



OFFICE OF THE POLICE COMMISSIONER
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January 14, 2019

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Michael Johnson**
Tax Registry No. 957715
Detective Borough Bronx
Disciplinary Case No. 2017-17071

Police Officer Susana Ventura
Tax Registry No. 955637
46th Precinct
Disciplinary Case Nos. 2016-16784 & 2017-17072

The above named member of the service appeared before Assistant Deputy Commissioner Paul M. Gamble on June 8th, June 25th, July 31st, and September 14th, 2018, and was charged with the following:

DISCIPLINARY CASE NO. 2017-17071

1. Said Police Officer Michael Johnson, while assigned to the 46th Precinct, on or about January 11, 2017, wrongfully was absent from said assignment, without permission or police necessity, and engaged in personal activities unrelated to official Department business.

P.G. 203-05, Page 1, Paragraph 2

**PERFORMANCE ON DUTY -
GENERAL**

2. Said Police Officer Michael Johnson, while assigned to the 46th Precinct, on or about January 11, 2017, wrongfully used a Department vehicle for an unauthorized purpose, in that said Police Officer drove said vehicle or allowed said vehicle to be used for personal or other non-Department business.

P.G. 203-06, Page 2, Paragraph 15

**PERFORMANCE ON DUTY -
PROHIBITED CONDUCT**

3. Said Police Officer Michael Johnson, while assigned to the 46th Precinct, on or about January 11, 2017, while on duty, wrongfully failed and neglected to make required entries in his Activity Log, as required.

P.G. 212-08, Page 1, Paragraph 1

ACTIVITY LOGS

POLICE OFFICER MICHAEL JOHNSON
POLICE OFFICER SUSANA VENTURA

DISCIPLINARY CASE NO. 2017-17071
DISCIPLINARY CASE NOS. 2016-16784, 2017-17072

4. Said Police Officer Michael Johnson, while assigned to the 46th Precinct, on or about January 11, 2017, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer improperly attempted to obtain preferential treatment for a parking summons that had been issued to him.

P.G. 203-09, Page 1, Paragraph 1

PUBLIC CONTACT - GENERAL

5. Said Police Officer Michael Johnson, while assigned to the 46th Precinct, on or about January 11, 2017, while on duty, failed to render all necessary police service in a timely fashion.

P.G. 202-21, Page 1, Paragraph 8

POLICE OFFICER

6. Said Police Officer Michael Johnson, while assigned to the 46th Precinct, on or about January 11, 2017, wrongfully displayed his Department traffic vest on the dashboard of his private vehicle while it was improperly parked next to a fire hydrant in Bronx County.

P.G. 203-10, Page 3, Paragraph 20

**PUBLIC CONTACT -
PROHIBITED CONDUCT
PUBLIC CONTACT -
PROHIBITED CONDUCT**

P.G. 203-10, Page 1, Paragraph 5

DISCIPLINARY CASE NO. 2016-16784

1. Said Police Officer Susana Ventura, assigned to the 46th Precinct, while on duty, on or about November 10, 2016, after having been notified to appear at a Traffic Violations Bureau hearing, failed to appear, resulting in the dismissal of two (2) summonses.

P.G. 211-01, Page 1-2

**DUTIES AND CONDUCT IN
COURT**

DISCIPLINARY CASE NO. 2017-17072

1. Said Police Officer Susana Ventura, while assigned to the 46th Precinct, on or about January 11, 2017, wrongfully was absent from said assignment, without permission or police necessity, and engaged in personal activities unrelated to official Department business.

P.G. 203-05, Page 1, Paragraph 2

**PERFORMANCE ON DUTY -
GENERAL**

2. Said Police Officer Susana Ventura, while assigned to the 46th Precinct, on or about January 11, 2017, wrongfully used a Department vehicle for an unauthorized purpose, in that said Police Officer drove said vehicle or allowed said vehicle to be used for personal or other non-Department business.

P.G. 203-06, Page 2, Paragraph 16

**PERFORMANCE ON DUTY -
PROHIBITED CONDUCT**

3. Said Police Officer Susana Ventura, while assigned to the 46th Precinct, on or about January 11, 2017, while on duty, wrongfully failed and neglected to make required entries in her Activity Log, as required.

