



# CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE  
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CITY CIVIL SERVICE COMMISSION

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MAYOR

Tuesday, May 19, 2015

LISA M. HUDSON  
DIRECTOR OF PERSONNEL

Mr. Eric Hessler  
PANO 2802 Tulane Avenue #101  
New Orleans, LA 70119

Re: **Carolyn Scott VS.**  
**Department of Police**  
**Docket Number: 8163**

Dear Mr. Hessler:

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 - 5/19/2015 - filed in the Office of the Civil Service Commission at 1340 Poydras St. Suite 900, Amoco Building, 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 that reads "Doddie K. Smith".

Doddie K. Smith  
Chief, Management Services Division

cc: Michael S. Harrison  
Elizabeth S. Robins  
Jay Ginsberg  
Carolyn Scott  
,  
file

CAROLYN SCOTT

CIVIL SERVICE COMMISSION

VERSUS

CITY OF NEW ORLEANS

DEPARTMENT OF POLICE

NO. 8163

Appellant is a Police Technician Specialist with permanent status. The Appellant received a 3-day suspension for violation of the Appointing Authority's regulations concerning Performance of Duty. As reflected in the April 13, 2013, disciplinary letter:

The investigation determined that on April 25, 2010...you failed to take inventory of evidence which you received at [the] Central Evidence and Property Warehouse. Your neglect caused the Clerk of Court's Office to refuse the evidence package... As such, your failure to properly inventory evidence... is a violation of Rule 4: Performance of Duty, paragraph 4 – Neglect of Duty, paragraph c6 – Failing to Comply with Instructions...from an Authoritative Source, and Rule 4: Performance of Duty, paragraph c5, to Central Evidence and Property Manual, Chapter 9, paragraph 2a.

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 October 10, 2013. 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 testimony was as follows:

SERGEANT ANTOINETTE DESHOTEL:

Sgt. Deshotel testified that she was assigned to the Public Integrity Bureau and that she was tasked with investigating the matter that is the subject of this Appeal.

Sgt. Deshotel testified that Appellant was charged with failing to properly inventory and package some items of evidence that came into Central Evidence and Property to be logged into evidence by a Police Officer. She testified that the NOPD became aware of the issue when the case in which the evidence was needed came before the court. The evidence was requested from

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and sent over by Central Evidence and Property. However, upon inspection, it was determined that there was missing evidence, or the evidence package did not contain what it was said to contain, namely a pair of blue jeans, and the evidence package was sent back. The Appellant was charged with failing to conduct a proper inventory to ensure that what was listed as evidence in the inventory, namely the blue jeans, was actually in the evidence package prior to receiving the evidence into the Central Evidence and Property warehouse.

Sgt. Deshotel testified that the Appellant failed to actually inventory the particular items herself. Sgt. Deshotel testified that Appellant had indicated that she inputted the evidence into the computer, but that somebody else packaged it. Sgt. Deshotel testified that, regardless of whether this is true, it was still Appellant's responsibility to ensure that what is input into the computer and inventoried matches what is actually placed into the evidence package.

CAROLYN SCOTT: APPELLANT

Appellant testified that she could not recall the specific incident that is the subject of this appeal.

The Appellant admits that according to the Central Evidence and Property procedures manual, specifically Chapter 9, Paragraph 2(a) relative to packaging, which states, "it shall be the responsibility of the intake personnel to ensure that all articles being submitted are properly inventoried," it was Appellant's responsibility to make sure that the items listed as evidence by the police officer were properly inventoried prior to being packaged and received into evidence.

The Appellant admits that there were no blue jeans in the evidence package. Appellant also admits that despite the fact that no blue jeans were in the evidence package, they were listed as items of evidence seized in the NOPD Item Information (Inventory) Form completed by her,

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which is found at Appellant Exhibit 2. Thus, it is clear that the Inventory does not match the Evidence as required by policy.

Appellant's defense is twofold. First, she submits that she did not package the evidence, another Officer did. Second, she submits that her Inventory matched the Officer's Evidence/Property Worksheet, found at Appellant Exhibit 1, which lists a single "item" containing two articles of clothing, a black t-shirt and blue jeans.

#### LEGAL PRECEPTS

An employee who has gained permanent status in the classified city civil service cannot be subjected to disciplinary action by his employer except for cause expressed in writing. La. 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 from 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

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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.

#### ANALYSIS

The Appointing Authority met its burden of proof and established by a preponderance of the evidence both the occurrence of the complained of activity and that the conduct complained of impaired the efficiency of the public service.

Appellant's defense is twofold. First, she submits that she did not package the evidence, another Officer did. Second, she submits that her Inventory matched the Officer's Evidence/Property Worksheet, found at Appellant Exhibit 1, which lists a single "item" containing two articles of clothing, a black t-shirt and blue jeans. Appellant then suggests that any error is on the part of the Officer who mistakenly listed the blue jeans even though there were no blue jeans.

First, Appellant admits and the policy states that it is her responsibility to make sure that the items listed as evidence by the police officer were properly inventoried prior to being packaged and received into evidence. Thus, Appellant's first defense is unavailing. The Appellant's second defense is likewise unavailing. In fact, her defense is more of an affirmation as to why the policy requiring that the intake technician perform an inventory exists, i.e. to prevent an Officer's error from becoming an evidentiary issue in the criminal case as happened in this case.

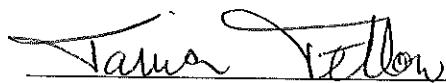
The Appointing Authority also established that the facts as demonstrated violate Departmental policy. Lastly, the Appointing Authority established that the Appellant's conduct, which resulted in evidence being rejected in a criminal proceeding, impaired the efficient and effective operation of the Department.

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Considering the foregoing, the Appellant's appeal is DENIED.


RENDERED AT NEW ORLEANS, LOUISIANA THIS 18<sup>th</sup> DAY OF May, 2015.

CITY OF NEW ORLEANS  
CIVIL SERVICE COMMISSION

  
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TANIA TETLOW, COMMISSIONER

CONCUR:

  
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RONALD P. MCCLAIN, COMMISSIONER

  
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JOSEPH S. CLARK, COMMISSIONER