



POLICE DEPARTMENT

October 22, 2014

MEMORANDUM FOR: Police Commissioner

Re: Police Officer John Hoffmann
Tax Registry No. 925466
107 Precinct
Disciplinary Case No. 2012-6992

The above-named member of the Department appeared before the Court on April 24 and July 7, 2014, charged with the following:

1. Said Police Officer John Hoffmann, while assigned to the 107th Precinct, on or about and between August 27, 2010 and November 08, 2010, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer on two occasions did assist and/or requested the assistance of other members of the service to prevent the adjudication, in the Traffic Violations Bureau of four summonses issued to two individuals.

PG 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT
GENERAL REGULATIONS

The Department was represented by Michelle Alleyne, Esq., Department Advocate's Office. Respondent was represented by John Tynan, Esq., Worth, Longworth & London LLP.

Respondent pleaded Not Guilty to the subject charge. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

RECOMMENDATION

Respondent is found Guilty.

FINDINGS AND ANALYSISIntroduction

Respondent was a union delegate assigned to the 107 Precinct. He is charged with preventing the processing and adjudication of four summonses. The charges arose out of wiretaps placed pursuant to the criminal ticket fixing case in the Bronx. Respondent's misconduct allegedly was committed through use of the inter-delegate system, now well-documented through the many cases coming out of that scandal. In Respondent's case, there essentially were two sets of summonses allegedly tampered with: two summonses were issued to one motorist on a single date, and another two summonses were issued to a separate motorist on a separate date.

First Set of Summonses

On August 27, 2010, a delegate from the Bronx, Police Officer Christopher Manzi (one of the indicted officers in the criminal case), contacted Respondent. The conversation was recorded on wiretap. Manzi told Respondent "that case is coming up that I spoke to you about." The officer that issued the summonses was Police Officer Anthony Rosario. Respondent addressed Manzi as "Chris" and told him that he would speak to Rosario, but cautioned that the officer was "a fuckin' prick."

This statement actually correlated with a separately-intercepted conversation in which Police Officer Craig Pereira, also assigned to a precinct in the Bronx and acting on behalf of the motorist, contacted Manzi to help get the summons taken care of. That is, to ensure it was not adjudicated. Apparently Pereira referred to Rosario as "a fucking asshole." The assigned Internal Affairs Bureau (IAB) investigator nevertheless testified at trial that the Bronx ticket-

fixing wiretaps generally revealed that delegates sometimes referred to constituent officers in disparaging terms.

Manzi reminded Respondent that they had spoken about his feelings toward Rosario previously, and that Respondent had said he would ask his co-delegate to talk to Rosario. Respondent was not exactly enthused but agreed that he would speak to his co-delegate. Respondent promised to get back in touch with Manzi "once I find something out."

The IAB investigator testified that Rosario appeared at the Traffic Violations Bureau (TVB) on September 3, 2010, with regard to these two summonses. Rosario told the hearing officer in sum and substance that he had no recollection of the underlying facts. The summonses were dismissed. When IAB interviewed Rosario, he first claimed to not recall the incident. After being played the wiretapped conversation, the investigator testified, Rosario admitted "it's likely that he took care of the summonses in court." That is, he testified in a way that prevented them from being adjudicated fairly. Rosario either denied speaking to Respondent or stated that he had no recollection of Respondent asking him about these summonses. In fact, Rosario denied speaking to any delegate about the matter. He claimed not to know who, if anyone, approached him about taking care of the summonses. The investigator conceded that Rosario received no discipline for his role in the incident.

IAB interviewed Respondent as well. The assigned investigator testified that Respondent, too, asserted that he did not recall the incident. Once the recording was played, Respondent said that it had been his intention to contact his co-delegate, whom Respondent identified as "Lovell," to speak to Rosario. Respondent said that he did not recall whether he spoke to Lovell.

Respondent testified at trial that he was not acquainted with Manzi prior to the incident in question. Respondent testified that he had no relationship, friendly or antagonistic, with Rosario. He considered him to be a prick because of his abrasive nature. Rosario was known to not use any discretion or give any courtesy when issuing summonses. Respondent and Rosario had not spoken more than two words to each other. Respondent denied speaking to Rosario about the summonses in question. He also denied contacting Lovell to talk to Rosario. When asked why he told Manzi that he would contact either Lovell or Rosario, Respondent answered, "Because I was that's what he kind of expected me to do, so I just – that's what I told him." It was not actually Respondent's intention to speak to Lovell. Respondent did not know Manzi and had no desire to help him.

Counsel for Respondent argued that there was no proof Respondent assisted or requested the assistance of other Department members to prevent the adjudication of these two summonses. In fact, however, the evidence showed that there was a request by Manzi for assistance, an agreement by Respondent to provide assistance, TVB testimony by Rosario that he did not recall the summonses, and an admission by Rosario that someone likely approached him to prevent the adjudication of the summonses.

One major problem with Respondent's account is that although he claimed at trial he had no intention of contacting his co-delegate to speak to Rosario, he did not say this at his official Department interview. On the contrary, he stated that it was his intention to do so, but did not recall if he actually did so. One would expect an officer under investigation for a serious matter carrying a serious penalty to state at his interview that he never intended to contact anyone with regard to these summonses because he did not know Manzi and disliked Rosario. Cf. Case No.

