



CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
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CITY CIVIL SERVICE COMMISSION
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AMY TREPAGNIER
DIRECTOR OF PERSONNEL

Friday, September 6, 2024

Mr. Brendan Chase

Re: **Brendan Chase VS.
Department of Emergency Medical Se
Docket Number: 9616**

Dear Mr. Chase:

Attached is the decision of the City Civil Service Commission in the above-referenced 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 - 9/6/2024 - 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 purple ink that reads "Stacie Joseph".

Stacie Joseph
Management Services Division

cc: Dr. Megan Marino, Interim
William R. H. Goforth
Jay Ginsberg
file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

**BRENDAN CHASE,
Appellant**

Docket No. 9616

v.

**DEPARTMENT OF EMERGENCY
MEDICAL SERVICES,
Appointing Authority**

DECISION

Appellant, Brendan Chase, brings this appeal pursuant to article X, § 8(A) of the Louisiana Constitution and this Commission's Rule II, § 4.1 seeking relief from a letter of reprimand issued by Department of Emergency Medical Services' (EMS) on May 6, 2024. (Ex. HE-1). At all relevant times, Appellant had permanent status as an Advanced Emergency Medical Technician. (Ex. HE-1; Tr. at 17). A Hearing Examiner, appointed by the Commission, presided over a hearing on July 18, 2024. 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 (including the video evidence), the Hearing Examiner's report dated August 26, 2024, and controlling Louisiana law.

For the reasons set forth below, Mr. Chase's appeal is DENIED.

I. FACTUAL BACKGROUND

On April 11, 2024, at 4:43 AM, Brendon Chase, a certified EMT, and Chase Bruner, a certified EMR, were nearing the end of a 12-hour overnight shift responding to emergency medical calls in a City of New Orleans EMS ambulance. (Tr. at 17, 47). Mr. Bruner was driving the

ambulance during this shift, and Mr. Chase was the passenger (“rider”). (Tr. at 12, 20). Mr. Bruner and Mr. Chase were returning to EMS headquarters, located at the corner of Earhart Boulevard and Claiborne Avenue. (Tr. at 9, 17-18). At the intersection of Tulane Avenue and South Claiborne Avenue, a second New Orleans EMS ambulance turned in front of the Bruner/Chase ambulance. (Ex. NOEMS-1). Traveling on Claiborne Avenue, the two ambulances began to race to headquarters, violating traffic laws. (Tr. at 13-14, Ex. NOEMS-1). When Mr. Bruner pulled ahead of the other ambulance, Mr. Chase “flipped off” his co-workers in the other ambulance, laughing. (Tr. at 13-14; Ex. NOEMS-1). Mr. Chase also turned on the ambulance lights. (Tr. at 21, 46; Ex. NOEMS-1). At one point, Mr. Bruner was driving 60 mph in a 35 mph zone. (Tr. at 21; Ex. NOEMS-1). Near headquarters, in order to gain an advantage, the other ambulance turned left against a red light. (Tr. at 25; Ex. NOEMS-1). Mr. Bruner responded by driving the wrong way on Claiborne Avenue and the turnaround in an attempt to reach headquarters before the other ambulance. (Tr. at 23).

Driving to work, Captain Stanley Woods observed the two ambulances in the last stretch before headquarters, and he verbally cautioned Mr. Chase that the “fun and games” were “inappropriate.” (Tr. at 12). Echoing his superior’s warning, Mr. Chase testified that “[i]t was just some fun and games, and I do recognize that, you know, that’s not what you’re supposed to do.” (Tr. at 49).

New Orleans EMS ambulances have dashboard cameras installed, and these dashboard cameras record the driver, the passenger, and the view from the front seat of the ambulance. (Tr. at 14; Ex. NOEMS-1). Deputy Chief Chris Keller showed the video from both ambulances to the Director of EMS, Meg Marino, M.D. (Tr. at 13-14). Chief Keller also pulled the security footage from headquarters showing the two ambulances racing in the final stretch to headquarters,

including Mr. Chase's ambulance traveling the wrong way on Claiborne Avenue. (Tr. at 14). The videos were entered into evidence as Exhibit NOEMS-1.

Dr. Marino imposed a three-day suspension on each driver, and she issued a letter of reprimand against each rider. (Tr. at 19, 28). The letter of reprimand described Mr. Chase's conduct as "involvement in the reckless operation of a New Orleans Emergency Medical Services (NOEMS) unit 3278 while racing another unit back to headquarters on April 11, 2024, at 4:43 a.m." (Ex. HE-1). EMS also based the discipline on the violation of a Louisiana statute, La. R.S. 32:24(D): "The foregoing provisions shall not relieve the driver or rider of an authorized vehicle from the duty to drive or ride with due regard for the safety of all persons, nor shall such provisions protect the driver or rider from the consequences of his reckless disregard for the safety of others." (Ex. HE-1).

