



POLICE DEPARTMENT

March 5, 2024

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In the Matter of the Charges and Specifications :  
- against - :  
Sergeant Michael Farrell :  
Tax Registry No. 948952 :  
Warrants Section :  
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Case No.

2022-27573

At: Police Headquarters  
One Police Plaza  
New York, NY 10038

Before: Honorable Vanessa Facio-Lince  
Assistant Deputy Commissioner Trials

APPEARANCES:

For the CCRB-APU: Deanna Everett-Johnson, Esq.  
Civilian Complaint Review Board  
100 Church Street, 10<sup>th</sup> Floor  
New York, NY 10007

For the Respondent: Matthew Schieffer, Esq.  
Karasyk & Moschella, LLP  
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To:

HONORABLE EDWARD A. CABAN  
POLICE COMMISSIONER  
ONE POLICE PLAZA  
NEW YORK, NY 10038

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## CHARGES AND SPECIFICATIONS

1. Sergeant Michael Farrell, on or about August 25, 2021, at approximately 0212 hours, while assigned to the Warrants Section and on duty, in the vicinity of Sutter Avenue and Powell Street, Kings County, abused his authority as a member of the New York City Police Department, in that he authorized a strip search of Tony Jones without sufficient legal authority. (*As amended*)

P.G. 208-05, Page 3, Paragraph C(1)

ARRESTS – GENERAL  
SEARCH GUIDELINES

## REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on February 1, 2024. Respondent, through his counsel, entered a plea of Not Guilty. The CCRB called complainant Tony Jones. Respondent testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having evaluated all of the evidence in this matter, the Tribunal finds Respondent Not Guilty.

## SUMMARY OF EVIDENCE PRESENTED

This case stems from a strip search of the complainant, Tony Jones that was conducted inside of the 73 precinct on August 25, 2021 at the Respondent's behest. Here, there is no dispute that Respondent authorized the strip search, and that Mr. Jones was, in fact, strip searched by another uniformed member of service. The issue in this case is whether Respondent authorized the strip search of Tony Jones without sufficient legal authority. Having reviewed all the evidence presented at trial, this Tribunal finds, for the reasons set forth below, that CCRB did not meet its burden of demonstrating by a preponderance of the credible evidence that Respondent's actions constitute actionable misconduct.

Tony Jones testified that on August 25, 2021 at approximately 1:57 a.m., he was on the sidewalk at Sutter Avenue and Powell Street locking his “bike”<sup>1</sup> and having a conversation with his friend, Isaiah Solomon. Mr. Jones recalled officers in an unmarked police vehicle pulling up onto the sidewalk where he and Mr. Solomon were speaking. He recalled two to three officers exiting the unmarked police vehicle and approaching them on the sidewalk. According to Mr. Jones’ testimony, one of the officers approached and started asking questions about his motorcycle, suggesting it was stolen because they were getting complaints about stolen bikes in the area. (Tr. 25-26, 30-31) Mr. Jones informed the officer that he had identification and documents to show that he was the legal owner of the motorcycle. He further testified that when attempting to walk away from the officers to retrieve the paperwork, one of the officers grabbed him. (Tr. 32-33) Mr. Jones described his physical encounter with police as follows: “they tussled me down to the ground, and I think more guys came. It was about eight of them at this time. They came with mask [sic], and they slammed me down to the ground and put their knee on my back. They had their knee in my neck like this sideways, and their knees on my back, in my upper back and my lower back.” (Tr. 33)

Mr. Jones acknowledged at trial that the officers recovered a firearm inside his undergarments and subsequently took him to the 73 precinct to be processed. Mr. Jones claimed that he was verbally “tormented” by the officers who were processing his arrest when he asked for medical attention prior to being striped searched at the precinct. (Tr. 34) He later clarified that the officers he was referring to were Officer Fowler and his partner, Officer Kerr. (Tr. 37)<sup>2</sup>

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<sup>1</sup> Tony Jones referred to his motorcycle as a “bike” at the hearing, but in his CCRB interview (CCRB Ex. 9A) he clarified that it was a “49CC Dongfang” motorcycle.

