

CITY OF ATLANTA
CIVIL SERVICE BOARD
FINDINGS OF FACT AND ORDER

APPEAL NO. 2020-022AP

Effective Date: Sep. 17, 2020

APPELLANT: **Craig Williams**

Hearing Date: May 13, 2021

City of Atlanta (“City”)
Department of Corrections: (“DOC”)

ACTION:

20-day Suspension

HEARING OFFICERS/BOARD:

Plemon El-Amin, Chair
Suzy Ockleberry
Sterling P. Eaves, DWB

APPEARANCES

City of Atlanta Representative:

Joe Siegelman, Esq.

City Witnesses:

Interim Chief Elder Dancy, DOC
Sgt. Jacqueline Thornton, Acting Comm, Off. of Professional Accountability, DOC

Appellant Representative:

Rita Cherry, Esq., National Association of Government Employees

Appellant Witnesses:

Craig Williams, 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 Final Adverse Action issued on February 11, 2018 (“NFAA”)
- C-2 Notice of Proposed Adverse Action issued on February 3, 2018 (“NPAA”)
- C-3 Video tape without audio of incident from Grady Hospital Detention Clinic (“Clinic”) security camera
- C-4 Atlanta DOC Complaint Investigative File No. 20-0012-E-(IV)
- C-5 Atlanta DOC Complaint Investigative File No. 17-0014-E-(I)
- C-6 Employee Disciplinary History for Craig Williams
- C-7 Atlanta DOC Standard Operating Procedures

Appellant:

- A-1 Documents Bates-stamped 0001-008
- A-2 Documents Bates-stamped 0009-0010

STIPULATIONS

None.

VIOLATIONS

20-day Suspension for violation of the DOC Work Rule:

1.01(b) Appropriate Action Required

The Demands of the DOC service are many, varied and extreme. Employees will meet the challenges by responding in an appropriate manner to whatever situation they encounter by:

(b) Taking action in each situation to provide necessary service and ensuring the notification of the proper supervisors when indicated by the circumstances.

SPECIFIC CHARGES

“On January 31, 2020, you failed to intervene when you observed Officer I. West use force on detainee Rodney Gilbert while he was restrained on a gurney at Grady Memorial Hospital.”

FINDINGS OF FACT

1. The Appellant works for DOC as a Grady Hospital Detention Officer and has been employed by the City for six (6) years. On January 31, 2020, the night of the subject incident in this case, the Appellant was working an additional/second shift in the Grady Memorial Hospital Detention Clinic (“Clinic”).
2. On that evening, a detainee by the name of Rodney Gilbert (“Detainee Gilbert” or “Detainee”) was being treated in the Clinic. Detainee Gilbert was restrained on his gurney because he was intoxicated, belligerent, uncooperative, spitting on and verbally insulting the staff. This treatment situation was not unusual in the Clinic and was a daily occurrence. But on that evening, no masks were available to contain Detainee Gilbert’s spittal and to protect Clinic staff. The Detainee’s gurney was placed against the wall and away from both nurses’ and officers’ stations.
3. At some point, Detainee Gilbert focused his bad behavior specifically towards DOC Off. I. West who was aiding medical staff in their treatment of him. Once intravenous medicine had been given to Detainee Gilbert, all Clinic staff moved physically away from his gurney resulting in no staff being within approximately ten (10) feet of the gurney.
4. Shortly thereafter, the Appellant, who was now located at the counter at the nurses’ station, obtained needed treatment information from medical staff and completed a required log form while his back was turned to Detainee Gilbert’s gurney. Suddenly, Off. West propelled himself from where he had been standing about ten (10) feet from the gurney and physically attacked Detainee Gilbert hitting him in the face.
5. Because Off. West’s location at movement start had been about 10 feet from the Appellant’s right shoulder, the Appellant, in his peripheral vision, only saw the accelerated motion of Off. West from where he had been standing towards Detainee Gilbert’s gurney. In the split second it took for the Appellant to turn towards the Detainee’s gurney and to his right away from the counter, Off. West had stopped his physical attack and was pretending to be straightening the detainee’s bed linens.
6. The Appellant, seeing the attack had ended, walked past the attack scene and behind Off. West, went into the officers’ station area, and called his supervisor to report the attack.
7. Within two minutes, the Appellant’s command staff arrived in the clinic and contained the situation.

