



CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
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CITY CIVIL SERVICE COMMISSION

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MAYOR

Thursday, December 20, 2012

LISA M. HUDSON
DIRECTOR OF PERSONNEL

Ms. Tamika Rogers

Re: **Tamika Rogers VS.
Department of Police
Docket Number: 7932**

Dear Ms. Rogers:

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 - 12/20/2012 - filed in the Office of the Civil Service Commission in Room 7W03, City Hall, 1300 Perdido Street, 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 cursive script, reading "Germaine Bartholomew".

Germaine Bartholomew
Chief, Management Services Division

cc: Ronal Serpas
Victor Papai
Jay Ginsberg
file

TAMIKA ROGERS

CIVIL SERVICE COMMISSION

VERSUS

CITY OF NEW ORLEANS

DEPARTMENT OF POLICE

NO. 7932

Tamika Rogers (“Appellant”) is employed by the Department of Police (“Appointing Authority”) as a Police Technician with permanent status. The Appellant received a thirty (30) day suspension and demotion from her previous position as a Police Technical Specialist for violation of the Appointing Authority’s internal rules concerning Restricted Activities. Specifically, the Appointing Authority’s internal rule requires that employees must “avoid regular or continuous associations or dealings with persons whom they know, or should know, are racketeers, sexual offenders, suspected felons, persons under criminal investigation or indictment, or have a reputation in the community for present involvement in felonious or criminal behavior...” The complaint made against the Appellant that resulted in disciplinary action arose after the Appointing Authority learned that, on two separate occasions, Appellant loaned her car to acquaintances who, while driving her car, were shot and killed.

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 April 5, 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.

Sgt. Lesia Mims conducted the internal investigation. She testified that Donald Daniels was murdered while driving the Appellant’s vehicle on May 27, 2010. She testified that Mr. Daniels had an arrest record that suggested that the Appellant knew or

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should have known that he had a reputation in the community for present involvement in felonious or criminal behavior.

Sgt. Mims' testimony regarding Elton Fields was similar. She testified that Mr. Fields was murdered while driving the Appellant's vehicle on October 11, 2010. She testified that Mr. Fields had an arrest record, and that the Appellant was aware that Mr. Fields was arrested on at least one occasion for a domestic disturbance involving a woman and another man. Sgt. Mims stated that the Appellant should have known that Mr. Daniels and Mr. Fields were persons with whom she should not have associated.

The Appellant testified that she met both of the victims through the same acquaintance less than a year before they were murdered. On occasion, she gave them rides and loaned them her car. The Appellant stated that she was unaware of the victims' specific arrest records, however she admitted that she was aware that Mr. Fields had previously been arrested and incarcerated for a period of time. Appellant also stated that she should have known about the victims' criminal behaviors.

LEGAL PRECEPTS

An employer cannot discipline an employee who has gained permanent status in the classified city civil service 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 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 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.*

CONCLUSION

The Appointing Authority has established by a preponderance of evidence that it suspended and demoted the Appellant for cause. As stated above, Rule 5; Restricted Activities, paragraph 2 requires the Appellant to avoid associations or dealings with individuals whom they know or should know are racketeers, sexual offenders, suspected felons, persons under criminal investigation or indictment, or have a reputation in the community for present involvement in felonious or criminal behavior. Considering the significant number of arrests that Sgt. Mims uncovered in her investigation, the Appellant's admission, and the totality of the facts and circumstances, we cannot say that the Appointing Authority abused its discretion when determining that the Appellant knew or should have known of their reputations in the community for criminal behavior.

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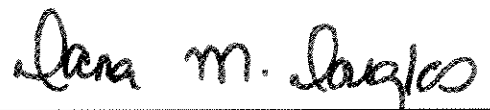
Considering the foregoing, the Appellant's appeal is DENIED.

RENDERED AT NEW ORLEANS, LOUISIANA THIS 20th DAY OF
DECEMBER, 2012.

CITY OF NEW ORLEANS
CIVIL SERVICE COMMISSION


AMY L. GLOVINSKY, COMMISSIONER

CONCUR:


DANA M. DOUGLAS, VICE-CHAIRMAN


JOSEPH S. CLARK, COMMISSIONER