



CITY OF NEW ORLEANS

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Wednesday, December 19, 2018

LISA M. HUDSON
DIRECTOR OF PERSONNEL

Mr. Donovan A. Livaccari
101 W. Robert E. Lee, Suite 402
New Orleans, LA 70124

Re: **Robert Blanchard VS.
Department of Police
Docket Number: 8750**

Dear Mr Livaccari:

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 - 12/19/2018 - 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, 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: Michael S. Harrison
Gerald J. Hampton
Jay Ginsberg
Robert Blanchard

file

CIVIL SERVICE COMMISSION

CITY OF NEW ORLEANS

ROBERT BLANCHARD, Appellant, vs. DEPARTMENT OF POLICE, Appointing Authority	DOCKET No.: 8750
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I. INTRODUCTION

Appellant, Robert Blanchard, brings the instant appeal pursuant to Article X, §8(A) of the Louisiana Constitution and this Commission’s Rule II, §4.1. The Appointing Authority, the Police Department for City of New Orleans, (hereinafter “NOPD”) does not allege that the instant appeal is procedurally deficient. Further, the Parties stipulated that NOPD’s investigation into Appellant’s alleged misconduct adhered to the standards required by our Rules and Louisiana Revised Statute § 40:2531. (Tr. at 28:12-15). Therefore, the only question before the Commission is whether or not NOPD disciplined Appellant for sufficient cause. At all times relevant to the instant appeal, Appellant served as a Sergeant for NOPD and had permanent status as a classified employee.

On March 7, 2018, a hearing examiner appointed by the Commission presided over an appeal hearing. 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 hereby DENY-IN-PART and GRANT-IN-PART the appeal and render the following judgment.

II. FACTUAL BACKGROUND

A. Alleged Misconduct

NOPD suspended Appellant for a total of fifteen days and issued him a letter of reprimand based upon allegations stemming from an incident that occurred on February 9, 2016 (Mardi Gras Day). There were a total of five alleged rule violations perpetrated by Appellant during the incident. The following is a recitation of each rule, along with the associated number of suspension days

- Rule 2: Moral Conduct; Paragraph 5: Verbal Intimidation – An employee shall not use or direct unjustifiable verbal abuse, threats or intimidation against any person. (**Letter of Reprimand**)
- Rule 3: Professional Conduct; Paragraph 1: Professionalism – Employees shall conduct themselves in a professional manner with the utmost concern for the dignity of the individual with whom they are interacting. Employees shall not unnecessarily inconvenience or demean any individual or otherwise act in a manner which brings discredit to the employee or the New Orleans Police Department. (**Two-day Suspension**)
- Rule 4: Performance of Duty; Paragraph 2: Instructions from an Authoritative Source – An employee shall professionally, promptly, and fully abide by or execute instructions issued from any authoritative source, including any order relayed from a superior by an employee of the same or lesser rank. If the instructions are reasonably believed to be in conflict with the Rules, Policies and Procedures of the Department or other issued instructions, this fact shall respectfully be made known to the issuing authority. If the issuing authority elects to insist upon execution of the instructions which are reasonably believed to be in conflict with Department Rules, Policies, and Procedures, the employee receiving the instructions shall have the right to request and is entitled to receive, IMMEDIATELY, said instructions in writing, except in cases of emergency as determined by the supervisor. The issuing authority shall be held responsible should any conflict materialize; however, no instructions shall be issued or executed which are in violation of law. (**Three-day Suspension**).
- Rule 4: Performance of Duty; Paragraph 4: Neglect of Duty, Subparagraph B - An employee with supervisory responsibility shall be in neglect of duty whenever he fails to properly supervise subordinates, or when his actions in matters relating to discipline fail to conform [to] the dictates of Departmental Rules, Policies and Procedures. (**Five-day Suspension**).

