

CITY OF ATLANTA
CIVIL SERVICE BOARD
FINDINGS OF FACT AND ORDER

APPEAL No. 2020-011AP

Effective Date: April 2, 2020

Hearing Date: May 5, 2022

APPELLANT: Wesley Glass-Hess

City of Atlanta
Police Department

ADVERSE ACTION:
Four (4) day suspension

HEARING OFFICER:
Suzanne Wynn Ockleberry, Chair

APPEARANCES

City of Atlanta Representative:
Hermise Pierre, Esq.

City Witnesses:
Lieutenant Clint Myers
Major Peter Reis

Appellant:
Wesley Glass-Hess

Appellant Witnesses:
Wesley Glass-Hess

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, facilitated by the City, pursuant to Mayor Andre Dickens Executive Order regarding COVID-19, and before the above-named Hearing Officer of the Atlanta Civil Service Board (Board) on the date set forth above.

EXHIBITS

City of Atlanta:

- C-1 – OPS Complaint File Closeout Report_ Redacted
- C-2 – APD. SOP.3133 - Body Worn Cameras effective January 2, 2019
- C-3 - APD.SOP.2010 - Work Rules
- C-4 - APD.CM.19.03 - Effective May 9, 2019
- C-5 - Notice of Proposed Adverse Action (NPAA)

CHARGES

Four (4) day Suspension for violation of City of Atlanta Police Department 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.¹

APD.SOP. 3133 - Body Worn Cameras (BWC), 4.3.2:

Sworn supervisors are required to place the BWC in event recording mode when they are answering a dispatched call for service, a supervisor request, or on self-initiated calls.

STIPULATED FACTS BY THE PARTIES

None.

FINDINGS OF FACT

1. Appellant has worked for the City of Atlanta Police Department (APD) for approximately 19 years.
2. Appellant serves in the rank of Sergeant (Sgt.) and as a Watch Supervisor with APD.
3. On May 14, 2019, Appellant, at the request of a citizen for a supervisor, responded to the scene of an auto accident 2369 Campbellton Road. (C-1).
4. Appellant activated the video recording for his body worn camera (BWC) ten (10) seconds after he arrived on the scene.
5. Appellant did not activate the audio recording for his BWC until one (1) minute and 10 seconds after he arrived on the scene. (C-1).
6. On May 14, 2019, a citizen involved in the accident filed a complaint with APD Office of Professional Standards (OPS) alleging that Appellant and the initial responding officer were discourteous and failed to complete an accident report. (C-1).

¹ Exhibit C-3, which is the APD.SOP.2010 Work Rules effective January 18, 2019 that was introduced into evidence by the City, indicates that Section 4.24 contains the provision on Conformance to Directives. Pursuant to the City of Atlanta Code, Section 114-551(8), the Hearing Officer has specialized knowledge that exact language regarding Conformance to Directives in Section 4.24 of Exhibit C-3 is also contained in Section 4.2.33 in another version of the APD.SOP.2010 Work Rules, which is also effective on January 18, 2019.

7. Lieutenant (Lt.) Clint Myers was assigned by APD to investigate the May 14, 2019 complaint by the citizen. (C-1).
8. As part of his investigation, Lt. Myers reviewed the written information provided by the citizen regarding her complaint, interviewed Appellant, the initial responding officer, and a supervising Lieutenant. He also reviewed, reports completed by Appellant and the initial responding officer and the BWC footage from Appellant and the initial responding officer. (C-1).
9. Based upon his investigation, Lt Myers determined that Appellant should be exonerated of any charge that he was discourteous to the citizen. However, he determined that there was sufficient evidence that Appellant violated APD Work Rule 4.2.33 based upon a violation of APD.SOP. 3133 Body Worn Cameras (BWC), Section 4.3.2. (C-1).
10. Pursuant to APD.CM.1903 - Body Worn Cameras: Compliance & Expanded Disciplinary Measures, Section 4.3.1.1.a, Lt. Myers recommended a four (4) day suspension without pay for Appellant based upon his violation of the APD Work Rule and APD SOP regarding body worn cameras. (C-1; C-4).
11. On December 31, 2019, Deputy Chief J.L. Glazier notified Assistant Chief T.O. Coyt of the results of the investigation by Lt. Myers and recommended discipline for Appellant. (C-1).
12. On February 12, 2020, Deputy Chief J. Glazier notified Major C. Hampton of the results of the investigation by Lt. Myers and recommended discipline for Appellant. (C-1).
13. On March 31, 2020, Deputy Chief C.M. Murphy notified Major C.R. Hampton that he concurred with the recommended discipline for Appellant. (C-1).
14. On March 12, 2020, Appellant was issued a Notice of Proposed Adverse Action (NPAA) for the May 14, 2019, violation of the APD Work Rule and APD SOP. (C-6).
15. The NPAA notified Appellant that the proposed discipline was a four (4) day suspension without pay for violation of APD Work Rule 4.2.33. (C-6).
16. Appellant was advised that the effective date of the suspension was March 31, 2020. Appellant was further advised that he had until March 19, 2020 at 4:30 p.m. to provide a response to the NPAA. (C-6).
17. The NPAA was signed by Deputy Chief C.M. Murphy as well as the Appellant on March 12, 2020. (C-6).

