

**CITY OF ATLANTA CIVIL SERVICE BOARD
ORDER**

APPEAL NO. 2019-027AP

APPELLANT: Keisha Richburg
Atlanta Police Department (APD)
City of Atlanta (City)

Effective Date: July 16, 2019
Hearing Date: February 13, 2020

ACTION:
DISMISSAL

HEARING OFFICERS/PANEL
Sterling Eaves, Chair
Carl Touchstone
Mary Ann S. Phyll, DWB

APPEARANCES

City of Atlanta:

Joshua Roster, Esq.

Kimberly Myers, Esq.

City Witnesses:

William Lyons, Investigator - Ofc. of Professional Standards (OPS) – APD
Det. Arthur Nixon, Investigator, APD
Lt. Scott Jimenez, Unit Commander, Advocacy Unit, OPS-APD

Appellant Representative:

Kevin T. Almeroth, Esq.

Appellant's Witnesses:

Keisha Richburg, Appellant
Ofc. Xavier Martin - APD

Observers:

Alisha Marie Nair, Atty. - Atlanta Law Dept.
Jessica Johnson, Atty. - Atlanta Law Dept.
James Merriweather, Director - Labor Relations

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 before the above-named hearing officers of the Atlanta Civil Service Board ("Board") on the date set forth above in Conference Room 2174 of the City Hall Tower located at 68 Mitchell Street, Atlanta, Georgia 30303

EXHIBITS

City of Atlanta:

- C-1 Notice of Proposed Adverse Action (NPAA) dated 7/3/2019 - 4 pages
- C-2 Notice of Final Adverse Action (NFAA) dated 7/8/2019 – 4 pages
- C-3 OPS Complaint File Closeout Report dated July 16, 2019 – 165 pages
- C-4 Video of Body Worn Camera (BWC) of Appellant on June 19, 2019
- C-5 Still photos of BWC of Appellant
- C-6 APD Policy Manual Work Rules 4.2.29 thru 4.1.7 - 2 pages

Appellant:

- App 4 APD Standard Operating Procedures effective June 12, 2019 – 9 pages
- App 5 Photo of center console of Appellant’s patrol car

STIPULATIONS

None

CHARGES

Dismissed for violation of the Atlanta Police Department Work Rule (s):

- 4.1.3 Truthfulness
- 4.2.30 Recovered Property
- 4.1.1 Appropriate Action Required

INFRACTION

See City of Atlanta Notice of Proposed Adverse Action (NPAA) (Exhibit C-1)

FINDINGS OF FACT

1. On June 19, 2019, the Appellant, Keisha Richburg, an officer with the APD for approximately 2 ½ years responded to a person shot call. This was the first call on her shift after arriving at the Zone 1 precinct. She activated her Body Worn Camera, entered patrol car #32101 and preceded to the scene of the call.
2. Prior to the Appellant's arrival, a local resident of the area, Leiloni Collier, stopped her car when she observed a black male lying on the ground. The male, later identified as Jamel Harris was lying on his back and barely breathing. Two unknown individuals were standing behind Mr. Harris. She believed that he may have been hit by a car but could soon see that he had been shot. Ms. Collier verified that 911 had been called and attempted to comfort the victim, talking to him and holding his hand until help arrived.
3. The victim was unable to speak. Ms. Collier reached into his right front pants pocket to locate ID. Ms. Collier stated that his ID was on top of his wallet and underneath the wallet approximately \$500 in US currency folded in half. She stated, "I know there was some 20s or you know, it was-it was like a wad of money." (Exhibit C-3 pg. 32)
4. Next to Mr. Harris, on the ground, was a lanyard with his job information. Ms. Collier called the number to verify his employment and advise them to inform his emergency contact that he had been hurt. She left her mobile number. Ms. Collier stated that she didn't leave Mr. Harris' side until the Grady EMTs arrived and proceeded to treat him. She held onto his property, (cell, wallet and money) until she handed it to one of the first emergency personnel on the scene. There was no further mention of the lanyard.
5. The first emergency personnel to arrive on the scene was the Atlanta Fire Rescue Department and a Grady EMT ambulance. The police arrived behind them, Ofc. Xavier Martin was followed by the Appellant.
6. When the Appellant arrives, she observes the victim, calls radio stating that he was "breathing a little bit." According to the events viewed on her Body Worn Camera video by Inv. Lyons, a card is on top of the wallet and the wallet is on top of money. (Exhibit C-3 pg. 27) One EMT retrieves Mr. Harris' phone and the second EMT, Kevin Geter takes the folded money out from under the wallet, places it in the fold of the wallet and gives it to the Appellant. (Exhibit C-5 pg. 5)

