



# CITY OF NEW ORLEANS

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MAYOR

Wednesday, March 28, 2018

Mr. Robert Jenkins  
631 St. Charles Avenue  
New Orleans, LA 70130

Re: **Quincy Broaden VS.  
Department of Police  
Docket Number: 8509**

Dear Mr. Jenkins:

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 - 3/28/2018 - 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: Michael S. Harrison  
Elizabeth S. Robins  
Jim Mullaly  
Quincy Broaden  
file

**CIVIL SERVICE COMMISSION**

**CITY OF NEW ORLEANS**

QUINCY BROADEN  vs.  DEPARTMENT OF POLICE	DOCKET No.: 8509
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**I. INTRODUCTION**

Appellant, Quincy Broaden, brings the instant appeal pursuant to Article X, §8(A) of the Louisiana Constitution and this Commission’s Rule II, §4.1 and asks the Commission to find that the Police Department for the City of New Orleans (hereinafter “NOPD”) did not have sufficient cause to discipline him. At all times relevant to the instant appeal, Appellant served as a Police Officer for NOPD and had permanent status as a classified employee.

A referee, appointed by the Commission, presided over one day of hearing during which both Parties had an opportunity to call witnesses and present evidence. The referee prepared a report and recommendation based upon the testimony and evidence in the record. The undersigned Commissioners have reviewed the transcript and exhibits from this hearing as well as the hearing examiner’s report. Based upon our review, we render the following judgment.

## II. FACTUAL BACKGROUND

### A. Alleged Misconduct

The allegations against Appellant stem from his response to a call for service that occurred on September 11, 2015. (H.E. Exh. 1). In total, NOPD alleged that Appellant violated the following rules/policies:

- Rule 4: Performance of Duty, Paragraph 2: Instructions from an Authoritative Source, to wit: Chapter 42.4, Domestic Violence Arrest (Procedure #22);
- Rule 4: Performance of Duty, Paragraph 2: Instructions from an Authoritative Source, to wit: Chapter 42.4, Domestic Violence Arrest (Procedure #33);
- Rule 4: Performance of Duty, Paragraph 2: Instructions from an Authoritative Source, to wit: Sgt. Gregory Torregano's Verbal Instructions
- Rule 4: Performance of Duty, Paragraph 2: Instructions from an Authoritative Source, to wit: Chapter 41.3.10: Body-Worn Camera, Section Titled "Officer Responsibilities," Paragraph 10 (Two Counts);
- Rule 4: Performance of Duty, Paragraph 4, Neglect of Duty, Paragraph A
- Rule 4: Performance of Duty, Paragraph 4, Neglect of Duty, Paragraph C
- Rule 2: Moral Conduct, Paragraph 3: Honesty and Truthfulness.

It was the final rule violation – Honesty and Truthfulness – that ultimately led NOPD to terminate Appellant's employment effective April 20, 2016. (H.E. Exh. 1). NOPD issued Appellant a series of other discipline related to the additional violations, but did not actually impose any sanctions beyond termination. As a result, the Parties focused most of their time and attention on the allegation that resulted in Appellant's termination.

### B. September 11, 2015

During the evening hours of September 11, 2015, a call came into NOPD's 7th District Station from a female resident (referred to hereinafter as "Ms. V"). (Tr. at 70:4-10). Ms. V

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reported that she had been attacked and strangled by an intimate male acquaintance (referred to hereinafter as “Mr. P”). *Id.* at 70:11-18. Sergeant Gregory Torregano was a supervisor in the 7th District at the time the call came in and directed four Officers (Cory Littleton, Mary Grimes, Aldon Mouton and an unnamed Officer) to report to the scene. *Id.* at 70:19-71:4. Due to the nature of the call, NOPD initially coded the call as a domestic violence incident.

At some point in the evening, Sgt. Torregano relocated from the 7th District to the scene in New Orleans East. For reasons not established in the record, Sgt. Torregano designated Appellant as the primary investigator on the call and instructed the other Officers, with the exception of Officer Grimes, to relocate to other assignments. *Id.* at 71:8-18. Officer Grimes remained on the scene and began taking photographs of Ms. V pursuant to instructions issued by Sgt. Torregano. *Id.* at 71:18-22, 164:17-22. According to Officer Grimes, Ms. V did not have any visible signs of injury but Officer Grimes took several photographs anyway. *Id.* at 172:16-20.