P.G. 212-8, Page 1, Paragraph 1

ACTIVITY LOGS

4. Said Police Officer Susana Ventura, while assigned to the 46th Precinct, on or about January 11, 2017, while on duty, was discourteous to civilian members of the service at the Bronx Traffic Enforcement Unit.

P.G. 203-09, Page 1, Paragraph 1

PUBLIC CONTACT – GENERAL

5. Said Police Officer Susana Ventura, while assigned to the 46th Precinct, on or about January 11, 2017, while on duty, failed to render all necessary police service in a timely fashion.

P.G. 202-21, Page 1, Paragraph 8

POLICE OFFICER

6. Said Police Officer Susana Ventura, while assigned to the 46th Precinct, on or about January 11, 2017, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer improperly attempted to obtain preferential treatment for a parking summons that had been issued to another Member of the Service.

P.G. 203-10, Page 1, Paragraph 5

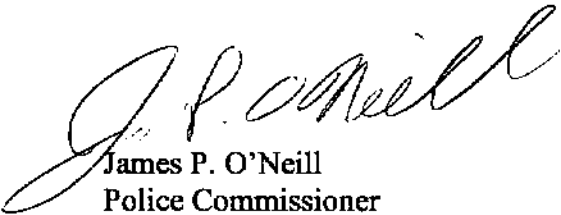
**PUBLIC CONTACT –
PROHIBITED CONDUCT**

In a Memorandum dated November 20, 2018, Assistant Deputy Commissioner Paul M. Gamble found Police Officer Johnson Guilty of Specification Nos. 1, 2, 3, 5 and 6, and Not Guilty of Specification No. 4 in Disciplinary Case No. 2017-17071. Police Officer Ventura was found Guilty of the sole Specification in Disciplinary Case No. 2016-16784. In Disciplinary Case No. 2017-17072, Police Officer Ventura was found Guilty of Specification Nos. 1, 2, 3, 4 and 5, and not Guilty of Specification No. 6. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

POLICE OFFICER MICHAEL JOHNSON
POLICE OFFICER SUSANA VENTURA

DISCIPLINARY CASE NO. 2017-17071
DISCIPLINARY CASE NOs. 2016-16784, 2017-17072

I have considered the totality of the misconduct to which Police Officer Johnson and Police Officer Ventura were found Guilty of and deem that a greater penalty is warranted. Therefore, Police Officer Johnson will forfeit twenty (20) vacation days and be placed on one (1) year dismissal probation and Police Officer Ventura will forfeit thirty (30) vacation days and be placed on one (1) year dismissal probation.



James P. O'Neill
Police Commissioner



POLICE DEPARTMENT

November 20, 2018

-----X
In the Matter of the Charges and Specifications :

- against - :

Police Officer Michael Johnson :
Tax Registry No. 957715 :
Detective Borough Bronx :

Case No.
2017-17071

Police Officer Susana Ventura :
Tax Registry No. 955637 :
46th Precinct :

Case Nos.
2016-16784,
2017-17072

-----X
At: Police Headquarters
One Police Plaza
New York, New York 10038

Before: Honorable Paul M. Gamble
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Samuel Yee, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondents: John Tynan, Esq.
Worth, Longworth, & London, LLP
111 John Street, Suite 640
New York, NY 10038

To:

HONORABLE JAMES P. O'NEILL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NEW YORK 10038

