



CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
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CITY CIVIL SERVICE COMMISSION
BRITTNEY RICHARDSON, CHAIRPERSON
JOHN KORN, VICE-CHAIRPERSON
MARK SURPRENANT
RUTH WHITE DAVIS
ANDREW MONTEVERDE

AMY TREPAGNIER
DIRECTOR OF PERSONNEL

Monday, March 10, 2025

Mr. Andrew Monteverde

Re: **Andrew Monteverde VS.**
Department of Fire
Docket Number: 9645

Dear Mr. Monteverde:

Attached is the decision 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 - 3/10/2025 - 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: Roman Nelson
James M. Roquemore
Jay Ginsberg
file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

**ANDREW MONTEVERDE,
Appellant**

v.

DOCKET NO. 9645

**DEPARTMENT OF FIRE,
Appointing Authority**

DECISION

Appellant, Captain Andrew Monteverde, brings this appeal pursuant to Article X, § 8(A) of the Louisiana Constitution and Civil Service Commission Rule II, § 4.1 seeking relief from the letter of reprimand imposed by the Appointing Authority on July 19, 2024.¹ A Hearing Examiner, appointed by the Commission, presided over a hearing held on October 18, 2024. At the hearing, both the Appellant and Appointing Authority had an opportunity to call witnesses and present evidence. The Hearing Examiner prepared a report dated January 28, 2025.

Because Appellant is the current employee representative on the City of New Orleans Civil Service Commission, the parties have agreed that the undersigned² (as opposed to the Civil Service Commission) will make the decision in this matter.

Having reviewed and analyzed the entire record in this matter, including the transcript from the hearing,³ all exhibits submitted at the hearing, and the aforementioned Hearing Examiner's report, as well as applicable Louisiana law, for the reasons stated below, Appellant's appeal is GRANTED.

¹ Exhibit HO 1.

² The undersigned is presently under contract with the Civil Service Commission to provide Hearing Examiner services.

³ The transcript of the hearing is referred to herein as "Tr."

FACTUAL BACKGROUND

The Appointing Authority issued a written reprimand to the Appellant based on its finding that Appellant violated New Orleans Fire Department Rule # RR-2 (“Members shall be governed by the customary and reasonable rules of proper behavior and shall not commit any act that brings reproach upon themselves or the Department.”).⁴

Appointing Authority’s discipline of Appellant arose out of an incident involving Appellant and a member of the public, Cheyanne Daune. During the October 18, 2024 hearing, Ms. Daune, New Orleans Fire Department Superintendent Roman Nelson, and Appellant testified.

The following details of the incident are not in dispute:

- On May 25, 2024, Ms. Daune was driving on a portion of Elysian Fields Avenue immediately prior to parking her car on the neutral ground to patronize a night club.⁵
- Appellant was initially inside Engine 9, which was located directly behind Ms. Daune when she began parking her car on the neutral ground.⁶
- When Ms. Daune began to back up in the direction of Engine 9 before she turned onto the neutral ground to park, Engine 9 sounded its horn and flashed its lights.⁷
- Ms. Daune did not deviate from her efforts to park her vehicle on the neutral ground when Engine 9’s operator began to blare Engine 9’s horn and flash Engine 9’s lights.⁸

⁴ Ex. HO 1.

⁵ Tr., 8-10; Ex. HO 1.

⁶ Tr., 11-12.

⁷ *Id.*, 34, 38.

⁸ *Id.*, 33-34

- Appellant exited Engine 9, made contact with Ms. Dauneys vehicle with his hand.⁹

Appellant testified that he believed that the Appointing Authority's investigation was flawed,¹⁰ and he was not afforded a meaningful opportunity to be heard at his disciplinary hearing.¹¹ Additionally, Appellant testified that he exited the engine because Ms. Dauneys had not heeded other warnings and Appellant wanted to ensure that Ms. Dauneys vehicle did not make contact with Engine 9.¹² If Ms. Dauneys vehicle were to make contact with Engine 9, it would result in Engine being out of service for a period of time.¹³

Superintendent Nelson testified that Appellant was disciplined because Appellant acted inappropriately towards a member of the public.¹⁴

LEGAL ANALYSIS

Appellant appeals the Appointing Authority's discipline imposed on him on two grounds. First, Appellant contends that he was not afforded due process. Second, Appellant contends that he did not commit the offense for which he was charged.

