

**CITY OF ATLANTA  
CIVIL SERVICE BOARD  
ORDER**

APPEAL NO. 2020-015AP  
APPELLANT: LONNIE HOOD  
Atlanta Police Department (the "Department")

Effective Date: June 11, 2020  
Hearing Date: April 29, 2021

ACTION:  
Dismissal

HEARING OFFICERS  
Mary Ann Phyll, Chair  
Nkoyo-Ene Effiong  
E. Carl Touchstone, DWB

APPEARANCES

City of Atlanta ("City"):

Counsel/Representative:  
Kareemah Lewis, Esq.  
Staci Miller, Esq.

City of Atlanta's Witnesses:  
Inv. Michael Clayton  
Captain Hajredin Zenelaj  
Deputy Chief Todd Coyt

Appellant:  
Lonnie Hood

Counsel/Representative:  
Raemona Byrd-Jones, Esq.  
Stephanie Mutti, Esq.

Appellant's Witnesses:  
SPO Patrick Fite  
Major Richard Mason  
Sgt. William Dean

**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 Final Adverse Action (NFAA), dated June 11, 2020.
- C-2 Atlanta Police Department Notice of Proposed Adverse Action (NPAA), dated June 9, 2020.
- C-3 #20-I-0247-UAF OPS Investigation Part 1
- C-4 #20-I-0247-UAF OPS Investigation Part 2
- C-5 Executive Order 2020-92
- C-6 Link to Body Worn Camera of Officer Lonnie Hood
- C-7 Relief from Duty Form
- C-8 Atlanta Police Department Work Rule 4.2.50 Maltreatment or Unnecessary Force
- C-9 Lonnie Hood Arrest Warrants

### Appellant Hood

- A-3 Atlanta Police Department SOP.2020 Disciplinary Process
- A-4 City of Atlanta Municipal Code Sec. 114.532 Emergency Situations

### Stipulations

1. I, Lonnie Hood, have been with APD for twenty-nine (29) years, eight (8) years as a civilian and twenty-one (21) years as an officer.
2. I, Lonnie Hood, agree that on May 30, 2020, I was employed with the Atlanta Police Department.
3. I, Lonnie Hood, agree that on May 30, 2020, I was on duty with the Atlanta Police Department.
4. I, Lonnie Hood, was made aware of Atlanta Police Department Work Rule 4.2.50 prior to May 30, 2020.

5. I, Lonnie Hood, agree that Atlanta Mayor Keisha Lance Bottoms ordered a curfew in the City of Atlanta, to begin at 9:00 P.M. on May 30, 2020, through sunrise on May 31, 2020 (Executive Order 2020-92)
6. I, Lonnie Hood, agree that on May 30, 2020, I was on duty as a Police Sergeant, in uniform, and working as part of an arrest team that had been deployed in the downtown Atlanta area.
7. While engaged in his duties on the evening of May 30, 2020, the Appellant was equipped with a TASER brand Conducted Energy Weapon, issued to him by the Atlanta Police Department.
8. I, Lonnie Hood, agree that I was relieved of duty, suspended with pay, on June 02, 2020.
9. I, Lonnie Hood, agree that on June 09, 2020, my Union Representative, Raemona Byrd, was served with a Notice of Proposed Adverse Action (“NPAA”) on my behalf, indicating dismissal effective on June 11, 2020 and citing a violation of Work Rule 4.2.50, Maltreatment or Unnecessary Force.
10. I, Lonnie Hood, agree that on June 10, 2020, my Union Representative, Raemona Byrd, was served with the Notice of Final Adverse Action (“NFAA”).
11. I, Lonnie Hood, have not had any open investigations with the Office of Professional Standards involving the use of excessive force.

### VIOLATIONS

Atlanta Police Department Work Rules:

4.2.50 Maltreatment or Unnecessary Force

### FINDINGS OF FACT

1. Appellant Lonnie Hood (“Appellant”) is employed by the City of Atlanta (the “City”) in the Atlanta Police Department (the “Department”).
2. Appellant has worked with the Department approximately 21 years.
3. On May 30, 2020 the City was under a curfew (“the Curfew”) from 9:00 p.m. until sunrise.
4. The curfew was issued the afternoon of May 30, 2020 via Executive Order, by Mayor Keisha Lance Bottoms.
5. Appellant used his TASER in an encounter with two (2) young adults on the

evening of May 30, 2020, during his deployment as part of an arrest team in downtown Atlanta.

6. During the investigation of this incident, Appellant was not interviewed by OPS because he had already been terminated.