- Rule 4: Performance of Duty; Paragraph 4: Neglect of Duty, Subparagraph C6 – The Following acts or omissions to act, although not exhaustive, are considered neglect of duty.... Failing to comply with instructions, oral or written, from any authoritative source. **(Five-day Suspension).**

(H.E. Exh. 1)

B. Mardi Gras Day 2016

Every Carnival Season, NOPD divides parade routes among its various districts and operational units pursuant to an “Incident Plan.” It is common practice for NOPD to assign every employee – from Officers to Evidence Technicians – some task associated with making Mardi Gras safe for New Orleans residents and visitors. For example, Appellant’s primary function during the period of time in question involved administration of NOPD’s body-worn camera program. But during Mardi Gras, he frequently supervised a team of NOPD recruits responsible for erecting the ubiquitous metal barricades revelers would surely recognize. 2016 was no different and represented Appellant’s eighth or ninth consecutive Mardi Gras supervising recruits setting up barricades around Lee Circle. (Tr. 84:18-85:6).

On Mardi Gras Day 2016, Appellant was assigned to supervise a team of NOPD recruits who were setting up and monitoring barricades around the roundabout formerly known as Lee Circle. As any resident or visitor to New Orleans on Mardi Gras knows, Lee Circle represents a focal point for almost every parade with thousands of spectators gathered to watch parades transition from residential uptown neighborhoods to the more densely populated CBD and French Quarter. There is always a robust law enforcement presence at this critical point in the parade routes. Residents and visitors would also recognize the metal barricades that pop up around the City in the weeks leading up to Festival Season.

On Mardi Gras Day, Appellant’s direct supervisor was Lieutenant Sabrina Richardson. *Id.* at 58:5-11. The chain of command in which Appellant operated throughout Carnival Season 2016

had NOPD recruits reporting to Appellant and Appellant reporting directly to Lt. Richardson. *Id.* at 98:2-16. Lt. Richardson was an acting Commander at the time and thus reported directly to either a Deputy Superintendent or the Superintendent himself.

As noted above, part of Appellant's assignment on Mardi Gras Day was to erect barricades around Lee Circle to ensure that the parade and emergency personnel could move freely around the intersection. Appellant also typically erected barriers around a specific area in which he parked an NOPD truck used to transport metal barriers before and after the parades. Pursuant to a long-standing tradition, Appellant, and members of Appellant's work crew, would invite a limited number (around ten or so) of family and friends into this area in order to watch the parade. *Id.* at 93:17-24. According to Appellant, he tried to limit the number of civilians in the barricaded area due to safety concerns. Specifically, Appellant indicated that the NOPD truck parked within the barricade is older and has several sharp, rusty edges that could seriously injure an inattentive guest. *Id.* at 94:1-11. Further, Appellant needed to ensure that his patrol unit and the truck could quickly exit the area to follow other emergency vehicles at the end of each parade. *Id.* at 94:15-95:3.

Lieutenant Kimberly Lewis-Williams was a patrol manager for NOPD's Seventh District on Mardi Gras Day 2016. *Id.* at 8:25-9:13. Pursuant to the Incident Plan, Seventh District Personnel were responsible for the portion of the parade routes spanning from Thalia Street to Gallier Hall, including Lee Circle. *Id.* at 11:13-18. When Lt. Williams arrived at Lee Circle to inspect the preparations, she encountered Appellant who inquired as to the presence of Seventh District personnel within a cordoned-off area adjacent to Lee Circle. Lt. Williams informed Appellant that family and friends of Seventh District personnel would be occupying the area for the duration of the parades that day. Because this conflicted with past practice, Appellant offered to erect another area. *Id.* at 12:1-10. From here, tensions began to rise and accounts differ.

