

CITY OF ATLANTA
CIVIL SERVICE BOARD
FINDINGS OF FACT AND ORDER

APPEAL NO. 2019-038AP

Effective Date: October 21, 2019

APPELLANT: **Corey Moore**

Hearing Date: January 9, 2020

City of Atlanta (“City”)
Atlanta Police Department (“APD”)

ACTION:

15-day Suspension

HEARING OFFICER/BOARD:

Mary Ann Phyll, Chair
Plemon El-Amin
Will N. Chandler, II, DWB

APPEARANCES

City of Atlanta’s Representatives:

Joseph Siegelman, Esq., Asst. City Attorney

Appellant Counsel/Representatives:

Corey Moore, Pro Se

City/Respondents/Witnesses:

Corey Moore, Appellant
Jeff Glazier, Dep. Chief APD
Carven Tyus, Major
Todd Coyt, Ass. Chief APD

Appellant’s Respondents/Witnesses:

Daniel Jensen, Lt. APD
Reginald Moorman, Major APD
Darin Schierbaum, Major APD

Observers:

Alisa I. Wyatt-Bullman, City
Kimosha McWilliams, City
Jacqueline Johnson
Shafalika Boysel
Danielle Jones, City
Walter Mobley, Department of Human Resources, City

STATEMENT OF AUTHORITY

Under the authority and provisions of Chapter 114, Article VI, Division 3, §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. Atlanta Police Department, Notice of Final Adverse Action (“NFAA”), employee Corey Moore, issue date October 10, 2019, 2 pages
- C-2. Atlanta Police Department, Notice of Proposed Adverse Action (“NPAA”), employee Corey Moore, issue date October 7, 2019, 2 pages
- C-3. City of Atlanta, Atlanta Police Department, Internal Correspondence from Dep. Chief J.L. Glazier to Major C.N. Tyus, Re: OPS Complaint Investigation #18-I-0457-MISC, dated August 2, 2019, 2 pages
- C-5. Atlanta Police Department, Notice of Proposed Adverse Action (“NPAA”), employee Corey Moore, issue date July 19, 2019, 3 pages
- C-6. Email from Reginald Moorman to APD Command Staff, APD Public Affairs, Keisha Lance Bottoms, Keith Whitney, Re: Night Commander’s Report - August 25, 2018, 5 pages
- C-7. Atlanta Police Department Significant Event Report, FOD Division, Date August 24, 2018, Unit 1503 Officer Hernandez, Time 2355, Location 430 Lovejoy St, Beat 504, Complaint No. 182362494, 1 page
- C-8. City of Atlanta, Atlanta Police Department, Internal Correspondence from Lt. H. Zenelaj to Major C.N. Tyus, Re: Investigation and Disposition OPS File #18-I-0457-MISC, dated January 31, 2019, 10 pages
- C-9. Audio Recording attached to original transcript
- C-12. City of Atlanta, Atlanta Police Department, Internal Correspondence from Inv. M.K. Clayton to Lt. H. Zenelaj, Re: Complaint Control #18-I-0457-MISC, dated December 20, 2018, 11 pages
- C-13. Employee Worksheet

Appellant:

A-1. Email from Amanda Busby to various recipients, titled FYI Accidental Discharge at 250 Williams St NW, Cancer Society, Case #18-365-0379, 1 page

A-2. Atlanta Police Department Offense Report, Incident #183650379-00, Report Date, December 31, 2018, 2 pages

VIOLATIONS AND DISCIPLINE

1. "You are charged with violating Rule 4.2.3 of the Employee Work Rules of this Department. Said Rule states:

Responsibilities of Supervisor: CALEA 5th ed. Standard 11.3.2 and 26.1.6

1. Supervisory employees shall enforce the rules and regulations of the Department and shall ensure the proper conformity to Department policies and procedures.
2. Supervisors shall take immediate, appropriate action(s) when the conduct of any employee is contrary to the public interest or the good reputation or proper operation of the Department.

SPECIFICALLY: On or about August 24, 2018, you responded to 430 Lovejoy Street on a person shot call that involved an off duty APD officer. You were the highest-ranking officer on the scene; Officer V. Hernandez was the primary responding officer. On the scene, Officer Hernandez communicated to you and others that she was unsure of what actions to take, as this was her first "person shot" call and asked you for direction. You failed to give proper direction to Officer Hernandez, and as a result, several APD procedures were not implemented. These included, but were not limited to, requesting General Investigations or CSI, not securing the scene until the shooting could be thoroughly investigated, not interviewing or documenting the names of witnesses, and not ensuring photographs were taken.

