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DIRECTOR OF PERSONNEL

Tuesday, May 24, 2016

Mr. Eric Hessler
PANO 2802 Tulane Avenue #101
New Orleans, LA 70119

Re: **Peter Hansche VS.
Department of Police
Docket Number: 8362**

Dear Mr. Hessler:

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 - 5/24/2016 - 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 cursive script that reads "Doddie K. Smith".

Doddie K. Smith
Chief, Management Services Division

cc: Michael S. Harrison
Elizabeth S. Robins
Jim Mullaly
Peter Hansche

file

PETER HANSCHKE

CIVIL SERVICE COMMISSION

VERSUS

CITY OF NEW ORLEANS

DEPARTMENT OF POLICE

NO. 8362

The Appellant is a Police Sergeant. This is an appeal of a ten-day suspension; a five-day suspension for violating Rule 2, Moral Conduct, Paragraph 2, Courtesy, and a five-day suspension for violation of Rule 3, Professional Conduct, Paragraph 1, Professionalism. The matter arises out of an allegation that on February 12, 2013, while waiting for the Rex Parade to begin, the Appellant, Sgt. Hansche, was unprofessional and failed to be courteous while interacting with his subordinate, Officer Tristan Carter.

The matter was assigned by the Civil Service Commission to a Hearing Examiner pursuant to Article X, Section 12 of the Constitution of the State of Louisiana, 1974. The hearing was held on March 3, 2015. The testimony presented at the hearing was transcribed by a court reporter. The three undersigned members of the Civil Service Commission have reviewed a copy of the transcript and all documentary evidence.

After a full review of the transcript of proceedings and the record evidence, we find that the Appointing Authority has met its burden of proof and Sgt. Hansche's appeal is DENIED.

LEGAL PRECEPTS

An employer cannot discipline an employee who has gained permanent status in the classified city civil service 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.*

ANALYSIS

First, the appointing authority proved by a preponderance of the evidence the occurrence of the complained of activity, namely that Sgt. Hansche was discourteous and unprofessional in his interaction with Officer Carter on the parade route. The facts of the incident are, for the most part, undisputed.

Sgt. Hansche and members of the First District were waiting for the Rex Parade. Sgt. Hansche ordered Officer Carter and the other officers to move down the street to their next Parade assignment. Sgt. Hansche testified that he became frustrated when he felt that Officer Carter wasn't following his orders. Sgt. Hansche testified that Mardi Gras day and the turning of the Zulu and Rex Parades in opposite directions is the most critical point for First District

officers. Sgt. Hansche testified that he tried to physically lead Officer Carter toward the next assignment, at which point Officer Carter pulled his arm away. Sgt. Hansche testified that at this point he believed that he and Officer Carter were going to engage in a violent encounter. Sgt. Hansche testified that he dropped the raincoat he held in his hands to have his hands free if Officer Carter hit him. Sgt. Hansche testified that they “got in each other’s faces,” and he raised his voice toward Officer Carter and told him, “I’ll show you where the [expletive] I want you to stand.”

Sgt. Hansche testified that at this point Officer Henderson, Officer Carter’s partner, stood in between the two men. Sgt. Hansche then testified that Officer Carter turned his back and walked toward the barricades. Sgt. Hansche admitted during his testimony that during his encounter with Officer Carter he yelled loud enough that at least five or six citizens heard him and were so alarmed they attempted to record the scene on cell phones. Sgt. Hansche also admitted he acted inappropriately and that he brought embarrassment to the New Orleans Police Department.

Sgt. Diaz conducted the investigation into the incident for the Appointing Authority. He testified that he authored a report based, in large part, on civilian testimony and cell phone video footage. Sgt. Diaz testified that the complaint made by the civilian citizens alleged that Sgt. Hansche approached Officer Carter, grabbed him by the arm in an attempt to turn him around, Officer Carter yanked his arm away and then Sgt. Hansche yelled in Officer Carter’s personal space. Sgt. Diaz also testified that four NOPD Officers were on scene; two of the officers identified Sgt. Hansche as the aggressor, some officers saw Sgt. Hansche grab Officer Carter, and some officers heard Sgt. Hansche yell, “hit me, hit me,” to Officer Carter.

Sgt. Diaz testified that he took Sgt. Hansche's statement and that during the statement Sgt. Hansche admitted that he was upset that Officer Carter was not following his orders. He also admitted that he yelled at Officer Carter in a drill-sergeant-type-way, that he grabbed Officer Carter's arm, and that he cursed on more than one occasion. After his investigation, Sgt. Diaz testified that he sustained the professionalism because Sgt. Hansche brought embarrassment to the Police Department and a sustained violation of courtesy because of the profanity used.

Officers Henderson, Ripp and Carter all testified. They all corroborated that there was a heated exchange between Officer Carter and Sgt. Hansche that was unprofessional and in full view of a crowd of parade goers.

Deputy Superintendent Albert testified on behalf of the Appointing Authority and explained his recommendation of a five-day suspension for each sustained violation. He testified that the discipline is within the penalty matrix. Spt. Albert explained that the NOPD counts on their Supervisors to lead, direct and supervise their officers because all members of the NOPD have to act as a team. If officers aren't courteous to one another than no officer will "get out there and do what they're here to do." He testified that Sgt. Hansche lost control; that Sgt. Hansche should have called in another Supervisor, removed Officer Carter from the group and verbally counselled him, or initiated disciplinary action. Spt. Albert testified that Sgt. Hansche failed to de-escalate the situation and, in fact, escalated it.

Second, the appointing authority proved that Sgt. Hansche's actions impaired the efficient operation of the public service. The Appointing Authority established that the exchange between Sgt. Hansche and Officer Carter was in full view of the public and brought discredit to the Department. Further, as Spt. Albert explained, a Supervisor's failure to treat his subordinates

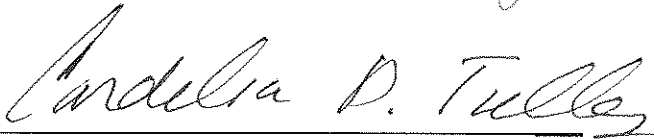
P. Hansche
#8362

in a courteous and professional manner impairs the working relationship between him and his subordinates and therefore the quality of the public service.

CONCLUSION

For the foregoing reasons, the appeal is DENIED.

RENDERED AT NEW ORLEANS, LOUISIANA THIS 24 DAY OF May, 2015.


CORDELIA D. TULLOUS, COMMISSIONER

CONCUR:


MICHELLE D. CRAIG, CHAIRPERSON


JOSEPH S. CLARK, COMMISSIONER