

QUALYNDREA JONES

CIVIL SERVICE COMMISSION

VERSUS

CITY OF NEW ORLEANS

DEPARTMENT OF POLICE

DOCKET NO. 7773

Qualyndrea Jones (“Appellant”) is employed by the Department of Police (“Appointing Authority”) as a Police Officer. The Appointing Authority suspended her for a total of ten days for violation of internal rules regarding Moral Conduct, Professional Conduct, Professionalism and Performance of Duty.

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 November 4, 2010. The testimony presented at the hearing was transcribed by a court reporter. Appellant was represented by counsel. The three undersigned members of the Civil Service Commission have reviewed a copy of the transcript and all documentary evidence.

On November 28, 2009, Appellant was dispatched to join two St. Bernard Parish Deputies who had initiated an investigation of a domestic dispute on North Claiborne Avenue.

When Appellant arrived on the scene, there was an issue as to whether she or the St. Bernard Deputies should further investigate the situation and write up a report. After calling her rank (Lieutenant Osceola Scanlan), she was ordered to proceed and the St. Bernard Deputies left. However, as a result of this process a supervisor with the St. Bernard Sheriff’s Department called in a complaint that Appellant was “rude” to the St. Bernard Deputies.

In dealing with the situation, one of the subjects in the domestic dispute was arrested by Appellant and placed in the police car. At that time, the in-car video and microphone recorded Appellant telling the subject to “shut the f--- up”. She also called him a “crack head”.

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Subsequently when Sergeant Rita Franklin came on the scene and questioned Appellant and requested her to write up the incident, Appellant called the request and questioning by Sergeant Franklin “bull shit.” This unnecessary profanity, acknowledged by Appellant at the hearing, was clearly unprofessional.

Not so clear is the two day suspension given Appellant for failure to turn on her body-microphone when she was out of the police car arguing with the St. Bernard Deputies. Officers on patrol are supposed to wear a body-microphone to record their conversations to protect the police department from unjustified complaints about police conduct. The allegation is that Appellant deliberately failed to turn the body-microphone on so she would not be heard. However, she testified that the body-microphone was supposed to go on automatically when the overhead lights in the police car go on – but that unbeknownst to her – the system malfunctioned. In un-contradictive testimony, she said that as soon as she learned that the body-microphone had not gone on automatically, she manually activated it. The Appointing Authority did not submit evidence to the contrary.

LEGAL PRECEPTS

An employee who has gained permanent status in the classified city civil service cannot be subjected to disciplinary action by his employer 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 from the facts presented whether the appointing authority has good or lawful cause for taking disciplinary action and, if so,

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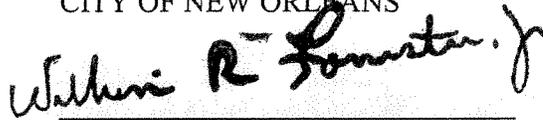
whether the punishment imposed is commensurate with the dereliction. Walters v. Department of Police of New Orleans, supra. Legal cause exists whenever the employee's conduct impairs the efficiency of the public service in which the employee is engaged. Cittadino v. Department of Police, 558 So.2d 1311 (La. App. 4th Cir. 1990). The Appointing Authority has the burden of proving by a preponderance of the evidence the occurrence of the complained of activity 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.

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Accordingly, the Appeal is denied for the eight days of suspension for lack of Professionalism. The Appeal is granted as to the two day suspension for not following instructions from an authoritative source (failure to turn on the body-microphone).

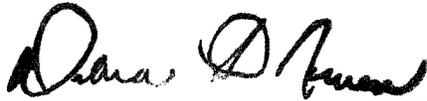
RENDERED AT NEW ORLEANS, LOUISIANA THIS 14TH DAY OF FEBRUARY,
2012.

CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS

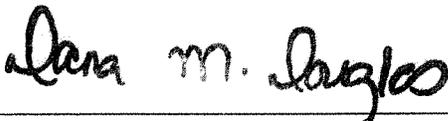


WILLIAM R. FORRESTER, JR.,
CHAIRMAN

CONCUR:



DEBRA S. NEVEU, COMMISSIONER



DANA M. DOUGLAS, COMMISSIONER