After waiting for Appellant for approximately one hour, Sgt. Torregano left the scene but instructed Officer Grimes to remain and convey to Appellant Sgt. Torregano’s order that Appellant was to serve as the primary investigator. *Id.* at 72:14-73:5, 85:4-7. Sgt. Torregano testified that it was his expectation that Appellant would “bring the entire investigation to a completion” and execute all of the steps required by NOPD’s Domestic Violence Policy. *Id.* at 75:3-18. Sgt. Torregano acknowledged that he did not observe any visible signs of injury on Ms. V, but stated that Ms. V was dark skinned and he was observing her under poor lighting conditions. *Id.* at 91:5-15. Prior to leaving the scene, Sgt. Torregano did not issue orders directly to Appellant, but rather conveyed orders through Officer Grimes.

Officer Grimes remained on scene and waited for Appellant to arrive. While she was waiting, Mr. P appeared on the scene and Ms. V identified him as the individual who had attacked

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her. (Tr. at 167:3-8). When he spoke to Officer Grimes, Mr. P had a calm demeanor and admitted that “it [presumably his interaction with Ms. V] got out of hand” and went on to say that he would “take responsibility.” (Grimes Video #1 at min. 14:20). Officer Grimes then handcuffed Mr. P and placed him in the back of her NOPD unit. A few minutes later, Appellant reported to the scene.

When Appellant arrived, Officer Grimes informed him that Sgt. Torregano wanted Appellant to “handle” the investigation. (Grimes Video #2 at min. 24:15). Appellant testified that Officer Grimes indicated that Ms. V did not have any physical signs of injury. (Tr. at 181:4-11). Appellant then spoke with Ms. V and Mr. P and concluded that there was no probable cause to effect an arrest of Mr. P. *Id.* at 181:22-182:3. Appellant made this determination despite the fact that: 1) Ms. V informed Appellant that Mr. P had “attacked” her by grabbing her by the throat. (Broaden BWC at min. 1:00-1:25), and 2) Mr. P admitted to Appellant that he held Ms. V down because she “wanted to scrap.” (Broaden BWC at at min. 7:00-7:30). Based upon additional statements, Mr. P and Ms. V made it clear that this was not an isolated incident. Nevertheless, Appellant claimed that, “in his mind” there was no probable cause to place Mr. P under arrest. (Tr. at 181:20-182:3). He then asked Officer Grimes to remove the handcuffs from Mr. P’s person and let Mr. P leave the scene.

On direct-examination, Appellant offered some confusing testimony regarding the photographs taken by Officer Grimes at the scene. Initially, Appellant testified that, when he first spoke to Officer Grimes, she informed him that she had taken photographs of Ms. V. (Tr. at 180:5-16). Later, he stated “at the time when these questions [were] asked of me” he did not remember speaking with Officer Grimes about photographs. *Id.* at 183:8-14. But then he went on to testify that he did recall Officer Grimes asking him if he wanted the camera. In response, Appellant told

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Officer Grimes that she could delete the photos because he did not see any physical evidence of injury to Ms. V. *Id.* at 183:15-21. This later testimony is consistent with the BWC footage that shows Officer Grimes and Appellant discussing the photographs and Appellant's statement to Officer Grimes that she could delete the photos. When Officer Grimes pressed Appellant on this instruction, Appellant told Officer Grimes that, because he was changing the incident to a 103D (simple domestic disturbance) there was no need to keep the photos. (Grimes BWC #2 at min. 13:35-14:19).

On cross-examination, NOPD drew Appellant's attention to the following statements he provided during NOPD's investigation into his misconduct:

**Question:** What sort of evidence did you collect at the scene?

**Answer:** Um, there was no evidence [inaudible statement not captured by stenographer]. Not that I know of.

**Question:** OK. Did you take any photographs on the scene?

**Answer:** Um...based on my observation, I elected to not take any photographs because I didn't see any visible signs of injury to [Ms. V].

**Question:** OK...did Officer Grimes take photographs on the scene?

**Answer:** Not that I know of.

**Question:** So you are unaware of whether or not any photographs were taken?

**Answer:** I'm quite sure that there [were] no photographs taken. If there were, I would be surprised. I don't remember any photographs being taken.

(NOPD Exhibit 6).

Appellant explained his responses were accurate at the time because he did not recall any photographs being taken. He reiterated that his normal process would be to personally take photographs of any visible evidence of injury in domestic violence calls.

