

KEENAN SHIELDS

CIVIL SERVICE COMMISSION

VERSUS

CITY OF NEW ORLEANS

DEPARTMENT OF POLICE

DOCKET NO. 7813

The Department of Police ("Appointing Authority") employs Keenan Shields ("Appellant") as a Police Officer IV with permanent status. The Appointing Authority suspended the Appellant for one day after its investigation determined that he violated internal rules regarding Instructions from an Authoritative Source. Specifically, the Appointing Authority determined that the Appellant failed to follow proper procedure while making a traffic stop. The Appointing Authority also issued a Letter of Reprimand determining that the Appellant's conduct violated internal rules regarding Professionalism.

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 April 7, 2011. 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.

The undisputed material facts establish that on February 10, 2010, the Appellant conducted a lawful traffic stop on Interstate 10 East near the Read Blvd. Exit. The Appellant testified that he stopped the vehicle because the driver was driving erratically in inclement weather. The Appellant was on duty driving an unmarked vehicle while attired in civilian clothing. Because the Appellant was employed as a police detective, his assignment did not require that he wear a uniform or drive a marked vehicle.

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The Appellant did not exit his vehicle or interact with the driver. Instead, he remained in his vehicle and attempted to notify the Seventh District Police Station by telephone. The Appellant was unable to contact the police dispatcher directly to report the incident because he did not have his police radio with him at the time of the stop. The Seventh District Station did not answer the Appellant's calls. Rather than identify himself as a police officer and take some type of enforcement action, the Appellant left the scene. The driver chose to follow the Appellant to a gas station to find out who he was and why he had stopped him. When approached by the driver, the Appellant issued a citation to him for careless driving. Thereafter, the driver initiated a complaint against the Appellant.

Sgt. Robert Hickman conducted the internal investigation. He testified that he sustained the violation because the Appellant failed to properly identify himself as a police officer at the time of the initial stop and he failed to notify the police dispatcher. According to Sgt. Hickman, it was a violation of internal procedures and unprofessional for an officer to pull over a civilian and detain him without identifying himself and explaining why he was taking enforcement action.

The Appellant testified that he stopped the driver because he feared the driver would cause an accident. He stated that he did not leave his vehicle because he was trying to call the nearest police district to take the call. After waiting a few minutes, he decided to leave hoping that the limited action that he had chosen to take would cause the driver to slow down and use more caution.

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LEGAL PRECEPTS

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 of proof 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 that the complained of activity occurred and that the conduct complained of impaired the efficiency of the public service. Id. The Appointing Authority must also prove that 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.

The Appointing Authority has established by a preponderance of evidence that the Appellant violated internal rules regarding traffic stops. The Appellant should have immediately exited his vehicle, informed the driver that he was a police officer and

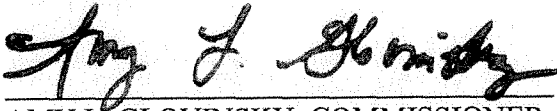
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explained the reason for the traffic stop. While the Appellant may have had good intentions, he used poor judgment and his actions reflected negatively upon the Appointing Authority.

Considering the foregoing, the Appellant's appeal is DENIED.

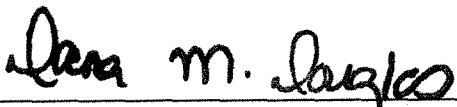
RENDERED AT NEW ORLEANS, LOUISIANA THIS 22ND DAY OF
FEBRUARY, 2012.

CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS


AMY L. GLOVINSKY, COMMISSIONER

CONCUR:


DEBRA S. NEVEU, COMMISSIONER


DANA M. DOUGLAS, VICE-CHAIRMAN