

**CITY OF ATLANTA CIVIL SERVICE BOARD
ORDER**

APPEAL NO. 2020-006AP

Effective Date: February 13, 2020

APPELLANT: Michael Solomon
Atlanta Police Department (APD)
City of Atlanta (City)

Hearing Date: October 1, 2020

ACTION:

20 Day Suspension

HEARING OFFICERS/PANEL

Sterling Eaves, Chair

Plemon El-Amin

Mary Ann S. Phyll, DWB

APPEARANCES

City of Atlanta:

Staci J. Miller, Esq.

City Witnesses:

Major Charles Hampton, Jr. OPS - APD

Michael Solomon, Appellant

Appellant Representative:

Stephanie Mutti, Esq.
Counsel for IBPO

Appellant's Witnesses:

None

ATTENDEE(S)/OBSERVER(S)

Michael Kirkwood, Dir.-DHR-City
Kandice Harmon, CSB Coordinator
Princess Jones, IT, City
Jacquita Parks
16783621809

Alisha Marie Nair
Chandler Davis
Ebony Walton
Karemah Lewis

Rodney Ganske
Piper Roussell
Lisa Haldar
Natasha Murphy

STATEMENT OF AUTHORITY

Under the authority and provisions of Chapter 114, Article VI, Division 3, Sections 114-546 through 556 of the Atlanta City Code ("Code"), a hearing in the above-referenced case was held virtually via Zoom Webinar, facilitated by the City, pursuant to Mayor Keisha Lance Bottoms Executive Order regarding COVID-19, and before the above-named hearing officers of the Atlanta Civil Service Board ("Board") on the date set forth above.

EXHIBITS

City of Atlanta:

- C-1 OPS Complaint File Closeout Report completed 5/10/2019 - 127 pages
- C-2 APD Standard Operating Procedures/Work Rules 2010 – 23 pages
- C-3 Text Messages between Appellant and witness, 35 pages
- C-4 Solomon Statement – Interview with Appellant dated 6/5/2019, 37 pages
- C-5 Notice of Proposed Adverse Action (NPAA) dated 1/27/2020, 7 pages
- C-6 Notice of Final Adverse Action (NFAA) dated 2/13/2020, 3 pages

Appellant:

None

STIPULATIONS

None

CHARGES

Suspended 20 days for violation of the Atlanta Police Department Work Rule(s):

- 4.1.4 Conduct 16 day
- 4.2.33 Conformance of Directives 4 day

INFRACTION

See City of Atlanta Notice of Final Adverse Action (NFAA) (Exhibit C-6).

FINDINGS OF FACT

1. On May 26, 2019, the Appellant, Michael Solomon, a Patrol Officer with the APD since October 2017 was dispatched to the scene of a vehicle accident call. While investigating the accident, he met Carla Curry, one of the drivers involved. Ms. Curry made a 9-1-1 call stating that her vehicle was struck in the rear by another vehicle.
2. The Appellant did not generate a police report and no citation was issued by him to either driver. His Body Worn Camera (BWC) was activated. At his suggestion, the two drivers exchanged information and stated they would contact their respective insurance companies. Photos were taken by each driver of the other's driver's licenses.
3. Later that same day, the Appellant obtained the phone number of Ms. Curry from the Mobile Data Terminal (MDT) in his City-issued patrol vehicle, which was only available because Ms. Curry had contacted 9-1-1 after the accident. He initially inquired about her progress reporting the accident to the other driver's insurance company. The Appellant soon changed his inquiry to a line of questions that were personal in nature. They communicated for the next two days. (Exhibit C-1)
4. Ms. Curry became concerned when she found out that the other driver was not the owner of the car that had hit her vehicle and therefore, she anticipated she would need more documentation of the accident if a claim had to be made against her insurance company. For that reason, during her text communication with the Appellant she insisted that he produce a police report of the accident that would document that the other driver was at fault. After several requests for the report with no report forthcoming from the Appellant, Ms. Curry consulted with a friend who was allegedly an attorney (name unknown). Her friend telephoned the Appellant on the cell phone number which had been texting Ms. Curry, which was the Appellant's personal cell phone number. Ms. Curry's friend questioned the Appellant about why Ms. Curry had not received the accident report.
5. In the meantime, Ms. Curry contacted APD to complain about the missing report and spoke with Major Browning. After their conversation, a formal internal complaint against the Appellant commenced with an interview of Ms. Curry by Internal Affairs investigator Sgt. L. Giles via telephone. (C-1 pg. 71)