### DISCUSSION

Prior to the conclusion of the investigation of several Department officers concerning the events in downtown Atlanta on May 30, 2020, Appellant was terminated. Former Chief Erica Shields made the decision to fire Appellant based on her belief that Appellant violated Work Rule 4.2.50 *Maltreatment or Unnecessary Force* and that the circumstances of Appellant's actions constituted an emergency situation. Appellant appeals this decision.

Appellant has been an officer with the Department approximately 21 years. At the time of the incident on May 30, 2020, Appellant was assigned to the Fugitive Task Force. Due to events that were occurring in downtown Atlanta around protests of police shootings, Appellant was deployed as part of an arrest team. During the chaos of the evening, Appellant encountered the driver of a vehicle while he and other officers were attempting to clear the downtown streets, pursuant to the Curfew. Appellant instructed the driver to continue moving to clear the street. Based on the Body Worn Camera ("BWC") evidence, Appellant had a second interaction with the driver after the driver failed to proceed, as instructed. It was during this next encounter that Appellant used his TASER on the driver of the vehicle.

Appellant does not dispute tasing the driver of the vehicle. Appellant contends that the City did not follow its own rules by terminating him without allowing him the five (5) working days to respond to allegations of work rule violations, as required by Department Standard Operating Procedures. The City contends that Appellant's termination was based on an "emergency action," which would then negate the required response period. In support of this position, the City contends that the incident was investigated by Investigator Clayton ("Clayton") and Chief Shields ("Shields") and Shields made the determination that this incident was an emergency action. On June 2, 2020, Appellant was charged by then Fulton County District Attorney Paul Howard with Aggravated Assault. Appellant was put on leave by the City that same day. On June 9, 2020, Appellant was served with a Notice of Proposed Adverse Action ("NPAA"). On June 11, 2020, the City issued its Notice of Final Adverse Action ("NPAA") to Appellant, with the disposition being dismissal.

*Work Rule 4.2.50 – Maltreatment or Unnecessary Force: 1) Employees are expressly prohibited from the unnecessary or unreasonable use of force against any person or property. 2) Employees shall only use that force, which is reasonable and necessary to affect an arrest, prevent an escape, necessarily restrict the movement of a prisoner, defend himself or another from physical assault, or to accomplish other lawful objectives. The reasonableness inquiry refers to whether the employee's actions are "objectively reasonable" in light of the facts and circumstances confronting him or her, without regard*

*to their underlying intent or motivation. The “reasonableness” of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are\* often forced to make split second decisions about the amount of force necessary in a particular situation (Graham v. Connor, 490 U S 386 (1989))*

The City called Investigator Michael Clayton (“Clayton”), from OPS, as its first witness. Clayton stated that his role in this matter was fact finder. After he completes his portion of the investigation, then he submits that to his Lieutenant in OPS, and that individual makes that determination of violations that may have been committed. Clayton testified that regarding the May 30, 2020 incident, he received an investigation concerning another officer from the Department, Officer A. Jones (“Jones”). He reviewed a preliminary complaint form, which lists all of the accused. Clayton stated that he was told to get Jones’ statement. As part of the investigation, he received all of the BWC from officers that were accused in this incident. Upon review of Appellant’s BWC video, he put in his notes the caption “no statement obtained” because he learned that Appellant had been terminated. Clayton further testified that he reviewed the videos daily from June 2, 2020 until June 26, 2020.

Specifically, Clayton testified that in viewing Appellant’s BWC video, he saw Appellant telling the driver, Mr. Young (“Young”) to move on and Young did not comply. According to Clayton, Appellant then opened Young’s door, and attempted to grab Young, but Young did not comply and drove off. Clayton testified that the Young vehicle then came to a stop due to traffic. Appellant then gave commands to the passenger, Miss Pilgrim (“Pilgrim”) and she did not comply either. Clayton testified that the BWC shows that Pilgrim was tased by another officer. Young still did not comply and began moving the vehicle. Clayton stated that the BWC video showed that the officers were addressing the driver, Mr. Young. Appellant deployed his TASER twice. Clayton further testified that Appellant’s BWC video was consistent with Appellant’s written report.

On cross examination, Clayton testified that he is typically able to take statements from officers that are being investigated. He stated that with a case of this magnitude, he thought he’d have quite some time to investigate. Clayton further stated that he did not get statements from the vehicle occupants, Young and Pilgrim, but he did use some of their words from a press conference that both participated in, as part of his investigation.

Captain Hajredin Zenelaj (“Zenelaj”), of the Department, followed as the City’s next witness. Zenelaj testified that once the investigation was completed by Clayton, that it was forwarded to him. On May 30, 2020, Zenelaj was the Lieutenant in OPS. Zenelaj testified that he reviewed the investigation for completeness and analyzed the findings to determine if there was culpability for wrongdoing. In this case, Zenelaj stated that the only thing he found missing from the investigation was a statement from the employee. He further stated that emergency disciplinary action can be taken by the Chief on allegations of criminal charges against an officer.

