



POLICE DEPARTMENT

December 17, 2012

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Joseph Caravella
Tax Registry No. 940979
75 Precinct
Disciplinary Case No. 2011-5103

The above-named member of the Department appeared before me on November 28, 2012, charged with the following:

1. Said Police Officer Joseph Caravella, assigned to the 75th Precinct, while on-duty, on or about June 16, 2011, within the confines of the 84th Precinct, in Kings County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that said Officer lost a prisoner, known to this Department, resulting in said prisoner's escape.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

The Department was represented by Daniel Maurer, Esq., Department Advocate's Office, and Respondent was represented by Michael Martinez, Esq.

Respondent, through his counsel, entered a plea of Guilty to the subject charge and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent, having pleaded Guilty, is found Guilty.

SUMMARY OF EVIDENCE PRESENTED IN MITIGATION

Respondent, who is assigned to the 75 Precinct, recalled that at roll call on June 16, 2011, he and Police Officer Nazir Abdul were assigned, as they often were, to jointly perform prisoner escort duty. Specifically, they were assigned to transport a total of ten prisoners, who were handcuffed to each other in a "daisy chain," inside a Department van to Kings County Criminal Court (Criminal Court). Eight of these prisoners were men and two were women.

After arriving at the Criminal Court intake area, which is located across the street from the Criminal Court building on Schermerhorn Street, Brooklyn, the two women were detached from the eight male prisoners for processing. Two of the eight male prisoners were then detached from the chain after they were designated as "medical walk-throughs." Since an officer had to stay with these two prisoners, Respondent and Abdul agreed that Abdul would escort the two "medical walk-through" prisoners. Two of the remaining six male prisoners were also detached from the chain and were lodged with the Department of Corrections.

Respondent was now alone with the remaining four male prisoners. He escorted these four prisoners, who had all been arrested on outstanding warrants, through a tunnel which connects the Criminal Court intake area with the Criminal Court building. He proceeded with the prisoners into the Clerk's Office and confirmed the validity of their warrants. When he escorted the four prisoners out of the Clerk's Office and into a hallway, he walked in front of the prisoners in order to lead them in the correct direction to where the prisoners' elevator was located. When they reached the elevator door, he noticed that there were only three prisoners chained together behind him and that one was missing.

Since he knew that the missing prisoner had managed to slip out of his handcuff only seconds before and since he anticipated that the escapee would attempt to flee the building through the door in the lobby of the court house, he brought the three prisoners with him as he quickly walked to the lobby of the court house. In the lobby, he saw three Court Officers. One told him that he had just seen a man who appeared to be a just-released prisoner leaving the building. Since Respondent anticipated that the escapee would head directly to the nearest subway station, Respondent requested that the Court Officers watch his three prisoners for him so that he could pursue and recapture the escapee. When the Court Officers refused, Respondent was left with no choice but to forgo the pursuit because he had to stay with his three remaining prisoners. Respondent immediately informed a sergeant that one of his prisoners had escaped and the sergeant promptly made all of the notifications that are required to be made when a prisoner has escaped from custody. Respondent was immediately suspended from duty.

Respondent testified that he subsequently suffered sleepless nights, due to his concern that the escapee might commit a violent crime and hurt or possibly even kill someone, until the escapee was arrested four days later during a sweep conducted within the confines of the 73 Precinct. [The Assistant Department Advocate (the Advocate) stated that, as far as the Department is aware, the escapee did not commit any crimes during the four day period between his escape and his recapture.]

Respondent was restored to full duty on June 29, 2011. Since his restoration, he has been assigned on numerous occasions to perform prisoner escort duties and none of these other prisoners has escaped from custody.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 N.Y. 2d 222 (1974).

