

CITY OF ATLANTA  
CIVIL SERVICE BOARD  
**FINDINGS OF FACT AND ORDER**

APPEAL NO. 2020-029AP

Effective Date: November 25, 2020

APPELLANT: **Clifton Jenkins**

Hearing Date: February 18, 2021

City of Atlanta (“City”)  
Department of Watershed Maintenance: (“DWM”)

ACTION:

HEARING OFFICERS/BOARD

Dismissal

Nkoyo-Ene R. Effiong, Chair  
Robert Hawkins  
Sterling P. Eaves, DWB

**APPEARANCES**

City of Atlanta Representative:

Jessica P. Johnson, Esq.  
Latrice Latin, Esq.

City Witnesses:

David Boykin, Deputy Commissioner, DWM  
David Mills, Area Superintendent, DWM  
Ronald Geer, Watershed Crew Supervisor II, DWM  
Lamar Hamlin, Watershed Manager II, DWM

Appellant Representative:

Pecola Jennings, SEIU/NAGE/IBPO/IAEP

Appellant Witnesses:

Morris Radford, Crew Supervisor II, DWM  
Myron Thrasher, Crew Supervisor I, DWM  
Chavis Merritt, Construction Maintenance Worker I, DWM  
Martha Parker, Equipment Operator I, DWM and Union Representative  
Clifton Jenkins, Appellant

## **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. Notice of Proposed Adverse Action issued on November 11, 2020 (“NPAA”)
- C-2. Notice of Final Adverse Action issued on November 23, 2020 (“NFAA”)
- C-3. DWM Policy and Procedure Bulletin No. 405
- C-4. Email from David Mills regarding “Re-Assignment”
- C-5. Statement of Ronald Geer dated April 29, 2020
- C-6. Statement of Arthur Cabell dated April 24, 2020
- C-7. Statement of Ronald Geer dated April 28, 2020
- C-8. Statement of Ronald Geer dated May 5, 2020
- C-9. Statement of Ronald Geer dated August 7, 2020
- C-10. Statement of Cedric Carter dated September 10, 2020
- C-11. Statement of Ronald Geer dated September 10, 2020
- C-12. [Written] Reprimand of Appellant dated May 20, 2020
- C-13. Statement of Emmanuel Dupree and others undated
- C-15. Email from Clifton Jenkins titled Absence dated August 30, 2020
- C-16. Signed SOP Acknowledgement Form
- C-17. Signed Employee Information Memo Update
- C-18. Pipeyard Staff and Safety Meeting [Attendance Form]

C-19 Pipeyard Staff and Safety Meeting Attendance Form

C-20 City of Atlanta Code of Ordinances §114-528

**Appellant:**

A Statement of Clifton Jenkins dated November 10, 2020

C Statement of Chavis Merritt

E Two (2) videos recorded by Appellant

**STIPULATIONS**

None.

**VIOLATIONS**

Dismissal for violation of the City of Atlanta Municipal Code of Ordinances:

§114-528(b)(3) Failure to carry out an official directive or refusal to carry out the lawful, reasonable directions given by a supervisor or other acts of insubordination.

§114-528(b)(4) Misconduct, including but not limited to engaging in offensive conduct or language toward the public, supervisory personnel or fellow employees.

§114-528(b)(20) Any other conduct or action of such seriousness that disciplinary action is considered warranted.

**SPECIFIC CHARGES**

(underlining applied for emphasis)

*... "On May 22, 2020, you received a Reprimand for violation of three city codes: §114-528(b)(3),...§114-528(b)(4)... [and] §114-528(b)(20)...and [DPW] Policy and Procedures Bulletin #405 Sleeping while on Duty.*

*On August 6, 2020, you were on a job [site] at 6330 Peachtree Dunwoody Rd Sandy Springs, GA 30326 with your crew members. When Watershed Crew Supervisor, Ron Geer, asked you to help with a job task, you ignored his directive and began asking another Watershed Crew Supervisor, Cedric Carter, questions in reference to Ron Geer. After Cedric Carter answered your question,*

*you began yelling and stating phrases*

*“They rule the world. Whote people rule this world, and that’s all gonna change it’s 2020. It’s 2020 and we niggas gonna run this. We gonna hold the white man down now.”*

*Watershed Crew Supervisor, Ron Geer advised you to stop and attempted to get the crew back to work. A while later you began yelling again and stated that you would only take orders from Cedric Carter. You continued with this misconduct even after being advised by your supervisor to stop.*