Zenelaj testified that he was first made aware of the May 30, 2020 incident after receiving several phone calls. He was informed that two (2) young people were pulled out of a vehicle by APD. Zenelaj added that when he received information about this incident, he contacted Shields. According to Zenelaj, he reviewed video and Shields did, as well. They both reviewed the incident reports. Zenelaj stated that Shields chose to dismiss Appellant. According to Zenelaj, that decision was made by Shields alone.

*Sec. 114-532 (b) Notice of emergency action.*

*The appointing authority or designee shall give the employee against whom the emergency action is taken a notice of emergency action in writing, not later than five working days after the effective date of the emergency action. The notice of emergency action shall include a statement of the emergency situation that caused the action to be taken. Should the action be an adverse action, the notice shall meet the requirements of section 114-530. A copy of such notice shall be sent to the commissioner of human resources.*

*APD.SOP.2020 paragraph 4.9.2 Notice of Emergency Disciplinary Action*

1. *The Chief of Police or his/her designee will ensure that a completed Notice of Proposed Adverse Action (N.P.A.A.) is issued to the employee in person or by certified mail. There should be at least 5 working days between the date the N.P.A.A. was issued to the employee and the date scheduled for the employee response session with the disciplinary authority. The N.P.A.A. will include the same type of information required to impose any adverse action with two differences.*
  - a. *The Emergency Action block should be checked “yes” on the N.P.A.A.*
  - b. *The effective date of the Adverse Emergency Disciplinary Action will immediately follow the employee’s scheduled response session*
2. *As with any adverse disciplinary proposal, the Chief of Police or designee will consider the employee’s response, if any, in determining the final action.*
3. *the Chief of police or designee will ensure that the Notice of Final Adverse Action (N.F.A.A.) is issued to the employee and properly distributed in accordance with section 4.7.8*

When questioned about the NPAA and the NFAA on cross examination, Zenelaj confirmed that there were no statements provided on either document explaining why this incident was being classified as an emergency action, as required by Sec. 114-532(b) and APD.SOP.2020 paragraph 4.9.2. Testimony further confirmed that the NPAA was issued on June 9, 2020, with an effective date of June 11, 2020. The required response session was scheduled for June 10, 2020.

Senior Patrol Officer Patrick Fite (“Fite”) was called as a witness by the Appellant. Fite is the Senior Firearms Instructor for the Department. Fite testified that he reviewed Appellant’s BWC and that he believed that Appellant acted within the law. He added that

he didn't see any training deficiencies. Finally, Fite testified that in his capacity, he does not make disciplinary decisions, nor does he determine Work Rule or S.O.P. violations.

Sergeant William Dean ("Dean") was called as Appellant's final witness. Dean testified that he drafted the NPAA and NFAA in this case. According to Dean, he typically has the investigation file to review, but was told to use the narrative from the warrants to draft the charges against Appellant. When asked whether or not this was a thorough investigation, Dean mentioned that you want a statement from the employee and other parties, however Appellant was not able to give a statement here because he was terminated. Dean stated that it was his understanding that no matter Appellant's statement, that Appellant was going to be terminated. Dean further testified that this was the first time he has seen a termination of an officer for use of force without an investigation.

After hearing all of the testimony and reviewing the evidence, it is clear to the Board that the City did not follow its own process. The Chief of Police certainly has the authority to hire and fire Department employees. However, those decisions must follow the Atlanta Municipal Code and APD Standard Operating Procedures that are in place at that time. Here, Appellant was charged and put on leave with pay on June 2, 2020. The NPAA was issued to Appellant on June 9, 2020. The employee response session was set for June 10, 2020. Appellant was terminated on June 11, 2020. It is obvious that Appellant was denied the 5 working day period between the date the NPAA was issued to Appellant and the date scheduled for the employee response session with the disciplinary authority

Based on the evidence presented, the Board concludes that the City of Atlanta has not met its burden to substantiate the dismissal of Appellant in this matter. The City failed to follow its own disciplinary procedures in this action. Moreover, the City did not show that the circumstances in this matter warranted an emergency action

### **ORDER**

Based on the foregoing, the Board hereby **REVOKES** the Appellant's discipline.

This the 28<sup>th</sup> day of May, 2021.

Signed:

Mary Ann Phyll

Mary Ann Phyll, Chair

Nkoyo-Ene Effiong

Nkoyo-Ene Effiong

E. Carl Touchstone

E. Carl Touchstone, DWB

