



POLICE DEPARTMENT

January 5, 2023

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In the Matter of the Charges and Specifications :
- against - :
Police Officer Christopher Schroeck :
Tax Registry No. 962091 :
Housing PSA 4 :
-----X

Case No.

2021-24268

At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Jeff Adler
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Kachina Brock, Esq.
Department Advocate's Office
One Police Plaza, Room 402
New York, NY 10038

For the Respondent: Craig Hayes, Esq.
Worth, Longworth and London, LLP
111 John Street, Suite 640
New York, NY 10038

To:

HONORABLE KEECHANT L. SEWELL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

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Website: <http://nyc.gov/nypd>

CHARGES AND SPECIFICATIONS

1. Said Police Officer Christopher Schroeck, while on-duty and assigned to Housing PSA 4, on or about May 31, 2021, in New York County, accessed confidential information without police necessity, to wit: said Police Officer Schroeck created and viewed Body Worn Camera footage unrelated to his Departmental duties.

A.G. 304-15, Page 1, Paragraphs 1 & 2

DEPARTMENT
CONFIDENTIALITY
POLICY
USE OF BODY WORN
CAMERAS

P.G. 212-123, Page 1, Paragraphs 13B & C

2. Said Police Officer Christopher Schroeck, while on-duty and assigned to Housing PSA 4, on or about May 31, 2021, in New York County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer Schroeck was insubordinate and discourteous to his supervisor.

P.G. 304-05, Page 1, Paragraph 1

PERFORMANCE ON
DUTY

A.G. 304-06 Page 1, Paragraph 1

PROHIBITED CONDUCT

3. Said Police Officer Christopher Schroeck, while on-duty and assigned to Housing PSA 4, on or about May 31, 2021, in New York County, reported to his post late and after instruction from his supervisor, failed to return to his post in a timely manner.

P.G. 206-03, Page 1, Paragraphs 1 & 14

VIOLATIONS SUBJECT
TO COMMAND
DISCIPLINE

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on November 22 2022. Respondent, through his counsel, entered a plea of Guilty to Specifications 1 and 3, and Not Guilty to Specification 2. The Department called Lieutenant Jeffery Gurley (now retired) and Sergeants Peterson Lockhard and Terrence Smithson as witnesses. Respondent testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, I find Respondent guilty on all counts, and recommend a penalty of thirty (30) vacation days.

ANALYSIS

At roll call on May 31, 2022, Respondent and his partner were assigned to the "Sky Watch" post, a fixed post in a high-crime area approximately one block from the stationhouse. However, as will be discussed below, Respondent was late to the post, to which he has pleaded guilty. When the Platoon Commander, Lieutenant Jeffery Gurley, learned of the lateness, he had Respondent summoned back to the PSA for a meeting in which Sergeant Peterson Lochard, the patrol supervisor, also was present. In the one disputed charge, it is alleged that Respondent was discourteous and insubordinate during that meeting. As the meeting was ending, Respondent wrongfully activated his Body-Worn Camera ("BWC") to record the end of his interaction with the lieutenant, and subsequently accessed the footage from that recording; Respondent has admitted his guilt to that charge as well. This incident came to the attention of IAB when the footage recorded by Respondent was subsequently leaked to the media, though Respondent is not charged with being responsible for that leak.

Lieutenant Gurley, who has since retired from the Department, testified that 40-to-50 minutes after roll call, he received a call that Respondent had not yet relieved the previous tour at the Sky Watch post. Gurley had Sergeant Lochard summon Respondent to a meeting in order to address the situation. Gurley informed Respondent that there were complaints about his being late to post, and asked the officer for an explanation. Respondent stated that he had to go to the restroom, which caused him to be late. Gurley responded that he had enough time to use the restroom and still make it to his post in a timely manner. According to Gurley, Respondent "started going back and forth" with him; Respondent repeatedly cut him off and talked over the lieutenant as he was trying to speak, in a "very testy way." Respondent did not, however, curse during the conversation, or get physical in any way. Gurley warned Respondent that starting the

next day, he would receive a Command Discipline if he was late again; the lieutenant's intention was just to warn Respondent, and give him an opportunity to correct his behavior. (Tr. 51-54, 58-60)