Appellant proceeded to instruct the recruits under his command to erect barriers that would divide the existing cordoned-off area into two sections. *Id.* at 13:6-11. The purpose of the division would be to keep the Seventh District guests away from the guests of Appellant and his work crew. Unhappy with the arrangement, Lt. Williams explained to Appellant that barriers in another area would not be suitable for Seventh District families because they would be separated from Seventh District personnel, who would be stationed in a different part of Lee Circle. *Id.* at 12:22-13:2. Then, Lt. Williams instructed Appellant to take down the dividing barrier but Appellant refused. *Id.* at 16:15-21. When Appellant refused, Lt. Williams attempted to direct the recruits under Appellant's command to move the barriers. *Id.* at 16:23-17:4. Appellant immediately intervened and instructed the recruits to disregard Lt. Williams's instructions. *Id.* at 17:4-7. Eventually, Lt. Williams was able to get personnel from the Seventh District to move the offending barriers. *Id.* at 18:14-19.

During the course of her interaction with Appellant, Lt. Williams claimed that Appellant made a telephone call and "loudly stated 'someone needs to get down here and do something about this shit.'" (App. Exh. 1). Appellant confirmed that he did in fact make a phone call to his direct supervisor, Lt. Richardson, in order to appraise her of the dispute. Appellant claimed that he tried to engage Lt. Williams regarding the safety concerns he had and what his orders were, but Lt. Williams was "not listening" and told him to call his supervisor. (Tr. at 106:13-21). When Appellant did reach Lt. Richardson, he learned that she was still working the Zulu parade. Over the phone, Lt. Richardson ordered Appellant to "work it out" and told him that she would "straighten it out" when she arrived on scene. *Id.* at 90:12-91:21, 92:4-19.

Lt. Williams perceived Appellant's actions as unprofessional and inappropriate, especially given the fact that it occurred in front of civilians and newly-minted Police Recruits. (Tr. at 14:17-

22). As a result of her interaction with Appellant, Lt. Williams completed an intake form generated by NOPD's Public Integrity Bureau (hereinafter "PIB") entitled "Commendation, Complaint or Documentation of Minor Violation" which is in evidence as "Appellant Exhibit 1." In this document, Lt. Williams wrote that after Appellant's telephone call, he directed recruits to ignore Lt. Williams's instructions and continue erecting a dividing barrier. (App. Exh. 1).

On cross-examination, Lt. Williams acknowledged that neither Appellant nor the recruits he supervised were technically within her chain of command. *Id.* at 21:13-19. Further, Lt. Williams testified that the recruits were subordinate to Appellant (who in turn reported to Lt. Richardson). (Tr. at 22:2-4, 58:5-11). In the narrative portion of the PIB form, Lt. Williams noted that NOPD Lieutenant Ryan Lubrano contacted her to relay an order from NOPD Superintendent Michael Harrison to "relinquish possession" of the disputed barricade area. (App. Exh. 1). Lt. Williams tried to explain her version of events to Lt. Lubrano who told her that there was possible a misunderstanding and that he would get back to Lt. Williams with an update. *Id.* The record is silent as to whether or not Lt. Williams heard back from Lt. Lubrano. Although Lt. Lubrano had instructed Lt. Williams to "relinquish possession" of the intersection to Appellant's crew, she continued to instruct Appellant and NOPD recruits to move the barriers dividing the "family and friends area." Lt. Williams felt that her actions were appropriate because Lt. Lubrano did not have accurate information regarding the conflict and she viewed her orders to Appellant and the NOPD recruits as lawful. *Id.* at 24:1-16.

III. LEGAL STANDARD

An appointing authority may discipline an employee with permanent status in the classified service for sufficient cause. La. Con. Art. X, § 8(A). If an employee believes that an appointing authority issued discipline without sufficient cause, he/she may bring an appeal before this

Commission. *Id.* It is well-settled that, in an appeal before the Commission pursuant to Article X, § 8(A) of the Louisiana Constitution, an 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 (La. Ct. App. 2014)(quoting *Cure v. Dep't of Police*, 2007-0166 (La. App. 4 Cir. 8/1/07), 964 So. 2d 1093, 1094 (La. Ct. App. 2007)). If the Commission finds that an appointing authority has met its initial burden and had sufficient cause to issue discipline, it must then determine if that discipline “was commensurate with the infraction.” *Abbott v. New Orleans Police Dep't*, 2014-0993 (La. App. 4 Cir. 2/11/15, 7); 165 So.3d 191, 197 (citing *Walters v. Dep't of Police of City of New Orleans*, 454 So.2d 106, 113 (La. 1984)). Thus, the analysis has three distinct steps with the appointing authority bearing the burden of proof at each step.