In addition to his administrative statement, Appellant prepared a report regarding the incident. He authored the report at 10:15 p.m. on September 11, 2015. (NOPD Exh. 7). In the report, Appellant indicated that there were no photographs related to the underlying call. *Id.* Appellant also specifically indicated that there were no photographs of the victim's injuries and no photographs of the offender's injuries. When confronted about this apparent inconsistency, Appellant explained that he made the entry because he personally did not take any photographs. (Tr. at 191:18-23).

Back at the 7th District Station, Sgt. Torregano checked in on the investigation with Officer Grimes who had returned from the scene. Officer Grimes advised that Mr. P had returned to the scene and was with Appellant. Upon learning this, Sgt. Torregano attempted to contact Appellant, but was unsuccessful. He then began to debrief the Sergeant who was relieving him when Appellant returned to the 7th District Station alone. Sgt. Torregano was surprised to see Appellant return without a prisoner because he believed that his instructions to Officer Grimes – place Mr. P under arrest if he returned – were clear. *Id.* at 78:8-20. According to Sgt. Torregano, Appellant explained that he did not place Mr. P under arrest because Appellant was “ready to go home” or words to that effect. *Id.* at 79:6-11. Sgt. Torregano instructed Appellant to immediately return to the scene and apprehend Mr. P and place him under arrest. *Id.* at 80:13-15. Upon returning to the scene, Appellant was unable to locate Mr. P and called Sgt. Torregano at home with an update. Sgt. Torregano instructed Appellant to prepare an application for an arrest warrant for Mr. P.

Appellant claimed that he did not make the arrest because he did not see probable cause and expressed concern about Sgt. Torregano's insistence that Appellant prepare an application for an arrest warrant. *Id.* at 185:16-21. While Appellant claims that he was deeply concerned about Sgt. Torregano's instructions, he did not express such a concern verbally. Instead, he hoped that

his body language, and other non-verbal cues, would give Sgt. Torregano “the impression that [Appellant] was somewhat not in agreeance.” (NOPD Exh. 6). For obvious reasons, the Commission does not find this statement credible – or for that matter, coherent.

### **C. Aftermath and Investigation**

NOPD initiated an investigation into Appellant’s handling of the September 11, 2015 investigation based upon a complaint authored by Sgt. Torregano. Deputy Superintendent Paul Noel presided over Appellant’s pre-disciplinary hearing. Prior to his time as Deputy Superintendent, Noel served as a Commander and a Lieutenant in NOPD’s sex crimes and domestic violence unit. He also served as Commander of NOPD’s Criminal Investigations Division. As Deputy Superintendent, Noel played an extensive role in developing the NOPD policies that govern domestic violence allegations. (Tr. at 94:10-18). NOPD’s Domestic Violence Policy (hereinafter “the Policy”), applies to all “platoon officers and supervisors in responding to and supervising all cases that involve intimate partners, family or household members.” (NOPD Exh. 4). A key component of NOPD’s policy for investigating incidents of domestic violence is the requirement that Officers “identify, collect and preserve any and all evidence of a crime scene.” *Id.* at 94:13-23. Doing so allows Officers to identify and arrest the “predominant aggressor.” (NOPD Exh. 4 at p. 6). If there exists probable cause to determine that the predominant aggressor committed a felony or misdemeanor in the context of a domestic violence incident, the Policy requires an Officer to make an arrest. *Id.* at p. 13.

“Strangulation” is specifically identified in the Policy as an example of battery in the domestic violence context. *Id.* at p. 2. There is also an extensive section in the Policy regarding strangulation and how Officers should approach investigations when the victim alleges he/she was strangled. *Id.* at p. 10. The Policy also provides the definition of “domestic abuse battery” as “the



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intentional use of force or violence committed by one household member upon another household member.” *Id.* at p. 3. Finally, the policy defines a “household member” as a person of the opposite sex who is presently living with the offender “as a spouse” (whether married or not). *Id.* pp. 3-4.

Based upon the definitions contained within the Policy and what he learned upon making the scene on September 11, 2015, Appellant knew or should have known that he needed to adhere to the Policy. In fact, Appellant acknowledged this to Ms. V when he said, for “anything domestic, a report has to be filed.” (Broaden BWC at min. 15:10-15:20). He goes on to observe that, in some instances, Officers place both parties to the dispute in jail. The Commission views this interaction as a not-so-subtle attempt on Appellant’s part to encourage Ms. V to walk back her claims of abuse.

