



# CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE  
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CITY CIVIL SERVICE COMMISSION

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MAYOR

Thursday, November 5, 2020

LISA M. HUDSON  
DIRECTOR OF PERSONNEL

Ms. Alana Jones

Re: **Alana Jones VS.  
Sewerage & Water Board  
Docket Number: 8897**

Dear Ms. Jones:

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 - 11/5/2020 - 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,

Doddie K. Smith  
Chief, Management Services Division

cc: Ghassan Korban  
Ashley Ian Smith  
Brendan M. Greene  
file

**CIVIL SERVICE COMMISSION**  
**CITY OF NEW ORLEANS**

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ALANA JONES,  
Appellant

vs.

DOCKET NO. 8897

SEWERAGE & WATER BOARD,  
Appointing Authority

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**I. INTRODUCTION**

Appellant, Alana Jones (hereinafter “Appellant”), brings the instant appeal pursuant to Article X, §8(A) of the Louisiana Constitution and this Commission's Rule II, §4.1, asking this Commission to find that the Sewerage & Water Board (hereinafter "Appointing Authority") did not have sufficient cause to discipline her. At all times relevant to the instant appeal, Appellant served as an Administrative Support Supervisor II and has permanent status as a classified employee.

By letter dated January 16, 2019, the Appointing Authority notified the Appellant of its decision to issue a letter of reprimand after determining that she violated Sewerage & Water Board Memorandum No. 6 – Professional Conduct by participating and encouraging other employees to participate in workplace conduct that was videoed and posted on Facebook.

A Hearing Examiner appointed by the Commission presided over a hearing during which both Parties had an opportunity to call witnesses and present evidence. The Hearing

Examiner prepared a report and recommendation based upon the testimony and evidence in the record. The undersigned Commissioners have reviewed the transcript and exhibits from this hearing as well as the Hearing Examiner's report. Based upon our review, we DENY the appeal and render the following judgment.

## II. FACTUAL BACKGROUND

The conduct for which the Appointing Authority disciplined the Appellant is found in the third paragraph of the January 16, 2019 disciplinary letter, which provides:

On Friday, January 11, 2019, at approximately 1 p.m. you participated in behavior that is in direct violation of SWBNO's Memorandum No. 6 – Professional Conduct. You and your subordinates were witnessed in a video, which was posted on Facebook, dancing to loud and profane music while on the clock in the modular trailers located at the Central Yard...

(Hearing Examiner Exhibit 1).

The above-described incident occurred in the trailer that houses the Equipment Maintenance Information System (EMIS) Department. Those individuals employed in the department perform administrative responsibilities regarding documentation of materials and equipment used by the Board. The Appellant is employed as the department supervisor. (Transcript pp. 26:22 – 27:07).

The Appellant's testimony is consistent with the above-quoted factual portions of the letter of reprimand. The Appellant acknowledges that one of her subordinates posted on her public Facebook site a short video of the Appellant and her subordinates dancing in the workplace during work hours to a song celebrating the New Orleans Saints. The song, titled "Choppa Style", contains sexually suggestive lyrics. (Transcript pp. 29:22 – 31:05).

### III. LEGAL STANDARD

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 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, from 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 that the complained of activity occurred 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.*

### IV. ANALYSIS

The Appellant testified that they decided to make the video for fun to celebrate the Saints and as a morale booster. She stated that it was in line with the celebrating occurring at that time due to the success of the Saints and that she and her staff were simply joining in the fun. (Transcript pp. 29:22 – 31:05).

The Appointing Authority, through their witnesses Terrance Wills, Assistant Director of Support Services, and John Wilson, the Director of Support Services, testified that the Board has a public image problem it is trying to improve. The behavior reflected in the video was unprofessional and, as the supervisor, the Appellant was responsible. (Transcript pp. 58:13- 59:15; pp. 65:04 – 66:03).

**A. Was there Cause for Disciplinary Action**

The Appointing Authority has established by a preponderance of evidence that the Appellant participated and encouraged other employees to participate in unprofessional conduct that took place at the workplace during work hours, which was videoed and posted on Facebook. Viewed by the public, the video can give the impression that the Sewerage & Water Board is not a serious operation, and that its employees are having parties instead of working. Such conduct portrays the Appointing Authority in a negative light and consequently impairs the efficient operation of the agency.

As a result of the above finding of fact, the Commission finds that the Appellant violated CAO Policy Memorandum No. 6.

**B. Was the Discipline Commensurate with Appellant's Offense**

In conducting its analysis, the Commission must determine if Appellant's discipline was "commensurate with the dereliction". Otherwise, the discipline would be "arbitrary and capricious." *Waguespack v. Dep't of Police*, 2012-1691 (La. App. 4 Cir. 6/26/13, 5); 119 So.3d 976, 978 (citing *Staehle v. Dept. of Police*, 98-0216 (La. App. 4 Cir. 11/18/98), 723 So.2d 1031, 1033).

A reprimand is a form of discipline and serves to place an employee on notice that certain behavior is prohibited. While the Appellant believed that she was acting with good intentions in

support of her subordinates, she is the supervisor and is responsible when good intentions go awry. Good intentions do not outweigh poor judgment. Consequently, we find this penalty to be commensurate with the violation.

**V. CONCLUSION**

As a result of the above findings of fact and law, the Commission hereby DENIES the Appellant's appeal.

Judgment rendered this 5<sup>th</sup> day of November, 2020.

CITY OF NEW ORLEANS CIVIL SERVICE COMMISSION

WRITER:

Mark C. Surprenant

Mark C. Surprenant (Oct 27, 2020 12:11 EDT)

MARK SURPRENANT, COMMISSIONER

CONCUR:

CJ Moore

CJ Moore (Nov 5, 2020 11:17 CST)

CLIFTON J. MOORE, JR., VICE-CHAIRMAN

J H Korn

J H Korn (Oct 27, 2020 17:10 CDT)

JOHN KORN, COMMISSIONER