



# CITY OF NEW ORLEANS

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

Tuesday, August 6, 2024

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

Re: **Troy Daliet VS.**  
**Department of Police**  
**Docket Number: 9555**

Dear Mr. Alpaugh:

Attached is the decision of the City Civil Service Commission in the above-referenced 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 - 8/6/2024 - 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 purple ink that reads "Stacie Joseph".

Stacie Joseph  
Management Services Division

cc: Anne E. Kirkpatrick  
Elizabeth A Weigand  
Jay Ginsberg  
Troy Daliet

file

**CIVIL SERVICE COMMISSION  
CITY OF NEW ORLEANS**

**TROY DALIET,  
Appellant**

**Docket No. 9555**

v.

**DEPARTMENT OF POLICE,  
Appointing Authority**

**DECISION**

Appellant, Troy Daliet, brings this appeal pursuant to Article X, § 8(A) of the Louisiana Constitution and this Commission's Rule II, § 4.1 seeking relief from his December 28, 2023, 73-day suspension. (Ex. HE-1). At all relevant times, Appellant had permanent status as a Senior Police Officer. (Tr. at 77). A Hearing Examiner, appointed by the Commission, presided over a hearing on April 15, 2024. 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 July 2, 2024, and controlling Louisiana law.

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

**I. FACTUAL BACKGROUND**

Senior Police Officer Troy Daliet has been employed by the New Orleans Police Department for almost 20 years. (Tr. at 73, 78). On November 20, 2021, at about 2:47 AM, while off-duty, Officer Daliet was driving on Manhattan Boulevard in Jefferson Parish under the influence of alcohol. (Ex. HE-1; Ex. NOPD-4). Louisiana State Trooper Nicholas Wall pulled Officer Daliet over for speeding and swerving in the roadway. (Ex. HE-1). Officer Daliet felt that

Trooper Wall pulled him over based on his race. (Tr. at 76, 79; Ex. Appellant-3). As reflected in Trooper Wall's body-worn-camera video, when Officer Daliet exited his vehicle, Officer Daliet identified himself as a New Orleans police officer. (Tr. at 76; Ex. NOPD-5). Officer Daliet was combative and disrespectful to Trooper Wall, using vulgar language. (Ex. NOPD-5). Based on Officer Daliet's behavior, Trooper Wall attempted to perform a field sobriety test. (Ex. NOPD-5). Officer Daliet testified, "I was doing his test, and he kept making me start over." (Tr. at 75-76). Officer Daliet eventually refused to participate in the field sobriety test. (Tr. at 75). As Chief Deputy Superintendent Hans Ganthier testified, based on his review of the video, "you could clearly see he would never pass." (Tr. at 35-36). Chief Ganthier also testified that Officer Daliet was "insulting to the state trooper" and "the other officers there," even though these officers were "very patient." (Tr. at 18-19). Officer Daliet also refused a breathalyzer test, and, following his arrest, a blood test performed at 5:45 AM revealed a blood alcohol level of 0.15 grams per 100 ml. (Ex. NOPD-4). Officer Daliet completed a diversion program, and Second Parish Court of Jefferson Parish dismissed the criminal proceedings on March 26, 2023. (Ex. NOPD-6).

NOPD charged Officer Daliet with violations of NOPD's rules governing professionalism (Rule 3, paragraph 1, professionalism; Rule 3, paragraph 9, use of alcohol/drugs off-duty) and moral conduct (Rule 2, paragraph 1, adherence to law, La. R.S. 14:98). (Ex. HE-1). NOPD imposed a 60-day suspension for violating Louisiana law by operating a vehicle while intoxicated. (Ex. HE-1). NOPD imposed a three-day suspension for violation of the requirement of professionalism, and a 10-day suspension for violation of the requirement of professionalism in the context of off-duty use of alcohol. (Ex. HE-1). NOPD aggravated the penalties for these offenses by a total of 28 days. (Tr. at 6).

