



CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
SUITE 900 – 1340 POYDRAS ST.
NEW ORLEANS LA 70112
(504) 658-3500 FAX NO. (504) 658-3598

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

AMY TREPAGNIER
DIRECTOR OF PERSONNEL

Thursday, June 30, 2022

Mr. Lazaro Arce

Re: **Lazaro Arce VS.
Code Enforcement & Hearing Bureau
Docket Number: 9289**

Dear Mr. Arce:

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 - 6/30/2022 - 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, 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: Winston H. Reid
Eraka Williams Delarge
Jim Mullaly
file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

**LAZARO ARCE,
Appellant**

Docket No. 9289

v.

**CODE ENFORCEMENT,
Appointing Authority**

DECISION

Appellant, Lazaro Arce, 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 ten-day suspension imposed on July 1, 2021. (Exhibit HE-1). At all relevant times, Appellant had permanent status as a Senior Code Enforcement Officer II. (Tr. at 8; HE-1). A Hearing Examiner, appointed by the Commission, presided over a hearing on October 28, 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 Hearing Examiner's report dated May 20, 2022, and controlling Louisiana law.

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

I. FACTUAL BACKGROUND

On July 1, 2021, the Director of Code Enforcement informed Mr. Arce of a ten-day suspension for the following conduct:

. . . there was a discussion between Supervisor Alton Sartin, Inspector Warren Rogers and Inspector Kimberley Reid about a case in lama and you walked up and interrupted the conversation. Supervisor Sartin proceeded to advise you that you were rude and asked you to leave. However, you refused to follow a directive, instead displaying unprofessional behavior, responding with foul language, kicking the trash can and challenging Supervisor Sartin to a fight. When Mr. Sartin

attempted to deescalate the situation by getting up and walking away, you then followed him, continuing to display unprofessional behavior . . .

(Ex. HE-1). Mr. Arce admits he raised his voice, but he denies kicking a trash can or threatening Mr. Sartin. (Tr. at 12). Mr. Sartin testified that Mr. Arce interrupted a meeting, using profanity and becoming belligerent. (Tr. at 16). According to Mr. Sartin, Mr. Arce asked Mr. Sartin if he wanted to fight and threatened to “kick my ass.” (Tr. at 19). Kimberly Reid testified that Mr. Arce tried to ask her a question about a magazine, interrupting the meeting led by Mr. Sartin. (Tr. at 31). Ms. Reid further testified that when Mr. Sartin told Mr. Arce he was interrupting the meeting, Mr. Arce began using foul language and asked Mr. Sartin whether he wanted to go outside and fight. (Tr. at 30-31).

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 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).

The Appointing Authority has met its burden of showing the occurrence of the complained-of activity. Two different witnesses described Mr. Arce's conduct of disrupting the workplace by raising his voice to Mr. Sartin and threatening him. A witness called by Mr. Arce testified that Mr. Sartin and Mr. Arce were arguing and that Mr. Arce followed Mr. Sartin to his office. (Tr. at 76). This insubordinate and threatening conduct impaired the efficiency of the Department of Code Enforcement. As the Director testified, the Appointing Authority has an obligation to ensure a safe workplace for its employees. (Tr. at 57).

The undersigned Commissioners find that the penalty is commensurate with the dereliction, as threatening violence in the workplace is a serious offense.

The appeal is DENIED.

This the 30th day of June, 2022.

WRITER:

Ruth White Davis

Ruth Davis (Jun 13, 2022 15:48 CDT)

RUTH DAVIS, COMMISSIONER

CONCUR:

Brittney Richardson

Brittney Richardson (Jun 29, 2022 18:52 CDT)

BRITTNEY RICHARDSON, CHAIRPERSON

J H Korn

J H Korn (Jun 13, 2022 16:00 CDT)

JOHN KORN, VICE-CHAIRPERSON