



MITCHELL J. LANDRIEU  
MAYOR

# CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE  
ROOM 7W03 CITY HALL  
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CITY CIVIL SERVICE COMMISSION

REV. KEVIN W. WILDES, S.J., PHD,  
CHAIRMAN  
DANA M. DOUGLAS, VICE  
CHAIRMAN  
DEBRA S. NEVEU  
AMY L. GLOVINSKY  
JOSEPH S. CLARK

Monday, October 01, 2012

LISA M. HUDSON  
DIRECTOR OF PERSONNEL

Ms. Erneka Daniels

Re: **Erneka Daniels VS.**  
**Department of Public Works**  
**Docket Number: 7955**

Dear Ms. Daniels:

Attached is the decision of the City Civil Service Commission in the matter of your appeal.

This is to notify you that, in accordance with the rules of the Court of Appeal, Fourth Circuit, State of Louisiana, the decision for the above captioned matter is this date - 10/1/2012 - filed in the Office of the Civil Service Commission in Room 7W03, City Hall, 1300 Perdido Street, New Orleans, Louisiana.

If you choose to appeal this decision, such appeal shall be taken in accordance with Article 2121 et. seq. of the Louisiana Code of Civil Procedure.

For the Commission,

A handwritten signature in cursive script, reading "Germaine Bartholomew".

Germaine Bartholomew  
Chief, Management Services Division

cc: Mark D. Jernigan, P.E.  
Victor Papai  
Jay Ginsberg  
file

**ERNEKA DANIELS**

**CIVIL SERVICE COMMISSION**

**VERSUS**

**CITY OF NEW ORLEANS**

**DEPARTMENT OF PUBLIC WORKS NO. 7955**

The Department of Public Works (“Appointing Authority”) employed Erneka Daniels (“Appellant”) as a Parking Control Officer with permanent status. The Appointing Authority terminated the Appellant effective November 28, 2011, after the Appellant was arrested and charged with simple battery resulting from an on-duty incident that occurred on October 8, 2011.

The matter was assigned by the Civil Service Commission to a Hearing Examiner pursuant to Article X, Section 12 of the Constitution of the State of Louisiana, 1974. The hearing was held on March 21, 2012. The testimony presented at the hearing was transcribed by a court reporter. The three undersigned members of the Civil Service Commission have reviewed a copy of the transcript and all documentary evidence.

Dominique Matthews is employed by the Appointing Authority as a Parking Control Officer. On October 8, 2011, Ms. Matthews was the Appellant’s partner. Ms. Matthews testified that while traveling on Rampart Street, the Appellant became upset and jumped out of the car. She observed the Appellant enter a private residence shouting, “why you have my baby”. Ms. Matthews followed the Appellant into the residence and observed her fighting with another woman. She broke up the fight and they left. Shortly after the incident, they were dispatched to the parking control office where the Appellant was arrested.

Zepporah Edmonds is the Appointing Authority’s Parking Administrator. She oversees, manages, and administers all operations of the parking division. Ms. Edmonds

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testified that she recommended terminating the Appellant because she entered a private citizen's residence while on duty and became embroiled in a physical altercation for which she was arrested.

The Appellant testified that she has a five month old child that the child's father, Carl Jackson, watches while she is working. She recognized Mr. Jackson's car parked on Rampart Street. Knowing that he had her child, she exited the vehicle and began knocking on doors. A woman opened the door of a residence and she observed Mr. Jackson inside holding her child. She testified that the women attacked her and pulled her into the residence. She contends that she was concerned about the safety of her child and that she was acting in self-defense. The Appellant confirmed that she was arrested and awaiting trial on a simple battery charge.

#### LEGAL PRECEPTS

An employer cannot discipline an employee who has gained permanent status in the classified city civil service except for cause expressed in writing. LSA Const. Art. X, sect. 8(A); *Walters v. Department of Police of New Orleans*, 454 So. 2d 106 (La. 1984). The employee may appeal from such a disciplinary action to the city Civil Service Commission. The burden of proof on appeal, as to the factual basis for the disciplinary action, is on the appointing authority. *Id.*; *Goins v. Department of Police*, 570 So 2d 93 (La. App. 4th Cir. 1990).

The Civil Service Commission has a duty to decide independently, based on the facts presented, whether the appointing authority has good or lawful cause for taking disciplinary action and, if so, whether the punishment imposed is commensurate with the

dereliction. *Walters, v. Department of Police of New Orleans, supra*. Legal cause exists whenever the employee's conduct impairs the efficiency of the public service in which the employee is engaged. *Cittadino v. Department of Police*, 558 So. 2d 1311 (La. App. 4th Cir. 1990). The appointing authority has the burden of proving the occurrence of the complained of activity by a preponderance of the evidence and that the conduct complained of impaired the efficiency of the public service. *Id.* The appointing authority must also prove the actions complained of bear a real and substantial relationship to the efficient operation of the public service. *Id.* While these facts must be clearly established, they need not be established beyond a reasonable doubt. *Id.*

#### CONCLUSION

The Appointing Authority has established by a preponderance of evidence that it terminated the Appellant for cause. She clearly violated the Appointing Authority's internal rules by entering a private residence while on duty and engaging in physical violence with a private citizen. While the Appellant may have been justified in briefly investigating a personal matter that involved the safety of her five month old child, she allowed the matter to get out of hand causing an altercation and her own arrest. Even

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assuming that the Appellant had a legitimate problem, she should have found an appropriate non-violent resolution.

Considering the foregoing, the Appellant's appeal is DENIED.

RENDERED AT NEW ORLEANS, LOUISIANA THIS 1st DAY OF  
OCTOBER, 2012.

CITY OF NEW ORLEANS  
CIVIL SERVICE COMMISSION

  
AMY V. GLOVINSKY, COMMISSIONER

CONCUR:



REV. KEVIN W. WILDES, S.J., CHAIRMAN



JOSEPH S. CLARK, COMMISSIONER