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CHARGES AND SPECIFICATIONS

Respondent Michael Johnson

Disciplinary Case No. 2017-17071

1. Said Police Officer Michael Johnson, while assigned to the 46th Precinct, on or about January 11, 2017, wrongfully was absent from said assignment, without permission or police necessity, and engaged in personal activities unrelated to official Department business.
P.G. 203-05, Page 1, Paragraph 2 PERFORMANCE ON DUTY – GENERAL
GENERAL REGULATIONS
2. Said Police Officer Michael Johnson, while assigned to the 46th Precinct, on or about January 11, 2017, wrongfully used a Department vehicle for an unauthorized purpose, in that said Police Officer drove said vehicle or allowed said vehicle to be used for personal or other non-Department business.
P.G. 203-06, Page 2, Paragraph 15 PERFORMANCE ON DUTY –
PROHIBITED CONDUCT
GENERAL REGULATIONS
3. Said Police Officer Michael Johnson, while assigned to the 46th Precinct, on or about January 11, 2017, while on duty, wrongfully failed and neglected to make required entries in his Activity Log, as required.
P.G. 212-08, Page 1, Paragraph 1 ACTIVITY LOGS
COMMAND OPERATIONS
4. Said Police Officer Michael Johnson, while assigned to the 46th Precinct, on or about January 11, 2017, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer improperly attempted to obtain preferential treatment for a parking summons that had been issued to him.
P.G. 203-09, Page 1, Paragraph 1 PUBLIC CONTACT – GENERAL
GENERAL REGULATIONS
5. Said Police Officer Michael Johnson, while assigned to the 46th Precinct, on or about January 11, 2017, while on duty, failed to render all necessary police service in a timely fashion.
P.G. 202-21, Page 1, Paragraph 8 POLICE OFFICER
DUTIES AND RESPONSIBILITIES
6. Said Police Officer Michael Johnson, while assigned to the 46th Precinct, on or about January 11, 2017, wrongfully displayed his Department traffic vest on the dashboard of his private vehicle while it was improperly parked next to a fire hydrant in Bronx County.
P.G. 203-10, Page 3, Paragraph 20 PUBLIC CONTACT –
PROHIBITED CONDUCT
P.G. 203-10, Page 1, Paragraph 5 GENERAL REGULATIONS

Respondent Susana Ventura

Disciplinary Case No. 2016-16784

1. Said Police Officer Susana Ventura, assigned to the 46th Precinct, while on duty, on or about November 10, 2016, after having been notified to appear at a Traffic Violations Bureau hearing, failed to appear resulting in the dismissal of two (2) summonses.

P.G. 211-01, Pages 1-2

DUTIES AND CONDUCT IN COURT
COURT AND AGENCY APPEARANCES

Disciplinary Case No. 2017-17072

1. Said Police Officer Susana Ventura, while assigned to the 46th Precinct, on or about January 11, 2017, wrongfully was absent from said assignment, without permission or police necessity, and engaged in personal activities unrelated to official Department business.

P.G. 203-05, Page 1, Paragraph 2

PERFORMANCE ON DUTY – GENERAL
GENERAL REGULATIONS

2. Said Police Officer Susana Ventura, while assigned to the 46th Precinct, on or about January 11, 2017, wrongfully used a Department vehicle for an unauthorized purpose, in that said Police Officer drove said vehicle or allowed said vehicle to be used for personal or other non-Department business.

P.G. 203-06, Page 2, Paragraph 16

PERFORMANCE ON DUTY –
PROHIBITED CONDUCT
GENERAL REGULATIONS

3. Said Police Officer Susana Ventura, while assigned to the 46th Precinct, on or about January 11, 2017, while on duty, wrongfully failed and neglected to make required entries in her Activity Log, as required.

P.G. 212-08, Page 1, Paragraph 1

ACTIVITY LOGS
COMMAND OPERATIONS

4. Said Police Officer Susana Ventura, while assigned to the 46th Precinct, on or about January 11, 2017, while on duty, was discourteous to civilian members of the service at the Bronx Traffic Enforcement Unit.

P.G. 203-09, Page 1, Paragraph 1

PUBLIC CONTACT – GENERAL
GENERAL REGULATIONS

5. Said Police Officer Susana Ventura, while assigned to the 46th Precinct, on or about January 11, 2017, while on duty, failed to render all necessary police service in a timely fashion.

P.G. 202-21, Page 1, Paragraph 8

POLICE OFFICER
DUTIES AND RESPONSIBILITIES

6. Said Police Officer Susana Ventura, while assigned to the 46th Precinct, on or about January 11, 2017, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer improperly attempted to obtain preferential treatment for a parking summons that had been issued to another Member of the Service.

P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT –
PROHIBITED CONDUCT
GENERAL REGULATIONS

REPORT AND RECOMMENDATION

The above-named members of the Department appeared before me on June 8th, June 25th, July 31st, and September 14th, 2018. Respondents, through their counsel, entered pleas of Not Guilty to the subject charges. The Department called Traffic Supervisor III Veronica Spann, Traffic Supervisor II David Charles, Traffic Supervisor Charles Pulliam, Traffic Enforcement Agent Mariela Rivera, Traffic Enforcement Agent Ivette Cuevas, and Sergeant Fernando Loza. Respondents testified on their own behalf. A stenographic transcript of the record has been prepared and is available for the Police Commissioner's review. After considering the evidence, I find Respondent Johnson Guilty of Specifications 1, 2, 3, 5 and 6; I find him Not Guilty of Specification 4. In Disciplinary Case No. 2016-16784, I find Respondent Ventura Guilty of the charged misconduct. In Disciplinary Case No. 2017-17072, I find Respondent Ventura Guilty of Specifications 1, 2, 3, 4 and 5; I find her Not Guilty of Specification 6. I recommend that Respondent Johnson forfeit 15 vacation days and Respondent Ventura forfeit 25 vacation days.

