



CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
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CITY CIVIL SERVICE COMMISSION
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AMY TREPAGNIER
DIRECTOR OF PERSONNEL

Monday, March 21, 2022

Mr. C. Theodore Alpaugh, III
639 Loyola Avenue, Suite 2130
New Orleans, LA 70113

Re: **John Huntington VS.**
Department of Police
Docket Number: 9311

Dear Mr. Alpaugh:

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 - 3/21/2022 - filed in the Office of the Civil Service Commission at 1340 Poydras St. Suite 900, Orleans Tower, New Orleans, Louisiana.

If you choose to appeal this decision, such appeal must conform to the deadlines established by the Commission's Rules and Article X, 12(B) of the Louisiana Constitution. Further, any 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 blue ink that reads "Doddie K. Smith".

Doddie K. Smith
Chief, Management Services Division

cc: Shaun Ferguson
William R. H. Goforth
Jay Ginsberg
John Huntington

file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

**JOHN HUNTINGTON,
Appellant**

Docket No. 9311

v.

**DEPARTMENT OF POLICE,
Appointing Authority**

DECISION

Appellant John Huntington brings this appeal pursuant to Article X, § 8(A) of the Louisiana Constitution and this Commission's Rule II, § 4.1 seeking relief from a September 17, 2021, 45-day suspension and letter of reprimand. (Exhibit HE-1). At all relevant times, John Huntington had permanent status as a Police Officer. (Ex. HE-1; Tr. at 115). A Hearing Examiner, appointed by the Commission, presided over a hearing on December 9, 2021. At this hearing, both parties had an opportunity to call witnesses and present evidence.

The undersigned Commissioners have reviewed and analyzed the entire record in this matter, including the transcript from the hearing, all exhibits submitted at the hearing, the Hearing Examiner's report dated February 22, 2022, and controlling Louisiana law.

For the reasons set forth below, Officer Huntington's appeal is DENIED.

I. FACTUAL BACKGROUND

A Florida Highway Patrol officer arrested Officer Huntington at about 5:00 AM on Monday, October 14, 2019, on I-10 Westbound in Santa Rosa County, Florida. (Ex. NOPD-1). Officer Huntington had attended a bachelor party in Daytona on October 12-13. (Tr. at 9). The bachelor party was a weekend camping trip, and Officer Huntington estimated he had a total of six hours of sleep on October 12-13. (Tr. at 116). Officer Huntington left the campsite the morning

of October 13, and went to his brother's home, where he watched the New Orleans Saints football game. (Tr. at 10-12). Officer Huntington drank beer on tap during the game. (Tr. at 11). Officer Huntington drove from Daytona to Jacksonville, where he met a friend and drank beer. (Tr. at 12-13). On his way home, Officer Huntington tried to stop and sleep in his vehicle. (Tr. at 14).

The Florida Highway Patrol officer pulled Officer Huntington over for speeding on his way home to New Orleans on I-10 Westbound near Pensacola. (Tr. at 16). According to the arrest report, Officer Huntington was traveling 95 mph in a 70 mph zone. (Ex. NOPD-1). According to the detailed report of the Florida Highway Patrol officer, Officer Huntington was impaired based on the field sobriety test. (Ex. NOPD-1). Officer Huntington was wearing an NOPD t-shirt. (Tr. at 24).

The Florida Highway Patrol officer arrested Officer Huntington. (Ex. NOPD-1). According to the two separate intoxilyzer tests (breath tests) performed at the station, Officer Huntington's blood alcohol level was .063 and .062. (Tr. at 20). According to Florida law, a driver violates the law when his normal faculties are impaired while driving under the influence of alcohol. (Exs. NOPD-3, NOPD-4).

Officer Huntington was cited by the State of Florida for driving under the influence, but he ultimately pled no contest to reckless driving and received six months' probation. (Tr. at 22-23).

II. ANALYSIS

It is well-settled that, in an appeal before the Commission pursuant to Article X, § 8(A) of the Louisiana Constitution, the appointing authority has the burden of proving by a preponderance of the evidence: 1) the occurrence of the complained of activity, and 2) that the conduct complained of impaired the efficiency of the public service in which the appointing authority is engaged. *Gast v. Dep't of Police*, 2013-0781 (La. App. 4 Cir. 3/13/14), 137 So. 3d 731, 733 (quoting *Cure v.*

Dep't of Police, 2007-0166 (La. App. 4 Cir. 8/1/07), 964 So. 2d 1093, 1094). The Commission has a duty to decide independently from the facts presented in the record whether the appointing authority carried its legally imposed burden of proving by a preponderance of evidence that it had good or lawful cause for disciplining the classified employee and, if so, whether such discipline was commensurate with the dereliction. *Abbott v. New Orleans Police Dep't*, 2014-0993 (La. App. 4 Cir. 2/11/15); 165 So.3d 191, 197; *Walters v. Dept. of Police of the City of New Orleans*, 454 So. 2d 106 (La. 1984).

NOPD has carried its burden of showing the complained-of conduct occurred. Officer Huntington was driving under the influence of alcohol, and the field sobriety test revealed that Officer Huntington was impaired. Officer Huntington's conduct violated Florida law. When he was arrested, Officer Huntington was wearing an NOPD shirt. Driving while under the influence of alcohol in violation of law while wearing NOPD clothing impairs the efficient operation of NOPD. Police officers are expected to obey the law. (Tr. at 103). In addition, because Officer Huntington was wearing an NOPD shirt, he brought discredit to NOPD. (Tr. at 101).

The penalty is commensurate with the violation. NOPD applied the presumptive penalty of a 45-day suspension under its disciplinary matrix for driving under the influence of alcohol in a private vehicle. (Tr. at 99). NOPD issued a letter of reprimand for Officer Huntington's violation of the rule requiring professional conduct. (Tr. at 99).

Officer Huntington's appeal is DENIED.

This the 21st day of March, 2022

WRITER:

Mark C. Surprenant
Mark C. Surprenant (Mar 17, 2022 12:28 CDT)

MARK SURPRENANT, COMMISSIONER

CONCUR:

J H Korn
J H Korn (Mar 18, 2022 20:22 CDT)

JOHN KORN, VICE-CHAIRPERSON

Ruth White Davis
Ruth Davis (Mar 17, 2022 19:40 CDT)

RUTH DAVIS, COMMISSIONER