



## CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE  
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CITY CIVIL SERVICE COMMISSION  
BRITTNEY RICHARDSON, CHAIRPERSON  
CLIFTON J. MOORE JR., VICE-CHAIRPERSON  
JOHN H. KORN  
MARK SURPRENANT  
RUTH WHITE DAVIS

AMY TREPAGNIER  
DIRECTOR OF PERSONNEL

Wednesday, March 24, 2021

Mr. Darrell Jones

Re: **Darrell Jones VS.  
Recreation Department  
Docket Number: 8792**

Dear Mr. Jones:

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 - 3/24/2021 - 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,

*Stacie Joseph*

Stacie Joseph  
Management Services Division

cc: Larry Barabino  
Mary Katherine Taylor  
Ramona D. Washington

**CIVIL SERVICE COMMISSION**  
**CITY OF NEW ORLEANS**

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DARRELL JONES,  
Appellant,

vs.

DOCKET No.: 8792

NEW ORLEANS RECREATION  
DEVELOPMENT COMMISSION,  
Appointing Authority.

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**I. INTRODUCTION**

Appellant, Darrell Jones, brings the instant appeal pursuant to Article X, §8(A) of the Louisiana Constitution and this Commission's Rule II, §4.1, asking this Commission to find that the New Orleans Recreation Development Commission (hereinafter "Appointing Authority") did not have sufficient cause to discipline him. (Exhibit HE-2). At all times relevant to the instant appeal, Appellant served as a Public Works Supervisor I and has permanent status as a classified employee. (Tr. at 18, 93).

By letter dated May 17, 2018, the Appointing Authority notified the Appellant of its decision to issue a letter of reprimand after determining that he engaged in a verbal altercation with a coworker at the Appointing Authority's facility. (Exhibit HE-1).

A Hearing Examiner, appointed by the Commission, presided over a hearing during which both Parties had an opportunity to call witnesses and present evidence. The Hearing Examiner prepared a report and recommendation, advisory in nature, based upon the testimony and evidence in the record. The undersigned Commissioners have reviewed the transcript and

exhibits from this hearing, as well as the Hearing Examiner's report. Based upon our review, we DENY the appeal and render the following judgment.

## **II. FACTUAL BACKGROUND**

The allegation against the Appellant stems from a verbal altercation between Appellant and a coworker at the Joe Brown Park Maintenance Hub towards the end of the work day on May 3, 2018. (Tr. at 18, 22, 24, 27). Appellant and Damion Washington, a Maintenance Driver, were engaged in a conversation that escalated into a loud and disruptive argument. (Tr. at 33, 95, 110). Other employees separated Appellant and Washington. (Tr. at 103, 107, 149). It is unclear what prompted that which several witnesses confirmed as shouting and the use of profanity. (Tr. at 22, 26, 58, 118-19, 121, 131, 138, 159). As one witness testified, "Both parties was cussing and fussing and they was pushing them apart." (Tr. at 26). The Appellant acknowledged that both he and Washington raised their voices, although Appellant denied the use of profanity. (Tr. at 99, 110). The exchange was brief with no physical violence. (Tr. at 121, 142). The incident occurred in a shop/work area away from public view. (Tr. at 34).

## **III. LEGAL STANDARD**

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. LSA 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 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 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.*

#### IV. ANALYSIS

##### A. Occurrence of the Complained of Misconduct

The Appellant violated CAO Policy Memorandum No. 83 (R), which requires employees to be courteous, civil, and respectful, by engaging in an argument with a co-employee during which he raised his voice, used profanity, and acted in an aggressive manner. (Tr. at 43-44, 57; Exhibit Appointing Authority 1). The Appellant acknowledged that he argued loudly, and a number of witnesses testified Appellant used profanity. (Tr. at 99, 110, 121, 138, 159) Appellant believed Mr. Washington was acting in a threatening manner towards him, and witnesses testified Appellant escalated the situation (Tr. at 86, 138). Mr. Washington testified he told Appellant during the argument that they could meet in the parking lot and fight. (Tr. at 157). Mr. Washington also received a written reprimand. (Tr. at 35).

As a result of the above finding of fact, the Commission finds that the Appellant violated CAO Policy Memorandum No. 83 (R).

**B. Was the Discipline Commensurate with Appellant's Offense**

In conducting its analysis, the Commission must determine whether the Appellant's discipline was "commensurate with the dereliction;" otherwise, the discipline would be "arbitrary and capricious." *Waguespack v. Dep't of Police*, 2012-1691 (La. App. 4 Cir. 6/26/13, 5); 119 So.3d 976, 978 (citing *Staehele v. Dept. of Police*, 98-0216 (La. App. 4 Cir. 11/18/98), 723 So.2d 1031.

The Appointing Authority chose to discipline both parties involved in the altercation. The Appellant received a letter of reprimand carrying no monetary penalty. The Appellant acted in a discourteous and unprofessional manner towards a co-worker and disrupted the workplace, which violates City policy.

As a result of the above findings, the Commission finds that the Appointing Authority acted within its discretion when it reprimanded the Appellant for violating its rules. Therefore, the penalty is commensurate with the violation

**V. CONCLUSION**

As a result of the above findings of fact and law, the Commission hereby DENIES the Appellant's appeal.

Judgment rendered this 24 day of March, 2021.

D. Jones  
#8792

CITY OF NEW ORLEANS CIVIL SERVICE COMMISSION

WRITER:

Mark C. Surprenant  
Mark C. Surprenant (Mar 11, 2021 10:06 CST)

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MARK SURPRENANT, COMMISSIONER

CONCUR:

Brittney Richardson  
Brittney Richardson (Mar 15, 2021 10:44 CDT)

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BRITTNEY RICHARDSON, CHAIRPERSON

J H Korn  
J H Korn (Mar 24, 2021 14:49 CDT)

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JOHN KORN, COMMISSIONER