



POLICE DEPARTMENT

August 28, 2013

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Arnold Murphy
Tax Registry No. 935374
Police Service Area 2
Disciplinary Case No. 2012-7700

The above-named member of the Department appeared before me on June 14, 2013, charged with the following:

1. Said Police Officer Arnold Murphy, while assigned to the 77th Precinct, on or about and between August 17, 2011 and August 19, 2011, wrongfully engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer transmitted several threatening, obscene, or otherwise inappropriate electronic text messages to [REDACTED] which caused her annoyance and alarm.

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

2. Said Police Officer Arnold Murphy, while assigned to the 77th Precinct, on or about and between May 21, 2012 and May 22, 2012, wrongfully engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer left several threatening, obscene, or otherwise inappropriate voice mail messages for [REDACTED] which caused her annoyance and alarm.

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

3. Said Police Officer Arnold Murphy, while assigned to the 77th Precinct or the Quartermaster Section, on or about and between May 1, 2011 and May 25, 2012, wrongfully failed and neglected to provide his assigned command's operations coordinator with his current residential address, as required.

P.G. 203 18, Page 1, Paragraph 2 RESIDENCE REQUIREMENTS
GENERAL REGULATIONS

The Department was represented by David Green, Esq., Department Advocate's Office, and Respondent was represented by Craig Hayes, Esq.

Respondent, through his counsel, entered a plea of Guilty to the subject charges 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 IN MITIGATION

Respondent has been a member of the Department since July, 2004. He worked in the 77 Precinct for 11 years before he was placed on modified duty status.

He [REDACTED] to Person A. They have three children together, [REDACTED] When asked, "Were there any other children from either one of you guys that was apart of the family as well as before you got married?" Respondent said that there was just one.

[REDACTED]

Respondent admits that on August 7, 2011, and August 19, 2011, he sent his [REDACTED] text messages because he suspected her of cheating. He was "trying to get a straight answer" from her. He initially called her but she did not answer. He felt "hurt" at the time and was not sure if she was having an affair. Respondent admits to using words like

“slut” and “whore” in the text messages. Respondent testified that he used “the same wording over and over.”

Respondent and his [REDACTED] separated around January, 2012. Respondent moved to [REDACTED] while the children stayed with Person A. Shortly after, Person A’s boyfriend moved in with her and the children. This was the same man whom Respondent suspected his [REDACTED] was having an affair with.

In May, 2012, Respondent made unanswered phone calls and left some voicemails of a profane nature with Person A. He states he did this because his 13-year-old [REDACTED] told him that Person A’s [REDACTED] mistreated him. Respondent testified, “He [the [REDACTED]] told me an incident that occurred between him and he [REDACTED] Where as he’s trying to discipline him and cursing at him in a disrespectful manner. And I didn’t take to that.”

When asked how he felt about this, Respondent said, “I was upset, because I’m still his father. And the fact that his mother didn’t reach out to me and let me know what is going on. Instead she left it up to him. He was just recently in a relationship with her.”

Respondent did not have any face-to-face confrontations with Person A during this timeframe.

Respondent admits he regrets making all of the voicemails and said, “I would never do it again.”

Respondent has visitations with his children and sees them on a regular basis. There have never been any incidents with Person A during the drop offs and pickups of the children.

Respondent completed a three day [REDACTED] at One Police Plaza.

Respondent's change of address occurred when he moved out of the family home. He testified that he "changed the address online to where I'm getting regular department mail, but it's just the ten card probably slipped my mind." He did not notify his command of the change of address. He says this is likely because, "There was a period of time I was going through a lot of stuff and it probably slipped my mind." The records with the Department are now updated.

During cross-examination, Respondent testified that while [REDACTED] to Person A,

[REDACTED] [REDACTED]
[REDACTED]. [REDACTED]
[REDACTED]
[REDACTED]

Respondent first started text messaging Person A in August, 2011 to get information about what was going on in the household. She did not respond to those text messages or phone messages. When questioned about the content of those messages, Respondent stated, "It's pretty much the same thing that was said over." Respondent used profane words and called her a variety of names in the messages. When asked if he called her a "bitch," "whore," and "cunt," he answered, "Probably, yes."

