



POLICE DEPARTMENT

July 15, 2019

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In the Matter of the Charges and Specifications :

Case No.

- against - :

2018-19442

Police Officer Melvin Welch :

Tax Registry No. 949793 :

83 Precinct :

-----X
At:

Police Headquarters
One Police Plaza
New York, NY 10038

Before:

Honorable Nancy R. Ryan
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department:

Samuel Yee, Esq.
Department Advocate's Office
One Police Plaza, 4th Floor
New York, NY 10038

For the Respondent:

Michael Martinez, 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

1. Said Police Officer Melvin Welch, while assigned to the 83rd Precinct, on or about and between August 1, 2017 and April 17, 2018, while off-duty, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer wrongfully caused annoyance or alarm to another person, [REDACTED] by repeatedly contacting or attempting to contact her. *(Amended)*

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

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before the Court on June 11, 2019. 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 trial record has been prepared and is available for the Police Commissioner's review. After considering the evidence, I find Guilty of the Specification and recommend a penalty of the loss of 20 vacation days.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent testified that he has been a police officer for eight and a half years and also served in the Air Force for 14 years. (Tr. 6, 14) While employed as a police officer, he met and dated [REDACTED] Person A. (Tr. 7-8) He described his relationship with Person A as that of boyfriend and girlfriend and stated that they had met each other's families, that they had gone on vacation trips, and that he spent "every day" with her and also spent time [REDACTED]. He further testified that after a deployment to [REDACTED], he moved in with Person A. (Tr. 8-9) During the seven months when he was deployed, he spoke to Person A every day and when he returned they spoke about their future. He planned to save money so they could be married. (Tr. 9-10) In August, 2017, Person A "abruptly ended [the relationship] without any reason." (Tr. 10) Respondent testified that he felt confused and attempted to get an

explanation from Person A. Person A, however, repeatedly told Respondent to, "forget it," and to leave her alone. (Tr. 10-11)

Respondent admitted that between August, 2017, and April 17, 2018, he repeatedly tried to contact Person A via email, texts and visits to her house. Person A denied Respondent's attempts to see her, changed her phone number, and responded to his emails by telling him to leave her alone. Person A, as early as February, 2018, told Respondent to stop sending her e-mails and threatened to file a report against him. Respondent testified that all he was trying to do was to have Person A come back to him and to rekindle his relationship with her. He acknowledged he sent Person A e-mails in March and April, 2018. (Tr. 11, 15-16) Respondent also admitted that he called Person A after she ended the relationship and told him she did not want any phone contact. She blocked Respondent's phone number and Respondent called from another phone. Person A then took the step of changing her number. (Tr. 16-17) With regard to going to Person A's residence where she lived with her parents, Respondent admitted he went there several times when he was not welcome and would knock on her bedroom window in the middle of the night. (Tr. 18-19)

On August 9, 2018, Respondent was questioned in an official department interview. [REDACTED]

[REDACTED] [REDACTED] It was recommended to him at the interview that
he leave Person A alone. [REDACTED]

██████████ ██████████ ██████████ Respondent acknowledged at trial that his behavior towards Person A was inappropriate. (Tr. 13-14)

As Respondent has pled Guilty, I find him Guilty and now turn to the matter of an appropriate penalty.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on July 6, 2010. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Defense counsel has requested a penalty of no more than the loss of five vacation days while the Department Advocate has requested the loss of 20 vacation days. As both counsel have pointed out, there is no precedent completely on point with the facts in this case. However, in one case, a fifteen-year police officer, with no prior formal disciplinary history, negotiated a penalty of 15 pre-trial suspension days without pay and agreed to cooperate with counseling for (i) wrongfully attempting to enter the home of his [REDACTED] [REDACTED] without her permission; (ii) failing to timely notify the Operations Unit or his CO of his arrest; and (iii) failing to timely notify his CO, IAB or the Operations Unit regarding an Order of Protection after he was served with one. The respondent in that case tried to speak with his [REDACTED] [REDACTED] at her residence in [REDACTED] [REDACTED]. She did not want to speak to him and attempted to close her door. Respondent then tried to enter her home by sticking his foot in the door. Later that day, he was arrested for Attempted Criminal Trespass in the Second Degree. At the initial court appearance, Respondent was served with an Order of Protection. He never notified the Department as to his arrest or the fact that he had been served with an Order of Protection. (*Disciplinary Case No.* [REDACTED] [REDACTED] [REDACTED]). In Respondent's case, while there was never any arrest nor order of protection issued, he also went to Person A's house in the middle of the night to knock on her bedroom window more than once and ignored her many attempts to get him to stop contacting her. While it may be understandable for a person to try to rekindle a relationship over a short period of time, Respondent in essence became a stalker by continuing to contact Person A during a period of

over eight months despite her telling him not to, blocking his phone number, changing her phone number and threatening to file a report against him.

Based on the length and number of unwanted contacts Respondent made towards Person A and the particularly scary and intrusive nature of his visits to her home in the middle of the night, I recommend a penalty of the loss of 20 vacation days.

Respectfully submitted,



Nancy R. Ryan
Assistant Deputy Commissioner Trials

APPROVED

SEP 13 2018

JAMES P. O'NEILL
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER MELVIN WELCH
TAX REGISTRY NO. 949793
DISCIPLINARY CASE NO. 2018-19442

Respondent was appointed to the Department on July 6, 2010. On his last three performance evaluations, he received a 3.5 overall rating of "Highly Competent/Competent" in 2016 and a 3.0 overall rating of "Competent" in 2012 and 2014.

[REDACTED]

Respondent has no formal disciplinary history. In connection with the instant matter, Respondent was placed on Level 1 Discipline Monitoring on January 2, 2019. Monitoring remains ongoing.

For your consideration.

Nancy R. Ryan
Assistant Deputy Commissioner Trials