SUMMARY OF EVIDENCE

Disciplinary Case Nos. 2017-17071 & 2017-17072

The above-referenced cases arise from an incident which occurred at the Bronx Traffic Base ("BTB") [REDACTED] located within the 48th Precinct. The following is a summary of the undisputed facts.

At approximately 0100 hours on January 11, 2017, Traffic Enforcement Agent ("TEA") Mariela Rivera issued a summons to a vehicle blocking a fire hydrant in front of [REDACTED] in the Bronx. The vehicle was the personal vehicle of Respondent Michael Johnson; he had displayed a green NYPD traffic vest on the front dashboard (T. 286-87; Dept. Ex. 7). About one week before, TEA Rivera had issued a summons to the same vehicle for parking in a "No Standing" zone (T. 288). Respondent Johnson subsequently paid both summonses online (T. 288).

On January 11, 2017, Respondent Johnson and Respondent Susanna Ventura were steady partners assigned to patrol duties in the 46th Precinct (T. 285, 286). On that date, Respondents were assigned to the Third Platoon, sector C (T. 311; Dept. Exs. 8-9). Sometime during their tour, Respondent Johnson told Respondent Ventura about having received the parking summons earlier that morning and showed her the summons. Respondent Ventura recognized TEA Rivera's name and told Respondent Johnson that she had worked with her before becoming a police officer. Respondent Ventura then gave Respondent Johnson TEA Rivera's cell phone number at his request (T. 291, 335).

Respondent Johnson called TEA Rivera, identified himself as a police officer and told her that she had written him a summons on his personal car (T. 291).

At approximately 1930 hours, Respondents received a radio run for possible drug activity at [REDACTED] (T. 98; Dept. Ex. 11). At about the same time, Respondents arrived at the BTB, located in the neighboring 48th Precinct (T. 17; Dept. Exs. 10A-10B). Neither Respondent notified either their supervisor or the radio dispatcher that they were leaving the 46th Precinct (T. 311).

Upon their arrival at the BTB, Respondents spoke to TEA Rivera and her partner, TEA Cuevas. The content and tone of that conversation is in dispute. Surveillance footage from

inside the BTB was entered into evidence at trial, but does not contain audio (Dept. Ex. 1).

Respondents remained in the BTB until approximately 1952 hours, at which time they heard a radio assignment for a 10-34 "assault in progress" assigned to the 46th Precinct's sector D; Respondents drove to the location to provide backup (T. 301; Dept. Ex. 12). When Respondents arrived at the scene at 1955 hours, they determined that their presence was unnecessary, then returned to the BTB.

Respondents arrived at the BTB for the second time at approximately 2003 hours. They remained there for approximately 16 minutes before being called back to the 46th Precinct by their ICO to discuss an unrelated assignment (T. 325-26).

During their two visits to the BTB, Respondents spoke to TEAs Rivera and Cuevas, Traffic Supervisors ("TS") Charles Pulliam and David Charles, as well as TS Veronica Spann, Executive Officer of the BTB (T. 14).

Neither Respondent made an entry in their respective Activity Logs regarding their departure from the 46th Precinct and travel into the 48th Precinct (Dept. Exs. 8-9).

Respondent Johnson Specifications 1-3
Respondent Ventura Specifications 1-3

Specifications 1-3 charge Respondent Johnson and Respondent Ventura, respectively, with being absent from their assignment and engaging in personal activities unrelated to Department business, using a Department vehicle for an unauthorized purpose, and failing to make required entries in their Activity Logs.