You being on the scene as the supervisor, were ultimately responsible for ensuring that your officers held/secured the scene for the proper investigative unit, that proper notifications were made to those entities, and that the scene was processed accordingly. By your failure to do so, you violated APD Employee Work Rule 4.2.3.

YOUR ACTIONS AS DESCRIBED ABOVE ARE IN VIOLATION OF SAID LISTED WORK RULE(S)."

DISCIPLINE - ten (10) days suspension without pay.

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2. "You are charged with violating Rule 4.2.37 of the Employee Work Rules of this

Department. Said Rule states:

Unsatisfactory Performance:

1. Employees shall maintain sufficient competency to perform their duties and assume the responsibilities of their position. Employees shall perform their duties in a manner which shall establish and maintain the highest standards of efficiency in carrying out the functions and objectives of the Department.
2. Unsatisfactory performance may be demonstrated by a lack of knowledge of the application of the laws required to be enforced, an unwillingness or inability to perform the assigned tasks; the failure to conform to work standards established for the employee's rank, grade, or position; the failure to take appropriate action on the occasion of a situation or incident deserving a public safety employee's attention; absence without leave, or unexcused absence from a duty assignment during a tour of duty.
3. In addition to other indications of unsatisfactory performance, repeated poor evaluations and/or repeated infractions of Department directives shall be considered prima facie evidence of unsatisfactory performance of duty.

“SPECIFICALLY: On or about August 24, 2018, you responded to 430 Lovejoy Street on a person shot call that involved an off duty APD officer (Officer A. Williams). Officer Hernandez communicated to you and others that she was unsure of what actions to take, as this was her first “person shot” call and asked you, as the highest-ranking supervisor on the scene for direction. You were informed by Officer Hernandez that Officer Williams said that the shooting was accidental. In response to this information you maintained “who were you to refute that?”

As the supervisor on the scene, you failed to ask the responding officers substantive questions regarding the “who, what, when, and where” regarding the shooting. The answers to these questions would have helped to ensure that a comprehensive investigation resulted on the scene.

By your inactions described herein, you failed to conform to work standards established for your rank; and you failed to take appropriate action on the occasion of the shooting. Accordingly, your actions were in violation of APD Employee Work Rule 4.2.37(2).”

YOUR ACTIONS AS DESCRIBED ABOVE ARE IN VIOLATION OF SAID LISTED WORK RULE(S) #2.”

DISCIPLINE - five (5) days suspension without pay.

FINDINGS OF FACT

1. The Appellant is employed by APD as a police sergeant in Zone 5 on the night watch.
2. At the time of the appeal hearing in this case, the Appellant had been employed by APD twelve (12) years.
3. On August 24, 2018, the Appellant was dispatched and responded to a person shot call at 430 Lovejoy Street, in the City which involved an off duty APD officer ("the Shooting").
4. The Appellant was the assigned Supervisory Officer ("SO") on the scene of the Shooting.
5. As the SO at the scene, the Appellant's duties included directing other responding APD personnel during the investigation of the Shooting.
6. The Appellant did not activate his body-worn camera on when he began to respond to the Shooting scene as required by APD policy and procedures.
7. The Appellant had a previous disciplinary event in 2015.

DISCUSSION

On the evening of the Shooting, a code 50/person shot call was dispatched for response to 430 Lovejoy Street in the City. An off duty APD officer had allegedly shot herself in the left hand while attempting to clean her boyfriend's .45 caliber handgun. The Appellant was dispatched as the on-scene SO and by the time he arrived, the shooter/victim was still at the Shooting scene being treated by medical personnel for her injury. The shooter/victim was sitting outside the crime scene, on the steps of the location with her boyfriend in attendance.

APD procedures require that the SO dispatched to a scene, in this case the Appellant, contain the crime/accident scene, investigate what happened, by whom, where and how it happened. In so doing, it is routinely necessary for the SO or their subordinates as directed by the SO, to directly speak with those involved as well as any witnesses to the event and obtain initial statements from each. Among other duties, the SO's responsibilities include observing the incident scene via walking around it and obtaining a cursory understanding of the incident, ensuring that the evidence is preserved and later gathered by the appropriate APD personnel. Included in this process is the examination by the SO or at the SO's direction by appropriate APD personnel, of any damage which may have resulted to the incident area, including places, in the case of a shooting, where projectiles, blood or other bodily substances may have been deposited.