Respondent was appointed to the Department on January 31, 2006. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent has pleaded guilty to having lost a prisoner which resulted in the prisoner's escape. The Advocate recommended that Respondent forfeit the 13 days he served on suspension and that he also forfeit seven vacation days for a total penalty forfeiture of 20 days. In support of his penalty recommendation, the Advocate cited the 20 vacation day penalties imposed on two three-year officers who were partners and who pleaded guilty to having jointly failed to safeguard a prisoner who escaped from the rear of their Radio Motor Patrol car. *Case Nos. 2011-5519 and 2011-5521* (March 26, 2012).

The Advocate also cited *Case No. 2010-3179* (April 25, 2011) where a 22-year detective pleaded guilty to failing to safeguard a prisoner resulting in the escape of the prisoner. However, in that case, unlike here, the prisoner was able to escape by driving off in a Department car because the detective had left the key in the car's ignition. Also, in that case the 20 day penalty imposed on the detective consisted of time already served on suspension.

The Advocate's argument that 20-day penalties have consistently been imposed in recent cases where Uniformed Members of the Service (UMOS) have pleaded guilty solely to the charge of having lost a prisoner which resulted in the prisoner's escape is contradicted by the following cases: *Case No. 2010-3061* (Jan. 2, 2012), where a six-year UMOS with no prior disciplinary record forfeited ten vacation days after pleading

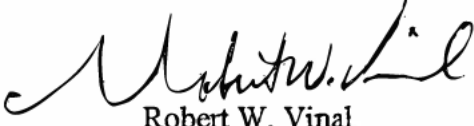
guilty to failing to keep constant observation of an arrestee resulting in the arrestee's escape and failing to make an immediate radio transmission after becoming aware of the escape; and *Case No. 2011-5052* (April 24, 2012), where a 20-year UMOS with no prior disciplinary history forfeited 16 pre-trial suspension days for failing to ensure that that a prisoner was assigned a guarding officer which resulted in the prisoner escaping.

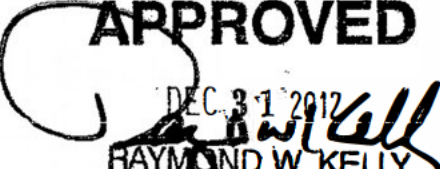
Finally, in *Case No. 2010-3382* (May 15, 2012), a 12-year UMOS with no prior disciplinary record forfeited 15 pre-trial suspension days and five vacation days for failing to keep a hospitalized prisoner under constant surveillance which resulted in the prisoner's escape. However, in that case, unlike here, the UMOS had removed the prisoner's handcuffs.

I believe that the imposition of a less-than-20-day penalty is justified here because Respondent took full personal responsibility for the loss of the prisoner, because it is not disputed that Respondent immediately attempted to recapture the prisoner, and because I credit Respondent's sincere testimony that he suffered sleepless nights because of his concern that the escapee might harm someone. The Department does not dispute that the prisoner's escape from custody did not result in any adverse consequences. I have also taken into consideration Respondent's lack of any prior disciplinary record (see attached Confidential Memorandum).

It is recommended that Respondent forfeit the 13 days he has already served on suspension.

Respectfully submitted,


Robert W. Vinal
Assistant Deputy Commissioner - Trials

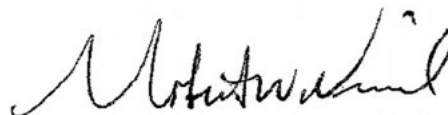

APPROVED
DEC 31 2012
RAYMOND W. KELLY
POLICE COMMISSIONER

POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner - Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER JOSEPH CARAVELLA
TAX REGISTRY NO. 940979
DISCIPLINARY CASE NO. 2011-5103

Respondent received an overall rating of 3.0 on his 2011 annual performance evaluation, 3.0 on his 2010 evaluation, and 3.0 on his 2009 evaluation. He has no medals. [REDACTED] He has no prior formal disciplinary record. He was on suspension monitoring from June 16, 2011 until June 29, 2011.

For your consideration.



Robert W. Vinal
Assistant Deputy Commissioner – Trials