the commission had reviewed the hearing transcript, as the plaintiff asked them to do, the transcript would have shown that Chief Porter had testified about requests the plaintiff had made for the Denisiewicz video, contrary to the plaintiff's claims in the Motion to Reopen.

As the commission also points out in its brief, its regulations authorize the hearing officer “to receive or exclude proffered evidence pursuant to such officer’s discretion,” in accordance with the mandate of the UAPA that in “contested cases, . . . the agency shall, as a matter of policy, provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.” See General Statutes § 4-178 (1). Similarly, the Connecticut Code of Evidence provides that in judicial proceedings “[e]vidence that is not relevant is not admissible.” Conn. Code Evid. § 4-2. The code also provides a good definition of relevant evidence as being “evidence having any tendency to make the existence of any fact that is material to the determination of the proceeding more probable or less probable than it would be without the evidence.” Conn. Code Evid., § 4-1.

¹³ See footnote 9.

¹⁴ Chief Porter testified as follows at the first day of the contested case hearing: “[H]is initial request for the Denisiewicz body cam video came on June 5th well after the retention period was, was over.” ROR, item #11, R74, transcript p. 27.

See also *State v. Crespo*, 303 Conn. 589, 603, 35 A.3d 243, 253 (2012), stating as follows:

“Relevant evidence is evidence that has a logical tendency to aid the trier in the determination of an issue. . . . One fact is relevant to another if in the common course of events the existence of one, alone or with other facts, renders the existence of the other either more certain or more probable. . . .” (Citation omitted.)

The plaintiff’s Motion to Reopen sought to introduce the chief’s August 29 letter into the contested hearing evidence to show that prior testimony from the chief had been perjurious. The plaintiff asserted that the letter would establish that the chief of police had lied by testifying that the plaintiff had never made an earlier request for the Denisiewicz body camera footage. Such a showing could have been relevant. But the plaintiff’s characterization of the chief’s prior testimony was completely inaccurate. In fact, the chief never actually offered such testimony and in fact testified to the contrary – that the plaintiff made two such written requests, and the August 29 letter would not have provided any basis whatsoever for finding perjury on the part of the chief of police. A letter in which Chief Porter acknowledged receiving previous requests from the plaintiff for the Denisiewicz video simply repeated the chief’s prior testimony to that effect, had no tendency whatsoever to show perjury on his part, and was thus irrelevant and properly excluded from the evidence.

After hearing the hearing officer’s response, the commission voted to adopt his report as the commission decision. See ROR, item #31, R170-R171, transcript of commission meeting, p. 17-18. The court cannot find any error or violation of either the Freedom of Information Act or the Uniform Administrative Procedures Act in the commission’s decision to do so. No error of

law or that the commission unreasonably, arbitrarily, illegally, or in abuse of its discretion having been shown, the plaintiff's appeal is dismissed.

BY THE COURT

Handwritten signature of Stephen F. Frazzini in cursive script, written over a horizontal line.

STEPHEN F. FRAZZINI
JUDGE TRIAL REFEREE