



# 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

REV. KEVIN W. WILDES, S.J.,  
CHAIRMAN  
JOSEPH S. CLARK  
MICHELLE D. CRAIG  
EDWARD PAUL COHN  
RONALD P. MCCLAIN

MITCHELL J. LANDRIEU  
MAYOR

Tuesday, June 03, 2014

LISA M. HUDSON  
DIRECTOR OF PERSONNEL

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

Re: **Gordon Hewitt VS.  
Department of Police  
Docket Number: 8037**

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 - 6/3/2014 - 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, reading "Germaine Bartholomew".

Germaine Bartholomew  
Chief, Management Services Division

cc: Ronal Serpas  
Shawn Lindsay  
Jay Ginsberg  
Gordon Hewitt

**GORDON HEWITT**

**CIVIL SERVICE COMMISSION**

**VERSUS**

**CITY OF NEW ORLEANS**

**DEPARTMENT OF POLICE**

**NO. 8037**

Gordon Hewitt (“Appellant”) is employed by the Department of Police (“Appointing Authority”) as a Police Officer with permanent status. The Appellant received a sixty-three (63) day suspension for violation of the Appointing Authority’s internal rules concerning Neglect of Duty (60 days), and Instructions from an Authoritative Source (3 days).<sup>1</sup> The factual basis for the violations is contained in the second and third paragraphs of the February 26, 2012 disciplinary letter, which provides as follows:

This investigation determined that on May 9, 2011, approximately 5:51 p.m., while on duty you were dispatched to a call for service at 2501 Elysian Fields Avenue to investigate an incident of a fight. Prior to arriving at the scene you deactivated the police vehicle’s onboard mobile video camera which potentially eliminated the recording of possible witnesses or wanted subjects on the scene. You failed to follow departmental policy relative to the mobile video camera system. You admitted to manually stopping the mobile video recording system prior to your arrival at the scene.

Additionally, you marked up the item as a medical call with a disposition of N.A.T. (Necessary Action Taken), however, the victim died at a local hospital. The Coroner’s Office classified the death as a homicide. You did not thoroughly interview and make critical observations in an investigative situation. You failed to take appropriate and necessary police action while assigned to the call for service. As such, you violated Rule 4:Performance of Duty, paragraph 2 – Instructions from an Authoritative Source to wit: Chapter 17.6 Mobile Video Cameras, paragraph 1 and Rule 4: Performance of Duty, Paragraph 4 – Neglect of Duty to wit: – failing to take appropriate police action.

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

---

<sup>1</sup> The Appellant received an enhanced penalty for the Neglect of Duty violation because it was his second violation within a twenty-four month period. The enhanced penalty is within the penalty guidelines.

hearing was held on March 28, 2013. 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.

Many of the facts are not in dispute as reflected in the following stipulations offered by the parties:

- (1) Officer Gordon Hewitt was dispatched to investigate a priority Code 2, Signal 103F, fight, on May 9, 2011, at approximately 1750 hours 5:50 p.m., at 2501 Elysian Fields Avenue.
- (2) The death of the beating victim, Mr. James Wakefield, was ruled a homicide by the coroner's office.
- (3) The coroner's office conducted an autopsy and the coroner classified the victim's death as a homicide, ruling that the victim was beaten to death.
- (4) The coroner diagnosed multiple blunt trauma injuries as follows:
  - a. Right temporal subgaleal hemorrhage;
  - b. Rib Fractures;
  - c. Splenic Lacerations
  - d. Hemoperitoneum;
  - e. Pale Viscera;
  - f. Cerebral Edema;
  - g. Contusions of Abdomen; and
  - h. Periorbital Ecchymoses and Edema
- (5) On May 9, 2011, at approximately 5:51 p.m., while on duty, Officer Hewett was dispatched to a call at 2501 Elysian Fields Avenue to investigate an incident of a fight. Prior to arriving at the scene, Officer Hewett deactivated the police vehicle's onboard mobile video camera which potentially eliminated one recording of possible witnesses or wanted subjects at the scene;
- (6) The New Orleans Fire Department Fire Incident Report No. 2011-9931-000 and the New Orleans Fire Department first responder report Number 9931 are the records that were maintained by the New Orleans Fire Department relative to the incident on May 9, 2011, which forms the subject matter of the present Civil Service Hearing concerning Officer Gordon Hewitt.

From the testimony of Firefighter George Recall, Jr., and Paramedic Susan Robinson, it appears that there was no apparent evidence on the scene to suggest that Mr. Wakefield was involved in a fight. It was only after reviewing the coroner's autopsy report detailing the victim's internal injuries that the Appointing Authority learned the cause of Mr. Wakefield's condition on the scene and his subsequent death.<sup>2</sup> The Appellant arrived after the Fire Department and EMS. Shortly thereafter, as the victim was transported from the scene, the Appellant changed the signal for the incident from a fight to a medical call. He did no further investigation and marked the matter "NAT" (Necessary Action Taken). A homicide investigation was not initiated until after the issuance of the coroner's report.

Sgt. Arlen Barnes of the Public Integrity Bureau (PIB) conducted the internal investigation and sustained violations of Neglect of Duty and Instructions from an Authoritative Source. He testified that during the interview the Appellant acknowledged interviewing one person only, who told the Appellant that the victim was in bad health, had too much to drink, and fell down. According to Sgt. Barnes, the Appellant defended his actions by saying that he made a judgment call based upon what he observed on the scene.<sup>3</sup>

Sgt. Barnes testified that the Appellant should have investigated the complaint that the 911 operator received and dispatched to him stating that the victim was a party to a fight. Sgt. Barnes also stated that the Appellant should have reviewed the information that was forwarded to him by the dispatcher, which included a description of the parties

---

<sup>2</sup> The victim was unconscious and in grave condition when examined on the scene.

<sup>3</sup> The victim was apparently a homeless man who was discovered in the median of a street where homeless people panhandle.

to the fight. It was Sgt. Barnes judgment that if the Appellant had reviewed this information, he may have identified the perpetrator and questioned other witnesses regarding what occurred. Finally, according to Sgt. Barnes, the Appellant should have notified his supervisor before changing the signal to a medical call.

The Appellant did not testify or call any witnesses.

#### 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 the occurrence of the complained of activity by a preponderance of the evidence 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

G. Hewitt  
#8037

efficient operation of the public service. *Id.* While these facts must be clearly established, they need not be established beyond a reasonable doubt. *Id.*

CONCLUSIONS

The Appointing Authority has established by a preponderance of evidence that it disciplined the Appellant for good cause. The Appellant should have taken more time on the scene and conducted a more thorough investigation beyond speaking to a single individual. Had the Appellant reviewed the available information provided prior to changing the signal, he may well have identified the individual who committed the crime, identified potential suspects, or, at the very least, obtained information that could have assisted in further investigation. Further, the Appellant offered no explanation as to why he turned off his video camera.

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

RENDERED AT NEW ORLEANS, LOUISIANA THIS 3rd DAY OF

June, 2014.

CITY OF NEW ORLEANS  
CIVIL SERVICE COMMISSION

  
MICHELLE D. CRAIG, COMMISSIONER

CONCUR:

  
REV. KEVIN W. WILDES, S.J., CHAIRMAN

  
JOSEPH S. CLARK, COMMISSIONER