

CITY OF ATLANTA CIVIL SERVICE BOARD
ORDER

APPEAL NO. 2019-39AP
APPELLANT: COREY MOORE
Atlanta Police Department (the "Department")

Effective Date: October 21, 2019
Hearing Date: March 11, 2021

ACTION:
Demotion

HEARING OFFICERS
Robert Hawkins, Chair
Sterling P. Eaves
E. Carl Touchstone, DWB

APPEARANCES

City of Atlanta ("City"):

Counsel/Representative:
Allegra J. Lawrence, Esq.

City of Atlanta's Witnesses:
Major Carven Tyus
Sergeant William Dean
Deputy Chief Darin Schierbaum
Asst. Chief Todd Coyt

Appellant:
Corey Moore

Counsel/Representative:
J. Daniel Cole, Esq.

Appellant's Witnesses:
Appellant Corey Moore

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

- C-1 Atlanta Police Department Notice of Proposed Adverse Action (NPAA), dated October 7, 2019
- C-2 Atlanta Police Department Notice of Final Adverse Action (NFAA), dated October 17, 2019
- C-3 APD.SOP.2010 – Work Rules, Effective January 18, 2019
- C-4 APD.SOP.3080 – General Procedures, Effective March 5, 2018
- C-5 APD.SOP.2020 – Disciplinary Process, Effective January 17, 2019
- C-6 Atlanta City Code pt. II, ch. 114, art. VI, dvi. 3, § 114-528 and § 114-529
- C-12 OPS File # 19-1-0094-MISC
- C-13 Historical Disciplinary Data – Collected March 4, 2021
- C-16 March 9, 2020 Findings of Fact and Order of Civil Service Board, 2019-038AP, Order
- C-18 OPS Officer Resume for Officer Corey Moore – Collected March 2, 2021

Appellant Moore

- M-2 Sergeant Promotional Exam Ranking, June 3, 2016
- M-3 Atlanta City Code, pt. II, Ch. 114, Art. IV, Div. 7, Sub. II, § 114-251
- M-4 Atlanta City Code, pt. II, Chi. 114, Art. IV, Div. 13, § 114-396
- M-5 APD.SOP. 2090 Performance Evaluations
- M-6 Moore Fiscal Year 2018 Performance Evaluation
- M-7 Moore July 1, 2017 – December 31, 2017 Mid- Year
- M-8 Moore Outside Training Application
- M-9 APD.SOP.2080
- M-11 March 6, 2019 Memorandum

- M-16 January 16, 2019 Email
- M-17 Text Message with Maj. Schierbaum
- M-18 Phone Records
- M-19 APD.SOP.5011 General Investigations Squad
- M-20 APD.SOP.1010 Mission and Organization
- M-21 January 22, 2019 GIS Daily Report
- M-26 Sergeant Job Description
- M-27 News Article and Jail Records
- M-30 Sgt. Demotion Report and Disciplinary History
- M-31 January 23, 2019 Email
- M-34 APD.SOP.2022 Early Intervention
- M-42 April 29, 2019 Memorandum from Glazier

Stipulations

None.

VIOLATIONS

Atlanta Police Department Work Rules:

- 4.2.3 Responsibilities of a Supervisor
- 4.2.37 Unsatisfactory Performance

FINDINGS OF FACT

1. Appellant Corey Moore (“Appellant”) was employed by the City of Atlanta (the “City”) in the Atlanta Police Department (the “Department”). He was hired as an officer for the City in 2008.
2. Appellant tested for the Sergeant’s Exam in 2016.
3. Appellant was promoted to Sergeant in June 2017.

4. On or about January 21, 2019, two (2) suspects allegedly kidnapped and robbed at gunpoint, four (4) Georgia Tech students (the Students) by forcing them to drive the suspects around to various ATM's and withdraw funds.
5. Appellant reported to the scene of the kidnapping/armed robbery at Georgia Tech. He was the highest-ranking officer on the scene.
6. Once he arrived, Appellant sent a text message to his Captain to inform him of the alleged crimes.
7. Appellant met with the Students at the Georgia Tech Police Department Office. Since he held the rank of Sergeant, Appellant was considered the supervising officer on the scene.
8. Other APD officers reported as well, but Appellant did not have the officers take individual statements from the Students.
9. Appellant took a group statement from the Students that were the victims of the kidnapping/armed robbery. He did not separate the Students and take individual statements from each one.
10. Appellant did not, nor did he request the other officers to, process the Student's vehicle by taking fingerprints.
11. After Appellant took the group statements, he allowed the Students to leave in the vehicle that was used in the crime.
12. A complaint was submitted on or about February 25, 2019 about Appellant's handling of the armed robbery.
13. The January 21, 2019 incident is Appellant's fourth violation of Atlanta Police Department Work Rules.

DISCUSSION

Based on the results of an investigation into the complaint of Appellant's handling of the kidnapping/armed robbery of the four Georgia Tech Students on January 21, 2019, the City determined that Appellant violated the following work rules: 4.2.3 Responsibilities of a Supervisor; and 4.2.37 Unsatisfactory Performance. The City ultimately demoted Appellant from the rank of Police Sergeant to Police Officer for these violations. Appellant appeals this decision.

Appellant had been with the Department since 2008. He tested for the Sergeant's Exam in 2016, and was promoted to the rank of Sergeant in June 2017. At the time of the kidnapping/armed robbery at Georgia Tech on January 21, 2019, Appellant was on duty.

