



CITY OF NEW ORLEANS

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

Monday, February 14, 2022

AMY TREPAGNIER
DIRECTOR OF PERSONNEL

Mr. Roger W. Jordan, Jr.
829 Baronne St.
New Orleans, LA 70113

Re: **Joseph Waguespack Sr. VS.
Department of Police
Docket Number: 9301**

Dear Mr. Jordan:

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 - 2/14/2022 - 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
Renee E. Goudeau
Jay Ginsberg
Joseph Waguespack

file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

**JOSEPH WAGUESPACK,
Appellant**

Docket No. 9301

v.

**DEPARTMENT OF POLICE,
Appointing Authority**

DECISION

Appellant, Joseph Waguespack, brings this appeal pursuant to Article X, § 8(A) of the Louisiana Constitution and this Commission's Rule II, § 4.1 seeking relief from his August 4, 2021, five-day suspension. (Exhibit HE-1). At all relevant times, Appellant had permanent status as a Police Captain. (Tr. at 7; Ex. HE-1). A Hearing Examiner, appointed by the Commission, presided over a hearing on September 30, 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 post-hearing briefs submitted by the parties, the Hearing Examiner's report dated February 1, 2022, and controlling Louisiana law.

For the reasons set forth below, Captain Waguespack's appeal is DENIED.

I. FACTUAL BACKGROUND

Captain Joseph Waguespack became head of the homicide division of the New Orleans Police Department in 2005. (Tr. at 7). In this role, in about January 2006, Captain Timmy Bayard asked Captain Waguespack to look into the death of Joey Georgusis, which had occurred on August 5, 2005. (Tr. at 8, 22). The Orleans Parish coroner, Frank Minyard, M.D., classified this

death as an overdose, as opposed to a homicide, and the New Orleans Police Department concurred in this assessment. (Tr. at 15).

Joe Georgusis, Sr., met with Captain Waguespack at Captain Waguespack's Katrina-damaged home and told Captain Waguespack that it would be worth \$100,000 to Georgusis if his son's death were classified as a homicide. (Tr. at 15). Captain Waguespack cut Georgusis off, and told him that "if it was a murder, we'd solve it and someone would go to prison, and [Georgusis] did not need to pay anyone." (Tr. at 15). In about 2006, the coroner, Frank Minyard, M.D., related to Captain Waguespack that Joey Georgusis' father offered Minyard \$100,000. (Tr. at 10-11).

Georgusis' death received significant media attention. (Tr. at 9). A reporter for *The Advocate*, Gordon Russell, called Captain Waguespack in 2021 to ask him to confirm these two conversations: (1) Dr. Minyard's conversation with Georgusis; and (2) Capt. Waguespack's conversation with Georgusis. (Tr. at 10). Capt. Waguespack had a three to five minute conversation with the reporter, confirming these conversations. (Tr. at 28). Gordon Russell published an article on nola.com on March 8, 2021, stating Capt. Waguespack corroborated the "proffered bribe" to Dr. Minyard and also personally received an "indecent proposal" to classify Joey Georgusis' death as a homicide. (Ex. City-1). The article states that Capt. Waguespack told the reporter that Georgusis told Capt. Waguespack that "if this was a murder, and it was solved, it would be worth \$100,000, to me." (Ex. City-1).

Subsequently, Lee Zurik requested an interview from Capt. Waguespack, and Capt. Waguespack referred Zurik to the NOPD Public Information Officer, Gary Sheets. (Tr. at 33, 39, 44). Ultimately, NOPD denied Zurik's request for an interview, and Zurik complained about NOPD's favoritism to the *The Advocate*. (Tr. at 43; Ex. City-2).

NOPD Policy about Public Statements and Appearances, Rule 6, paragraph 3(b), provides as follows:

Employees shall not address public gatherings, appear on radio or television, prepare any articles for publication, act as correspondents to a newspaper or periodical, release or divulge investigative information, or any other matters of the Department without official sanction or proper authority. Employees may lecture on police or other related subjects only with the prior approval of the Superintendent of Police.

(Ex. Appellant-1). On August 4, 2021, NOPD disciplined Capt. Waguespack for releasing “any other matter[] of the Department without official sanction or proper authority.” (Ex. HE-1). Because Deputy Superintendent Noel determined that Capt. Waguespack did not intentionally violate this rule, he mitigated the presumptive penalty of a 10-day suspension to a five-day suspension. (Tr. at 70).

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 carried its burden of showing the underlying conduct occurred. Capt. Waguespack provided information to the media about his and Dr. Minyard's conversations with the family of Joey Georgusis. Capt. Waguespack reviewed Joey Georgusis death in his role as head of the homicide division. His conversations with Georgusis and Dr. Minyard concerned official NOPD business. Therefore, the content of these conversations is a "matter" of NOPD. Captain Frank Young, who investigated the complaint against Capt. Waguespack, testified that Capt. Waguespack is a potential witness in court and that the bribe was offered because of Capt. Waguespack's position with NOPD. (Tr. at 53). Capt. Waguespack was speaking on an official matter and should have referred Gordon to the Public Information Office. (Tr. at 55-56).

Capt. Waguespack's violation of the rule impaired the efficient operation of NOPD, as the Public Information Office coordinates all external communications to the media for the purposes of accuracy and consistency. (Tr. at 68). Capt. Waguespack's conversation with Russell and the resulting article, which Capt. Waguespack said was not accurate, undermined this goal. Also, as a senior captain, NOPD expects Capt. Waguespack to follow NOPD rules, so that his subordinates will follow this NOPD rules. (Tr. at 67).

The discipline is commensurate with the infraction, as Deputy Superintendent Noel mitigated the penalty because of an absence of intent on the part of Capt. Waguespack to violate the rule.

This the 14th day of February, 2022

WRITER:

Ruth White Davis

Ruth Davis (Feb 14, 2022 09:55 CST)

RUTH DAVIS, COMMISSIONER

CONCUR:

Brittney

Brittney Richardson (Feb 14, 2022 14:29 CST)

BRITTNEY RICHARDSON, CHAIRPERSON

J. H. Korn

J. H. Korn (Feb 14, 2022 09:14 CST)

JOHN KORN, VICE-CHAIRPERSON