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MAYOR

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DEPARTMENT OF CITY CIVIL SERVICE
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CITY CIVIL SERVICE COMMISSION

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Monday, October 01, 2012

LISA M. HUDSON
DIRECTOR OF PERSONNEL

Ms. Qvonda Blackwell-Taylor

Re: **Qvonda Blackwell-Taylor VS.
Department of Police
Docket Number: 7949**

Dear Ms. Blackwell-Taylor:

Attached is the decision of the City Civil Service Commission in the matter of your appeal.

This is to notify you that, in accordance with the rules of the Court of Appeal, Fourth Circuit, State of Louisiana, the decision for the above captioned matter is this date - 10/1/2012 - filed in the Office of the Civil Service Commission in Room 7W03, City Hall, 1300 Perdido Street, New Orleans, Louisiana.

If you choose to appeal this decision, such appeal shall be taken in accordance with Article 2121 et. seq. of the Louisiana Code of Civil Procedure.

For the Commission,

A handwritten signature in cursive script, appearing to read "Germaine Bartholomew".

Germaine Bartholomew
Chief, Management Services Division

cc: Ronal Serpas
Victor Papai
Jay Ginsberg
file

QVONDA BLACKWELL-TAYLOR CIVIL SERVICE COMMISSION
VERSUS CITY OF NEW ORLEANS
DEPARTMENT OF POLICE DOCKET NOS. 7949 & 7950

Qvonda Blackwell-Taylor ("Appellant") was employed by the Department of Police ("Appointing Authority") as a Police Dispatcher with permanent status. The Appointing Authority terminated the Appellant after her fifth sustained violation of its internal rules regarding Neglect of Duty. The first and second violations, for which the Appellant received a letter of reprimand and a six day suspension respectively, were not appealed and are relevant only for establishing that the Appointing Authority engaged in progressive discipline. The Appellant received a thirty day suspension for the third violation, a sixty day suspension for the fourth violation, and as stated above, termination for the fifth violation.

The matter was assigned by the Civil Service Commission to a Hearing Examiner pursuant to Article X, Section 12 of the Constitution of the State of Louisiana, 1974. The hearing was held on March 8, 2012. The testimony presented at the hearing was transcribed by a court reporter. The three undersigned members of the Civil Service Commission have reviewed a copy of the transcript and all documentary evidence.

The Appellant does not contest the fourth or fifth violations, but contends that the Commission should grant her appeal of the third violation. If granted, she contends that the penalties are no longer commensurate with violations, and that fourth and fifth violations are now her third and fourth violations. She asks that the Commission grant her appeal of the third violation and reduce the penalties for the fourth violation (which would become the third violation) to thirty days and the fifth violation (which would

become the fourth violation) to sixty days with reinstatement and back pay for her termination.

The third violation is PIB Case No. 2010-1631R found in the December 5, 2011 disciplinary letter (Hearing Examiner Exhibit One) as part of Civil Service Case No. 7840. The specific violations are summarized in the second paragraph of Hearing Examiner Exhibit One as follows:

The investigation determined that on December 20, 2010, at about 2:05 a.m., while on duty you were found on the wrong radio dispatch channel while manning your console position. You were inattentive to your duties which could have resulted in you not being able to assist police officers effectively and efficiently. As such, you neglected your duties and responsibilities which is a violation of Rule 4: Performance of Duty, paragraph 4 – Neglect of Duty to wit: Failure to Perform certain duties and assume certain responsibilities as a dispatcher.

Jennifer McDonald, Senior Police Dispatcher testified that while manning the Command Desk of Police Communications, she received a telephone call from a police officer assigned to the Second Police District complaining that the dispatcher assigned to monitor the Second Police District radio channel was not responding to his calls. Ms. McDonald stated that, because the Appellant was the dispatcher assigned to receive and respond to radio communications from the Second Police District, she immediately walked to the Appellant's desk to determine the problem. Ms. McDonald found the Appellant with her eyes closed and her computer screen blank. She alerted the Appellant who immediately corrected the problem and returned to her work.

Kathy Robertson, Assistant Police Communications Supervisor, investigated the incident. She interviewed Ms. McDonald and the Appellant. Ms. McDonald informed her that the Appellant was not responding to dispatches because her computer was not

tuned to the proper channel. Ms. Robertson stated that the Appellant admitted that she was not logged onto the proper channel when Ms. McDonald came to her desk. Ms. Robertson testified that she also listened to the audiotape recording for the relevant period of time. From her review, she determined that the Appellant failed to respond to dispatches for three to five minutes.

The Appellant acknowledged that her communication equipment was not turned on when Ms. McDonald came to her desk. She contends that the lapse was for no more than three minutes. She contends that she was talking to another dispatcher when Ms. McDonald confronted her and that she was not sleeping or sitting with her eyes closed.

LEGAL PRECEPTS

An employer cannot discipline an employee who has gained permanent status in the classified city civil service except for cause expressed in writing. LSA Const. Art. X, sect. 8(A); *Walters v. Department of Police of New Orleans*, 454 So. 2d 106 (La. 1984). The employee may appeal from such a disciplinary action to the city Civil Service Commission. The burden of proof on appeal, as to the factual basis for the disciplinary action, is on the appointing authority. *Id.*; *Goins v. Department of Police*, 570 So 2d 93 (La. App. 4th Cir. 1990).

The Civil Service Commission has a duty to decide independently, based on the facts presented, whether the appointing authority has good or lawful cause for taking disciplinary action and, if so, whether the punishment imposed is commensurate with the dereliction. *Walters v. Department of Police of New Orleans, supra*. Legal cause exists whenever the employee's conduct impairs the efficiency of the public service in which the employee is engaged. *Cittadino v. Department of Police*, 558 So. 2d 1311 (La. App.

4th Cir. 1990). The appointing authority has the burden of proving by a preponderance of the evidence the occurrence of the complained of activity and that the conduct complained of impaired the efficiency of the public service. *Id.* The appointing authority must also prove the actions complained of bear a real and substantial relationship to the efficient operation of the public service. *Id.* While these facts must be clearly established, they need not be established beyond a reasonable doubt. *Id.*

CONCLUSION

Whether the Appellant was sleeping, resting her eyes, or engaged in conversation with a co-worker is immaterial. Under any of these scenarios, she was inattentive to her duties that require her to monitor the radio channel to which she was assigned. By her own admission, the Appellant was not paying attention to her screen and did not notice that it was not tuned to the proper communication channel resulting in at least one police officer on the street with no radio communication for at least three minutes. The Appellant's primary responsibility was to monitor the radio channel. She neglected her duty for failing to do so.

Considering the foregoing, the Appointing Authority has established that it disciplined the Appellant for cause. It was her third such violation, which justified the enhanced penalty. Further, the Appointing Authority has established that the fourth and fifth violations were for cause and that the enhanced penalties were commensurate with

Q. Blackwell-Taylor
#7949 / 7950

the violations as a legitimate function of the Appointing Authority's progressive discipline policy.

As such, the Appellant's appeal is DENIED

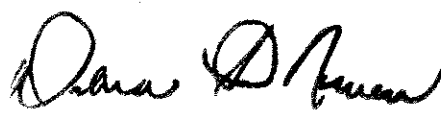
RENDERED AT NEW ORLEANS, LOUISIANA THIS 1st DAY OF
OCTOBER, 2012.

CITY OF NEW ORLEANS
CIVIL SERVICE COMMISSION


JOSEPH S. CLARK, COMMISSIONER

CONCUR:


DANA M. DOUGLAS, VICE-CHAIRMAN


DEBRA S. NEVEU, COMMISSIONER