Respondents Johnson and Ventura both conceded at trial that the purpose of the two visits to the BTB was to conduct personal business while on duty. They also admitted that neither made the requisite notifications and Activity Log entries necessary when leaving their assigned command (T. 293, 307, 328, 351, 356, 364-65). Respondents Johnson and Ventura initially

testified that the reasoning for leaving their sector and assigned command was to travel to the neighboring 48th Precinct in order to fill their RMP with gasoline. They noted that the 46th Precinct does not have gas pumps available, so they generally use the gas pumps in either the 48th Precinct or the 52nd Precinct (T. 292-293). Based on the BTB's proximity to the 48th Precinct, they supposedly decided to stop there as well. Respondents, admittedly, did not refill their RMP's gas tank during either of their two trips into the 48th Precinct on January 11, 2017.

Based upon Respondents' admissions and the independent evidence of their transit from the 46th Precinct to the 48th Precinct, I find that they both quit their post without authority. They embarked on a personal mission, while on-duty, in uniform, and used a police vehicle in their endeavor. I further find that they neither notified their supervisor nor documented their trips outside the precinct in their Activity Logs in an attempt to avoid discovery of their willful misconduct.

Accordingly, I find both Respondents Guilty of Specifications 1 through 3 in their respective disciplinary cases.

Respondent Johnson Specification 5
Respondent Ventura Specification 5

Respondents Johnson and Ventura are also similarly charged with failing to render all necessary police service in a timely fashion. Both admitted that they received a radio run for possible drug activity at [REDACTED] at approximately 1930 hours (T. 326-27, 358-60). They also admitted that they did not respond to that radio run until 2106 hours. There is no dispute that from 1930 hours to 1952 hours, Respondents were inside the BTB, in the 48th Precinct, rather than in Sector C, 46th Precinct, their appointed place of duty.

According to Respondent Johnson, they did not immediately respond to that radio run; instead, they proceeded to the BTB because "[m]ost of the times when they call and

[Respondents] respond to that job there's nobody there" (T. 304). Respondent Ventura attempted to justify their failure to respond to the radio run by testifying at trial that it is a "chronic location" and "a very low priority job" (T. 349, 358-60, 362). I find both Respondents' explanations to be little more than self-serving rationalizations offered in an attempt to excuse their misconduct.

Regardless of Respondents' opinion with respect to the validity of the radio run they had been assigned, it was their responsibility to fulfill their duties as police officers to respond to the location in a timely fashion and make an assessment of the police services to be rendered, if any. Fortuitously, there did not appear to be a serious problem at [REDACTED] but Respondents could not have known that because they were not physically present to make that assessment. Respondents' attorney's claim that there is no evidence that there were negative consequences resulting of their failure to respond to [REDACTED] is irrelevant.

Accordingly, I find both Respondents Guilty of Specification 5 in their respective disciplinary cases.

Respondent Johnson Specification 4

Respondent Ventura Specification 6

In these specifications, Respondents are charged with improperly attempting to obtain preferential treatment for the parking summons that had been issued to Respondent Johnson by TEA Rivera. I find that the Department has failed to meet its burden of proof of these charges by a preponderance of the credible, relevant evidence.

Respondent Johnson testified at trial that he did not ask anyone at the BTB to destroy or void the summons he received (T. 299). He explained to the agents that the summons would be "taken care of," and testified that he meant he planned on paying the summons. His only request was that the TEA Rivera "extend any discretion going forward" with respect to issuing him

parking summonses because he is a UMOS (T. 300, 333). Respondent Ventura corroborated Respondent Johnson's assertion (T. 340-41). More importantly, Respondent Johnson's assertion was also corroborated by TEA Rivera and TS Spann and TS Charles (T. 57, 82, 47). I find the testimonies of both Respondents credible on this issue.

Though Respondents' behavior was unprofessional, and foolish, based on the charges in this case, Respondents did not attempt to obtain preferential treatment for the summons issued on January 11, 2017. The request from Respondent Johnson that TEA Rivera exercise such discretion in his favor in the future, without more, does not, in the view of this Tribunal, constitute the misconduct charged, to wit: an attempt to obtain preferential treatment for the parking summonses "that had been issued."

Accordingly, I find Respondent Johnson Not Guilty of Specification 4 in Disciplinary Case No. 2017-17071 and Respondent Ventura Not Guilty of Specification 6 in Disciplinary Case No. 2017-17072.

Respondent Johnson Specification 6

Respondent Johnson is charged with wrongfully displaying his Department traffic vest on the dashboard of his private vehicle while it was illegally parked next to a fire hydrant near his residence.