*On August 26, 2020, you were in a meeting regarding your attendance with your Area Superintendent, David Mills, Watershed Manager Lamar Hamiln and [your] Union Representative Martha Parker. During this meeting you displayed rude and unprofessional behavior towards your Area Superintendent when you made derogatory remarks towards him by making reference to him as a female. You failed to communicate respectfully. You made the statement “that’s a girl move” on several occasions. Your behavior was perceived as harassing when referencing Mr. Mills as a female. Additionally, at one point during the meeting you stood up over Mr. Mills invading his personal space while demonstrating this behavior.*

*On August 30, 2020, you sent an email to your Area Superintendent, David Mills addressing him as “Mrs. Mills.” The verbiage you used in the email towards David Mills was unprofessional and threatening. Your continued reference to Mr. Mills as a female is considered harassment.*

*On September 10, 2020, during a meeting with your Area Superintendent, David Mills at the Pipeyard, you displayed rude and unprofessional behavior when you called your supervisor a “bitch ass nigger.” Your performance and behavior are egregious and inappropriate. Other Watershed Crew Supervisors have been called derogatory names by you and have witnessed your unprofessional behavior. Your pattern of behavior is unacceptable and in violation of the following:*

*City of Atlanta Anti-Bullying & Workplace Violence Policy [and]*

*City of Atlanta Code of Ordinance §114-528:*

- (b)(3) Failure to to carry out an official directive or refusal to carry out the lawful, reasonable directions given by a supervisor or other acts of insubordination.*
- (b)(4) Misconduct, including but not limited to engaging in offensive conduct or language toward the public, supervisory personnel or fellow employees.*
- (b)(20) Any other conduct or action of such seriousness that disciplinary action is considered warranted.*

*The Department of Watershed Management and the City of Atlanta will not condone this level of performance and behavior. You are dismissed from employment with the City of Atlanta.*

## **FINDINGS OF FACT**

1. The Appellant worked for DWM as a Construction Maintenance Worker I for more than four (4) years.
2. During the Appellant's tenure, he was trained, guided and mentored by several experienced and/or supervisory employees in DWM, including David Mills, David Boykin, Lamar Hamlin, Morris Radford and Myron Thrasher.
3. Early in the Appellant's employment with DWM, efforts to guide and mentor the Appellant appeared to correct the Appellant's conduct deficiencies. The Appellant was not formally disciplined but any conduct deficiencies were discussed, explained, and corrected just as DWM did with all incoming inexperienced personnel.
4. During the Fall of 2019, the Appellant was, at his request, once again reassigned to a different shift, this one where Ronald Geer was a Crew Chief. Otherwise, the Appellant's supervisory personnel above Mr. Geer remained the same.
5. In the Spring of 2020, unacceptable conduct issues arose again with the Appellant. Several times, and by the beginning of November, 2020, Appellant's misconduct had been documented in many internal written statements and memoranda by his management. Also, he was not only orally counselled, but when that didn't work, he received a written reprimand. Shortly thereafter, the Appellant received a two day reduction in pay for being AWOL and unbeknownst to him, other Crew Chiefs in infrastructure maintenance section of DWM had submitted a written request to higher management requesting that the Appellant be removed from the entire infrastructure maintenance section as no one could work with him anymore.
6. By November 11, 2020, the NPAA and then NFAA in this appeal were prepared and after the required notice and response times elapsed, the Appellant employment with the City was terminated effective November 25, 2020.

## **DISCUSSION**

The question for the Board in this case is: Did the Appellant's on-the-job behavior warrant the discipline imposed? The Appellant is a skilled worker who learned his skills while in City employment. By all accounts, the Appellant was a reliable and hard working City employee for the first year of his employment. In fact, a couple of the Appellant's witnesses testified that the Appellant was so good, that they would work with the Appellant again. Unfortunately, none of these witnesses had worked with the Appellant during his last three (3) years of his City employment and were unaware of the conduct issues of the Appellant that eventually arose.

The Appellant argues that only after he reported to the City that he was required to perform his job in an unsafe environment, the discipline causing this appeal ensued. He believes that his

management fabricated his conduct, which he states did not happen and were “not in his character” and which were City created in retaliation for the Appellant’s report of unsafe working conditions in DWM before the formal disciplining of him began.