Respondent was asked, "And you told her that you didn't care who she reported this to. That if she wanted to report it to your job, she could go ahead and get you fired. Words like that." His response was, "Probably."

Respondent was also asked, "You told her more or less she doesn't deserve to live in the house that you paid for, and she's getting checks from you and that she doesn't work?" His response was, "Probably."

It was just before Respondent moved out of the [REDACTED] home that Person A admitted she had been seeing the other man.

Respondent said that it was "probably" the case that Person A never responded to the text messages and cell phone messages other than to ask him to stop sending them. Respondent did not stop.

He was aware that Person A reported the August, 2011 messages to the 77 Precinct. He admitted that such a report "wasn't good" because it "messes up your livelihood."

After that, Respondent became upset because Person A's [REDACTED] disciplined his [REDACTED] and further, because Person A did not tell Respondent about it.

Respondent was modified in May, 2012 and received [REDACTED] afterward.

Respondent communicates with Person A regarding the picking up of the children. There is no written agreement in effect as to how and when he sees the children. There is no custody order currently in effect.

[REDACTED]
[REDACTED]
[REDACTED].

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on July 1, 2004. 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 sending obscene and harassing text messages and voicemail messages to his [REDACTED] which caused her annoyance and alarm. He also pleaded Guilty to the failure to provide his command with his current residential address. With respect to the text and voicemail messages, Respondent first sent the text messages in August, 2011. Following their [REDACTED], he sent additional obscene and harassing voicemail messages in May, 2012. Respondent testified that he suspected his [REDACTED] of infidelity and was hoping that by calling her for answers, he would get an answer, but she did not return his phone calls which led to the obscene voicemail messages. The messages included referring to his [REDACTED] as a "bitch," "whore," and "cunt," and telling her that she did not deserve to live in the house that he paid for and that she does not work.

The problem with this account is that it leads one to believe that in the fit of anger about the infidelity, Respondent left the messages. However, upon a deeper review into this matter, it is gleaned that during the course of the [REDACTED], prior to Respondent suspecting his [REDACTED] of infidelity, he was unfaithful. He [REDACTED] a [REDACTED] while married to his [REDACTED]. Respondent and his [REDACTED] attended [REDACTED]. Respondent then [REDACTED] a [REDACTED] outside of his marriage. By Respondent's own testimony, this occurred approximately one year prior to Respondent suspecting his [REDACTED] of infidelity. Respondent's own actions with respect to his [REDACTED] are factors to consider in terms of the weight this Court will give to his mitigation plea.

With respect to the failure to provide his command with his current residential address, Respondent testified that he updated his address online and it probably slipped his mind to notify his command.

The Assistant Department Advocate asked for a penalty of the forfeiture of 30 vacation days and continued cooperation with counseling. The Court agrees. Respondent failed to offer any factors that this Court could realistically consider as mitigating factors with respect to the penalty.

Accordingly, it is recommended that Respondent forfeit 30 vacation days.

Respectfully submitted,

Claudia Daniels-DePeyster

by Mark R. Kelly

Claudia Daniels-DePeyster


Assistant Deputy Commissioner – Trials

APPROVED
SEP 11 2013
Raymond W. Kelly
RAYMOND W. KELLY
POLICE COMMISSIONER

POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER ARNOLD MURPHY
TAX REGISTRY NO. 935374
DISCIPLINARY CASE NO. 2012-7700

In 2010, Respondent received an overall rating of 4.0 "Highly Competent" on his annual performance evaluation. In 2011, he received a rating of 4.5 "Extremely Competent/Highly Competent." In 2012, he received a rating of 3.0 "Competent." Respondent has not received any medals in his career to date.



From July 8, 2009 to January 24, 2011, Respondent was placed in Level 1 Force Monitoring for having three or more Civilian Complaint Review Board complaints in one year. Respondent has no other prior formal disciplinary record.

For your consideration.

Claudia Daniels DePeyster
by *[Signature]*
Claudia Daniels-DePeyster
Assistant Deputy Commissioner Trials