



# CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE  
SUITE 900 - 1340 POYDRAS ST.  
NEW ORLEANS, LA 70112  
(504) 658-3500 FAX NO. (504) 658-3598

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

Wednesday, February 16, 2022

AMY TREPAGNIER  
DIRECTOR OF PERSONNEL

Mr. Eric Hessler  
PANO 320 N. Carrollton Avenue #202  
New Orleans, LA 70119

Re: **Michael Glasser VS.  
Department of Police  
Docket Number: 9280**

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 - 2/16/2022 - 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: Shaun Ferguson  
Michael J. Laughlin  
Jay Ginsberg  
Michael Glasser

file



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Mr. Eric Hessler  
PANO 320 N. Carrollton Avenue #202  
New Orleans, LA 70119

Re: **Daniel Anderson VS.  
Department of Police  
Docket Number: 9281**

Dear Mr. Hessler:

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Doddie K. Smith  
Chief, Management Services Division

cc: Shaun Ferguson  
Michael J. Laughlin  
Jay Ginsberg  
Daniel Anderson

file

**CIVIL SERVICE COMMISSION  
CITY OF NEW ORLEANS**

**MICHAEL GLASSER,  
Appellant**

**Docket No. 9280**

**v.**

**DEPARTMENT OF POLICE,  
Appointing Authority**

*Consolidated with*

**DANIEL ANDERSON,  
Appellant**

**Docket No. 9281**

**v.**

**DEPARTMENT OF POLICE,  
Appointing Authority**

**DECISION**

Appellants, Michael Glasser and Daniel Anderson, bring this appeal pursuant to Article X, § 8(A) of the Louisiana Constitution and this Commission's Rule II, § 4.1 seeking relief from a June 14, 2021, one-day suspension issued to each of them. (Exhibits HE-1, HE-2). At all relevant times, Michael Glasser had permanent status as a Police Captain. (Ex. HE-1). At all relevant times, Daniel Anderson had permanent status as a Police Lieutenant. (Ex. HE-2). A Hearing Examiner, appointed by the Commission, presided over a hearing on August 6, 2021. At this hearing, both parties had an opportunity to call witnesses and present evidence.

The undersigned Commissioners have reviewed and analyzed the entire record in this matter, including the transcript from the hearing, all exhibits submitted at the hearing, the Hearing Examiner's report dated January 7, 2022, and controlling Louisiana law.

For the reasons set forth below, Captain Glasser and Lieutenant Anderson's appeals are GRANTED.

## I. FACTUAL BACKGROUND

The hearing officer has accurately and succinctly described the underlying facts, so the facts will not be repeated. A copy of the hearing officer's report is attached.

## II. ANALYSIS

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 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 (quoting *Cure v. Dep't of Police*, 2007-0166 (La. App. 4 Cir. 8/1/07), 964 So. 2d 1093, 1094). The Commission has a duty to decide independently from the facts presented in the record whether the appointing authority carried its legally imposed burden of proving by a preponderance of evidence that it had good or lawful cause for suspending and terminating the classified employee and, if so, whether such discipline was commensurate with the dereliction. *Abbott v. New Orleans Police Dep't*, 2014-0993 (La. App. 4 Cir. 2/11/15); 165 So.3d 191, 197; *Walters v. Dept. of Police of the City of New Orleans*, 454 So. 2d 106 (La. 1984).

NOPD has failed to carry its burden of showing the complained-of conduct occurred. In particular, NOPD has failed to show that Captain Glasser and Lieutenant Anderson created a proactive plain-clothes police unit. (Tr. at 205). Captain Glasser, as the Captain of the Seventh District, testified that he assigned two officers to conduct intelligence work under the supervision

of Sgt. Bakewell. (Tr. at 245). These officers, Doucette and Winchester, generally wore plain clothes and conducted intelligence activity in a “cool car.” (Tr. at 20, 25). Doucette and Winchester provided information to the task force about what they observed. (Tr. at 20).

Deputy Superintendent John Thomas testified that the conclusion that an unauthorized unit was created was based on the proactive nature of the police work. (Tr. at 203). NOPD’s conclusion that the unit was created to engage in proactive police work is based on the actions of Officer Kevin Doucette on April 21, 2021, when he was shot while he participated in the arrest of a suspect, which is proactive police work. (Tr. at 57, 203). However, Sgt. Bakewell testified that he told Officer Doucette to stand down several times, and that Officer Doucette disobeyed this direct order. (Tr. at 188). Officer Doucette admitted that his police work on this date was sloppy, that he cut corners, and that things should have been done differently. (Tr. at 58).

For the foregoing reason, the appeals are GRANTED. NOPD shall reimburse Captain Glasser and Lieutenant Anderson back wages and all other emoluments of employment for the one-day suspension imposed on each of them.