IV. ANALYSIS

A. Occurrence of the Complained of Activities

NOPD identified five separate instances of misconduct in its disciplinary letter. The Commission shall address each of them in turn.

1. *Rule 2: Moral Conduct; Paragraph 5: Verbal Intimidation*

An NOPD employee violates this rule when he/she uses “unjustifiable verbal abuse, threats or intimidation against any person.” (H.E. Exh. 1). Appellant allegedly violated this rule when he told NOPD recruits under his supervision that “they’d better not touch the barricades.” *Id.* Oddly, NOPD did not call any of the recruits who were the targets of Appellant’s alleged “verbal abuse, threats or intimidation.” No witness, including Lt. Williams, testified that they felt threatened or intimidated by Appellant’s actions on Mardi Gras day 2016. The context of this interaction is also

important. There is no dispute that the recruits were subordinate to Appellant and directly under him in the chain of command that day. It was therefore appropriate for Appellant to issue orders to the recruits. And, while Appellant may have chosen his words more carefully, there is no evidence that his instructions to the recruits constituted “verbal abuse, threats or intimidation.” The Commission further observes that NOPD should tread carefully when assigning such an allegation to orders given by a superior officer to a subordinate in his/her chain of command.

Based upon the record before us, the undersigned Commissioners find that NOPD had failed to establish that NOPD has satisfied its burden of proof with respect to this allegation.

2. *Rule 3: Professional Conduct; Paragraph 1: Professionalism*

Put simply, an NOPD employee violates this rule when he/she fails to conduct him/herself in a professional manner and demeans a co-worker or member of the public. Appellant allegedly violated this rule when he “began yelling towards Lieutenant Williams regarding not sharing the area [Appellant] had barricaded for [his] family and friends.” (H.E. Exh. 1).

Appellant had been working the same detail around Lee Circle for eight or nine years. During that time, he had developed a set approach to the family and friends area. The Commission accepts Appellant’s representation that he usually tried to limit the number of guests in the cordoned-off area due, in part, to safety concerns. And, had Appellant attempted to communicate those concerns to Lt. Williams in a calm and measured manner, the dispute would likely not have escalated. Appellant acted appropriately when he contacted his supervising Lieutenant to receive additional guidance regarding the dispute. But the tone and words he used to communicate his frustration were inappropriate.

We accept Lt. Williams’s testimony that Appellant was upset about the presence of Seventh District personnel, family and friends within cordoned-off area. We further find that Appellant

was needlessly confrontational in his refusal to execute instructions from Lt. Williams. Even though Lt. Williams was not in Appellant's chain of command that day, she still outranked him and deserved a more professional response. Based upon our findings, the undersigned find that Appellant did violate NOPD's rule regarding professionalism.

3. *Rule 4: Performance of Duty, Paragraph 2 - Instructions from an Authoritative Source*

For good and obvious reasons, NOPD rules and procedures require employees to "professionally, promptly and fully" carry out instructions from an authoritative source, including, but not limited to, a supervisor. Should an NOPD employee believe that such an instruction is unlawful or contradictory to a previously issued order, he/she must respectfully make such a belief known. Appellant allegedly violated this rule when he failed to carry out Lt. Williams's instructions regarding removal of additional barriers.

