

CITY OF ATLANTA CIVIL SERVICE BOARD
FINDINGS OF FACT AND ORDER

APPEAL NO. 2018-044AP

Atlanta Police Department

Effective Date: November 16, 2018

Hearing Date: July 13, 2021

APPELLANT:

Barsolino LeConte

HEARING OFFICER:

Robert D. Hawkins

ACTION:

4 – Days Suspension Without Pay

APPEARANCES

City of Atlanta (“City”):

Alisha Marie S. Nair, Esquire

City’s Witnesses:

Major Maurice Bates, APD

Barsolino LeConte, APD

Appellant:

Barsolino LeConte

Appellant’s Witnesses:

Lieutenant Terry Joyner, APD

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 conference 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 officer of the Atlanta Civil Service Board (the “Board”) on the date set forth above.

ATLANTA CIVIL SERVICE BOARD MISSION STATEMENT

As stated during the July 13, 2021, Zoom hearing, the Board's sole purpose is to examine the issues of adverse employment action(s) in accordance with the Atlanta City "Code". More specifically, the Board **is not** charged with determining if the Appellant's actions were criminal in nature nor will it make any reference thereto.

EXHIBITS

City of Atlanta: See List in the Official Records

Appellant: See List in the Official Records

CHARGES

Appellant was suspended 4 days without pay for violating APD SOP 2010 Work Rules, Section 4.2.50:

"Maltreatment or Unnecessary Force."

FINDINGS OF FACTS

- The Appellant is a fourteen-year veteran of the APD and has spent the last three years patrolling Zone 6.
- On November 3, 2017, the Appellant responded to a call to assist a fellow officer who had detained a female motorist. While the officer was completing a traffic citation, the detainee was escorted to an ambulance for a medical assessment and observation.
- Upon arriving on the scene, the Appellant escorted the detainee from a Grady EMS Ambulance, as she was cleared for transport to the City Jail, to a police patrol vehicle. As she was removed from the ambulance, the Appellant placed her in handcuffs in the front of her body.

- While being escorted to a police patrol vehicle, the detainee became combative and spat on and clawed the Appellant. The Appellant was able to secure the detainee in the back of a patrol vehicle at which time, the detainee attempted to expel fluids toward the Appellant for a second time.
- The Appellant was able to avoid the second attack; however, because he believed the detainee's actions jeopardized his safety, the Appellant deployed his City-Issued OC Spray on the detainee. Reportedly, this caused the detainee's aggressive behavior to cease.
- On November 8, 2017, the Office of Professional Standards received a formal complaint as a result of the Appellant's use of force on and a formal investigation ensued.
- Upon concluding that the Appellant's actions constituted "Maltreatment and Unnecessary Use of Force, a Notice of Proposed Adverse Action was issued to the Appellant on October 26, 2018 and he was given five days to offer a written or verbal response.
- On November 14, 2018, Former APD Deputy Police Chief Glazier, signed a Notice of Final Adverse Action, with an effective date of November 16, 2018, thereby suspending the Appellant for four working days without pay.

DISCUSSION

During their testimony, Major Maurice Bates (Witness for the City), Lieutenant Terry Joyner (Witness for the Appellant), and the Appellant confirmed that current protocols and standard operating procedures, preclude officers from deploying OC Spray when a subject is successfully restrained and in an APD vehicle. It is also important to note that Lieutenant Joyner said during his testimony, he "would not" have opposed the discipline imposed by

the APD if not for an 11th Circuit Court of Appeals Non-Binding opinion stating that it is appropriate to deploy an appropriate level of force (including OC Spray) during instances whereby a suspect puts a law enforcement officer in biological hazardous jeopardy by spitting.

Due to COVID-19, the Board recognizes that law enforcement officers are potentially placed at great risk when a suspect thrust bodily fluids in their direction. In this specific instance; however, it appears the Appellant could have employed other options to minimize the risks of being a target for a second time. First, the OPS investigation concluded the Appellant could have closed the window in the rear of the patrol vehicle and second, he could have moved to the other side of the vehicle; thus, rendering himself free from further attacks.

During his testimony, the Appellant encouraged the APD and the City to consider providing additional training so officers who find themselves in biological hazardous jeopardy, understand what their options and alternatives are for minimizing the threat without being harmed and without causing undue harm to a subject.

ORDER

Based on concrete documentary evidence contained in various investigative reports and the direct testimony provided by witnesses, the City's action is **Affirmed** and the Appellant's **Appeal is Dismissed**.

This the 19th day of July 2021.

Robert Hawkins

Robert D. Hawkins, Hearing Officer