This the 16<sup>th</sup> day of February, 2022

WRITER: J. H. Korn  
J. H. Korn (Feb 14, 2022 10:36 CST)

JOHN KORN, VICE-CHAIRPERSON

CONCUR: Brittney Richardson  
Brittney Richardson (Feb 14, 2022 10:56 CST)

BRITTNEY RICHARDSON, CHAIRPERSON

Ruth White Davis  
Ruth Davis (Feb 15, 2022 19:19 CST)

RUTH DAVIS, COMMISSIONER

**MICHAEL GLASSER**

**CIVIL SERVICE COMMISSION**

**VS.**

**CITY OF NEW ORLEANS**

**DEPARTMENT OF POLICE**

**NO. 9280**

*c/w*

**DANIEL ANDERSON**

**CIVIL SERVICE COMMISSION**

**VS.**

**CITY OF NEW ORLEANS**

**DEPARTMENT OF POLICE**

**NO. 9281**

**REPORT OF THE HEARING EXAMINER**

**I. INTRODUCTION**

The Department of Police ("Appointing Authority") employs Michael Glasser as a Police Captain and Daniel Anderson as a Police Lieutenant ("Appellants" and/or "Glasser" and Anderson") with permanent status. By letters dated June 14, 2021, the Appointing Authority suspended Glasser for two (2) days and Anderson for three (3) days after investigating an incident that occurred on April 21, 2020. During the course of this hearing, after extensive testimony, the Appointing Authority agreed to remove one suspension day from Glasser's disciplinary record, and two suspension days from Anderson's disciplinary record, leaving both with one day suspensions for the same rule violation. (H.E. Exh. 1 and 2; Tr. at 194 -195).<sup>1</sup>

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<sup>1</sup> All testimony regarding Body Worn Camera and risk assessment requirements is no longer relevant for purposes of this consolidated appeal.

The remaining rule violation, which is the subject of this consolidated appeal, concerns:

Rule 4: Performance of Duty; Paragraph 4: Neglect of Duty (b) Supervisory Responsibility, to wit Chapter 11.0.1 (Duties and responsibilities of District Commanders, Supervisory Members, and Officers, Paragraph 6(e) (District Commander Duties and Responsibilities).

Specifically, the Appointing Authority determined that the Appellants created and operated a special unit comprised of proactive plainclothes police officers without the Appointing Authority's approval.

## **II. FACTS**

### **A. Assignment and Command Structure**

On or around January 19, 2020, Michael Glasser became the Commander of the Seventh Police District, while Daniel Anderson, working under Glasser's supervision, became the Commander of the Seventh District's Detective Investigation Unit ("DIU"). (Tr. at 9, 236). Glasser created an assignment within DIU called "Seventh District Investigative Unit Detective/Intelligence". The job description described the assignment as an "intelligence function designed to conduct in-depth investigations to identify perpetrators through the use of enhanced investigative resources as outlined above to assist in the apprehension of identified suspects by supplying proactive Task Force Units with actionable intelligence". Regarding the command structure within the Seventh District, the job description stated that, "Detectives assigned to the Intelligence function are part of DIU and will conform to all

policies, procedures and directives of the unit, and are directly supervised by DIU supervisors". (Appellant Exh. 2).

Upon Glasser and Anderson's arrival (on or around January 19, 2020), Det. Kevin Doucette was assigned to perform the above-described intelligence function as a member of DIU, while Det. Sasha Winchester was transferred to DIU for that purpose in February. Both testified that they performed the functions as described in the job description until the April 21, 2020 incident. (Tr. at 9 -10, 66 - 68). Specifically, they stated that they worked undercover in an unmarked vehicle, which is referenced as a "cool car", meaning a vehicle that does not look like a police vehicle. They would wear plain clothes while conducting surveillance or interacting with confidential informants so as not to "blow their cover" or jeopardize the safety of those individuals that provided information. They would supply the information to other members of DIU to assist in their investigations or would refer the information to the Task Force, Special Operations Division ("SOD") or the Violent Offender Unit ("VOU") to effectuate arrests. (Tr. at 10 – 14, 20 - 22, 76 – 78).

Sgt. Anthony Bakewell, a DIU supervisor, was Doucette and Winchester's direct supervisor. Sgt. Bakewell supervised Doucette and Winchester's day to day activities, while they reported directly to Lt. Anderson regarding high level intelligence gathered through their undercover work and surveillance. (Tr. at 173 – 174, 190 -194). Bakewell testified that they were part of his DIU unit assigned to gather information from various sources to identify perpetrators.



They would assist other members of DIU using various undercover methods, including plainclothes surveillance while operating in a "cool car" and gathering and reporting information elicited from confidential informants. He confirmed that the above-described job description created by Capt. Glasser was an accurate depiction of their responsibilities. (Tr. at 172 – 180).

Capt. Glasser testified that he originated the unit and that he was solely responsible for its creation. He stated that if permission was required, it was his responsibility to attain permission, not Lt. Anderson's. (Tr. at 259 – 261).

#### **B. April 21, 2020 Incident**

Det. Kevin Doucette testified that he received a call at approximately 8:00 am from a confidential informant reporting that a high-priority subject of interest was currently located at a residence on Bundy Road. In response, Doucette initially called the Seventh District Station and spoke to Sgt. Summer Turner requesting that she send available units to the identified location to apprehend the subject. Sgt. Turner informed him that there were no units cleared to respond. Although off-duty, Det. Doucette chose to drive to the Bundy Road residence himself. While in route, he called and alerted Lt. Anderson and Sgt. Bakewell informing them that he was on his way to the residence where the subject of interest was located, and that he intended to "hold the location down" until additional units arrived. (Tr. at 26 – 28, 39 - 44).