<sup>2</sup> It is worth noting that Officer Fowler’s body-worn camera footage captures the interactions had between the officers and Mr. Jones on the way to the precinct. (CCRB Ex. 3 at 3:37-5:40) On the footage, Mr. Jones asks the officers, what he did wrong and the officers respond that he had a gun on him. Mr. Jones then spontaneously stated that he “just picked it up at a baby shower in East New York” and that “it (the gun) was in the grass in a bag.” (*Id.* at 3:40) There

At trial, Mr. Jones was asked where he was prior to being stopped by police on the street. He claimed that he was “at the park working out” when he observed a bag with a firearm inside on the ground near the area where he was doing inclines. (Tr. 42) Mr. Jones testified that he picked up the firearm to avoid any children finding it. He further stated that his intention was either “to take it and get money for it” or give it to relatives in the police department who “know what to do or dispose of it.” When asked why he did not advise the officers that stopped him on the street that he had a firearm, he responded: “Because I would have got killed.” (Tr. 43)

Mr. Jones testified that he was searched at least twice (once at the scene and once at the precinct in front of the desk sergeant) before the strip search was conducted. (Tr. 39) His testimony on this issue was corroborated by Officer Aquino’s BWC footage (CCRB Ex. 5) and Officer Fowler’s BWC. (CCRB Ex. 3) Mr. Jones stated that when he was searched in front of the desk sergeant (Respondent) at the precinct, the officers recovered approximately eight-hundred dollars (\$800) on him, which he received from “unemployment pay.” He also stated that he had “a Rolex watch, chains, it’s just-- I have vehicles. It’s just what I have. I work.” (Tr. 44) While at the desk, Mr. Jones was asked by Respondent if he needed medical attention and he responded in the affirmative, stating that he “thinks he has Covid.” (CCRB Ex. 3 at 13:52)

Respondent authorized the strip search and Mr. Jones was escorted by Officers Fowler and Kerr to a different area of the precinct. According to Mr. Jones, the officers conducting the strip search ordered him to “go in a cell and open my butt cheeks and spread them and bend over and cough.” He added that this search made him feel “less than a man.” (Tr. 44-46; CCRB Ex. 4)

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was no evidence of Mr. Jones being “bullied” or “tormented” during his interactions with police prior to his arrival at the precinct. Mr. Jones also does not mention on BWC finding the gun at a park while working out as he testified in court.

After the strip search, as per Mr. Jones' testimony, he was taken to Interfaith Hospital where he learned that he had "broken ribs, collapsed lung and a broken pneumothorax." (Tr. 45) He subsequently commenced a lawsuit against the City of New York. Mr. Jones testified that as of the date of this trial, the lawsuit was resolved by a settlement.

Respondent's testimony regarding the facts of what occurred on the date in question are substantially similar to Mr. Jones' version of events. Most significantly, he confirmed authorizing the strip search of Mr. Jones. The main difference lies in Respondent's perception of Mr. Jones' actions on August 25, 2021 which, coupled with his prior experience and training, led him to conclude that a strip search was appropriate under the circumstances.

Respondent testified that he began his career with the Department, 14 years ago, as an officer in the 81 precinct. He then "worked his way up to Specialty Units, became a plainclothes anticrime officer, then was transferred to narcotics where he became a detective, then was promoted to sergeant when he went to Brownsville." (Tr. 50) At the time of this incident, he was working in his capacity as a public safety sergeant.

When asked to describe the location in Brooklyn where this incident occurred, Respondent testified that there is a housing development with a shopping center across the street known to be a "high narcotic prone location." He also added that "the housing development had some gang violence with some shootings in the past." (Tr. 51) While on patrol in that area, Respondent testified that he observed an individual (later identified as Tony Jones) sitting on a motorcycle on a sidewalk. At the time, the motorcycle was on the sidewalk and Respondent testified that he could not see whether or not it had a license plate properly affixed to it.<sup>3</sup> Based

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<sup>3</sup> It was later confirmed by Respondent that Tony Jones' motorcycle did not have a license plate affixed to it.

upon this perceived vehicle and traffic infraction, Respondent testified that he and his partner, Sergeant Hui, decided to further investigate. (Tr. 64-65)

Respondent testified that he approached Mr. Jones and requested identification. He also informed Mr. Jones about the precinct condition regarding stolen bikes. Mr. Jones claimed ownership of the motorcycle and he asked to go get his ID. According to Respondent, that is when Mr. Jones attempted to run. (Tr. 53) Respondent testified that he and his partner managed to grab ahold of Mr. Jones' wrist and took him down to the ground with minimal force.