Patrol Guide procedure 203-10 (20) prohibits the display of a police shield, identification card or similar object except as authorized by the Police Commissioner (P.G. 2013-10[20]). While this procedure does not explicitly prohibit the display of a police vest, the plain import of the procedure is to prohibit MOS from attempting to identify themselves as a police officer in a manner which is not approved by the Police Commissioner; it is clear to this Tribunal that a police vest, under these circumstances, may be considered a "similar object."

At trial, Respondent Johnson testified that prior to receiving the summons on January 11, 2017, he had returned home from work and had been looking for parking near his residence. After a while, he was still unable to find legal parking so he parked in front of a fire hydrant and placed his Department traffic vest on the dashboard hoping that he would "get some sort of discretion from it" because he did not have a Department parking permit at the time (T. 316).

Based upon his admissions, I find that Respondent Johnson utilized his police vest in a manner proscribed by the Patrol Guide. Accordingly, I find him Guilty of Specification 6 in Disciplinary Case No. 2017-17071.

Respondent Ventura Specification 4

Respondent Ventura is charged with being discourteous to a civilian MOS while at the BTB. When Respondent Ventura was asked whether she raised her voice at any point during the conversations at the BTB, she replied, "Absolutely not;" she further denied using profane language or flailing her arms (T. 341). In contrast, Respondent Ventura claimed TEA Rivera was "very loud, very irate, very upset" and "...very vulgar" (T. 342). She recalled TEA Rivera saying, "...you know, you fucking cops come over here and I don't know who you think you are" (T. 342). Respondent Ventura denied responding to TEA Rivera's tone and comments in kind, but asserted that she said, "You don't have to speak this way..." (T. 342).

Respondent Johnson corroborated Respondent Ventura's characterization of her behavior during the incident. He testified that TEA Cuevas entered the conversation and began speaking to Respondents "with more of an attitude" than TEA Rivera (T. 297-98). Specifically, he testified that TEA Cuevas "started raising her voice" and was "telling [them] that [they] should know better" (T. 298). When Respondent Johnson was asked whether Respondent Ventura was doing anything with her arms or body during the conversation, he replied, "No, she wasn't flailing her arms around. She was pretty much just – just regular" (T. 298). Instead, Respondent

Ventura attempted to "mediate" by "informing the traffic agent that they don't need to talk to [them] in that tone" (T. 301). According to Respondent Johnson, Respondent Ventura did not use profanity or harsh language at any point while at the traffic base (T. 299).

Conversely, TEA Rivera testified that she received a phone call on her personal cell phone from Respondent Johnson during roll call, despite never having given him her phone number (T. 11-12). TEA Rivera stepped out of the room where roll call was being conducted in order to take his call. During the conversation which ensued, Respondent Johnson told TEA Rivera that she had given him a ticket. TEA Rivera replied by asking, "Are you serious? . . . Why are you calling me on my phone and who gave you my number?" When Respondent Johnson replied by saying that he was downstairs, TEA Rivera asked him, "Are you trying to put a face to the person that gave you the ticket?" Respondent Johnson said "Yes" (T. 12). According to TEA Rivera, Respondent Johnson was not loud or irate at any point (T. 47).

TEA Rivera then returned to roll call and spoke to a supervisor once it concluded. As Rivera told the supervisor about the phone call she had just received, Respondents appeared on the same floor (T. 13). TEA Rivera said, "I believe these are the officers and one of them is the one that just called me. I'm going out to the field" (T. 13). As TEA Rivera started walking, Respondents approached her. Respondent Johnson then informed TEA Rivera that she had written him a summons the night before for parking directly in front of a fire hydrant (T. 15).

Respondent Ventura interjected, asking why Rivera had written the summons when there was an NYPD vest displayed on the dashboard (T. 15). TEA Rivera described Respondent Ventura's demeanor during the exchange as, "a little irate, a little upset. She was being loud ... trying to push the fact that she was a police officer" (T. 15-16). As she spoke, Respondent Ventura was rolling her eyes and moving her head side to side (T. 17). Respondent Ventura also

told TEA Rivera that she had previously worked as a traffic agent and had not written summonses under similar circumstances (T. 16).

TEA Cuevas also testified that Respondent Ventura appeared to be angry and shouted at them during the conversation. She also described Respondent Ventura as being "very disrespectful during her conversation with Rivera" even asking, "Do you know who you're talking to? I'm an officer" (T. 70).