After the warning, Gurley instructed Respondent to return to his post. As he was walking out, Respondent stated to the lieutenant that if he was going to make a big thing out of the officer going to the restroom, then Respondent, too, would make a big thing about it. Gurley testified that Respondent said this in a "highly disrespectful" manner, and the lieutenant perceived this to be a threat. Gurley asked Respondent what he was going to do, and then heard a sound from Respondent's BWC; Gurley asked Respondent if it had been activated, but Respondent did not answer. The lieutenant reached for the camera to see if it was on, but Respondent turned away from him. Gurley informed Respondent that he would be issued Command Disciplines for improperly activating the camera, for being off post, and for his discourtesy. (Tr. 55-57, 60-63, 68)

Sergeant Lochard testified that even allowing for a five-to-ten minute grace period after roll call, Respondent should have been at his post by 1535 hours. According to Lochard, Respondent did not actually arrive at his post until after 1600. During the subsequent meeting with Lieutenant Gurley, the lieutenant calmly informed Respondent that this was an ongoing problem, asked him to explain why he was late, and told Respondent that if there was an issue he should let a supervisor know. Lochard testified that during the conversation, Respondent "kept interrupting, and there's always a rebuttal," in a manner that Lochard felt was unnecessary and unprofessional; Respondent did not, however, yell or curse. As he was walking out, Respondent made the comment about how he would "make a big deal of it as well," which Lochard interpreted as a threat. When Respondent activated his BWC, Gurley told him that it was a

private meeting and he should not be recording. There was no physical contact between them. (Tr. 32-39, 44-48)

The video footage from Respondent's BWC shows Gurley speaking with Respondent inside the office, with Lochard standing in the doorway; the initial conversation cannot be heard. At the 0.50 second mark, Respondent walks out the door, but the conversation continues, with Gurley gesturing with his hands as he addresses Respondent. Gurley can be heard asking Respondent what he is going to do, and then asks if he turned on his camera. The lieutenant walks toward Respondent and tells him he's not supposed to be recording, and he will receive a Command Discipline. Respondent tells him not to put his hands on him, and Gurley answers that he is not touching Respondent, he's touching the camera.

Respondent testified that after roll call he went to use the restroom. He stated he has a medical issue requiring him to use the restroom more frequently, which is documented with the Department. Respondent estimated that he was only about 10 minutes late to his post. He conceded that he did not inform anyone that he was using the restroom and might be late to his post because of it. While he was at his post, Respondent was summoned back to the command to speak with Gurley and Lochard. (Tr. 71-73, 83-84)

In the meeting, Gurley stated that Respondent's lateness was an on-going problem. Respondent testified that he tried to explain that he has a medical condition that requires him to use the restroom, which is a personal issue that is difficult for him to discuss. According to Respondent, Gurley appeared "flustered" by Respondent's explanation, and was not taking Respondent seriously. Respondent insisted he was soft-spoken during the conversation, and did not yell or curse at the lieutenant. When Respondent made the comment about making this into a bigger thing, he did not intend it as a threat; rather, he meant that he might contact his delegate or

attorney to get assistance, which he has a right to do. Nevertheless, Gurley became irate, repeatedly asking Respondent, "What are you going to do about it?" (Tr. 74-78, 86-87)

Fearing that the conversation might evolve into a physical altercation, Respondent activated his BWC in order to protect himself; it was also, in part, a "reflex" reaction on his part. Respondent testified that Gurley reached for the camera and made contact with Respondent's hand, and Respondent said, "Don't touch me." Gurley informed him that he would be receiving Command Disciplines, and that he should return to his post. On the way out, Respondent was upset and stopped to speak briefly with a colleague, before returning to his post. (Tr. 77-79, 82, 85-87)

