



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
CLIFTON J. MOORE, VICE-CHAIRPERSON
JOHN KORN
MARK SURPRENANT
RUTH WHITE DAVIS

AMY TREPAGNIER
DIRECTOR OF PERSONNEL

Wednesday, July 14, 2021

Mr. Kevin L. Williams

Re: **Kevin L. Williams VS.
Department of Police
Docket Number: 9094**

Dear Mr. Williams:

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 - 7/14/2021 - 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, Sec.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: Shaun Ferguson
Megan A. Haynes
Alexandra Mora
file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

KEVIN WILLIAMS
Appellant

Docket No. 9094

v.

DEPARTMENT OF POLICE
Appointing Authority

DECISION

Appellant, Lieutenant Kevin Williams, 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 five-day suspension beginning the week of November 17, 2019. (See Exhibit HE-1). At all relevant times, Appellant was employed as a Police Sergeant and had permanent status (Tr. at 13). A Hearing Examiner, appointed by the Commission, presided over a hearing on March 11, 2020. 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 January 1, 2021, and controlling Louisiana law.

For the reasons set forth below, Williams' appeal is DENIED.

I. FACTUAL BACKGROUND

NOPD disciplined Sgt. Williams for failing to complete an assigned internal investigation in a timely manner. (Ex. HE-1). During the relevant time period, Sgt. Williams was assigned to

the Seventh District. (Tr. at 18-19). Sgt. Williams reported to Lt. Christina Watson, who in turn reported to Commander Lawrence Dupree. (Tr. at 19, 39). Commander Lawrence Dupree assigned an internal investigation to Sgt. Williams, with a due date of December 9, 2018. (Tr. at 12). Sgt. Williams failed to submit the report on December 9. (Tr. at 14). Commander Dupree emailed Sgt. Williams on December 13, informing Sgt. Williams that the report was two days late, and that the report was due to the Field Operations Bureau that day. (Tr. at 16). Commander Dupree instructed Sgt. Williams to turn in the report to Lt. Watson on December 17. (Tr. at 16). Sgt. Williams submitted the report on December 18, which Lt. Watson testified would be considered submitted on December 17 because of the overnight nature of the work (Tr. at 30-31). Commander Dupree testified that the deadline on this particular investigation for the disposition to be provided to the officer was April 16, 2019, after a 30-day extension from Civil Service. (Tr. at 35). The accused officer received the disposition on March 16, 2019. (Tr. at 36). Commander Dupree routinely calculated deadlines for the investigative report to give himself two weeks to review the report before Commander Dupree submitted the report to the Field Operations Bureau. (Tr. at 37). Commander Dupree also included three days for the sergeant's supervisor to review the report before submission to Commander Dupree. (Tr. at 37). In this particular case, Commander Dupree testified the due date to the Field Operations Bureau was December 13, and the actual submission date from Commander Dupree to the Field Operations Bureau was December 21. (Tr. at 42). Further, Commander Dupree testified the report was full of errors, and that he received "kickbacks" of the report from the Field Operations Bureau for corrections. (Tr. at 43). The report was not approved by the Field Operations Bureau until January 3. (Tr. at 43).

Anika Glover performed the investigation of Sgt. Williams based on a complaint by Lt. Watson. (Tr. at 39). Her report reflected that no extenuating circumstances existed to justify the

delinquent submission of the investigative report. (Tr. at 41). Therefore, Glover sustained a violation of Rule 4, Performance of Duty. (Tr. at 41). Sgt. Williams offense was a Level C first offense, so the presumptive penalty was a five day suspension under the penalty matrix. (Tr. at 45). NOPD imposed a five-day suspension. (Tr. at 45).

Commander Dupree testified that under the Police Officer Bill of Rights, if the investigation is not concluded in a timely manner, the accused officer may have a basis for appeal of the discipline. (Tr. at 39).

II. ANALYSIS

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).

NOPD has met its burden of showing the complained-of conduct occurred, and that it impaired the efficient operation of NOPD. In particular, under the Police Officer Bill of Rights, if

investigations are not completed in a timely manner (usually 60 days plus one extension by Civil Service of up to 60 days) the discipline is an absolute nullity. La. R.S. 40:2531(C). As NOPD applied its penalty matrix, the Commission finds that the penalty is commensurate with the violation.

Sgt. Williams' appeal is DENIED.

This the 14th day of July, 2021

WRITER:

Mark C. Surprenant
Mark C. Surprenant (May 5, 2021 12:50 CDT)

MARK SURPRENANT, COMMISSIONER

CONCUR:

Brittney Richardson
Brittney Richardson (May 11, 2021 17:39 CDT)

BRITTNEY RICHARDSON, CHAIRPERSON

J H Korn
J H Korn (May 6, 2021 13:33 EDT)

JOHN KORN, COMMISSIONER