Further testimonial evidence regarding Respondent Ventura's demeanor was provided by the Traffic Supervisors who interceded at different points during the incident. TS Pulliam testified that he approached the conversation in an effort to "tone down the situation." He described Respondent Ventura as "very boisterous and aggressive toward Cuevas" and stated that her tone "was like she was speaking to somebody that was lesser than her" (T. 225). He denied hearing Respondent Ventura use profane language or having heard profane language used at any point, but did testify that Respondent Ventura said, "[W]e're the police. We can go anywhere and do anything we want" (T. 234, 239).

TS Charles testified that as he was speaking to Respondent Johnson, Respondent Ventura interjected and asked why a summons had been issued (T. 78). Respondent Ventura then told TS Charles that "the agent should have known better" that the vehicle belonged to a police officer. TS Charles described Respondent Ventura's demeanor as "demanding" (T. 79).

Additionally, TS Spann testified at trial that she eventually intervened because the situation was escalating between TS Charles and Respondent Ventura (T. 23). At one point she heard Respondent Ventura say, "Don't you know who we are? . . . We should look out for each other" (T. 24). TS Spann also testified at the beginning of the exchange, Respondent Ventura was speaking loudly, but then said, "Supervisor [Spann], I never disrespect you" (T. 26). They left the BTB shortly thereafter. She acknowledged that during the encounter, she spoke mostly

to Respondent Johnson, who at no point raised his voice, used profanity, or made threatening motions toward her (T. 47, 53).

I find Respondent Ventura's testimony on this issue to be a self-serving attempt to minimize her misconduct. Similarly, Respondent Johnson's testimony on this issue may be charitably described as an attempt to support his partner's version of events but is no more credible than her description.

The credible testimonies of the Traffic Supervisors, however, when considered in the aggregate, support a finding that Respondent Ventura, in contrast with Respondent Johnson, did more than simply request that "courtesy" be considered in the future. The questions she posed to TEA Rivera strongly suggest not only that she was challenging the basis for Rivera issuing the summons but also expressing umbrage at Rivera's failure to acknowledge Respondent Johnson's status as a UMOS. The surveillance footage inside the BTB further supports a finding that the interaction between Respondent Ventura and the traffic agents was tense (Dept. Ex. 1).

Based on the credible characterizations of Respondent Ventura's demeanor as boisterous, aggressive, and demanding versus the universal characterization of Respondent Johnson as calm and polite, I find that Respondent Ventura was discourteous during her interactions with the traffic agents and traffic supervisors at the BTB.

Accordingly, I find Respondent Ventura Guilty of Specification 4 in Disciplinary Case No. 2017-17072.

Disciplinary Case No. 2016-16784

In an unrelated case, Respondent Ventura is charged with failing to appear at a Traffic Violations Bureau ("TVB") hearing on November 10, 2016. As a result, two summonses were dismissed.

Sergeant Loza of Patrol Borough Bronx Investigations Unit investigated Respondent Ventura's missed TVB appearances (Dept. Exs. 2A-2B). He confirmed that she was notified to appear but failed to do so (Dept. Exs. 3, 5). A preliminary investigation was also conducted by Respondent Ventura's ICO, Sergeant Feliciano (Dept. Ex. 4).

Respondent Ventura testified that she did not appear at the Bronx TVB on November 10, 2016, despite having been made aware that her presence was required (T. 336; Dept. Ex. 6). Respondent Ventura claimed that she forgot about her appearance because she had recently attended several funerals for UMOS (T. 338; Dept. Ex. 3). While it may be mitigating that operating under the stress of the loss of a fellow MOS, Respondent Ventura overlooked the appearance, such conditions do not excuse her obligation to appear. Accordingly, I find Respondent Ventura Guilty of the charged misconduct.

PENALTY

In order to determine an appropriate penalty, each Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent Johnson was appointed to the Department on January 7, 2015. Respondent Ventura was appointed to the Department on July 9, 2013. Information from their respective personnel records that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Department Advocate recommended a penalty of the forfeiture of 30 vacation days and dismissal probation for Respondent Johnson and the forfeiture of 45 vacation days and dismissal probation for Respondent Ventura. Inasmuch as neither Respondent has been found guilty of all of their respective charged specifications, the Department Advocate's recommendation is excessive.

