



# CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE  
SUITE 900 - 1340 POYDRAS ST.  
NEW ORLEANS, LA 70112  
(504)658-3500 FAX NO. (504) 658-3598

CITY CIVIL SERVICE COMMISSION  
BRITTNEY RICHARDSON, CHAIRPERSON  
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ANDREW MONTEVERDE

AMY TREPAGNIER  
DIRECTOR OF PERSONNEL

Friday, June 21, 2024

Mr. Eldridge Walker

Re: **Eldridge Walker VS.  
Department of Sanitation  
Docket Number: 9520**

Dear Mr. Walker:

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 - 6/21/2024 - 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: Matt Torri  
James M. Roquemore  
Jay Ginsberg  
file

**CIVIL SERVICE COMMISSION  
CITY OF NEW ORLEANS**

**ELDRIDGE WALKER,  
Appellant**

**Docket No. 9520**

**v.**

**DEPARTMENT OF SANITATION,  
Appointing Authority**

**DECISION**

Appellant, Eldridge Walker, 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 August 19, 2023, emergency suspension and his October 2, 2023, termination of employment. (Exhibits HE-1, HE-2). At all relevant times, Appellant had permanent status as a Laborer. (12/5/23 Tr. at 34). A Hearing Examiner, appointed by the Commission, presided over a hearing on December 5, 2023. The Commission remanded this matter to the hearing examiner on February 5, 2024, for the purpose of gathering additional testimony about the circumstances surrounding the scheduling of Appellant's pre-termination hearing. The Hearing Examiner presided over the second hearing on March 27, 2024. At both hearings, 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 both hearings, all exhibits submitted at both hearings, the Hearing Examiner's report dated December 29, 2023 (and resubmitted without amendment on April 18, 2024), and controlling Louisiana law.

For the reasons set forth below, Mr. Walker's appeal is DENIED.

## **I. FACTUAL BACKGROUND**

Mr. Walker worked as one of two hoppers on a garbage truck driven by Latoya Hollins on September 12, 2023, and September 14, 2023. (12/5/23 Tr. at 8, 55-56). Ms. Hollins testified that she was driving on the Calliope route on September 12, and near Loyola, a black vehicle cut off the garbage truck and stopped: “A black car cut me off and they went around the truck . . . . He cut me off, and then he kept going, like he stopped, and then he kept going.” (12/5/23 Tr. at 11). Mr. Walker got into the truck and reported to her that the driver pointed a gun at him; “Eldridge jumped in the truck and told he that – he said it like this, he’s like, damn, he said this man, he said this “N” word caught me slipping and he drew down on me.” (12/5/23 Tr. at 11-12). Ms. Hollins explained that “to me, drew down means he pulled a gun out on him.” (12/5/23 Tr. at 12). According to Ms. Hollins, Mr. Walker was “scared” and “acting paranoid.” (12/5/23 Tr. at 12). Ms. Hollins also testified that Mr. Walker “rolled something” in the back of the truck and that she noticed the smell of marijuana smoke. (12/5/23 Tr. at 15, 17). Ms. Hollins also noticed that Mr. Walker’s “whole demeanor changed.” (12/5/23 Tr. at 17). Ms. Hollins and Mr. Walker had a verbal disagreement, resulting in each of them calling a supervisor. (12/5/23 Tr. at 18-19). According to Ms. Hollins, other motorists blew their horns because Mr. Walker was “high” and “hanging off the truck.” (12/5/23 Tr. at 20).

On September 14, when the garbage truck was traveling on Claiborne Avenue, a black vehicle started following the garbage truck at the intersection with Napoleon Avenue: “On that Thursday, we was doing Claiborne. I noticed the car started following me, like right by Napoleon.” (12/5/23 Tr. at 23). Ms. Hollins testified that Mr. Walker started talking to the driver of the black vehicle at the intersection of Claiborne Avenue and Carrollton Avenue. (12/5/23 Tr. at 24). Ms. Hollins stopped for a break at a store at the intersection of Broad Avenue and Washington Avenue.

(12/5/23 Tr. at 24). According to Ms. Hollins, Mr. Walker was looking for someone in the store: “he was spooked looking around.” (12/5/23 Tr. at 24). Ms. Hollins felt unsafe, so she told the hoppers she was returning to the yard. (12/5/23 Tr. at 25). Mr. Walker cursed at Ms. Hollins en route to the yard. (12/5/23 Tr. at 25). Ms. Hollins dropped off Mr. Walker at the yard and continued on her route. (12/5/23 Tr. at 24-27).