NOPD aggravated the penalty for the violation of professionalism (Rule 3, paragraph 1) from one day to three days, based on the nature of Officer Daliet's conduct and an earlier offense. (Tr. at 9-12, 14). NOPD aggravated the penalty for professionalism in the use of alcohol off-duty (Rule 3, paragraph 9) from a five-day suspension to a ten-day suspension. (Tr. at 16). NOPD aggravated the penalty for the violation of law (Rule 2, paragraph 1), from a 45-day suspension to a 60-day suspension. (Tr. at 29). Chief Ganthier explained the reasons for the aggravated penalties, including Officer Daliet's failure to take responsibility for his actions. (Tr. at 19). Chief Ganthier highlighted Officer Daliet's position as a New Orleans police officer and his interaction with the other law enforcement agencies. (Tr. at 21). The panel also recommended an aggravated penalty based on the impact on the reputation of NOPD: "[W]hen there's more than several agencies on scene, and he's refusing to follow the instructions, and using profanity, identifying as a police officer . . . [a]nd, he was insulting to all the officers. So, that is a reflection on the New Orleans Police Department at that time." (Tr. at 26).

## II. ANALYSIS

### A. Legal Standard for Commission's Review of Discipline

"Employees with the permanent status in the classified service may be disciplined only for cause expressed in writing. La. Const., Art. X, Sec. 8(A)." *Whitaker v. New Orleans Police Dep't*, 2003-0512 (La. App. 4 Cir. 9/17/03), 863 So. 2d 572 (quoting *Stevens v. Dep't of Police*, 2000-1682 (La. App. 4 Cir. 5/9/01)). "Legal cause exists whenever an employee's conduct impairs the efficiency of the public service in which the employee is engaged." *Id.* "The Appointing Authority has the burden of proving the impairment." *Id.* (citing La. Const., art. X, § 8(A)). "The appointing authority must prove its case by a preponderance of the evidence." *Id.* "Disciplinary action against a civil service employee will be deemed arbitrary and capricious

unless there is a real and substantial relationship between the improper conduct and the “efficient operation” of the public service.” *Id.* “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).

**1. The Appointing Authority must show the discipline was commensurate with the infraction**

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. *Durning v. New Orleans Police Dep’t*, 2019-0987 (La. App. 4 Cir. 3/25/20), 294 So. 3d 536, 538, *writ denied*, 2020-00697 (La. 9/29/20), 301 So. 3d 1195; *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). The appointing authority has the burden of showing that the discipline was reasonable and not arbitrary or capricious. *Neely v. Dep’t of Fire*, 2021-0454 (La. App. 4 Cir. 12/1/21), 332 So. 3d 194, 207 (“[NOFD] did not demonstrate . . . that termination was reasonable discipline”); *Durning*, 294 So. 3d at 540 (“the termination . . . deemed to be arbitrary and capricious”).

**B. NOPD Carried its Burden of Showing Cause for the Suspension of Officer Daliet**

The underlying facts are largely undisputed. NOPD showed that the complained of activity occurred. Officer Daliet behaved unprofessionally toward other law enforcement officers on November 20, 2021, when a Louisiana State Trooper pulled him over in Jefferson Parish while he was driving under the influence of alcohol. Officer Daliet also violated Louisiana law by driving under the influence of alcohol. This conduct impairs the efficient operation of NOPD, negatively affecting NOPD's working relationship with other law enforcement agencies.

**C. NOPD Carried its Burden of Showing the Penalty is Commensurate with the Violation**

As shown in the video from Trooper Walls's body-worn camera, Officer Daliet was uncooperative with Trooper Wall and admittedly "combative." (Tr. at 77; Ex. NOPD-5). After Officer Daliet identified himself as a New Orleans police officer, he proceeded to behave in an insulting and condescending manner to Trooper Wall. (Ex. NOPD-5). As Officer Daliet acknowledged, he embarrassed himself and NOPD. (Tr. at 77).

NOPD appropriately aggravated the penalty for the violations based on the application of the factors in the NOPD penalty matrix. (Ex. NOPD-2). In particular, the nature and seriousness of Officer Daliet's verbally abusive treatment of law enforcement officers justify aggravation of the penalty, especially when considered in the context of Officer Daliet's position as a police officer. (Ex. NOPD-2 at ¶4(b)). Also, Officer Daliet's behavior had a negative impact upon the reputation of the Police Department, as he identified himself as a New Orleans police officer. (Ex. NOPD-2 at 4(c)).

For the reasons set forth above, the appeal is DENIED.

WRITER:


  
Mark C. Surprenant (Aug 1, 2024 13:48 CDT)

MARK SURPRENANT, COMMISSIONER

CONCUR:

  
Ruth Davis (Aug 4, 2024 17:05 CDT)

RUTH DAVIS, COMMISSIONER

  
Andrew Monteverde (Aug 6, 2024 13:51 GMT+2)  
ANDREW MONTEVERDE, COMMISSIONER