While on the ground, Respondent recalled that Mr. Jones refused to give his hands and was reaching towards his waistband and undergarment area. Once they were able to get Mr. Jones in custody and bring him to his feet, they tried to pat him down. According to Respondent, Mr. Jones was turning his body away from him, but facing Sergeant Hui and another officer. That is when, according to Respondent, "they said they observed the firearm, at which point they had to turn out his pants, turn out the undergarment, to retrieve the firearm. And Officer Kerr put on a glove to retrieve the firearm." (Tr. 54-55) Respondent testified that Mr. Jones was searched again before being placed into the RMP and transported to the precinct.

At the precinct, Respondent testified that he "assumed the role of desk officer for the lodging" of Mr. Jones because it was his team that effected the arrest. Mr. Jones was brought before Respondent to provide his pedigree information and have his property vouchered. At that time, Respondent observed that Mr. Jones had a large amount of money in small denominations. Respondent also recalled asking Mr. Jones whether he needed medical attention because he began complaining that he was feeling unwell. Mr. Jones indicated that he did need medical attention and Respondent "authorized" Officer Fowler to go to the back cells to perform a strip search (Tr. 56-58)



Respondent was asked why he authorized a strip search in this particular instance and he replied:

The strip search, I authorized it in this incident because of the stop when he was violently resisting arrest, I felt like he was reaching towards his waistband. The firearm was recovered inside shorts in his undergarment. A large amount of money, in my experience with working as a narcotics detective in that area, it could mean that there's narcotics. It could mean that there's another weapon. Ultimately, for the safety of everyone that's involved, I thought it was -- since he's going to the hospital, if something was to happen, you know, I'd rather make the decision to do the proper conductive search, so nobody else gets hurt. (Tr. 60)

On cross examination, Respondent was questioned about the number of times Mr. Jones was searched before being strip searched and whether any contraband was found (aside from the firearm recovered at the initial search). Respondent replied that Mr. Jones was "patted down" on scene before he was transported in the RMP and then he was checked again at the desk. (Tr. 72) Respondent also testified that he did not have any prior knowledge of Mr. Jones prior to this incident, that he was cooperative once he was in custody, and that as far as he was aware, Mr. Jones had not made a furtive movements to indicate the presence of other contraband on his person. However, Respondent reiterated that "the actions on the scene are what led me to authorize the strip search." (Tr. 77)

## FINDINGS AND ANALYSIS

The issue in this case is whether Respondent authorized the strip search of Mr. Jones without sufficient legal authority. NYPD Patrol Guide section 208-05 defines a strip search as:

Any search in which an individual's undergarments (e.g., bra, underwear, etc.) and/or private areas are exposed or in which an individual's clothing is removed, lifted up, or pulled down to expose undergarments or private areas. A strip search of a prisoner may not be conducted routinely in connection with an arrest. Strip searches may only be conducted with the knowledge and approval of the arresting officer's immediate supervisor or the borough Court Section supervisor. A strip search may only be conducted when the arresting officer reasonably suspects that weapons, contraband, or evidence may be concealed upon the person or in the clothing in such a manner that they may not be discovered by the previous search methods.

The Patrol Guide also lists factors that a supervisor should consider in determining whether a strip search should be authorized, including: "the nature of the crime (i.e., serious violent felony); arrest circumstances; subject's reputation (i.e., extremely violent person), acts of violence, unaccounted "hits" on magnetometers or walk-through metal detectors, and any discoveries or information from previous searches of the same individual or others arrested with him/her."