There are several factors at play during the interaction between Appellant and Lt. Williams. First, Appellant confronted Lt. Williams and informed her that Seventh District Family and Friends should not be in the area of Lee Circle he had cordoned off. When Lt. Williams informed Appellant that things were going to be different that year, Appellant contacted his direct supervisor, Lt. Richardson. Lt. Richardson was unable to immediately relocate to Lee Circle and told Appellant to "work it out." Appellant's method of working it out was to erect barriers within the original area. Lt. Williams was unhappy with this solution, and attempted to direct Appellant and the recruits within his chain of command to move the barriers. Lt. Williams's unhappiness with Appellant's solution did not change the fact that Lt. Richardson, who was Appellant's direct supervisor, gave Appellant the leeway to devise a solution to the dispute. This solution evidently made it all the way up Lt. Williams's chain of command given that she soon received an order

from the Superintendent of Police to yield control of the area to Appellant. Lt. Williams pushed back on this order by requesting to provide the Superintendent with additional information.

All law enforcement personnel within NOPD operate under a principle known as “Unity of Command.” This principle provides that, generally, each employee shall be accountable to one supervisor, at any time, for a given assignment or responsibility. On Mardi Gras Day 2016, Appellant’s responsibility was to manage the deployment of metal barriers in and around Lee Circle. His direct supervisor for the purposes of this responsibility was Lt. Richardson. Therefore, pursuant to the principle of “Unity of Command,” Appellant was accountable only to Lt. Richardson regarding the deployment of metal barriers.

While the Commission has already observed that Appellant could have been more professional in his interaction with Lt. Williams, he was following established NOPD policy when he consulted with his direct supervisor regarding a dispute about the barriers. Lt. Richardson could have directed Appellant to yield to Lt. Williams. She did not. Instead, Lt. Richardson directed Appellant to devise his own solution. Lt. Williams was not a fan of Appellant’s solution, but Appellant was not accountable to Lt. Williams with respect to the deployment of metal barriers. He was accountable only to Lt. Richardson regarding such a task. Per NOPD policy, Lt. Williams, as the “issuing supervisor” had an affirmative duty to resolve the conflict between her order and Lt. Richardson’s. Instead, she chose to have Seventh District personnel, who were in her chain of command, move barriers erected by Appellant and his crew. The Superintendent (through Lt. Lubrano) later ordered Lt. Williams to yield the area to Appellant, apparently resolving the conflict in Appellant’s favor. Importantly, Lt. Williams herself did not immediately comply with the Superintendent’s order. Instead, she pushed back on Lt. Lubrano and sought to provide more

information. Lt. Lubrano indicated that he would relay Lt. Williams's concerns up the chain of command to determine if there was a misunderstanding.

Based upon the above findings, the undersigned Commissioners find that Appellant did not violate NOPD policy when he refused Lt. Williams request to move barriers within the disputed area.

4. *Rule 4: Performance of Duty, Neglect of Duty, Paragraph (b) Supervisory Duties*

NOPD holds its supervisors to higher standards than the rest of its employees and has established a rule making any failure on the part of a supervisor to execute his/her supervisory duties in a competent manner misconduct. Appellant allegedly neglected his duties as a supervisor when he ordered NOPD recruits within his chain of command to disregard orders issued to them by Lt. Williams.

The same principle of "Unity of Command" that applied to Appellant on Mardi Gras Day 2016 applied to NOPD recruits under Appellant's supervision. The recruits assigned to set up barriers at Lee Circle reported directly to Appellant who in turn reported directly to Lt. Richardson. Appellant was properly executing his supervisory authority when he directed the recruits to divide the barricaded area pursuant to an instruction Appellant received from Lt. Richardson to "work it out." Appellant did not believe that Lt. Williams's instructions were consistent with the order he received from Lt. Richardson and when he tried to explain that to Lt. Williams, she decided to instruct Seventh District personnel to intervene. Appellant could have and should have been more diplomatic in his response to Lt. Williams, but that speaks to Appellant's lack of professionalism rather than his lack of supervision over his subordinates.