7. Now possessing Mr. Harris' phone and his wallet, the Appellant places the property in the driver's seat of her patrol car, closes the door without locking it and without inventorying the contents of the wallet. While at the crime scene, the Appellant returned to the vehicle at least two times for various reasons.
8. Approximately three minutes after taking possession of Mr. Harris' property, the Appellant answers his phone and advises the person on the phone, "He's going to be transported to Grady." Less than a minute later, the Appellant answers Mr. Harris' phone again and says, "We got a call and he was shot in the left side of his head." (Exhibit C-3 pg. 28) The caller was Mr. Harris' pregnant wife.
9. The Appellant leaves the scene to follow the Grady ambulance to the hospital. She opens the wallet while talking to a Grady hospital employee. No money was visible. Twenty minutes later, the Appellant hands Sgt. Christopher Butler (Homicide) Mr. Harris' phone and wallet. (Exhibit C-3 pg. 28)
10. Later that evening on June 19, 2019, the witness, Leiloni Collier received a phone call from Mrs. Harris, now the widow of Mr. Harris. He died shortly after arriving at Grady. The crime was reported on the Atlanta evening news channels. Mrs. Harris thanked her for her kindness and that she received her husband's property however, there was no money in the wallet. Ms. Collier became very upset and posted an emotional message on Facebook. In essence, she wrote "that they took this man's money!!!!". (Exhibit C-3 pg. 13)
11. That social media post was viewed by a city council employee in her news feed who then brought it to the attention of the APD command staff.
12. On June 20, 2019, the Appellant was brought to Zone 1 for a conference call conducted with Lt. Ford, Capt. Cantin (both in the room), Major Browning, Major O'Connor, Lt. Webster and Deputy Chief Glazier via phone. The Appellant was asked three times if she took possession of money from the victim, Kamel Harris. Each time replying that there was no money given to her, just a wallet with nothing of value but cards and an ID. (Exhibit C-3 pg. 162)
13. Next, a conference call was conducted with a Grady EMT attorney, Grady EMT Kevin Geter (last to possess victim's property before handing it to the Appellant), Lt. Webster (Homicide) and Maj. C. Tyus (OPS Commander). Mr. Geter was asked if he recalled if there was money in the wallet that he picked up at the scene and he replied, "...I'm about 90% sure it was money...like money would be

folded...I can't imagine it being anything else..." (Exhibit C-3 pg. 15)

14. A thorough search of the passenger compartment of patrol vehicle # 32101 was completed on June 20, 2019. No money was found in the vehicle.
15. On June 22, 2019, OPS began an official investigation of the following complaints:
 - the Appellant mishandled the property of a homicide victim
 - failed to act in an appropriate manner when the Appellant answered the phone of a homicide victim, Mr. Jamel Harris and,
 - that the Appellant made a sworn and untruthful statement when she stated that she took no money from the victim's wallet.
16. The investigation, completed July 16, 2019, was conducted by Inv. William Lyons, a 25-year veteran in law enforcement, 13 years in the APD Internal Affairs Unit. The report was extensive. The report included but, was not limited to, interviews, Body Worn Camera video, still photos, a Substance Abuse Analysis, memos, emails, a Computer Voice Stress Analysis (CVSA), reports, and statements. It involves 23 items within pages 24-165 of Exhibit C-3.
17. All complaints against the Appellant were sustained. The Appellant was dismissed from employment effective July 16, 2019. (Exhibit C-2)

DISCUSSION

The Appellant, Keisha Richburg, admitted she did not observe Standard Operating Procedure (SOP) regarding two APD rules:

1. Recovered Property 4.2.30 and,
2. Appropriate Action Required 4.1.1

Therefore, the Board's discussion will focus on the complaint regarding APD Rule 4.1.3, Truthfulness. The Appellant contends she was truthful throughout the whole process.