Here, there is no dispute that Respondent authorized the strip search of Tony Jones. While there are credibility issues connected with Tony Jones, based on dubious statements he made about what he was doing before being stopped and how he came to be in possession of the firearm and money that was recovered on his person; those credibility concerns have little bearing on the ultimate issue in this case, which centers on whether Respondent had a sufficient basis, in accordance with the law and Patrol Guide, for authorizing the strip search. The Court finds that based upon the credible evidence adduced at trial, that Respondent had a reasonable basis to authorize the strip search and as such, his decision does not constitute misconduct.

In assessing whether Respondent acted reasonably in authorizing the strip search, the focus is on what information Respondent possessed at the time he made his decision. Unlike in circumstances where the supervisor of the arresting officer must determine if a strip search should be conducted based upon facts conveyed by the arresting officer, here, the Respondent relied on his own observations and personal experience to make this assessment. Respondent was detailed and consistent in his testimony, answered questions logically and the Court credits his account of what happened that day.

According to Respondent, he observed Tony Jones sitting on motorcycle parked on a sidewalk (a violation of the Vehicle and Traffic Law) late at night, in a high crime, drug-prone



location. Mr. Jones attempt to flee the police shortly after they questioned him about his ownership of the motorcycle. These facts coupled with his "violently resisting arrest" and "reaching towards his waistband," heightened Respondent's suspicion. (Tr. 60) A subsequent search of Mr. Jones at the scene yielded a firearm concealed in his undergarments. Once at the precinct, Respondent observed that Mr. Jones was in possession of a large amount of money in small denominations. This observation further fueled Respondent's suspicion that Mr. Jones may be concealing other contraband not discovered during a routine "pat-down." Finally, when Mr. Jones requested medical attention, Respondent determined that a number of safety issues legally justified a strip search. In making that decision. Respondent stated:

Well, if you're going to a hospital, you need to be searched thoroughly. You're also escorted to the hospital by usually a junior officer, so they're not experienced in what to look for. The hospital is also -- when they're in a bed, the doctor need[s] to treat them, and we have one cuff on them. It's very easy for them to discard evidence. I've had numerous incidents in the past where perps have tried to discreet [sic] stuff in the hospital, you know. (Tr. 58-59)

CCRB contends that Respondent's approval of a strip search did not meet the legal threshold for authorization because he did not have reasonable suspicion to believe that Mr. Jones was concealing contraband. According to the CCRB, the fact that a firearm was recovered from Mr. Jones and the fact that he had approximately \$800 in cash was an insufficient basis for authorizing a strip search. In summation, CCRB relied on the case of *People v. Hall*, 10 N.Y.3d 303, a 2008 decision in which the NY Court of Appeals determined that "there must be particular, individualized facts known to the police that justify subjecting an arrestee to a strip search." Moreover, in the *Hall* case, the search was deemed constitutionally valid because "the particular facts, viewed objectively and in their totality, provided the police with reasonable suspicion that defendant had drugs secreted underneath his clothing and possibly in his body."

*Id.* at 312. This Tribunal finds that applying the same standard to this case, Respondent provided sufficient specific and articulable facts to support his authorization of the strip search.

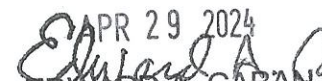
Having carefully reviewed the evidence presented at trial and taking into account the entirety of the information known to Respondent at the time he authorized the strip search, this Tribunal finds Respondent's actions reasonable and lawful. Viewing the particular facts expressed by Respondent objectively and in their totality, in conjunction with the guidance articulated in the Patrol Guide, there is ample support for Respondent's decision. The evidence suggests that in reaching his decision to authorize the strip search, Respondent relied on his own experience and specialized training in narcotics to make informed inferences about the personal observations he made regarding Mr. Jones on the night in question. He also gave thoughtful consideration to the fact that Mr. Jones would be receiving medical attention at a hospital and a thorough search of his person was necessary to ensure everyone's safety. Accordingly, based upon the foregoing, Respondent is found Not Guilty.

Respectfully submitted,



Vanessa Facio-Lince  
Assistant Deputy Commissioner Trials

**APPROVED**

APR 29 2024  
  
EDWARD A. CABAN  
POLICE COMMISSIONER