

CITY OF ATLANTA CIVIL SERVICE BOARD
ORDER

APPEAL NO. 2018-051AP
APPELLANT: MICHAEL LEWIS
Atlanta Police Department (the "Department")

Effective Date: June 21, 2018
Hearing Date: January 28, 2021

ACTION:
22-Day Suspension

HEARING OFFICERS
E. Carl Touchstone, Chair
Sterling P. Eaves
Nkoyo-Ene R. Effiong-Lewis, DWB

APPEARANCES

City of Atlanta ("City"):

Counsel/Representative:
Jacquita Parks, Esq.
John Brogdon, Esq.

City of Atlanta's Witnesses:
Deputy Chief Celeste Murphy
Deputy Chief Rodney Bryant

Appellant:
Michael Lewis

Counsel/Representative:
Pro Se

Appellant's Witnesses:
Michael Lewis

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 (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, via a Zoom Webinar, facilitated by the City, pursuant to Mayor Keisha Lance Bottoms' Executive Order regarding the Covid-19 Pandemic.

EXHIBITS

City of Atlanta

- C1 - City of Atlanta, Atlanta Police Department OPS Complaint
- C2 - City of Atlanta Incident Report

- C3 - OPS Investigative Summary Memorandum
- C4 - OPS Investigation and Disposition
- C5 - POST Status
- C6 - Chain of Command Memorandums
- C7 - OPS Report (Notice of Proposed Adverse Action, Notice of Final Adverse Action)
- C8 - N/A
- C9 - Atlanta Police Department, Employee Discipline Worksheet

Appellant

None.

Stipulations

None.

VIOLATIONS

City of Atlanta, Atlanta Police Department Work Rules:

- 4.1.4 Conduct
- 4.1.5 Obey the Law
- 4.2.33 Conformance to Directives

FINDINGS OF FACT

1. Appellant was employed by the City of Atlanta (the "City") in the Atlanta Police Department. (the "Department"). He is a 30 year veteran of the Department.
2. On April 9, 2016, Appellant received a traffic citation in South Carolina and subsequently had his license suspended on September 5, 2016, for Failure to Appear. (Exhibit C-4.)
3. On March 9, 2017, Appellant was involved in an off-duty vehicle accident while leaving his extra job at Coca-Cola headquarters. (Exhibit C-4.)

4. While not at fault, Appellant was cited for driving on a suspended license. (Exhibit C-2, C-4.)
5. At the time of the March 9th incident (the “Incident”), Appellant was wearing his department-issued class “C” uniform but was only equipped with his service weapon, Glock 22, not the duty belt. (Exhibit C-4.)
6. In 2016, the Department had transitioned to a Glock 17 and was no longer using the Glock 22 at the time of the Incident. (Exhibit C-4.)
7. An investigation into the Incident revealed that Appellant entered a plea of “nolo contendere” for the citation and paid a fine for the charge of an expired license violation and the fine for the speeding citation in South Carolina. (Exhibit C-4.)
8. The investigation also revealed that Appellant was working an extra job at Coca-Cola without a valid Extra Job Permit. (Exhibit C-4.)
9. Appellant admitted that he did not have a valid Extra Job Permit on his person at the time of this incident.
10. At the time of the Incident, Appellant’s status with POST was suspended for medical disability. (Exhibit C-5.)
11. On June 6, 2018, a Notice of Proposed Adverse Action (“NPAA”) was issued by the City to Appellant, with the proposed action of a 22-day suspension. (Exhibit C-7.)
12. On June 7, 2018, a Notice of Final Adverse Action (“NFAA”) was issued by the City to Appellant, without modification to the NPAA. The effective date of the action was June 21, 2018. (Exhibit C-7.)

DISCUSSION

Following an investigation into an off-duty vehicle accident involving Appellant, the City determined that Appellant violated Department work rules: 4.1.4 Conduct; 4.1.5 Obey the Law; and 4.2.33 Conformance to Directives. Accordingly, the City suspended Appellant for 22 days. Appellant appeals this decision.

Appellant is a 30-year veteran of the Atlanta Police Department. During his time of service, he was an accomplished officer. Unfortunately, on March 9, 2017, Appellant was involved in a vehicle accident while off-duty. At the time of the Incident, Appellant was leaving an extra job he held with Coca-Cola. While he was not at fault for the vehicle accident, he was cited for driving on a license that had been suspended since September 2016. Additionally, at the time of the Incident, Appellant was not dressed in his full uniform

and was carrying a service weapon that the Department was no longer using. Appellant's status with POST was also listed as suspended.

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.

Work Rule 4.1.5 – Obey the law: Employees shall uphold the Constitutions of the United States and the State of Georgia, obey all applicable federal, state and local laws, and comply with all applicable court decisions and orders of the courts.

Appellant offered credible testimony that he was unaware that his license had been suspended. He admitted that he received a speeding ticket while returning from a personal matter in South Carolina, signed the citation, and mailed in payment for the fine. He was unaware until the Incident that the payment did not clear, and his license was suspended. Appellant took immediate action to rectify the situation and have his license reinstated. Notwithstanding, it is unrefuted that these two incidents (1) the South Carolina speeding citation and (2) the Georgia suspended license citation violated work rules 4.1.4 and 4.1.5 and thus, were subject to discipline.

Chief Bryant testified that he reviewed the investigation report and was well within his authority to make an independent determination of discipline. Based on his review of the report and Appellant's discipline record, Chief Bryant concluded that Appellant's violation of work rule 4.1.4 was a Category D offense given past conduct within the reckoning period. Appellant's offense and past discipline subjected Appellant to discipline ranging from 16 days suspension to dismissal. Appellant received the minimum days permissible under the guidelines. Chief Bryant also testified that work rule 4.1.5 is a Category C offense because they are held to a higher standard as police officers. The range of discipline under Category C was 4-14 days. Appellant received five days for this offense. Appellant received one more day than the minimum days permissible under the guidelines.

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.

The City presented evidence that Appellant failed to meet three aspects of this work rule. First, Appellant was out of full uniform at the time that he was involved in the Incident. Second, Appellant failed to maintain a valid Extra Work permit. Third, Appellant was working an extra job while on medical disability, which is not permitted. Appellant was issued a one-day suspension for all three collective offenses, which was the minimum discipline permissible under the guidelines for a Category B offense.

Appellant testified that he did not have on his duty belt based on his understanding of what was required when he was off-duty. He also testified that he did not have the appropriate service weapon because he had not yet been authorized to carry it due to a previous workplace injury. Notably, the testimonies of Chief Bryant and Deputy Chief Murphy were conflicting as to the required attire. Additionally, the City

offered no response to Appellant's testimony about his new service weapon's issuance. Appellant also argued that his status with POST was inaccurate and that he was not on medical disability at the time of the Incident. No evidence was entered into the record to substantiate that claim. Lastly, Appellant testified that he did not have an Extra Work permit on him at the time of the Incident and that he had lost it.

After review of the testimony and evidence, the Board concludes that the City met its burden and was justified in its action of **suspension** in the instant matter. The City has met its burden concerning all of the allegations as presented.

ORDER

Based on the foregoing, the Board hereby **AFFIRMS** the Appellant's suspension.

This the 3rd day of March, 2021.

Signed:

E. Carl Touchstone

E. Carl Touchstone, Chair

Sterling Eaves

Sterling P. Eaves

Nkoyo-Ene Effiong

Nkoyo-Ene R. Effiong, DWB