In this case, the Appellant did none of these things. The evidence revealed that when the Appellant arrived at the scene of the Shooting, another officer, V. Hernandez, had already

arrived. She asked the Appellant for directions on what she should be doing because this was her first time responding to a code 50, person shot call. The Appellant did not give any instructions to Officer Hernandez. Rather, when Officer Hernandez told the Appellant that the victim/APD Officer Williams said this was an accident, the Appellant responded something like who are [we] to question that? The Appellant didn't go into the apartment, nor did he instruct any subordinates to do so, where the Shooting occurred because he testified that the door was locked and yet he never asked the victim for the keys to her residence/the crime scene, nor did he ask his first-line supervisor to approve a search warrant so that APD could gain access to the crime scene. Because it was a busy night as he testified, he released all responding subordinates from the scene before any investigation or containment of evidence was done, except for Officer Hernandez whom he had stay with him at the scene.

It is noteworthy and curious that none of the responding APD personnel, including the Appellant, had recorded the events via activation of their body worn cameras as required by APD policy. Ultimately, all responding officers, except the Appellant, were disciplined for non-activation of their body-worn cameras at the Shooting scene.

The gravamen of the Appellant's argument in this appeal is that it was not his responsibility to perform the duties of the SO. As the argument goes, because there were other higher level APD command staff, specifically the night shift Watch Commander, present at the Shooting scene. As required by APD policy, it was therefore the Watch Commander's job, as the highest ranking responding APD officer to perform the SO duties. Because of the conflicting evidence, it is not clear to the Board whether or not the Watch Commander was in fact at the Shooting scene, got out of his vehicle and spoke with any APD personnel. The Appellant states that the Watch Commander was present because he saw that the Watch Commander's vehicle was at the "top of the hill" near the Shooting scene. Additionally, the Appellant believes that since he spoke with his first-line and second-line supervisors during that evening multiple times, if he was to do anything more than report to the scene and then go to the hospital where the victim was taken, his first-line or second-line supervisors should have directed him to do so.

The next day and much to their astonishment, APD command staff learned that the bullet/slug that had gone through the victim's hand, continued its course through her apartment wall and into an adjoining apartment. Although the adjoining apartment was vacant, the trajectory of the bullet as well as the location of the bullet slug itself was never investigated by the Appellant or by his directed subordinates and APD General Investigations/CSI was never contacted to report to the scene and collect evidence. No GSR (gunshot residue) was ever collected from the victim's hand and as well, she was never interviewed by the Appellant as SO. In short, all the Appellant did was (1) respond to the location, (2) listened to Officer Hernandez, who was at best inexperienced, about what the victim/shooter said had happened, and then he (3) reported to Grady Hospital where the victim/shooter was taken.

When a SO fails to perform their job duties at a crime scene, critical evidence is forever lost. What the Appellant misses in his argument is this very point: by **him** failing to follow APD directives and policy as SO, (1) **he** has forever compromised all investigation integrity and (2) **he** has irreparably foreclosed APD's ability to properly investigate the Shooting. Just because the car of the Watch Commander may have been present at the Shooting scene did not absolve the Appellant of his SO responsibilities. If at any point that night the Appellant was confused about

who was to perform the SO tasks, he should have asked either the Watch Commander, or his first-line or second-line supervisor with whom the Appellant testified he had multiple conversations over the course of the evening. It remains a mystery to the Board what exactly the Appellant as the SO believed his job was at the Shooting. As one City witness said, the reason a responding SO is dispatched by APD to begin with is to be the one assigned in-charge of the scene as promulgated by APD policy and procedures.

In conclusion, this appeal is actually about whether or not a then ten-year seasoned APD sergeant performed his assigned SO duties at the scene of the Shooting and about whether his nonperformance of those duties should result in a charge of unsatisfactory job performance. No matter what tacit directive the Appellant believes existed for him to not perform his duties that night does not an impenetrable immunity for the Appellant make. More importantly, no matter what other responding higher ranking APD personnel may or may not have done that night, the Appellant as SO was still obligated to perform his duties. In the absence of a direct command otherwise, the Appellant's failure to do his job stands apart and against him individually and completely. The Board finds that as charged, on the night of the Shooting, the Appellant failed to perform his supervisory duties resulting in his unsatisfactory job performance.

ORDER

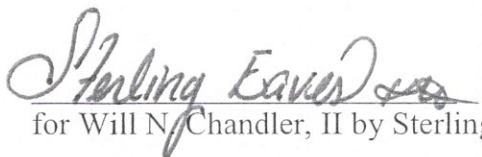
This Board **DENIES THE APPEAL** and finds that the fifteen (15) day suspension of the Appellant the City was reasonable and is hereby upheld.

This the 6th day of March 2020.

Signed:


Mary Ann Phyll, Chair


Plemon El-Amin


for Will N. Chandler, II by Sterling P. Eaves, DWB