II. ANALYSIS

A. Legal Standard for Commission's Review of Discipline

"Employees with the permanent status in the classified service may be disciplined only for cause expressed in writing. La. Const., Art. X, Sec. 8(A)." *Whitaker v. New Orleans Police Dep't*, 2003-0512 (La. App. 4 Cir. 9/17/03), 863 So. 2d 572 (quoting *Stevens v. Dep't of Police*, 2000-1682 (La. App. 4 Cir. 5/9/01)). "Legal cause exists whenever an employee's conduct impairs the efficiency of the public service in which the employee is engaged." *Id.* "The Appointing Authority has the burden of proving the impairment." *Id.* (citing La. Const., art. X, § 8(A)). "The appointing authority must prove its case by a preponderance of the evidence." *Id.* "Disciplinary action against a civil service employee will be deemed arbitrary and capricious unless there is a real and substantial relationship between the improper conduct and the "efficient operation" of the public service." *Id.* "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).

1. The Appointing Authority must show the discipline was commensurate with the infraction

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 disciplining the classified employee and, if so, whether such discipline was commensurate with the dereliction. *Durning v. New Orleans Police Dep't*, 2019-0987 (La. App. 4 Cir. 3/25/20), 294 So. 3d 536, 538, *writ denied*, 2020-00697 (La. 9/29/20), 301 So. 3d 1195; *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). The appointing authority has the burden of showing that the discipline was reasonable and not arbitrary or capricious. *Neely v. Dep't of Fire*, 2021-0454 (La. App. 4 Cir. 12/1/21), 332 So. 3d 194, 207 (“[NOFD] did not demonstrate . . . that termination was reasonable discipline”); *Durning*, 294 So. 3d at 540 (“the termination . . . deemed to be arbitrary and capricious”).

B. EMS has carried its burden of showing cause for the letter of reprimand

The underlying factual issues are not in dispute. While on duty and operating an ambulance owned by the City of New Orleans, Mr. Bruner and Mr. Chase engaged in a race with another

ambulance owned by the City of New Orleans and operated by their co-workers, speeding and violating other traffic laws. Mr. Chase argues that La. R.S. 32:24 is inapplicable because it concerns the operation of an emergency vehicle “when responding to an emergency call.” La. R.S. 32:24(A). The legislature, when adopting subsection D, recognized the underlying duty of the driver and rider to “ride with due regard for the safety of all persons,” when enacting exceptions to generally applicable traffic laws for drivers and riders of emergency vehicles. Therefore, implicitly, La. R.S. 32:24(D) recognizes the duty of the rider. Even if La. R.S. 32:24 is inapplicable to Mr. Chase’s conduct, EMS has shown that Mr. Chase was involved in the reckless operation of the ambulance. He encouraged the “fun and games,” by making an obscene gesture to his co-workers, laughing, and turning on the lights. As Dr. Marino testified, Mr. Chase was “egging on . . . drag racing.” (Tr. at 29).

Mr. Chase’s participation in an ambulance race on city streets impairs the efficient operation of EMS. These four employees engaged in illegal and unsafe behavior in City of New Orleans ambulances. Dr. Marino testified that this reckless behavior “erodes public trust” because “we’re supposed to keep everybody safe.” (Tr. at 29). In addition, the four EMS employees increased the risk of a traffic accident, which could have caused injury to themselves, citizens, and property. (Tr. at 12).

1. The penalty imposed by EMS is commensurate with the violation

The penalty imposed by EMS is commensurate with the violation. Mr. Chase engaged in unprofessional and inappropriate behavior. Dr. Marino recognized the lesser culpability of the riders, imposing the least severe form of formal discipline under Civil Service Rule IX.

Mr. Chase’s appeal is DENIED.

WRITER: Ruth White Davis
Ruth Davis (Sep 1, 2024 20:37 CDT)
RUTH DAVIS, COMMISSIONER

CONCUR: J H Korn
J H Korn (Sep 5, 2024 13:13 CDT)
JOHN KORN, VICE-CHAIRPERSON

Mark C. Surprenant
Mark C. Surprenant (Aug 30, 2024 11:40 EDT)
MARK SURPRENANT, COMMISSIONER