

CITY OF ATLANTA
CIVIL SERVICE BOARD
FINDINGS OF FACT AND ORDER

APPEAL No. CSB-2022-007

Effective Date: July 21, 2022
Hearing Date: October 13, 2022

APPELLANT: **Ricardo Ravius**

City of Atlanta
Atlanta Police Department

ADVERSE ACTION:
Dismissal

HEARING OFFICERS:
Constance Russell, Chair
Robert Hawkins
Suzanne Wynn Ockleberry

APPEARANCES

City of Atlanta Representative:
John Gainey, Esq.

City Witnesses:
Sgt. Suazo

Appellant Representative:
Don English, Esq.

Appellant Witnesses:
Ricardo Ravius

STATEMENT OF AUTHORITY

Under the authority and provisions of Chapter 114, Article VI, Division 3, Sections 114-546 through 556 of the City of Atlanta Code of Ordinances (“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-6 – Sgt. Suazo Body Worn Camera (BWC) Video from December 31, 2021
- C-7 – Officer Jones Body Worn Camera (BWC) Video from December 31, 2021
- C-8 – Sgt. Suazo Memorandum RE: Officer Ricardo Ravius

dated December 31, 2021
C-9 – Notice of Proposed Adverse Action (NPAA) and Notice of Final
Adverse Action (NFAA) – October 27, 2021

Appellant: None

CHARGES

Dismissal for violation of Atlanta Police Department Work Rule 4.1.3- *Truthfulness*:

Employees shall be truthful in their written and spoken words at all times

STIPULATED FACTS BY THE PARTIES

1. Appellant was made aware of Atlanta Police Department (APD) Work Rules 4.1.3, Truthfulness; 4.1.4, Conduct and 4.2.14, Intoxicants, Stimulants, or Depressants.
2. Appellant's last active shift worked with the City of Atlanta Police Department was on December 31, 2021.
3. Appellant both consumed and was under the influence of alcohol during his shift on December 31, 2021.
4. Appellant violated the Atlanta Police Department Work Rules 4.1.4, Conduct and 4.2.14, Intoxicants, Stimulants, or Depressants December 31, 2021.
5. The City of Atlanta complied with Section 114-530 of the Civil Service Code and Appellant received timely and proper notice of the proposed adverse actions against him, an opportunity to respond to the allegations, and a timely and proper notice of the City's final adverse action.

FINDINGS OF FACT

1. Appellant worked for the City of APD as an Officer for 3 ½ years at the time of the incident which led to his dismissal.
2. At the time of his dismissal, Appellant worked in Zone 3.
3. On December 31, 2021, Appellant was riding with Officer Golden who suspected that Appellant was drinking while on duty. (C-8).
4. Officer Golden contacted Sgt. Jones at approximately 4:48 a.m. to advise him of his suspicion. (C-8).
5. Sgt. Jones instructed Officer Golden to return to the Zone 3 precinct. (C-8).
6. Upon arrival at the precinct, Sgt. Jones and Sgt. Suazo spoke with Appellant regarding the suspicion that he was drinking while on duty. (C-6).

7. Sgt. Suazo located a bottle of juice in the passenger side of the patrol vehicle where the Appellant had been located. (C-8).
8. Sgt. Suazo opened the bottle and smelled rum in the bottle. (C-8).
9. Sgt. Suazo asked Appellant what was in the juice bottle. (C-6).
10. Appellant repeatedly told Sgt. Suazo that the bottle contained orange juice. (C-6).
11. During the conversation, Appellant later admitted to Sgt. Suazo that he had rum in a small bottle which he threw away in a trash can. (C-6).
12. Sgt. Suazo notified his Lieutenant and the Office of Professional Standards (OPS) regarding his preliminary findings regarding the juice bottle that was found in the patrol vehicle. (C-8).
13. Sgt. Bowers of OPS arrived at Zone 3, relieved Appellant of his duties and took him for drug and alcohol testing. (C-8).
14. The juice container was disposed of after Sgt. Bowers, Sgt. Suazo and Sgt. Jones smelled the contents. (C-8).
15. Prior to the incident which led to his dismissal, Appellant was issued a NPAA on October 21, 2021 for violation of APD Work Rules 4.1.3 (Truthfulness), 4.2.33 (Conformance to Directives) and 4.2.16 (Sleeping on Duty). The proposed discipline was Dismissal for violating Work Rule 4.1.3, a three (3) day suspension for violating Work Rule 4.2.33 and a two (2) day suspension for violating Work Rule 4.2.16. (C-9).
16. For the prior incident, Appellant was issued an NFAA on October 27, 2021, which modified the proposed discipline set forth in the NPAA to a “Not Sustained” finding for violation of Work Rule 4.1.3 and a 16 day suspension for violation of Work Rule 4.2.33 and a two (2) day suspension for violation of Work Rule 4.2.16. (C-9).

