

CITY OF ATLANTA CIVIL SERVICE BOARD  
ORDER

APPEAL NO. 2016-034AP

Effective Date: December 13, 2016  
Hearing Date: May 16, 2019

APPELLANT:  
Steven Hazzard

HEARING OFFICERS:  
S. Ralph Martin, Chair  
Mary Ann S. Phyll  
Nkoyo-Ene R. Effiong, DWB

APPEARANCES

City of Atlanta ("City"):  
None

Counsel/Representative:  
Shirmelle Council, Esq.  
Shalanda Miller, Esq.

City of Atlanta's Witnesses:  
Chief Patrick LaBat  
Asst. Chief Vance Williams  
Investigator Jacqueline Thornton

Appellant:  
Steven Hazzard

Counsel/Representative:  
None

Appellant's Witnesses:  
None

Observers:  
None

Under the authority and provisions of Chapter 114, Article VI, Division 3, Sections 114-546 through 556 of the Atlanta City Code (the "Code"), a hearing conference in the above-referenced case was held before the above-named hearing officers of the

Atlanta Civil Service Board (the “Board”) on the date set forth above in Conference Room 2174 of the City Hall Tower located at 68 Mitchell Street, Atlanta, Georgia.

## EXHIBITS

### The City’s Exhibits

1. City of Atlanta Department of Corrections Notice of Proposed Adverse Action dated November 29, 2016 (the “NPAA”).
2. City of Atlanta Department of Corrections Notice of Final Adverse Action dated December 8, 2016 (“NFAA”).
3. City of Atlanta, Department of Corrections Work Rules, pg. 7.
4. City of Atlanta, Department of Corrections Work Rules, pg. 15.
5. City of Atlanta, Department of Corrections Standard Operating Procedures (the “SOP”).
6. Complaint File #16-0081-E-(II), Recommended Action.
7. Hazzard Employee Disciplinary History dated November 4, 2016.
8. Memorandum from Investigator Thornton re Disciplinary Complaint Investigation dated November 4, 2016.
9. Memorandum from Major Vance Williams re Early Warning Referral dated September 19, 2016.
10. State of Georgia v. Hazzard Notice of Court Date dated June 1, 2016.
11. State Court of Henry County Sentence and Probation Order dated September 6, 2016.

### Appellant’s Exhibits

None.

Stipulations Prepared by the City:

None.

Stipulations Prepared by Appellant:

None.

VIOLATIONS

City of Atlanta Department of Corrections Work Rule:

2.32 Conformance to Directives – Every member of the department will familiarize herself/himself with and conform to rules, regulations, directives, and standard operating procedures of the department

1.05 Obey the Law – Employees of the department will obey the laws, statutes, and ordinances, of the federal, state, city and county governments.

CHARGES

*See City of Atlanta Department of Corrections Notice of Final Adverse Action  
(City's Exhibit 2)*

FINDINGS OF FACT

1. Appellant was employed by the City of Atlanta (the "City") in the Department of Corrections (the "Department") as a correction's officer and specifically a Viper Team Member. He has been with the City for approximately five (5) years.
2. The Department's SOP requires all employees to obey the law and promptly notify the Chief and the Office of Professional Standards when they are personally involved in a criminal arrest or criminal violation. (City's Exhibit 5).
3. Appellant admitted he was aware of the Department of Corrections Work Rules that required him to make a report to the Chief and Office of

Professional Standards within 48 hours if he has been arrested or involved in any criminal violation.

4. On or around April 19, 2016, Appellant was charged by Henry County Police with the criminal offense of Theft by Shoplifting and released on a copy of charge. He did not report this information to the Chief LaBat and the Office of Professional Standards (City's Exhibit 8).
5. On June 1, 2016, Appellant appeared in court regarding the criminal charge and received a reappearance calendar call date of August 30, 2016. He was also directed to appear in State Court of Henry County on September 12, 2016, for trial. (City's Exhibit 10).
6. Prior to the trial, on or around September 6, 2016, Appellant entered a plea of Nolo contendere to the charge of Theft by Shoplifting. He was sentenced to 12 months' probation with one (1) day to serve in jail, community service, and a \$750.00 fine. (City's Exhibit 11).
7. On September 12, 2016, Appellant served a jail sentence of 24 hours. Upon release from jail, he contacted Chief Labat. (City's Exhibit 8).
8. On September 15, 2016, Appellant was placed on administrative leave with pay pending the City's investigation. (City's Exhibit 4).
9. On November 29, 2016, the Department issued a Notice of Proposed Adverse Action to Appellant (City's Exhibit 1) (the "NPAA") pursuant to which the City asserted that Appellant violated Department of Corrections Work Rules 1.05 and 2.32, and recommended dismissal.
10. On December 8, 2016, the Department issued a Final Adverse Action to Appellant (City's Exhibit 2) pursuant to which Appellant's employment was terminated.

### **DISCUSSION**

Following an investigation into the arrest and one-day incarceration of Appellant, the City determined that Appellant failed to comply with Work Rule 1.05 – Obey the Law and Work Rule 2.32 – Conformance to Directives. Accordingly, the City terminated Appellant's employment. Appellant appeals this decision.

Appellant was an officer at the Department of Corrections and also a member of the Viper Team. Membership on the Viper Team prohibits a member from having an adverse disciplinary action for a departmental rule violation, including but not limited to obeying the law. (City's Exhibit 8). According to the Department, Viper Team members are held to a higher standard Appellant admitted that he was familiar with the department work rules and policies and signed an acknowledgment of such. He acknowledged that he was aware that if Appellant was arrested, he had to notify the Chief and the Office of Professional Standards of the incident within 48 hours.

It is undisputed that Appellant was involved in an incident at Walmart. A police encounter occurred and Appellant was released on a copy of charges for Theft by Shoplifting. Whether Appellant knew or should have known that the copy of charges was tantamount to an arrest is an open question. Regardless, the SOP indicates that notice within 48 hours is required when an officer is involved in a criminal violation. (City's Exhibit 5).

Curiously, Appellant did not report this incident to the Chief or Office of Professional Standards for several months. Appellant acknowledged that he appeared at least twice in the State Court of Henry County regarding these charges and ultimately pled *nolo contendere* to the charge. He was sentenced to 12 months of probation, 24 hours of incarceration, and fined \$750.00 for the offense. Prior to his day-long incarceration, Appellant had at least three opportunities to notify his superiors of the incident. He did not. Therefore, Appellant technically violated the policies.

The Board understands the Department's concerns about Appellant's credibility, ability to testify in court and oversee others who have violated the law now that Appellant has himself been convicted of a crime. The Board is not convinced, however, that this error in judgment warranted termination as opposed to another form of progressive discipline. Notwithstanding, the SOP clearly states that an employee who fails to timely notify the Department will be "disciplined up to and including dismissal." (City's Exhibit 5). Three of the five individuals listed in the chain of command recommended termination.

Ideally, a person who has dedicated five years of service to the Department of Corrections, mainly without incident; who was eligible for membership on the Viper Team; who retained POST certification despite his err in judgment; and who appeared genuinely remorseful would at least be allowed to resign rather than be terminated.

After hearing all of the testimony and reviewing all of the exhibits, the Board concludes, based upon the preponderance of the evidence, that the City was justified in this disciplinary action.

**ORDER**

Based on the foregoing, the appeal by the Appellant is **DENIED**.

*S. Ralph Martin*

S. Ralph Martin, Chair

*Mary Ann S. Phyll*

Mary Ann S. Phyll

*Nkoyo-Ene R. Effiong*

Nkoyo-Ene R. Effiong, DWB