As the hearing examiner observed, Lt. Williams's assignment on Mardi Gras Day 2016 was to provide police security along the parade route. Appellant's assignment was to move, install

and remove metal barricades. Appellant's supervisor in this assignment was Lt. Richardson and his subordinates were NOPD recruits. When Appellant informed Lt. Richardson of the conflict between himself and Lt. Williams regarding the barriers, she told him to "work it out" and that she would address it when she arrived on scene. Therefore, Appellant was authorized to devise his own solution to the conflict and direct his subordinates to execute his solution. The Superintendent's order to Lt. Williams to relinquish the position to Appellant reinforces the degree of authority Appellant had in erecting barriers around Lee Circle.

As a result of the foregoing, the undersigned Commissioners find that NOPD has failed to established Appellant neglected his duty as a supervisor.

5. *Rule 4: Performance of Duty; Paragraph 4: Neglect of Duty, Subparagraph C6*

An NOPD employee violates this rule when he/she fails to comply with "instructions, oral or written, from any authoritative source." There is no apparent difference between this alleged rule violation and the alleged violation of Rule 4: Performance of Duty, Paragraph 2 - Instructions from an Authoritative Source. Yet, NOPD argues, presumably, that Appellant's failure to follow Lt. Williams's instruction to remove the internal barriers was both neglect of duty and a failure to follow instructions from an authoritative source. This is a distinction without difference.

Tellingly, the exact same conduct – Appellant's failure to comply with Lt. Williams's instructions – is the focus of both alleged rule violations. The Commission has already addressed the limit of Lt. Williams's authority over Appellant when it came to the placement of barriers during Mardi Gras Day 2016. We will briefly summarize our findings:

- 1) Appellant's assignment on Mardi Gras Day 2016 was to erect, move and remove metal barriers around Lee Circle;
- 2) Appellant's direct supervisor in this task was Lt. Richardson;

- 3) Lt. Williams was responsible for supervising Seventh District personnel who were providing safety and security services on the parade route;
- 4) When Lt. Williams issued Appellant an instruction regarding barriers, Appellant sought clarification from Lt. Richardson who ordered him to “work it out.”
- 5) Appellant’s solution was to divide the disputed area into two sections.
- 6) Lt. Williams did not have the authority to overrule the discretion granted to Appellant by Lt. Richardson.
- 7) Lt. Williams later received an order from the Superintendent to yield the disputed area to Appellant.

Given the Commission’s findings, NOPD did not establish that Appellant failed to comply with an instruction from an authoritative source. With respect to the erection, placement and removal of barriers, Lt. Richardson, not Lt. Williams, was Appellant’s authoritative source.

B. Impact on NOPD’s Efficient Operations

NOPD established that Appellant was unprofessional during his interaction with Lt. Williams on Mardi Gras Day 2016 but was unable to meet its burden with respect to the other four alleged rule violations. Therefore, the Commission will assess what impact, if any, Appellant’s lack of professionalism had on NOPD’s efficient operations.

NOPD’s rule regarding professionalism reflects an appropriate standard of conduct regarding employees interacting with the public and co-workers. NOPD’s rules also anticipate that, at times, employees may receive conflicting or inappropriate instructions from other employees. In such circumstances, it is vital that the employee receiving such an instruction respectfully and immediately make the issuer of the instruction aware of any concerns. The Commission has recognized that Appellant was operating within his chain of command when he declined to execute Lt. Williams’s instructions regarding the placement of barriers. Yet, the manner in which he confronted Lt. Williams was inappropriate.

According to several accounts, Appellant was upset and agitated when addressing Lt. Williams about the presence of Seventh District personnel and relations within the barricaded area. He then called his supervisor, Lt. Richardson, who told him to deal with the situation. His solution – to create two separate areas within the barricaded area – resulted in further conflict and confrontation. Appellant escalated the conflict by instructing recruits under his supervision to refrain from “touching” the barriers.