Due Process

Civil service employment has been recognized by the United States Supreme Court as a property right and therefore protected by the Due Process Clause of the Fourteenth Amendment of the United States Constitution. *See Evangelist v. Dep't of Police*, 2008-1375, p.5 (La.App. 4 Cir. 9/16/09), 32 So.3d 815, 838. "The tenured public employee is entitled to oral or written notice of the charges against him, an

⁹ *See, e.g., id.*, 41.

¹⁰ *See, e.g., id.*, 117-18, 120-34; City Ex. 2.

¹¹ *See, e.g., id.*, 140.

¹² *Id.*, 143-154.

¹³ *See, e.g., id.*, 150.

¹⁴ *See, e.g., id.*, 89 ("But the inappropriateness of the behavior was, he got out of the vehicle")

explanation of the employer's evidence, and an opportunity to present his side of the story." *Cleveland Bd. of Ed. v. Loudermill*, 470 U.S. 532, 546 (1985). "[T]his right to notice and opportunity to be heard must be extended at a meaningful time and a meaningful manner." *Moore v. Ware*, 2001-3341, p. 11 (La. 2/25/03), 839 So.2d 940, 949.

Here, Appellant was provided notice of the charges against him, an explanation of Appointing Authority's evidence, and an opportunity to present his side of the story. Appellant takes issue with Deputy Chief Hardy's statements to Ms. Dauneay and his interpretation of certain facts. Additionally, Appellant contends that he was not given sufficient opportunity at his disciplinary hearing to present his case. On balance, the undersigned does not find that Appellant's due process rights were violated as Appellant was provided sufficient notice and an opportunity to be heard.

Violation

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 preponderance of the evidence: (1) the occurrence of the complained 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, pp. 3-4 (La.App. 4 Cir. 3/13/14), 137 So.3d 731, 733. If the Commission finds that an Appointing Authority has met its initial burden and had sufficient cause to discipline, it must then determine if that discipline "was commensurate with the infraction." *Abbott v New Orleans Police Dep't*, 2014-0993, p. 7 (La.App. 4 Cir. 2/11/15), 165 So.3d 191, 197.

Based upon the record, Appointing Authority did not meet its burden with respect to the occurrence of the complained activity, *i.e.*, Appellant bringing reproach on the Fire Department based on his interaction with a member of the

public. Appellant testified that he exited the fire truck because Ms. Dauneey did not respond to the horn or siren. Appellant also testified that he slapped Ms. Dauneey's vehicle because he believed it was necessary to get her attention in a timely manner.¹⁵ Additionally, Appellant could not have known the safety features of Ms. Dauneey's vehicle or whether such safety features would have prevented a collision. Given that Ms. Dauneey was reversing her vehicle on a major thoroughfare to park her vehicle on the neutral ground, Appellant's actions were reasonable under the circumstances.¹⁶ The undersigned finds that Appellant's actions therefore did not bring reproach upon himself or the Fire Department.

Because Appointing Authority has failed to prove, by a preponderance of the evidence, that Appellant violated RR-2, Appellant's appeal is GRANTED.

Date: March 10, 2025

/s/Imtiaz A. Siddiqui
IMTIAZ A. SIDDIQUI

¹⁵ Tr., 67. While Ms. Dauneey testified that Appellant punched her vehicle, she conceded that she did not actually see Appellant hit her car. Furthermore, Appointing Authority did not present any evidence to support Ms. Dauneey's contention. Tr., 12-13.

¹⁶ Ms. Dauneey also testified that Appellant "gave [her] the middle finger," but no evidence was presented to support this contention. Tr., 15. Appellant denied making any rude gesture. Tr., 155.