18. On March 19, 2020, Appellant responded to the NPAA and indicated that he accepted responsibility for his action. (C-5)
19. Appellant was issued a Notice of Final Adverse Action (NFAA) on March 19, 2020. The NFAA advised Appellant that he was being suspended for four (4) days without pay based upon a violation of APD Work Rule 4.2.33. The suspension was effective on April 2, 2020. (C-5).
20. The NFAA was signed by Deputy Chief C.M. Murphy on March 19, 2020. (C-5).

DISCUSSION

Due to Mayor Andre Dickens' Executive Order and COVID-10 pandemic guidelines, the appeal by Wesley Glass-Hess was called virtually at 2:00 p.m. on May 6, 2022 via the Zoom Internet platform.

Code Section 114-553(b) states:

If the appellant is a non probationary sworn officer of the department of police who holds the rank of lieutenant or below that of lieutenant or sworn officer of the department of fire who holds the rank of captain or any rank below that of captain, the hearing officer/panel may not modify, but must affirm or revoke a suspension or demotion...

Based upon the foregoing Code Section, the Board must determine whether to affirm or revoke the four (4) day suspension issued to Appellant. In making such a determination, the Board is guided by Code Sections 114-526 through 114-530.

Lt. Myers, who has sixteen (16) years of service with APD and has been in his position as a Lieutenant for six (6) years, testified that in May, 2019, one of his assigned duties was to conduct OPS investigations for officers and supervisors in Zone 4. He testified that Appellant was a Zone 4 supervisor in May, 2019. Lt. Myers indicated that he was assigned to investigate the complaint initiated by a citizen regarding being treated rudely by Appellant and another officer and the failure by the officers to complete an accident report.

Lt. Myers testified that his investigation consisted of speaking to Appellant, the responding officer, another Lieutenant assigned to Zone 4 and reviewing the citizen complaint and the body camera footage for Appellant and the responding officer. Lt. Myers explained that APD SOP 3133 is the BWC policy for APD and requires all sworn officers to place their BWC in recording mode under certain circumstances. He further explained that the APD SOP Work Rules require conformance with the APD SOP 3133 BWC policy. Lt. Myers testified that while Appellant was exonerated from violating the APD Work Rule regarding being discourteous, he did not follow the APD SOP BWC policy and he recommended a four (4) day suspension for the violation. Lt. Myers testified that APD.CM.19.03 requires a minimum of a four (4) day suspension for violation of the APD SOP 3133 BWC policy.

Major Peter Reis, who has nineteen (19) years of service with APD and has been a Major since March 2020, testified that in May, 2019, he was a Captain assigned to Zone 4. Major Reis indicated that one of his duties as a Captain was to review OPS reports about work rule violations. Earlier, he was a Lieutenant assigned to OPS. He testified that he reviewed the investigation into Appellant's conduct on May 14, 2019 and concurred with the recommended discipline. Major Reis also testified that after issuance of the NPAA, Appellant indicated that he accepted responsibility for his conduct on May 14, 2019. He also testified that while there have been violations of the BWC policy which have resulted in discipline of less than a four (4) day suspension, he was unable to provide additional details as to the names of any of those individuals who fit into that category. Major Reis testified that the APD SOP was recently amended to reduce the minimum disciplinary action for violation of the BWC policy from a four (4) day to a three (3) day suspension.

Appellant testified that he did fail to immediately activate his BWC. However, Appellant testified that it that he started recording his interaction at the accident ten (10) seconds after he arrived even though the audio was not activated until one (1) minute and 10 seconds after he arrived at the scene. He testified that nothing which he or the responding officer said during that time period was in dispute.

While Appellant testified that the responding officer had his BWC in recording mode during the entire incident, the APD SOP.3133 BWC policy is clear that all sworn employees from the rank of Sergeant and below who have an assigned BWC are required to wear and use it during the course of their job duties, place the BWC in event recording mode when interacting with the public in a law enforcement capacity, have the BWC in event recording mode for the duration of the call from arrival time to the conclusion of the call for service and sworn supervisors are to place the BWC in event recording mode when they are answering a supervisor request call. Further, Appellant indicated in response to the NPAA that he accepted responsibility for the incident. And, the APD.CM. 19.03 in effect at the time of the incident is also clear: The minimum disciplinary action for a violation of the BWC policy was a four (4) day suspension.

After hearing arguments from both sides and reviewing all of the evidence presented, the Board finds that there was sufficient evidence presented by the City to affirm the four (4) day suspension issued to Appellant due to his violation of APD Work Rules 4.2.33 and APD SOP.3133.

The NPAA was issued to Appellant by Deputy Chief C.M. Murphy on March 12, 2020 with an effective date of March 31, 2020. The Appellant provided a response to the NPAA on March 19, 2020 after which the NFAA was issued on March 19, 2020 with an effective date of April 2, 2020. The NPAA and NFAA were issued in compliance with Code Section 114-530.

ORDER

Based upon the evidence presented, the Hearing Officer for the Atlanta Civil Service Board affirms the issuance of the four (4) day suspension to Appellant for violation of City of Atlanta

Police Department Work Rules 4.2.33

This the 3rd day of June, 2022.

Respectfully submitted,

Suzanne Wynn Ockleberry
Suzanne Wynn Ockleberry, Chair