Ms. Hollins’s supervisors, Troyel Ross and Raymond Toefield, directed her to return to the yard. (12/5/23 Tr. at 28). Ms. Hollins returned to the yard and met Mr. Ross and Mr. Toefield, reporting the incidents from September 12 and 14, including her suspicion that Mr. Walker was using drugs while on duty. (12/5/23 Tr. at 28-30).

Mr. Toefield, the Supervisor of Field Operations, testified that he supervises equipment operators and other supervisors in the Department of Sanitation. (12/5/23 Tr. at 32-33). Mr. Toefield testified that he received a phone call from Ms. Hollins on September 14 about an issue she was having with Mr. Walker. (12/5/23 Tr. at 37). Mr. Toefield then met with Mr. Walker, along with Mr. Ross. (12/5/23 Tr. at 40). Mr. Walker denied the incidents with the black vehicle to his supervisors. (12/5/23 Tr. at 41). Mr. Walker seemed “fidgety” during his conversation with Mr. Toefield. (12/5/23 Tr. at 44). Mr. Toefield testified, “I believed he was on something.” (12/5/23 Tr. at 45). When Mr. Toefield met with Ms. Hollins, she reported Mr. Walker’s interactions with the driver of the black vehicle, his suspected drug use, and her concern for her own safety. (12/5/23 Tr. at 37-39). Based on the report of Ms. Hollins and his own observations of Mr. Walker, Mr. Toefield recommended to the Director of the Department of Sanitation that Mr. Walker undergo a drug test. (12/5/23 Tr. at 45-46).

The Director authorized the drug testing of Mr. Walker, so Mr. Toefield instructed Mr. Ross to accompany Mr. Walker the office of the drug testing contractor. (12/5/23 Tr. at 46-47).

Mr. Ross then informed Mr. Toefield that Mr. Walker was not willing to undergo drug testing. (12/5/23 Tr. at 47). Mr. Toefield explained to Mr. Walker on speakerphone with Mr. Ross that a refusal to take a drug test would be treated as a positive result. (12/5/23 Tr. at 47).

Matt Torri, the Director of the Department of Sanitation, testified about the events leading up to the drug testing of Mr. Walker and his decision to place him on an emergency suspension on September 14. (12/5/23 Tr. at 62). On September 19, 2023, Mr. Torri sent a letter to Mr. Walker via certified mail and email informing him of the emergency suspension and a pre-termination hearing scheduled for 11:00 on September 28, 2023. (12/5/23 Tr. at 63).

On September 26, 2023, the AFSCME union representative, Lloyd Parmaul, asked to continue the pre-termination hearing. (Tr. at 79). Christina Hamilton, the Assistant Chief Administrative Officer over Human Resources, testified on March 27, 2024, that she denied Mr. Parmaul's request to continue the pre-termination hearing because "it was too last minute to reschedule." (3/27/24 Tr. at 10). Matt Torri also testified that Christina Hamilton denied Mr. Parmaul's request to continue the pre-termination hearing. (12/5/23 Tr. at 79-81).

Mr. Parmaul, the AFSCME Executive Director for Council 17 (Louisiana and Arkansas) testified that he called to request that the Department of Sanitation reschedule the pre-termination hearing because he and another staff member were conducting an election in Bogalusa on September 28. (3/27/24 Tr. at 18). The remaining local staff member would be out of state on September 28. (3/27/24 Tr. at 29). Mr. Parmaul testified that when he asked Mr. Torri to reschedule the pre-termination hearing, Mr. Torri directed him to obtain Ms. Hamilton's approval. (3/27/24 Tr. at 18, 23). According to Mr. Parmaul, Ms. Hamilton agreed to reschedule the pre-termination hearing, and he communicated her approval to Mr. Torri. (3/27/24 Tr. at 23, 31). Jamal Oatis, another AFSCME representative, testified that she was on speakerphone with Mr. Parmaul

and Ms. Hamilton instructed Mr. Parmaul to reach out to Mr. Torri to reschedule the hearing. (12/5/23 Tr. at 84). Mr. Parmaul did not confirm this extension in writing or by email. (3/27/24 Tr. at 31).

