



CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
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CITY CIVIL SERVICE COMMISSION

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MAYOR

Wednesday, September 23, 2020

Mr. Michael Capdeboscq
710 E Boston St.
Covington, LA 70433

Re: **Johnny Thornton VS.**
Department of Human Services
Docket Number: 8852

Dear Mr. Capdeboscq:

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 - 9/23/2020 - 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,

Doddie K. Smith
Chief, Management Services Division

cc: Kyshun Webster
Michael J. Laughlin
Jay Ginsberg
Johnny Thornton
;
file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

**JOHNNY THORNTON,
Appellant,**

vs.

DOCKET NO.: 8852

**DEPARTMENT OF HUMAN SERVICES,
Appointing Authority**

JUDGMENT

I. INTRODUCTION

This appeal concerns the termination of Johnny Thornton (“Appellant”), who was a permanent employee of the Department of Human Services (“DHS” or “Appointing Authority”), assigned to the Youth Study Center. DHS terminated Appellant’s employment as a Juvenile Detention Supervisor effective September 18, 2018, for unauthorized use of force against a juvenile on August 25, 2018. (Exhibit HE-1). The Youth Study Center is a temporary residential housing facility for youth awaiting criminal trial. (Tr. at 85).

A hearing officer conducted a hearing on January 16, 2019. After reviewing the transcript of the hearing, the exhibits admitted at the hearing, and the hearing examiner’s report in this matter, the Commission DENIES the appeal.

II. FACTUAL BACKGROUND

Dichelle Williams, the Interim Superintendent of the Youth Study Center, testified that on the evening of August 25, 2018, she met with a resident of the Youth Study Center at the request of a supervisor, Bryan Davis. (Tr. at 6, 26, 28). The youth reported that Appellant slammed him

to the ground. (Tr. at 6). Ms. Williams observed injuries to the youth, and according to the YSC Sick Call Request completed by Youth Study Center medical staff, the youth suffered “bruising and swelling to left ear & surrounding area” and “bruising & swelling to right temporal area of face.” (Exhibit Appellant-3). According to this document, the youth also reported he was “light headed.” (Exhibit Appellant-3). Ms. Williams pulled the video footage of the incident from the surveillance system at the Youth Study Center. (Tr. at 7-8, Exhibit City-1). The video captured Appellant forcing the youth to the ground, which was concrete. (Tr. at 14, 96). After reviewing the video, Ms. Williams determined that Appellant, who weighs over 300 lbs., used excessive force when Appellant took the 144-155 lb. youth to the ground. (Tr. at 15, 44, 110).

Chad Hawkins, Appellant’s subordinate, was supervising the youth’s unit, (Pelican B), on August 25, 2018. (Tr. at 123). Mr. Hawkins testified that the youth had been combative the whole day, including kicking a door and a window, and Mr. Hawkins requested Appellant’s assistance when the youth went to the gym without permission. (Tr. at 123-24, 126). According to the Director of Human Resources, Veleaka Jordan, who reviewed the video, Appellant was escorting the youth from the gym to the youth’s dorm when Appellant “[threw] the youth on the ground and bared [Appellant’s] weight on top of [the youth], and appeared to be using his body weight on top of the youth.” (Tr. at 74). Also, from the HR Director’s review of the video, it appeared “the youth’s head was hitting the ground.” (Tr. at 74). Although Hawkins was behind a closed door and did not witness Appellant take the youth to the ground, Mr. Hawkins testified he heard the youth say, “I’m gonna kill you and your family, and you got my head on the ground.” (Tr. at 141-42). Ms. Jordan, along with the Director of DHS, determined the Appellant had used excessive force. (Tr. at 72-74). This use of excessive force violated the Youth Study Center Policies and

Procedures, which provide that “[e]mployees who use inappropriate or excessive force will be terminated . . .” (Exhibit City-4 at 50).

III. LEGAL ANALYSIS

A. 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 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 (quoting *Cure v. Dep't of Police*, 2007-0166 (La. App. 4 Cir. 8/1/07), 964 So. 2d 1093, 1094). 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); 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.

1. Occurrence of complained-of activity

The Appointing Authority relied on surveillance video of Appellant throwing the youth to the concrete, and this video was entered into evidence. Appellant, who outweighed the youth by

150 lbs., used excessive force, causing injuries to the youth. The Appellant's version of this incident is not credible, given the videotape evidence.

2. Whether conduct impaired the efficiency of Department of Human Services

"The mission of the Youth Study Center is to provide temporary residential housing for youth that are pre-adjudication." (Tr. at 85). "Part of the temporary housing is that the youth are safe and secured in the environment." (Tr. at 85). Use of excessive force against a youth causing injury therefore impaired the efficiency of the Youth Study Center.

3. Whether the discipline was commensurate with the infraction

The Policies and Procedures of the Youth Study Center provide that the penalty for excessive force is termination. (Exhibit City-4 at 50). Given the objective evidence of the violation and the clear policy, the discipline was commensurate with the infraction.

IV. CONCLUSION

For the reasons stated herein, the appeal is denied.

New Orleans, Louisiana, this 23rd day of September, 2020.

WRITER:

Michelle D. Craig
Michelle D. Craig (Sep 11, 2020 15:15 CDT)


MICHELLE CRAIG
CHAIRWOMAN

09/11/20

DATE

Thornton v. DHS
No. 8852

CONCUR:



Brittney Richardson (Sep 11, 2020 15:18 CDT)
BRITTNEY RICHARDSON
COMMISSIONER

09/11/20

DATE



J. H. Korn (Sep 22, 2020 10:44 CDT)
JOHN KORN
COMMISSIONER

09/22/20

DATE