The person shot call answered by the Appellant on June 19, 2019 involved a young husband and father of two who became that day's latest crime statistic--and another sad, senseless shooting in Atlanta. If not for a citizen and local resident of the area, witness Leiloni Collier, this appeal may not have taken place. Ms. Collier, one of the first people on the scene called the victim's job and left her phone number. That evening the widow of the victim, Jamel Harris, called to thank her for her kindness. During the conversation, Mrs. Harris discovered that she did not receive money Ms. Collier removed from her husband's pants pocket at the scene. Mrs. Harris told Ms. Collier that she received only the wallet and phone.

Ms. Collier was shocked from the day's experience and this information upset her even more! She posted the incident on Facebook and the post was viewed by a City employee. Later, she appeared on the local news channels recounting her involvement in the crime. Still, it was the Facebook post that started a chain reaction.

APD command was alerted. They questioned the Appellant who maintained there was no money in the wallet when she received it. Because of the discrepancy between the witness and the Appellant's story, the APD suspended the Appellant on June 20, 2019 and an OPS investigation was initiated.

The Appellant was subjected to multiple interviews and tests. The Board considered responses made by the Appellant to be vague when answering significant questions. During one interview, she stated 13 times "I'm not sure" and a few times "I don't know" and "I think" to important questions. More importantly, when asked if she could tell what was inside the wallet she replied, "It could be paper..." (Exhibit C-3 pgs. 42-85)

The APD uses several investigative tools in establishing innocence or guilt of accused employees. One of the tools administered to the Appellant was a computer voice stress analysis (CVSA). It records voice patterns as a person speaks and analyzes a person's responses. The CVSA is a two-test process. The administrator discards the first test because it normally involves situational stress and submits the results of the second one. CVSA is used specifically in law enforcement for the detection of deception.

During the hearing, the City placed considerable weight on the results of this test through exhibits and testimony from two veteran investigators. However, in this case, the CVSA was not considered in the Board's decision for the following reasons:

1. APD violated their own SOP by scheduling the test immediately after an interrogation. Two hours is allowed between events. (APD-SOP 4.4.5)
2. During the CVSA test the Appellant was asked compound questions. Det. Arthur Nixon answered, "Yes" when asked can compound questions trigger situational stress.

The Board applauds APD-OPS for their enormous efforts investigating this complaint. This process allows officers a chance to defend themselves and offers the City an opportunity to uphold integrity within the APD. In the words of Chief Erika Shields, "It's imperative the public have trust in our work and our actions."

What occurred on June 19, 2019 in NW Atlanta was not an accident, it was a serious crime. It was a murder. The Appellant displayed poor judgment when she elected to answer the victim's phone (evidence from a crime scene) and speak with the wife about her husband's injuries. She also failed to inventory and secure evidence. The Appellant testified that she now understands why her actions did not follow policy.

The victim is said to have had a large sum of money on him when he was shot. There are two witnesses that personally handled the money. Moreover, Body Worn Camera video and still photos document that money was part of the victim's property. Inv. Lyons testified that the first bill of this wad of folded money was a \$20 bill seen using a high-tech machine. Still photos developed from Body Worn Camera video may appear grainy when the person wearing it is in motion; different technology is used to examine the photos. (Exhibit C-5 pg. 1)

In conclusion, the Board is not convinced that the Appellant did not see the folded money in the victim's wallet. The actual amount is unknown but because of the amount, it made the money more visible in the photos. And, the amount doesn't change the fact that money existed. The Board believed it to be US Currency and visible prior to the Appellant receiving it and was gone after being in her possession.

After careful review of the evidence and consideration of the testimony of the witnesses, the Board upholds the Dismissal of the Appellant, Keisha Richburg, in violation of Atlanta Police Department Work Rule(s):

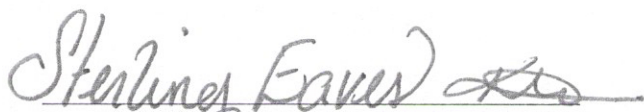
- 4.1.3 Truthfulness
- 4.2.30 Recovered Property
- 4.1.1 Appropriate Action Required

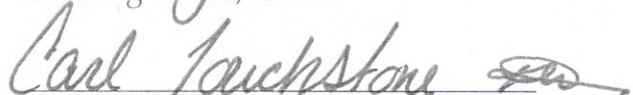
ORDER

The appeal of Keisha Richburg is denied.

This the 26th day of February 2020.

Respectfully submitted,


Sterling Eaves, Chair


Carl Touchstone


Mary Ann S. Phyll DWB