



CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
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CITY CIVIL SERVICE COMMISSION
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JOHN H. KORN, VICE-CHAIRPERSON
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AMY TREPAGNIER
DIRECTOR OF PERSONNEL

Monday, May 13, 2024

Mr. Garland Duplessis

Re: **Garland Duplessis VS.
Juvenile Justice Intervention Center
Docket Number: 9559**

Dear Mr. Duplessis:

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 - 5/13/2024 - 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, Sec.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: Dichelle Williams
Elizabeth A Weigand
Jay Ginsberg
file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

**GARLAND DUPLESSIS,
Appellant**

Docket No. 9559

v.

**JUVENILE JUSTICE INTERVENTION
CENTER,
Appointing Authority**

DECISION

Appellant, Garland Duplessis, brings this appeal pursuant to Article X, § 8(A) of the Louisiana Constitution and this Commission's Rule II, § 4.1 seeking relief from the Juvenile Justice Intervention Center's January 12, 2024, termination of his employment. (Exhibit HE-1). At all relevant times, Appellant had permanent status as a Juvenile Detention Counselor III. (Tr. at 7; Ex. HE-1). A Hearing Examiner, appointed by the Commission, presided over a hearing on March 27, 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 of the incident at issue), the Hearing Examiner's report dated April 30, 2024, and controlling Louisiana law.

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

I. FACTUAL BACKGROUND

On December 15, 2023, Mr. Duplessis used physical force against a youth detainee, after he escorted him from the school to his living quarters. (Tr. at 7). The video in the living quarters shows the youth speaking loudly to Mr. Duplessis before the conflict became physical. (Ex. JJIC-

1). According to Dichelle Williams, the Executive Director of the JJIC, the youth was rapping. (Tr. at 26).

The video evidence offered by the JJIC shows Mr. Duplessis initiating the physical altercation with the youth, although the majority of the altercation between Mr. Duplessis and the youth took place in the youth's bedroom outside the view of the camera. (Tr. at 11; Ex. JJIC-1 at 5:13). Following the altercation, the youth detainee and the living quarters were bloody, according to the photographs taken by Ms. Williams. (Tr. at 15; Ex. JJIC-2). The youth suffered lacerations of his left eye, lacerations of his upper nose area, and cuts and contusions on his head. (Tr. at 17). The youth required medical attention from Children's Hospital. (Tr. at 17).

JJIC policy provides that physical force should be used as a last resort, after all non-physical interventions have failed. (Ex. JJIC-2 at 190-91). In response to verbal statements by the youth, Mr. Duplessis wholly failed to exhaust the non-physical options available to him, including radioing for assistance from other staff. (Tr. at 19). Also, generally, Mr. Duplessis has an obligation to de-escalate conflicts with detainees. (Tr. at 7; Ex. JJIC-2 at 191).

II. ANALYSIS

A. Legal Standard for Commission's Review of Discipline

1. The Appointing Authority must show cause for 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).

2. 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 suspending 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”).

a. Factors considered by Commission

“In determining whether discipline is commensurate with the infraction, the Civil Service Commission considers the nature of the offense as well as the employee’s work record and previous disciplinary record.” *Matusoff v. Dep’t of Fire*, 2019-0932 (La. App. 4 Cir. 5/20/20), 2020 Westlaw 2562940, *writ denied*, 2020-00955 (La. 10/20/20), 303 So. 3d 313. The Commission considers the nature of the offense, the employee’s work ethic, prior disciplinary records, job evaluations, and any grievances filed by the employee.” *Honore v. Dep’t of Pub. Works*, 14-0986, pp. 8-9 (La. App. 4 Cir. 10/29/15), 178 So. 3d 1120, 1131, *writ denied*, 2015-2161 (La. 1/25/16), 185 So. 3d 749.

B. JJIC Has Shown Cause for the Termination of Mr. Duplessis’s Employment

JJIC has shown that Mr. Duplessis, who is charged with supervising youths accused of crimes while they are awaiting trial, initiated physical contact and assaulted a youth under his supervision. Instead of de-escalating the situation or requesting assistance from other staff, Mr. Duplessis assaulted the youth so severely that the room was covered in blood and the youth had to receive medical care for cuts and bruises to his head. According to the video evidence, this assault was in response to verbal statements by the youth. This conduct impairs the efficiency of the JJIC, as the counselors should protect the youths under their supervision from harm and use physical force as a last resort.

1. Termination is an appropriate penalty

Termination of Mr. Duplessis's employment is appropriate because of the nature of the offense. Mr. Duplessis's use of physical force was egregious, causing significant injuries to a youth under his supervision.

Mr. Duplessis's appeal is DENIED.


WRITER:



J H Korn (May 13, 2024 10:07 CDT)

JOHN KORN, VICE-CHAIRPERSON

CONCUR:



Mark Surprenant (May 13, 2024 11:25 EDT)

MARK SURPRENANT, COMMISSIONER



Ruth Davis (May 13, 2024 13:19 CDT)

RUTH DAVIS, COMMISSIONER