When Deputy Superintendent Noel reviewed the BWC footage, he concluded that Appellant had ample information to determine that Ms. V had been the victim of a felony domestic battery. (Tr. at 103:17-104:4). And faced with such information, Appellant should have followed the procedures established by the Policy and arrested Mr. P. *Id.* at 106:20-107:3. Deputy Superintendent Noel also noted that the Policy requires that Officers “photograph all injuries regardless of severity.” During the pre-disciplinary hearing, Appellant denied that there were any photographs taken at the scene. *Id.* at 112:16-113:1. Video footage collected from both Appellant’s and Officer Grimes’s BWCs directly contradict this claim. As noted earlier, the footage shows Officer Grimes showing Appellant the camera she used to photograph Ms. V and Appellant informs her that she can “delete” the photographs because he is recoding the call as a “103D.” (Broaden BWC at min. 19:15-19:54; Grimes BWC #2 at 13:35-14:19).

When Deputy Superintendent Noel asked Appellant why he did not conduct a more thorough investigation, Appellant stated that he was nearing the end of his shift and wanted to get off of work. (Tr. at 116:9-24).

Based upon the evidence before him, Deputy Superintendent Noel found that Appellant made false statements in his police report and to the PIB personnel investigating Appellant's handling of the domestic violence call. Deputy Superintendent Noel also found that Appellant's false statements were material to the criminal investigation into Mr. P's alleged domestic battery of Ms. V and the administrative investigation into Appellant's neglect of duty. *Id.* at 124:20-125:15. Finally, Deputy Superintendent Noel believed that Appellant had made the false statements with the intent to deceive his supervisor and PIB investigators.

### III. LEGAL STANDARD

An appointing authority may discipline an employee with permanent status in the classified service for sufficient cause. La. Con. Art. X, § 8(A). If an employee believes that an appointing authority issued discipline without sufficient cause, he/she may bring an appeal before this Commission. *Id.* It is well-settled that, in an appeal before the Commission pursuant to Article X, § 8(A) of the Louisiana Constitution, an 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 (La. Ct. App. 2014)(quoting *Cure v. Dep't of Police*, 2007-0166 (La. App. 4 Cir. 8/1/07), 964 So. 2d 1093, 1094 (La. Ct. App. 2007)). If the Commission finds that an appointing authority has met its initial burden and had sufficient cause to issue discipline, it must then determine if that discipline "was commensurate with the infraction." *Abbott v. New Orleans Police Dep't*, 2014-

0993 (La. App. 4 Cir. 2/11/15, 7); 165 So.3d 191, 197 (citing *Walters v. Dep't of Police of City of New Orleans*, 454 So.2d 106, 113 (La. 1984)). Thus, the analysis has three distinct steps with the appointing authority bearing the burden of proof at each step.

#### IV. ANALYSIS

##### A. Occurrence of the Complained of Misconduct

###### 1. Truthfulness

NOPD rules require that Officers be forthright and honest in their daily interactions with residents, fellow officers, supervisors, and even arrested subjects:

Employees are required to be honest and truthful at all times in their spoken, written, or electronic communications. Truthfulness shall apply when an employee makes a materially false statement **with the intent to deceive**. A statement is material when, irrespective of its admissibility under the rules of evidence, it could have affected the course or outcome of an investigation or an official proceeding, whether under oath or not, in all matters and official investigations relating to the scope of their employment and operation of the Department, as follows:

- (a) employees shall truthfully state the facts in any oral, written, or electronic communication;
- (b) employees shall not willfully or negligently make any false, misleading, or incorrect oral, written or electronic communication;
- (c) employees shall not willfully or negligently without relevant information of which they have knowledge, from any oral, written, or electronic communication;

Employees shall truthfully answer all questions directed to them on the order of the Superintendent of Police, the Superintendent's designee, a superior officer, or any judicial, departmental, or other official investigative body.

(H.E. Exh. 1)(emphasis added).

There is no dispute that Appellant made a false statement in his report regarding the September 11, 2015 incident when he wrote that no photographic evidence existed. Nor is there any dispute he repeated this false statement to PIB investigators and Deputy Superintendent Noel

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during the course of NOPD's investigation. In order for the Commission to find that Appellant violated the above-cited rule, it must find; 1) that the false statement could have affected the course or outcome of an investigation or an official proceeding, and 2) Appellant made the false statement with the intent to deceive.