In previous cases, respondents have forfeited between 20 to 30 vacation days for conducting personal business while on duty (*See Disciplinary Case No. 2015-14795* [December 7, 2017][Twenty-two year officer, with one prior adjudication forfeited 30 vacation days after being found guilty of failing to promptly report the disposition of a radio call, failing to return to post after expiration of meal period, and failing to make required entries in his Activity Log]; *Disciplinary Case No. 2015-14527* [October 23, 2017][Eleven-year police officer, with one prior adjudication negotiated a penalty of twenty (20) vacation days for (i) wrongfully conducting personal business by meeting an individual (his girlfriend) for two hours while on-duty; (ii) failing to maintain his Activity Log; and (iii) wrongfully using his personal vehicle to travel to Queens County Supreme Court without permission or authority from a supervisor]).

In Disciplinary Case No. 2017-17071, Respondent Johnson has been found guilty of engaging in personal activities while being absent from his assignment without permission, using his assigned RMP for personal reasons, failing to make Activity Log entries, failing to render all necessary police service in a timely fashion, and wrongfully displaying his Department traffic vest on the dashboard of his private vehicle while improperly parked next to a fire hydrant. Based on these findings, I recommend a forfeiture of 15 vacation days for Respondent Johnson.

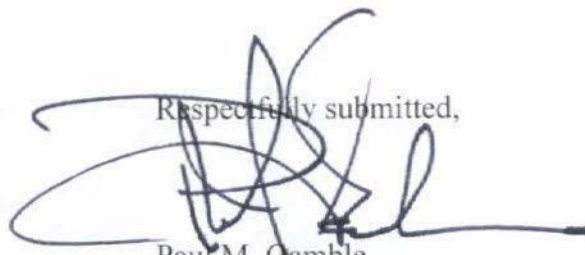
In Disciplinary Case No. 2017-17072, Respondent Ventura has been found guilty of engaging in personal activities while being absent from her assignment without permission, using her assigned RMP for personal reasons, failing to make Activity Log entries, failing to render all necessary police service in a timely fashion, and being discourteous to civilian members of service. Based on these findings, I recommend a forfeiture of 22 vacation days for Respondent Ventura's misconduct in this case.

With respect to Respondent Ventura's unrelated disciplinary case for failing to appear at the TVB [Case No. 2016-16784], resulting in the dismissal of two (2) summonses, I recommend

that she forfeit three (3) vacation days. This forfeiture is in line with cases of similar circumstances and is appropriate for the limited number of summonses that were ultimately dismissed (*See Disciplinary Case No. 2017-17527* [January 18, 2018][Nine-year police officer with no prior disciplinary history negotiated a penalty of 5 vacation days for, on six dates within eight months, failing to appear at the TVB after being notified to appear, resulting in the dismissal of 11 summonses]).

Accordingly, it is therefore recommended that Respondent Johnson forfeit 15 vacation days as a penalty for his misconduct in Disciplinary Case No. 2017-17071 and that Respondent Ventura forfeit a total of 25 vacation days as a penalty for her misconduct in Disciplinary Case Nos. 2016-16784 & 2017-17072.

Respectfully submitted,



Paul M. Camble

Assistant Deputy Commissioner Trials

DISAPPROVED

JAN 14 2019


POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER MICHAEL JOHNSON
TAX REGISTRY NO. 957715
DISCIPLINARY CASE NO. 2017-17071

Respondent was appointed to the Department on January 7, 2015. On his last three performance evaluations, Respondent twice received an overall rating of 3.0 "Competent" and once received an overall rating of 3.5 "Highly Competent/Competent." [REDACTED]

He has no prior disciplinary history.

For your consideration.

Paul M. Gamble
Assistant Deputy Commissioner Trials



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER SUSANA VENTURA
TAX REGISTRY NO. 955637
DISCIPLINARY CASE NOS. 2016-16784 & 2017-17072

Respondent was appointed to the Department on July 9, 2013. On her last three performance evaluations, Respondent once received an overall rating of 3.0 "Competent" and twice received an overall rating of 3.5 "Highly Competent/Competent." [REDACTED]

Respondent was placed on Level I Disciplinary Monitoring on July 13, 2018; that monitoring remains ongoing.

For your consideration.

Paul M. Gamble
Assistant Deputy Commissioner Trials