He reported to the scene at Georgia Tech and upon arrival, he was the highest-ranking officer on the scene. By the Department rules, he was also considered to be the supervising officer on the scene. Appellant sent a text to his Captain while on the scene. Since no other higher-ranking officers appeared, Appellant proceeded to interview the four (4) Georgia Tech Students, in a group. He did not separate the individual victims for the interview. Appellant did not process the victims' vehicle for fingerprints or other evidence. Moreover, Appellant did not request other officers on the scene to process the vehicle. On February 25, 2019 a Complaint was filed against Appellant for his handling of the armed robbery investigation. After completing the investigation regarding the Complaint, the City demoted Appellant from the rank of Police Sergeant to Police Officer. Appellant submits that he was not instructed on what to do to handle the initial investigation and that the demotion was procedurally flawed.

Work Rule 4.2.3 – Responsibilities of Supervisor: 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.

Work Rule 4.2371 – 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 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.

Major Carven Tyus ("Tyus") the OPS Commander at the time, was the first witness for the City. Tyus stated that his responsibility was to review the OPS investigation in this case to make sure that it was complete and thorough. He then sent the report up through his chain of command. Tyus testified that APD Work Rule 4.3.1 provides guidance for a preliminary investigation, which Appellant was expected to comply with. According to Tyus, the Sergeant's job is to ensure that all of the elements of the work rule are done, whether by the Sergeant or by someone the Sergeant commands to do them.

Tyus went on to add that until someone relieved him, Appellant was the commander on the scene. He stressed that there is only one chance at a crime scene to get it right. Otherwise, the Department loses critical evidence. Tyus added that it's important to interview witnesses separately, because you don't want to contaminate the

story. There were three sustained violations in Appellant's history: 1) Oral admonishment; 2) Written reprimand; 3) 15 day suspension; and 4) the current demotion. Tyus stated that the discipline for the current work rules violations included termination as an option, but that a decision was made that Appellant could possibly be retrained. Finally, on redirect, Tyus testified that the violation in this case alone supports dismissal or demotion. The Department does not have to rely on any other violations to either dismiss or demote an employee for these work rules violations

Sergeant William Dean ("Dean") also testified for the City. His role in this case was to prepare formal charges for adverse discipline against the Appellant and to make sure that the discipline falls within range of the guidelines. Dean confirmed that a single violation of Work Rule 4.2.3 or 4.2.37 is enough to warrant a demotion for the violation.

Deputy Chief Darin Schierbaum ("Schierbaum") held the rank of Major in 2019. He requested the OPS investigation into Appellant's handling of the kidnapping/armed robbery at Georgia Tech. He testified that he spoke to Deputy Chief Glazier and Capt Spann of the Department about the discipline recommendations in this case.

The City's final witness was Asst. Chief Todd Coyt ("Coyt"). He testified that he concurred with the discipline in Appellant's case. He added that based on this incident and another complaint, it appeared that Appellant was not suited to be a supervisor. According to Coyt, supervisors are held to a higher standard. However, he did not believe that termination was appropriate. He felt that demotion was appropriate and that demotion was not permanent. Appellant can retrain and take the Sergeant's Exam again. He concluded by stating that he believes that if Appellant was left in a supervisory position, that that would be a danger to the Department.

Appellant's only witness called was Appellant Corey Moore. Appellant testified about his history with the Department and his performance evaluations. Appellant testified about the outside training that he was doing with the goal of someday being on the Mayor's security detail.

Appellant testified that immediately after the incident on January 21, 2019, no one said anything to him about any deficiencies in his performance. Appellant contends that he was given more responsibility after the incident and that he even received a raise later in 2019. He stated that there was no early intervention nor any early warning system.

As it relates to the January 21, 2019 incident at Georgia Tech, Appellant testified that he had never responded to a kidnapping prior to this day, and that the two (2) other officers on the scene had not either. He submitted that he believed that he first needed to make sure that the victims were not hurt, and then call other officers to come to the scene. He showed that he called a Lt. Henninger, Officer Dejorge and Lt. Turner, all of the Department. He believed that Henninger was the night commander at the time. Appellant stated that he called for assistance and that nobody came. He believed that General Investigations ("G.I.") was supposed to come to collect evidence.

Appellant testified that he viewed the crime scene as being two (2) locations, 295 Ponce de Leon Avenue and the Wells Fargo bank, where the victims were taken. He saw the Students' vehicle as being the mechanism for the crimes which did not require evidence collection. Appellant stated that one person that did the kidnapping/robbery dropped his cell phone in the Students' vehicle and that an arrest was made from the cell phone.

According to Appellant, when he talked to Lt. Turner, he was told to get G.I. involved. He stated that his directives from Lt. Turner and G. I. never said that he should separate the victims, but just to interview them well.

Appellant's overall defense is that he never had any negative evaluations, there was never a performance improvement plan put into place prior to the demotion, there was no opportunity for additional training, and that there was no effort by the Department to correct the issues with Appellant. Appellant contends that all of these measures should have been put in place as a result of his actions in this incident because he had never handled a kidnapping/armed robbery case before.

Based on the evidence presented, the Board believes that the City of Atlanta has met its burden to substantiate the demotion of Appellant in this matter. This case was thoroughly investigated and the City chose to give the Appellant another chance, since dismissal certainly was an option. Given the serious nature of the Appellant's mistakes and behavior, he does not seem appropriately suited for a supervisory role. The City followed all of the proper procedures in this action and the Board is satisfied that the City's discipline is appropriate in this matter.

After review of the testimony and evidence, the Board concludes that the City was justified in its action of **demotion** 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 demotion.

This the 12th day of April, 2021.

Signed:

Robert Hawkins

Robert Hawkins, Chair

Sterling Eaves

Sterling P. Eaves

E. Carl Touchstone

E. Carl Touchstone, DWB