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DEPARTMENT OF CITY CIVIL SERVICE
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CITY CIVIL SERVICE COMMISSION

REV. KEVIN W. WILDES, S.J.,
CHAIRMAN
AMY L. GLOVINSKY
JOSEPH S. CLARK
COLEMAN D. RIDLEY, JR.

LISA M. HUDSON
DIRECTOR OF PERSONNEL

Friday, June 14, 2013

Mr. Eric Hessler
PANO 2802 Tulane Avenue #101
New Orleans, LA 70119

Re: **Philip Edwinston VS.
Department of Police
Docket Number: 7919**

Dear Mr. Hessler:

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 - 6/14/2013 - filed in the Office of the Civil Service Commission at 1340 Poydras St. Suite 900, Amoco Building, 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 blue ink that reads "Germaine Bartholomew".

Germaine Bartholomew
Chief, Management Services Division

cc: Ronal Serpas
Isaka Williams
Jay Ginsberg

PHILLIP EDWINSON

CIVIL SERVICE COMMISSION

VERSUS

CITY OF NEW ORLEANS

DEPARTMENT OF POLICE

NO. 7919

Phillip Edwinson (“Appellant”) is employed by the Department of Police (“Appointing Authority”) as a Police Officer with permanent status. The Appellant received a two day suspension for violation of the Appointing Authority’s internal rules concerning Professionalism. The factual basis for the violation is contained in the second paragraph of the August 8, 2011 disciplinary letter, which provides as follows:

The investigation determined that during the week of March 11, 2011, while assigned to the Sixth District you were given a verbal instruction by your Platoon Supervisor on how to properly complete a United Way form if you elected not to participate. In lieu of drawing a circle with the line through the circle you wrote the words “Bliss Mich”, which translates to “bite me” in English...

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 October 11, 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.

Sgt. Michael Hughes conducted the internal investigation. He testified that the Appellant admitted completing the form in the manner described in the disciplinary letter and offered no explanation other than he did not mean any harm.

The Appellant did not testify or offer any other evidence to support his appeal.

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.*

CONCLUSIONS

The Appointing Authority has established by a preponderance of evidence that it disciplined the Appellant for good cause. The Appellant's actions were unprofessional,

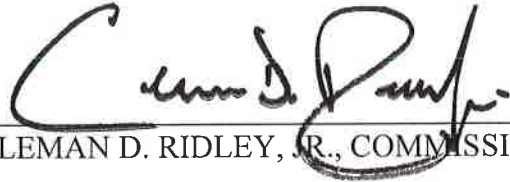
P. Edwinson
#7919

and while a lesser penalty may have been appropriate, we cannot say that the Appointing Authority abused its authority.

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

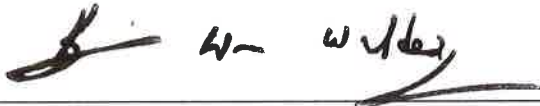
RENDERED AT NEW ORLEANS, LOUISIANA THIS 14th DAY OF JUNE,
2013.

CITY OF NEW ORLEANS
CIVIL SERVICE COMMISSION



COLEMAN D. RIDLEY, R., COMMISSIONER

CONCUR:



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



JOSEPH S. CLARK, COMMISSIONER