DISCUSSION

Due to Mayor Andre Dickens’ Executive Order and COVID-10 pandemic guidelines, the appeal by Ricardo Ravius was called virtually at 2:00 p.m. on October 13, 2022 via the Zoom Internet platform.

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 Dismissal issued to Appellant for violation of APD Work Rule 4.13.

Sgt. Suazo, who has worked for APD for ten (10) years, testified that he is, and at the time of the incident, was assigned to Zone 3 Morning Watch. He indicated that on December 31, 2021, Officer Golden, who was partnered with Appellant, contacted Sgt. Jones to indicate that Officer Golden suspected that Appellant was drinking on duty. According to Sgt. Suazo, Officer Golden indicated that he smelled alcohol in a juice bottle Appellant had been drinking from as well as smelled the odor of alcohol on Appellant’s breath. Sgt. Suazo testified that Officer Golden was instructed to return with Appellant to the precinct. When Officer Golden and the Appellant arrived, Sgt. Suazo testified that he along with Sgt. Jones spoke with him at a picnic table in the precinct parking lot. As part of the conversation, Sgt. Suazo testified that he asked Appellant several times what was in the juice bottle and Appellant repeatedly said it only contained orange juice. Sgt. Suazo indicated

that when he opened the bottle, he could smell rum. Sgt. Suazo indicated that he notified his Lieutenant and OPS regarding his preliminary findings and later prepared a memorandum regarding the incident.

Sgt. Suazo testified that he did not tell Appellant that he was engaged in an official investigation and he did not give an Awareness Statement or Garrity warnings to Appellant before speaking to him. He testified that officers are given an Awareness Statement to sign when they give an interview to OPS. Sgt. Suazo also testified that Appellant eventually admitted that he had been drinking while on duty.

Appellant testified that he worked for the APD for 3 ½ years prior to his dismissal. He indicated that on December 31, 2021, Sgt. Jones asked him to step out of the patrol vehicle, told him that Officer Golden smelled alcohol on his breath and started asking him several questions. Appellant testified that he had already told Sgt. Jones that he had been drinking before work. He testified that he had three (3) tall glasses of whiskey before he came to work. He indicated that when Sgt. Suazo started questioning him, he was caught of guard, was nervous, and started stuttering because he speaks three (3) languages and was translating the questions in his mind. Appellant testified that in his statement to OPS, he indicated that he regurgitated into the bottle which was the reason the entire bottle smelled like alcohol. He testified that he did not pour whiskey into the juice bottle. Appellant indicated that he was not read the Awareness Statement or Garrity warnings when he was speaking to Sgt. Suazo.

Appellant testified that he had been charged with untruthfulness in 2021 when he told his Sgt. that the reason he was late for work after leaving from his extra job was that he arrested someone when he was actually sleeping on duty. Appellant indicated that while he had a fair amount of alcohol to drink before his shift, he did not have a drinking problem, was not under the influence of alcohol on December 31, 2021 and was cognizant of what occurred that night.

As the parties have stipulated that Appellant violated APD Work Rule 4.1.4 and 4.2.14 and that he received timely and proper notice of the NPAA and NFAA, the only issue for the Board to determine is whether there was cause to dismiss Appellant from the APD for violation of APD Work Rule 4.1.3.

The City of Atlanta has the burden to establish cause for the adverse action of Dismissal for violation of APD Work Rule 4.1.3 imposed upon Appellant. Code Section 114-528(a). And, the Board finds that the City of Atlanta has met that burden.

The testimony by Sgt. Suazo and his BWC video establish that Appellant was not initially truthful in response to questions from Sgt. Suazo regarding the contents of the juice bottle found on the passenger side of the patrol vehicle where Appellant had been seated. It was not until later in the discussion with Sgt. Suazo that Appellant admitted that the juice bottle contained rum.

While Appellant argues that he should have been provided with a Garrity warning prior to being questioned by Sgt. Suazo, the Board finds that a Garrity warning is only applicable if a statement will be used in a subsequent criminal investigation. The failure to give a Garrity warning to Appellant does not prevent his initial statements from being used as part of the City of Atlanta

disciplinary process.

Appellant also argues that he was entitled to representation before speaking to Sgt. Suazo because Sgt. Suazo was conducting an administrative investigation. The Board finds that Sgt. Suazo was engaged in a preliminary investigation to determine if the information he received from Officer Golden was credible. Once Sgt. Suazo determined that there was sufficient evidence that Appellant had violated an APD Work Rule which required an administrative investigation, the matter was turned over to OPS, which is the administrative investigatory agency for the APD. Based upon the evidence presented during the hearing, the City of Atlanta met the burden to establish cause for the adverse action of Dismissal imposed upon Appellant.

ORDER

Based upon the evidence presented, the Board affirms the Dismissal issued to Appellant for violation of APD Work Rule 4.1.3.

This the 31st day of October, 2022.

Respectfully submitted,

Constance Russell

Constance Russell, Chair

Robert Hawkins

Robert Hawkins, Board Member

Suzanne Wynn Ockleberry

Suzanne Wynn Ockleberry, Board Member