Lt. Williams’s actions regarding the barriers at Lee Circle disrupted Appellant’s long-standing practices with respect to the parade setup. He was upset and chose to voice his frustration in an unprofessional manner in front of recruits, fellow officers and civilians. There were several other options available to Appellant, including calmly and evenly informing Lt. Williams that her instructions compromised the safety of the occupants within the barricaded area and that his direct supervisor had authorized him to devise a solution. Appellant’s confrontational approach towards a co-worker and higher ranking officer occurred in front of NOPD recruits and civilians. This set a poor example for an impressionable members of NOPD.

Based upon the above findings, we find that Appellant’s actions did have an adverse impact on NOPD’s efficient operations.

C. Was the Discipline Commensurate with Appellant’s Offense

In conducting its analysis, the Commission must determine if 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 *Staehle v. Dept. of Police*, 98–0216 (La. App. 4 Cir. 11/18/98), 723 So.2d 1031, 1033).

NOPD suspended Appellant two days in connection with his violation of the professionalism rule. The Commission accepts that NOPD holds supervisors to higher standards of conduct and Appellant's role as a supervisor to newly-minted recruits served as an aggravating factor when assessing the appropriate penalty. The target of Appellant's unprofessional conduct is also relevant to the Commission's consideration. As noted above, the Commission does not believe that Appellant violated NOPD's rule regarding "instructions from an authoritative source" when he refused to carry out Lt. Williams's orders. That does not alter the fact that Lt. Williams outranked Appellant. Rank, especially within a paramilitary organization like NOPD, is vitally important. In addition establishing a chain of command, rank sets norms, expectations and behaviors that are essential for the orderly operation of NOPD. Appellant's disrespectful attitude towards Lt. Williams undercut her authority in front of other NOPD personnel. Regardless of whether or not Appellant agreed with Lt. Williams, he owed her a degree of deference by operation of her rank. Appellant's confrontational approach to the barricade dispute with Lt. Williams on Mardi Gras Day 2016 represent a failure on Appellant's part to appreciate NOPD's hierarchy.

As a result of the foregoing, the undersigned Commissioners find that a two-day suspension was commensurate with Appellant's violation of the professionalism rule.

V. CONCLUSION

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

NOPD failed to establish that Appellant violated Rule 2: Moral Conduct; Paragraph 5: Verbal Intimidation. Therefore, the Commission orders that the letter of reprimand associated with this alleged rule violation be rescinded and any reference to the reprimand removed from Appellant's short and long form.

NOPD established Appellant's violation of Rule 3: Professional Conduct; Paragraph 1: Professionalism. The two-day suspension associated with this violation shall remain in effect and may be reflected in Appellant's short and long form.

NOPD failed to establish that Appellant violated Rule 4: Performance of Duty; Paragraph 2: Instructions from an Authoritative Source. NOPD shall rescind the three-day suspension associated with this violation and remit to Appellant all applicable back pay and emoluments. Further, NOPD shall remove any reference to this violation from Appellant's short and long form.

NOPD failed to establish that Appellant violated Rule 4: Performance of Duty; Paragraph 4: Neglect of Duty, Subparagraph B. NOPD shall rescind the five-day suspension associated with this violation and remit to Appellant all applicable back pay and emoluments. Further, NOPD shall remove any reference to this violation from Appellant's short and long form.

NOPD failed to establish that Appellant violated Rule 4: Performance of Duty; Paragraph 4: Neglect of Duty, Subparagraph C6. NOPD shall rescind the five-day suspension associated with this violation and remit to Appellant all applicable back pay and emoluments. Further, NOPD shall remove any reference to this violation from Appellant's short and long form.

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SIGNATURES APPEAR ON THE FOLLOWING PAGE.

R. Blanchard
No. 8750

Judgment rendered this 19th day of December, 2018.

CITY OF NEW ORLEANS CIVIL SERVICE COMMISSION

WRITER


BRITTNEY RICHARDSON, COMMISSIONER

12.17.18
DATE

CONCUR


CLIFTON J. MOORE, Jr., COMMISSIONER

12/17/18
DATE


MICHELLE D. CRAIG, CHAIRPERSON

12/17/18
DATE