Mr. Walker testified that he did not attend the pre-termination hearing on September 28 because his union representative informed him the hearing was continued. (12/5/23 Tr. at 105). Mr. Walker also testified that the incidents with the black vehicle did not occur. (12/5/23 Tr. at 98). Mr. Walker further testified that he had not used drugs. (12/5/23 Tr. at 98).

## **II. ANALYSIS**

### **A. Mr. Walker's appeal of his Emergency Suspension was Untimely**

Mr. Walker appealed his emergency suspension on October 26, 2023. The Department of Sanitation informed him by letter dated September 19, 2023, that he was suspended and the reasons for the suspension. Civil Service Rule II, section 4.3 requires classified employees to file an appeal of discipline within 30 calendar days of the date of the disciplinary letter. Therefore, Mr. Walker's appeal of his emergency suspension was untimely.

### **B. The Department of Sanitation Provided Mr. Walker Due Process Protections**

The Commission credits the testimony of Assistant Chief Administrative Officer for Human Resources Christina Hamilton and Director Matt Torri that the union representatives' request to continue the September 28, 2023, pre-termination hearing was denied. The Appointing Authority provided Mr. Walker with notice of the reasons for his termination on September 19, 2023, in advance of the date scheduled for the pre-termination hearing and provided Mr. Walker with an opportunity to be heard on September 28, 2023. The Department of Sanitation met the requirements of Civil Service Rule IX, section 1.2, and *Cleveland Bd. of Education v. Loudermill*, 470 U.S. 532 (1985).

**C. The Department of Sanitation has Shown Cause for the Termination of Mr. Walker's Employment**

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 suspending and terminating 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).

The Department of Sanitation has shown cause for the termination of Mr. Walker's employment. Mr. Toefield's observations of Mr. Walker's conduct and Ms. Hollins's reports of drug use by Mr. Walker constitute reasonable suspicion for a drug test under Civil Service Rule V, section 9.12. Mr. Walker's refusal to undergo a drug test is treated as a positive result. Civil Service Rule V, section 9.4. The Department of Sanitation has the discretion to terminate Mr. Walker's employment based on the positive result. Civil Service Rule V, section 9.15.

Mr. Walker's failure to report that an individual was brandishing a weapon put other employees at risk. The Commission credits the testimony of Ms. Hollins that Mr. Walker, who was using drugs during work hours, had a financial relationship with the individual. Mr. Walker's

failure to report these incidents, and, in fact, his denial of their occurrence, placed his co-workers in danger. The Commission also credits the testimony of Ms. Hollins that Mr. Walker was behaving erratically and verbally abused Ms. Hollins.

Mr. Walker's conduct impaired the efficient operation of the Department of Sanitation. Mr. Walker was impaired during working hours, posing a safety risk to others. Mr. Walker's verbal abuse of Ms. Hollins made it more difficult for her to perform her job duties. Further, Mr. Walker failed to take any action to prevent the individual who threatened him with a weapon from repeating this behavior, placing his co-workers at risk.

The termination of Mr. Walker's employment is commensurate with the offense of using drugs on duty and placing his co-workers at risk.

Mr. Walker's appeal is DENIED.

WRITER:



Brittney Richardson (Jun 21, 2024 10:44 CDT)

BRITTNEY RICHARDSON, CHAIRPERSON

CONCUR:




J H Korn (Jun 11, 2024 19:44 CDT)

JOHN KORN, VICE-CHAIRPERSON

#### **DISSENT BY COMMISSIONER MONTEVERDE**

I would grant Mr. Walker's appeal of his termination. I credit the testimony of Lloyd Permaul, Mr. Walker's union representative, that the Assistant Chief Executive Officer for Human Resources and the Director of the Department of Sanitation agreed to reschedule the pre-termination hearing on September 27, 2023. Jamal Oatis corroborated this conversation, and the communication to Mr. Walker that his pre-termination hearing was continued is also consistent with Mr. Permaul's testimony. Therefore, the Department of Sanitation failed to provide Mr.

Walker with a *Loudermill* hearing before the termination of his employment in violation of Civil Service Rule IX, section 1.2.

  
Andrew Monteverde (Jun 7, 2024 18:41 CDT)  
ANDREW MONTEVERDE