



MITCHELL J. LANDRIEU  
MAYOR

# CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE  
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CITY CIVIL SERVICE COMMISSION

REV. KEVIN W. WILDES, S.J.,  
CHAIRMAN  
DEBRA S. NEVEU  
AMY L. GLOVINSKY  
JOSEPH S. CLARK

LISA M. HUDSON  
DIRECTOR OF PERSONNEL

Friday, April 26, 2013

Mr. Eric Hessler  
PANO 2802 Tulane Avenue #101  
New Orleans, LA 70119

Re: **David Liang VS.  
Department of Police  
Docket Number: 7917**

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 - 4/26/2013 - 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 blue ink that reads "Germaine Bartholomew".

Germaine Bartholomew  
Chief, Management Services Division

cc: Ronal Serpas  
Russell B. Ramsey  
Jay Ginsberg

**DAVID LIANG**

**CIVIL SERVICE COMMISSION**

**VERSUS**

**CITY OF NEW ORLEANS**

**DEPARTMENT OF POLICE**

**DOCKET NO. 7917**

The Department of Police (“Appointing Authority”) employed David Liang (“Appellant”) as a Police Sergeant with permanent status. The Appointing Authority demoted the Appellant to Police Officer effective August 8, 2011. The demotion resulted from the Appointing Authority’s determination that the Appellant violated internal rules regarding Neglect of Duty. The Appointing Authority also determined that the Appellant violated internal rules regarding Instructions from An Authoritative Source for which he received a three day suspension. The basis for the disciplinary action is provided in the second and third paragraphs of the first page of the disciplinary letter which provides:

The investigation determined that on June 30, 2009 at 3:00 p.m., and going into July 1, 2009 at 3:00 a.m., you were on duty; and working in your official capacity as a New Orleans Police Sergeant in command of the Sixth District Task Force, the immediate supervisor of Officers Henry Hollins and Thomas Clark. During that shift, while under your supervision, Officer Hollins was not adequately supervised and had violated laws of the State of Louisiana. Officer Hollins kidnapped and raped a known female while working in his official capacity as a New Orleans Police Officer. Officers Hollins and Clark also violated departmental administrative rules and policy while under your supervision.

Officer Clark admitted that he left work early without permission. You failed to make the proper adjustment in Officer Hollins and Clark’s payroll entries or address Officer Clark’s early departure from work. You admitted that it was your duty as the immediate supervisor of the Sixth District Task Force to ensure all payroll information was accurately and timely entered. As such, you violated, Rule 4: Performance of Duty, paragraph 2 – Instructions from an Authoritative Source to wit: Chapter 41.1.5 – Duties and Responsibilities of District Commanders, Supervisory Personnel, and Patrol Officers, paragraph 24, and Rule 4: Performance of Duty, paragraph 4 – Neglect of Duty, paragraph b.

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 May 31, 2012. The 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 material facts are not in dispute. Sgt. Kevin Stamp of the Public Integrity Bureau conducted the internal investigation. He confirmed that Officer Hollins engaged in criminal activity during the last hours of his shift when he should have been performing proactive police work. He also confirmed that Officer Clark ended his shift almost two hours before its scheduled completion. Sgt. Stamp stated that he sustained the violation for Neglect of Duty because the Appellant failed to collect his subordinates' trip sheet at the end of their shift. He also concluded that the Appellant violated the Instructions from an Authoritative Source rule by failing to adjust his subordinates' payroll once he learned they had not worked their entire shift.

The Appellant testified that he assumed that his subordinates were doing their jobs and he had no idea they were leaving early or engaging in criminal acts. He stated that he had no prior incidents with either Officer Hollins or Officer Clark to cause him to believe that he needed to supervise them more closely.

After the incident, the Appellant remained in his supervisory position for three years prior to the Appointing Authority demoting him.<sup>1</sup> The Appellant stated that after the incident he made a point of always requiring his subordinates to turn in their trip

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<sup>1</sup> The Administrative investigation was stayed pending the resolution of the criminal charges against Officers Hollins and Clark. Consequently, the Appellant remained in his supervisory position during the extended period taken by the Appointing Authority to complete its investigation.

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sheets at the end of their shifts to make sure they accounted for their time and worked their entire shift. The Appellant admitted that he had other minor disciplinary actions prior to his demotion, but contends they did not reflect on his ability to act as a supervisor.

Regarding the accuracy of the payroll, the Appellant testified that he did not take any action to correct the payroll after he learned that his subordinates left early because the matter was part of an internal investigation.

#### 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, based on 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

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of the evidence the occurrence of the complained of activity 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 it disciplined the Appellant for cause for neglect of duty and Instructions from an Authoritative Source. As a supervisor, the Appellant was responsible for his subordinates' actions while they were on duty. The Appellant failed to ensure that his subordinates accounted for all of their time by requiring them to provide their trip sheets at the end of their shift. Considering the foregoing, the Appellant's appeal is DENIED.

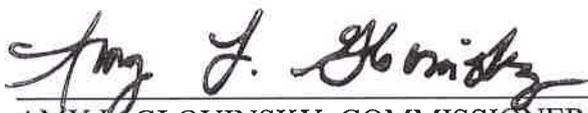
RENDERED AT NEW ORLEANS, LOUISIANA THIS 26th DAY OF APRIL, 2013.

CITY OF NEW ORLEANS  
CIVIL SERVICE COMMISSION

  
JOSEPH S. CLARK, COMMISSIONER

CONCUR:

  
DEBRA S. NEVEU, COMMISSIONER

  
AMY L. GLOVINSKY, COMMISSIONER