8. After an internal investigation, the Appellant was cited with violation of DOC work rule 1.01(b) and Off. I. West resigned in lieu of dismissal from City employment.
9. The subject NPAA and NFAA's were issued on September 3, 2020 and September 11, 2020 respectively, dispensing 20-days of suspension without pay to the Appellant.

DISCUSSION

DOC officers, including Grady Detention personnel, are employed subject to the department's work rules, standard operating procedures and the City's policies. The City charged the Appellant with violating DOC Work Rule 1.01(b) by "failing to intervene when he saw West use force on the Detainee." At the appeal hearing however, the City's position changed to include the allegation that the Appellant did not report the attack to his command staff. As no objection to the additional factual charge was made by the Appellant at the hearing, the Board will consider both allegations as a part of this appeal.

The Acting Commander of the Office of Professional Accountability ("OPA"), Sgt. Jacqueline Thornton was the City's first witness. She stated that she conducted the DOC OPA investigation of the incident, drafted the violations, NPAA and NFAA, and forwarded the entire package to her command staff for review and approval. Sgt. Thornton stated that she believed that based on the Appellant's training and experience, he should have taken steps to separate West from the Detainee before the attack occurred. Her belief is that when the Detainee's focus shifted directly to West, it was incumbent upon the Appellant to remove West from the area of the Detainee. Regarding the Appellant's obligation to report the incident, Sgt. Thornton testified that while the Appellant gave a statement saying he did report the incident immediately to his command staff, the Appellant's first-line supervisor that evening, Senior Officer Trent Williams ("SO Williams" and no relation to the Appellant) said in his investigative statement that Off. West and not the Appellant, reported the incident to him.

The City's second witness was DOC Acting Chief Elder Dancy. Chief Dancy was not in his current job when the subject incident occurred, nor was he employed by DOC at the time. For thirty (30) years, Chief had been with the Atlanta Police Department before which he was employed in the prison system. Chief reviewed the incident video and the OPA report in this case and in his opinion the Appellant had a duty to protect the public, the Detainee, himself and his coworkers and that he failed to do. Chief stated that before the attack, the Appellant should have physically put himself between West and Detainee Gilbert's gurney to provide a physical barrier between the two and/or the Appellant should have contacted his supervisor for intervention or de-escalation before anything could happen. He felt that the Appellant could have gotten involved earlier thereby keeping the entire incident from occurring. For these reasons, the Chief felt that the discipline dispensed to the Appellant was appropriate.

The Appellant's only witness was himself. He opined that on that evening, Off. West was not in his usual work location at the Detention Center but that he had been reassigned to work in the Clinic because West was involved in an incident with his command staff at the Detention Center. As a result, the Appellant and Off. West had not worked together before.

Just before the incident, the Appellant stated that he was at the nurses' station completing paperwork with his back partially turned toward West and with the gurney behind him. Out of his peripheral vision, he saw West launch himself across the room and towards Detainee Gilbert's gurney and the Appellant screamed West's name to break West's momentum. The Appellant said he did not see the strike but he knew immediately that an attack on the Detainee by West had occurred. He never physically approached West afterwards because the time between him seeing West fly across the room until West moved away from the gurney after the attack ended was a matter of seconds. Except for screaming West's name, the Appellant stated that there was no time for him to physically act to stop the attack beforehand.

Due to the unexpected act of violence by West upon the Detainee, the Appellant testified he was in shock immediately afterwards. When the attack ended, West was acting like he was just straightening bed linens on the gurney, as if that was the reason he was next to the Detainee's gurney all along. The Appellant went to the officers' station to make his call to his supervisor. He explained that he immediately reported the incident to his supervisor "downstairs" via a duty officer who answered the phone number the Appellant called and who contacted SO Williams.