6. On May 30, 2019, the Appellant finally generated a traffic accident report which assigned fault to the other driver alleging that she had been following Ms. Curry's vehicle too closely. (C-1 pg.121)
7. Also, on May 30, 2019, Lt. Pete Malecki, of APD Zone 2 Evening Watch sent a memo to Sgt. Dean, the Appellant's first-line supervisor and the subject was *Relief of Duty-Ofc. Michael Solomon*. The memo reported that Lt. Malecki had been informed that the Appellant was contacting one of the drivers in the accident via text/phone, that the communication was not wanted and that the Appellant had attempted to talk the drivers out of him producing a police report. (C-1 pg.124)
8. On June 4, 2019, Sgt L. Giles notified the Appellant that an OPS Investigation had been initiated and instructed him to schedule an appointment to make a statement to OPS. (Exhibit C-1 pg. 125) During the interview by Sgt. Giles, the Appellant acknowledged that he occasionally used his personal cell phone to call citizens. However, per department policy, and as stated in the NFAA, only the APD communications dispatcher is tasked with call-backs to citizens.
9. Following a lengthy investigation that included viewing the Appellant's body camera footage, interviewing the witness, Ms. Curry and the Appellant/Off. Solomon, an NPAA was issued on January 12, 2020. (Exhibit C-5)
10. The disciplinary action proposed was a suspension totaling 20 days for violating:
 - Work Rule 4.1.4, Conduct - Employees shall not act in an official or private capacity in a manner that shall bring discredit upon the Department or themselves. 16-day suspension
 - Work Rule 4.2.33 Conformance to Directives – Employees are required to familiarize themselves with and conform to, the rules, regulations, directives, and standard operating procedures of the Department. 4-day suspension

All complaints and disciplinary action against the Appellant were sustained by APD management up the chain of command to Police Chief Erika Shields. (Exhibit C-5) The NFAA was effective January 30, 2020. The appellant served his 20-day suspension and returned to his position as an APD officer. The Appellant resigned from his APD position effective June 22, 2020 citing personal reasons.

DISCUSSION

Due to Mayor Keisha Lance Bottoms' Executive Order and COVID-19 pandemic guidelines, the appeal of Michael Solomon was called virtually at 10:00am via the internet platform of Zoom Webinar.

Major Charles Hampton, a 19-year veteran of the APD, was the City's first witness. Major Hampton was not part of APD's Office of Professional Standards (OPS) during this incident and therefore had not participated in the investigation of this case, and he admitted that he did not view the Body Camera footage but he stated that he was familiar with the case. He explained that there were two types of OPS complaints, internal and citizen complaints. Major Hampton spoke directly to the question of the Appellant's violation of the rule of Conduct when the Appellant copied the telephone number of a vehicle accident victim from his City-issued MDT and began texting her in an attempt to start a personal relationship. He testified that an infraction occurred by *how* the Appellant obtained Ms. Curry's information, copying the number from his City MDT, and not because of the Appellant's attempt to pursue a personal relationship. He stated that the Appellant's actions were in violation of APD work rules and subject to discipline.

The City called the Appellant as their next witness – his name did appear on their witness list. Ms. Mutti, the Appellant's representative objected to her client being called by the City and then announced that the Appellant would be pleading the 5th. At the beginning of the hearing, the Board asked if there were any objections to the City's witness list. Ms. Mutti stated at that time that she had no objection and that she didn't think the City would in fact call her client to testify. The hearing could not be continued without legal procedural clarity of the rights of an Appellant.

At 10:56 the Board Chair called a 10-minute recess. When the hearing resumed, the Chair gave her ruling - the Appellant cannot be given immunity from testifying as a City witness and that he must be sworn in. The City questioned the Appellant without the Appellant's representative questioning him. The City rested and the Appellant's representative stated that she had no witnesses. After closing statements, the hearing ended at approximately 12:40pm.

The Board carefully considered all testimony and evidence presented by both the City and the Appellant during the hearing. Though the Appellant stated that using a personal cellular phone to contact citizens is a common practice among APD officers, it

does violate APD work rules. When interviewed by OPS during the investigation the Appellant did acknowledge that he violated:

1. Rule 4.2.33 Conformance to Directives by using his personal cellular telephone to call a citizen or conduct Department business that should otherwise be broadcast over the radio. (Exhibit C-4 pg. 11)
2. Rule 4.1.4 Conduct by retrieving the telephone number of Ms. Curry, a vehicle accident victim from the MDT for personal reasons. (Exhibit C-4 pg. 14)

In conclusion, there is nothing in the evidence to contradict the above findings. The Board believes that the Appellant was aware that his actions were against APD policies and work rules. Moreover, when a citizen calls 9-1-1 to report an accident they are involved in, they most certainly expect an accident report from the responding officer and not a solicitation for a romantic relationship. Such behavior by an officer of the law is serious and unprofessional and could surely negatively affect the perception of APD by the public.

ORDER

The appeal of Michael Solomon is denied.

This the 14th day of October 2020.

Respectfully submitted,

Sterling Eaves

Sterling Eaves, Chair

Plemon El-Amin

Plemon El-Amin

Mary Ann S. Phyll

Mary Ann S. Phyll DWB