Whether or not photographs of Ms. V existed had direct bearing on the criminal investigation in Mr. P's conduct. Photographs showing no visible injuries to Ms. V would then be very relevant, not only to Mr. P's defense but to the Orleans Parish District Attorney's Office in deciding what criminal charges to bring against Mr. P, if any. The existence of photographs was also relevant to NOPD's inquiry regarding the thoroughness of Appellant's investigation. Whether or not Appellant believed that photographs of the victim were necessary is entirely beside the point. Based on the foregoing, the Commission finds that Appellant's false statement – that there were no photographs of Ms. V – was material.

Determining whether or not an employee intentionally made a false statement is often a difficult task for NOPD and the Commission. Here, Appellant claimed that he simply did not remember that Officer Grimes had taken photographs. Three undisputed facts undercut Appellant's defense. First, Appellant and Officer Grimes clearly discussed the photographs Officer Grimes had taken on September 11, 2015. Second, Appellant informed Officer Grimes that she could delete the photographs to make room for the next user. Third, very little time elapsed before Appellant prepared an official report containing the false statement regarding the photos (Appellant prepared a report regarding the incident before the end of his tour of duty and indicated that there was no photographic evidence). This constitutes strong circumstantial evidence that Appellant knew about the photographs and made a conscious decision to misrepresent their existence.

Another piece of circumstantial evidence speaks to Appellant's motive. Based upon the Policy, the Commission finds that Appellant likely recognized that Mr. P had committed a crime (at least battery and arguably felony domestic abuse). NOPD Policy requires Officer to place such offenders under arrest. Appellant's claim that he did not believe that there was probable cause to place Mr. P under arrest is dubious given that Ms. V claimed that Mr. P strangled her and Mr. P admitted to holding Ms. V down. Appellant, recognizing his violation of the Policy, then attempted to minimize the impact of the error by claiming that there was no photographic evidence. This was a poor choice and made a bad situation worse.

Lt. Williams conducted the interview with Appellant on October 6, 2015, almost three weeks after the underlying incident. This arguably supports Appellant's contention that he did not recall whether or not there was discussion of photographs at the scene. If this were the only statement Appellant provided regarding photographs taken at the scene, NOPD's case would be on shakier ground. However, the Incident Report prepared by Appellant on the day of the incident clearly indicates that no photographs were taken. (NOPD Exh. 7). While it is possible that an Officer would forget details of an incident after three weeks, it is far less likely that the same level of forgetfulness would apply to a report drafted an hour or so after the incident. The Commission does not find Appellant's testimony regarding his report to be credible. Appellant would have the Commission believe that he indicated there were no photographs taken at the scene because he did not personally take the photographs. This is a leap of faith the Commission is unable to make primarily because Appellant and Officer Grimes had a specific conversation about the photographs moments before Appellant prepared the report.

The Commission finds that it is more likely than not that Appellant perceived Sgt. Torregano's displeasure at the way Appellant handled the investigation. Upon making this

observation, Appellant attempted to minimize the severity of his failures by fabricating the existence (or lack thereof) of any photographic evidence collected at the scene since such evidence would tend to establish that the nature of the call was related to domestic violence. The lie itself may have seemed innocuous at the time, but had a direct bearing on NOPD's investigation into Appellant's handling of the incident.

Because NOPD has established that Appellant engaged in the misconduct that ultimately led to his termination, the Commission will not conduct an analysis of the lesser allegations.

### **B. Impact on NOPD's Efficient Operations**

This Commission has repeatedly observed that official reports generated by Officers in connection with arrests, uses of force or other interactions with citizens often provide the only insight into such incidents. In the interest of accountability, transparency and public trust, it is essential that these records accurately reflect what happened, regardless of whether or not the Officers involved are shown in a positive light. If Officers purposefully misrepresent material in these reports, the essential role these reports play is drastically compromised. Therefore, the Commission finds that NOPD has a vested interest in ensuring that Officers commit to the highest level of truthfulness in making official reports and severely disciplining those Officers who fail to do so.