While the Appellant was making that call, West came into the officers' station, sat down and began to write on the official log he had picked up from the table where the Appellant had placed it. When the Appellant completed the call, he returned to the nurse's station counter and waited for his command staff to appear. Once the supervisor(s) arrived, Detainee Gilbert's gurney was placed inside a private exam room and away from where the attack occurred.

In the Board's consideration of all of the evidence presented, the most compelling evidence was the Clinic's video that was recorded from a bird's eye view, and was the best evidence of what actually happened on that evening. Unhelpful however, was that the video did not contain any audio. A second by second review of the video confirms that because of the location of the staff and the gurney, there was no time for *any of the personnel* to stop West's attack of Detainee Gilbert. All Clinic personnel, including the Appellant were at least ten feet away from the Detainee's gurney, and the same distance away from Off. West. Just before the attack, medical personnel was walking behind the nurses' station counter, which was across the room from where Detainee Gilbert's gurney was located. The Appellant was facing the medical personnel at the nurses' station counter and West was ten from the counter, the Appellant and the gurney. While the City argued that the Appellant should have known ahead of time to separate the Detainee's gurney from Off. West, as shown by the video, the ten feet distance between the two was already in place before the attack occurred.

It is important to note that the environment in the Clinic on that evening shift was routine and not remarkable in any way until Off. West chose to commit an assault on a restrained inmate. Given that fact and that (1) the Appellant and Off. West had not worked together before, (2) the Appellant had not been told by his supervisor to be wary of potential aggression against inmates by West, (3) the undisputed distance of separation between West and the gurney was already in place, (4) no controverting evidence exists to the Appellant's assertion that he screamed West's name during West's movement toward the gurney, and (5) the Appellant was not a supervisor or

Off. West's supervisor, the Board is at a loss to find anything that the Appellant could have done to prevent the unpredictable attack. Moreover, given that the attack was so quick leaving no time for anyone present to intervene, engaging West after the attack would have been an act of futility.

Indeed, another close review of the video reveals that Off. West waited and timed his attack when all medical staff and the Appellant were many feet away from not only him but the Detainee, with their backs to West and the Detainee. Only then did West intentionally launch himself across the room, strike Detainee Gilbert and then try to cover his crime by acting like he was straightening bed linens on the gurney. That any Clinic personnel, more specifically the Appellant, should have predicted that one of their coworkers would attack a gurney-restrained inmate, forty minutes into the episode of Detainee Gilbert's spitting and cursing at everyone in the Clinic, is simply fanciful. And the Board therefore, is not persuaded by the City's hindsight assignment of an unobtainable duty to the Appellant and finds that the City did not bear its burden on this issue.

Turning to the City's charge that the Appellant failed to report the incident to his superiors, there exists a conflict in the hearing evidence as to *who* actually called the command staff to the Clinic. The City's position is that Off. West and not the Appellant called because SO Williams gave a statement to OPA that West and not the Appellant, was the person who called him. Other than this statement, there was no evidence introduced that SO Williams himself spoke with anyone by phone as SO Williams nor the duty officer testified to clear up this point. Rather, the evidence introduced at the hearing was that the Appellant called and spoke with another person who answered the number he called although he did not speak directly to SO Williams. Therefore, it is possible that SO Williams' statement was based on what he heard from the person that relayed the message to him, who could have been the same person/duty officer with whom the Appellant spoke, which caused SO Williams to mistakenly reverse the reporter's names.

Setting that factual cloud aside, the Appellant has steadfastly and consistently reported ever since that night that he called his supervisor to report the incident. In light of the fact that the City bears the burden of showing that the Appellant *did not report* the incident to his supervisor as required by DOC Work Rule 1.01(b), the weight of the conflict goes against the City.

ORDER

Accordingly, the Board **REVOKES** the discipline imposed by the City against the Appellant and **GRANTS** the appeal.

This the 20th day of May, 2021.

Plemon El-Amin

Plemon El-Amin, Chair

Suzy Ockleberry

Suzy Ockleberry

Sterling Eaves

Sterling P. Eaves, DWB