Doucette was dressed in his Tactical Dress Uniform pants ("TDU") and a t-shirt. He testified that he should have worn his TDU shirt also, but, because he

was in a hurry, he forgot to do so. Doucette acknowledged that because he was not working under-cover, he should have worn his complete uniform to identify himself as a police officer. Without authorization, Doucette entered the residence to apprehend the subject along with other uniformed police officers. The subject was apprehended after shooting Doucette in the arm near his elbow. (Tr. at 44 – 55).

Det. Doucette acknowledged that he was in plain clothes performing proactive police activities during this incident. He further acknowledged that he was acting outside of his assignment in DIU and without the authorization of supervision. He stated that this was the first and only occasion where this had occurred. (Tr. at 55 – 58).

Sgt. Anthony Bakewell testified that at approximately 8:00 a.m., he received a call from Det. Doucette informing him that a target had been located and that he was on his way to the location. Bakewell stated that he gave Doucette permission to go to the location to maintain a visual of the location until other units arrived on the scene. He specifically instructed Doucette to not engage the subject and to stand down. However, Doucette abruptly ended the telephone call informing his supervisor that he had to go. Sgt. Bakewell never made it to the scene and later learned that Doucette had been shot after entering the residence. (Tr. at 185 - 189).

Capt. Glasser testified that he was off-duty when Doucette was shot. He stated that he was informed of what had occurred upon his arrival at the station. He stated that only Sgt. Bakewell was aware of the incident as it was occurring, and that Doucette disobeyed Bakewell's orders when he entered the residence. (Tr. at 251 -252).

### **III. Internal Investigation and Final Disciplinary Action**

Because Det. Doucette's decision to enter the Bundy Road residence resulted in an officer involved shooting, Lt. Kevin Burns of the Public Integrity Bureau's ("PIB") Force Investigation Team("FIT") conducted an internal investigation. As per policy, Lt. Burns went to the crime scene where he learned that Doucette entered the residence after receiving information from a confidential informant. During the course of his initial inquiry, Lt. Burns became aware of Doucette's specific assignment. (Tr. at 90 – 95).

Lt. Burns testified that he found that Glasser and Anderson violated internal policy by creating a proactive plain clothes intelligence unit. His determination was based primarily upon his conclusion that Doucette engaged in proactive police activities in plain clothes, while acting upon intelligence he received from a confidential informant on April 21<sup>st</sup>. (Tr. at 106 – 108). Lt. Burns stated that Det.'s Doucette and Winchester were not performing the normal functions of DIU detectives who are generally assigned follow-up investigation of crimes already committed as opposed to acting upon intelligence to make arrests. (Tr. at 111 – 112).

Lt. Burns testified that Capt. Glasser vigorously defended his decision to create a specialized job assignment within DIU, but he disregarded Glasser's explanation, finding nothing in internal policy allowing Glasser to unilaterally create a proactive plain clothes unit. (Tr. at 119 -120). Lt. Burns acknowledged that his investigation confirmed that Doucette entered the residence without authorization, disobeying Sgt. Bakewell's order to stand down. (Tr. at 143 – 144).

Asst. Supt. John Thomas was part of the pre-disciplinary hearing panel that concluded that the Appellants created an intelligence unit within DIU that engaged in proactive plain clothes activities without authorization. Asst. Supt. Thomas specified the April 21<sup>st</sup> incident when Doucette entered the residence while in plain clothes as the single incident upon which the panel's conclusion was based. He stated that it would not be violative of internal policy for a District Commander to use plain clothes detectives to gather intelligence as long as they did not engage in proactive police work as was the case on April 21, 2020. (Tr. at 199 – 205).

#### **IV. LEGAL ANALYSIS AND CONCLUSION**

The Appointing Authority has failed to establish that it disciplined either of the Appellants for cause. The Appointing Authority's conclusion that the Appellants created a proactive plainclothes surveillance unit is not supported by the evidence.

The sole basis for reaching this conclusion arises from a police officer's failure to follow the directions of his supervisor and unilaterally engaging in

proactive police activities during an isolated incident on April 21, 2020.

Doucette's mistakes cannot be attributed to his supervisors to form the basis for disciplinary action. He bears sole responsibility.

The evidence strongly supports the Appellants' contention that Detectives Doucette and Winchester were part of DIU performing non-proactive surveillance activities, and that Det. Doucette's unauthorized activity on April 21<sup>st</sup> was an isolated incident that was contrary to his actual assignment. Further, even assuming the Appellants required authorization from a higher authority to organize DIU as they chose to do, that would have been Capt. Glasser's responsibility and not Lt. Anderson's.

Based upon the foregoing, The Appellants' appeals should be GRANTED, and the Appointing Authority ordered to pay both Appellants one day of back pay with all emoluments of employment.

\_\_\_\_\_  
January 7, 2022  
DATE

\_\_\_\_\_  
S/ Jay Ginsberg  
HEARING EXAMINER