The Commission also observes that Appellant's failure to follow the unambiguous investigatory guidelines contained in NOPD's domestic violence policy adversely impacted the efficient operations of NOPD in several ways. First, it was clear that Appellant had enough information from his interview with Ms. V to initiate a domestic violence investigation. As Deputy Superintendent Noel stated, NOPD has established policies to protect victims of domestic violence. Appellant's failure to follow the policy exposed the victim to possible violence. Even

if Appellant believed that the risk to Ms. V was low, the Policy removed any need for him to exercise discretion. Second, Appellant compromised the investigation into a possible domestic abuse felony by not securing evidence and then lying about it. Finally, Appellant appears to be encouraging Ms. V not to pursue any criminal charges against Mr. P when he explained about the need for a report and the possibility that both parties could end up in jail. This flies in the face of the Policy that explicitly states that “dual arrests are strongly discouraged.” (NOPD Exh. 4 at p. 13).

### **C. Was the Discipline Commensurate with Appellant’s Offense**

In conducting its analysis, the Commission must determine if Appellant’s termination was “commensurate with the dereliction;” otherwise, the discipline would be “arbitrary and capricious.” *Waguespack v. Dep’t of Police*, 2012-1691 (La. App. 4 Cir. 6/26/13, 5); 119 So.3d 976, 978 (citing *Staehle v. Dept. of Police*, 98–0216 (La. App. 4 Cir. 11/18/98), 723 So.2d 1031, 1033).

As noted above, in order to violate NOPD’s policy requiring honesty and truthfulness, an Officer must make a false statement regarding a material fact with the intent to deceive. NOPD views violations of this policy as a cardinal sin. In prior decisions, the Commission has found that a substantiated allegation of untruthfulness against an Officer severely compromises that Officer’s ability to perform basic policing duties. In support of such a finding, the Commission has cited to *Giglio v. United States*, 405 U.S. 150, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972), *Brady v. Maryland*, 373 U.S. 83, 87, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963) and its progeny. In *Brady*, the U.S. Supreme Court found that a prosecutor suppressed evidence favorable to a criminal defendant’s defense. Further, such evidence was “material either to guilt or to punishment.” 373 U.S. at 87. As a result, the Court found that the State had violated the criminal defendant’s due process rights in violation

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of the Fourteenth Amendment. *Id.* Following *Brady*, the Court held in *Giglio* that, “[w]hen the reliability of a given witness may well be determinative of guilt or innocence, nondisclosure of evidence affecting [the witness’s] credibility falls within [the rule established by Brady].” 405 U.S. at 154 (internal citations omitted).

NOPD’s well-founded concern is that courts would view any substantiated allegations of misconduct against an Officer involving truthfulness or lying as directly affecting an Officer’s credibility. Thus, Supreme Court precedent would compel prosecutors to disclose such misconduct to criminal defendants in any matter in which the Officer in question was involved. Upon such a disclosure, any competent defense counsel would likely use such information to undermine the credibility of the Officer and call into question the integrity of the criminal investigation itself.

The critical upshot of such misconduct then is that NOPD could not reasonably rely upon Appellant to prepare police reports, swear to affidavits or testify in criminal matters. The undersigned Commissioners envision a potentially devastating line of cross-examination questions posed to an Officer with a substantiated allegation of untruthfulness in his or her record:

**Question:** Officer \_\_\_\_\_ isn’t it true that you have been disciplined in the past for lying?

**Answer:** Yes.

**Question:** And NOPD and the Civil Service Commission determined that your lie was serious enough to potentially impact the outcome of an investigation or official proceeding, didn’t it?

**Answer:** Yes.

**Question:** And, NOPD views lying as very serious misconduct, doesn’t it?

**Answer:** Yes.

**Question:** Well, are you lying now, in this case, about what you observed at the scene?



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Even if the Officer answers “No” to that question, the seed of doubt could be planted in a jury’s mind that distracts from other carefully collected evidence. The Commission believes that the risk such Officers pose to future criminal investigations warrants the most severe level of discipline.

Based upon the record before us, the undersigned Commissioners find that termination was an appropriate level of discipline given the nature of Appellant’s misconduct.

#### **V. CONCLUSION**

As a result of the above findings of fact and law, the Commission hereby DENIES Appellant’s appeal.

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Judgment rendered this 28<sup>th</sup> day of March, 2018.

CITY OF NEW ORLEANS CIVIL SERVICE COMMISSION

WRITER

  
\_\_\_\_\_  
CLIFTON MOORE, JR., COMMISSIONER

3/22/18  
DATE

CONCUR

  
\_\_\_\_\_  
MICHELLE D. CRAIG, CHAIRPERSON

3/27/2018  
DATE

  
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RONALD P. McCLAIN, VICE-CHAIRMAN

3-23-18  
DATE