2011-6110, p. 14 (Nov. 12, 2013) (officer testified at trial, but failed to state in interview, that he lied to his delegate when he said he never placed the summons in the box).

Moreover, by telling Manzi that he would contact either a co-delegate or Rosario to take care of the summons, Respondent had to expect that Manzi would assure the recipient, through channels, that it would be taken care of. Respondent's claim that he lied to Manzi implicitly asserts that he was not concerned about what Manzi's reaction would be if Manzi suffered the embarrassment of receiving a complaint that the summons went to court and was processed legitimately. It is unlikely that Respondent would have double-crossed his fellow union delegate by not even attempting to prevent the processing or adjudication of the summons when he said that was exactly what he would do. Cf. Case No. 2011-5722, p. 11 (Sept. 25, 2013).

Respondent attempted at trial to downplay his relationship with Manzi. He claimed that he did not know Manzi and the wiretap was the first phone call between them. The context, however, indicated not only that they must have spoken previously but were well acquainted. Manzi was the first to speak, saying only, "Hello," and Respondent answered, "Hey, what's up Chris?" This indicated that Respondent either already had Manzi's number or recognized his voice, but also that he was familiar enough to call him Chris. Cf. 6110, p. 15 (officer tried to downplay relationship with delegate at trial by claiming he was "very annoying," but delegate had his cell number and they spoke as though they knew each other very well).

Additionally, Manzi referenced a prior conversation about the summonses and Respondent knew what he was talking about. Finally, although Respondent asserted at trial that the "motorists" were "unknown," Manzi mentioned the motorist's name on the wiretap. Respondent's trial claims thus rang hollow and detracted from his credibility on the ultimate

issue of whether he contacted either a co-delegate or Rosario to prevent adjudication of the summonses.

As such, the Court finds that Respondent assisted other Department members, or requested their assistance, in preventing the adjudication at TVB of the summonses with which Manzi asked for help.

Second Set of Summonses

On November 7, 2010, Police Officer Eugene O'Reilly, also a delegate from the Bronx and also now facing indictment, contacted Respondent. The conversation again was recorded on wiretap. O'Reilly asked Respondent for assistance regarding a summons matter. He told Respondent the motorist's and issuing officer's names, as well as the court date. Respondent said that he "will take care of it" and contact the officer. Respondent indicated that the issuing officer was the summons officer but "he should do the right thing."

The IAB investigator testified at trial that the issuing officer went to TVB and stated that he did not recall the matter. The two summonses were dismissed. At the officer's official interview, the investigator testified, he claimed not to recall the matter but agreed that he must have taken care of the summonses in court.

At his official interview, Respondent claimed not to recall the matter but admitted that he "must have approached" the issuing officer "at some point." According to Respondent, it appeared from the wiretapped conversation that he contacted the officer to have the matter taken care of.

Respondent testified at trial that he had met O'Reilly previously and they became friends. He indicated that "it's possible that [I] probably" reached out to the issuing officer in question. He understood that the summonses were in fact taken care of in court.

Conclusion

Because the Department has proved that Respondent, on two occasions, assisted or requested the assistance of other Department members to prevent the adjudication of four summonses issued to two individuals, he is found Guilty.

PENALTY

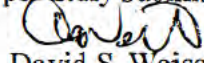
In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on March 1, 2000. Information from his personnel folder that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The standard penalty in these cases is appropriate here as well. See, e.g., Case No. 2011-5890 (Feb. 2, 2013) (eight-year police officer with no prior disciplinary history negotiated penalty of one year of dismissal probation, 5 suspension days, and 25 vacation days, for, while on-duty, preventing processing and adjudication of two summonses to two individuals).

Therefore, the Court recommends that Respondent be *DISMISSED* from the New York City Police Department, but that his dismissal be held in abeyance for a period of one year, pursuant to Administrative Code § 14-115 (d), during which time he is to remain on the force at the Police Commissioner's discretion and may be terminated at any time without further

proceedings. The Court further recommends that Respondent be suspended for 5 days and that he forfeit 25 vacation days.

Respectfully submitted,

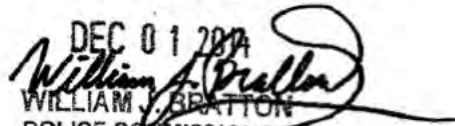


David S. Weisel

Assistant Deputy Commissioner – Trials

APPROVED

DEC 01 2014



WILLIAM J. BRATTON
POLICE COMMISSIONER

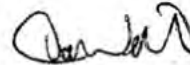
POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER JOHN HOFFMANN
TAX REGISTRY NO. 925466
DISCIPLINARY CASE NO. 2012-6992

Respondent's last three annual evaluations were as follows: he received an overall rating of 4.0 "Highly Competent" in 2013 and 2012, and a 4.5 "Highly/Extremely Competent" in 2011. He has three medals for Excellent Police Duty and one medal for Meritorious Police Duty. [REDACTED]

[REDACTED] He has no prior formal disciplinary record.

For your consideration.



David S. Weisel
Assistant Deputy Commissioner – Trials