According to the City’s witnesses who testified at the hearing, when the Appellant started his employment with the City, he was young and inexperienced but he was willing to learn and a good worker. In response, more experienced City employees voluntarily trained and mentored him. But Mr. Boykin testified that starting in 2017, the Appellant’s good attitude, demeanor and willingness to learn had all but disappeared. Mr. Hamlin and Mr. Geer testified that no matter what time they took to try to help the Appellant with his issues, the Appellant became combative, confrontational and toxic, ultimately poisoning the collegial work environment in the OLIO section of DWM. At one point, Mr. Geer even suggested to the Appellant that he avail himself of the Employee Assistance Program services available to him as a City employee, which the Appellant never did.

Also on behalf of the City, Mr. Mills testified that he personally mentored and guided the Appellant while they worked together but in time, the Appellant “broke [Mr. Mills’] heart” by his unabated poor attitude, confrontational and combative ways. The Appellant was unable to take instruction from his management and on one occasion, while in Mr. Mills’ presence, Mr. Mills witnessed the Appellant tell his first-line supervisor Mr. Geer, that helping others clean and organize the work truck “was not his job” after which, the Appellant walked away from his two supervisors, never performing the task as instructed.

In addition to the City presenting evidence supporting all incidents as charged in the NPAA and NFAA, other uncharged incidents occurred. During August, the Appellant failed to not only report to work, but he never notified his management that he would not be at work for two days. On the third day, he reported back to work and the Appellant told his management that he was at his wife’s bedside in the ER for 13 hours while she battled COVID-19, and that his cell phone died and he was not able to notify his management. Although he was not disciplined for the AWOL act, when the next paycheck was issued, the Appellant was not paid for the two day absence because under City guidelines he was considered to be AWOL.

The Appellant testified that he demanded a meeting with his management to discuss the short pay which occurred on August 26, 2020. The events related to this incident in the charging documents were substantiated at the hearing, not only by City management, but in part by the Appellant’s union representative’s testimony as she testified that she heard the Appellant call Mr. Mills a female.

Another incident supporting the City’s charges against the Appellant occurred in the August 30, 2020 email the Appellant sent to notify Mr. Mills that he would not be at work the next day. While it is uncontroverted that the Appellant addressed Mr. Mills in the email as “Mrs. Mills,” the Appellant also wrote “I will not be at work tomorrow [and] don’t give me LWOP again.” As Mr. Mills testified, he considered this to be yet another act of bullying and attempted

intimidation by the Appellant of his management.

The Board has considered in detail, the testimony of the Appellant as well as that of his witnesses about the Appellant's grievance against Mr. Geer and complaints of unsafe working conditions. But the Board finds that there is no factual support for the Appellant's allegations that his management disciplined him in retaliation for the grievance and complaints of unsafe working conditions because chronologically, the Appellant was first disciplined in April but the Appellant did not forward his grievance and complaint to management until August. which was *four (4) months after* he began to be formally disciplined.

The seriousness of subjecting City workers and the public to potential injury or death requires the Board to now address this issue. The videos recorded by the Appellant and entered into evidence in this case, clearly document the lackadaisical way in which, on at least those two occasions, City DWM management failed to protect their employees and the public from potential job site accidents, injury and death. While there was hearing testimony by DWM management that remedial measures, via checklists and spot checks, have now been instituted, DWM management must take steps to require that *all department employees* be responsible for the implementation and enforcement of its new necessary safety measures. Only in this way can the department make safety of its employees and the public at every job site a number one priority.

Finally, considering all the evidence in this appeal, the Board believes that the Appellant was in fact insubordinate as prohibited by Code §114-528(b)(3), used profane and offensive language in public and toward his supervisory personnel as prohibited by Code §114-528(b)(4), and the Appellant slept on his job in violation of Code §114-528(b)(20). Lastly, and as charged, the Appellant attempted to bully, intimidate and threaten his management as prohibited by the City's Anti-Bullying & Workplace Violence Policy.

### **ORDER**

Accordingly, the Board **AFFIRMS** the discipline imposed by the City against the Appellant and **DENIES** the appeal.

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This the 26th day of February, 2021.

Signed:

*Nkoyo-Ene Effiong*

Nkoyo-Ene R. Effiong, Chair

*Robert Hawkins*

Robert Hawkins

*Sterling Eaves*

Sterling P. Eaves, DWB