On more than one occasion after this incident, Respondent accessed and watched his BWC footage. Respondent testified that the reason he did so was to refresh his memory in preparation for statements he provided as part of an FEO complaint he filed the day after the incident. Respondent acknowledged that he now realizes he is not supposed to use his BWC in the manner he did during this incident. (Tr. 81-82, 88-89)

Specification 1 charges Respondent with wrongfully activating his BWC in order to record a portion of his interaction with Lieutenant Gurley, as well as improperly viewing that footage on multiple occasions after the incident. Respondent pleaded guilty to this count, admitting that he wrongfully used his BWC to record part of the incident. He also admitted that more than once he improperly viewed the footage using Department equipment in order to refresh his memory in connection with an EEO complaint he filed. Accordingly, I find Respondent guilty of Specification 1.

Specification 3 charges Respondent with two separate acts of misconduct: for reporting late to his post, and then failing to return to his post in a timely manner. Respondent pleaded

guilty to both parts of this charge as well. He admitted that he was late in arriving at his post after roll call, explaining he needed to use the restroom. Respondent attempted to minimize the delay, claiming he was only 10 minutes late to his post, though Gurley and Lochard credibly testified that his delay in arriving to his post was significantly longer than that. Additionally, Respondent admitted he was late in returning to his post after his meeting with Lieutenant Gurley, since he was upset and stopped momentarily to talk with a police officer colleague. Accordingly, I find Respondent guilty of both prongs of Specification 3.

Specification 2 charges Respondent with being insubordinate and discourteous to his supervisor, Lieutenant Gurley. Respondent disputes this charge, claiming that he was merely trying to explain his reason for being late. When he stated, "You want to make it a big issue, I'll make it a big issue," he meant only to indicate that he would pursue the matter with his delegate or file a complaint, and not as a threat to the lieutenant.

However, even if Respondent felt that he was being unfairly warned about being late to post, I credit the testimony of Lieutenant Gurley and Sergeant Lochard that Respondent was disrespectful and discourteous during their meeting. Although he has since retired from the Department, Gurley appeared to testify, and articulated in a detailed, professional manner how he was calmly attempting to warn Respondent about his lateness issues, with the hope that Respondent would correct the problem. As he was doing so, Respondent repeatedly cut him off and tried to talk over him. Sergeant Lochard corroborated the lieutenant's account of how Respondent frequently interrupted the lieutenant in a way that was unprofessional. Additionally, as they were exiting the office, Respondent made the comment about how he would make a "big thing" out of it; even though Respondent was well within his rights to consult with a delegate or an attorney, both the lieutenant and sergeant perceived the manner in which he

communicated that intention to be disrespectful and threatening. Respondent then compounded matters by improperly activating his BWC in order to record his interaction with the lieutenant.

Viewed as a whole, Respondent's conduct during the meeting was disrespectful and discourteous toward his supervisor. Respondent's actions were contrary to the good order, efficiency, and discipline of the Department, and I find him guilty of Specification 2.

PENALTY

In order to determine an appropriate penalty, this Tribunal, guided by the Department's Disciplinary System Penalty Guidelines, considered all relevant facts and circumstances, including potential aggravating and mitigating factors established in the record. Respondent's employment history also was examined. *See* 38 RCNY § 15-07. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached memorandum. Respondent, who was appointed to the Department on July 13, 2016, has no formal disciplinary record.

Respondent has been found guilty of all three charges, two of which he pleaded guilty to (late to post, improper use of BWC), and one which he contested (discourtesy). The Department Advocate recommends that Respondent forfeit 36 vacation days, while Respondent asks for a lesser penalty.

The Disciplinary Guidelines do not squarely address discourtesy toward a supervisor. In fashioning an appropriate penalty that is reasonable under the circumstances, it is useful to assess the entire interaction between Respondent and Lieutenant Gurley, in conjunction with Respondent's additional acts of misconduct involving being late to post and his misuse of his BWC.

As discussed above, the credible evidence established that Respondent was discourteous toward Gurley. On the one hand, this Tribunal is sympathetic to Respondent's medical condition, and his unease in discussing it with his supervisors. Nevertheless, Respondent remains responsible for addressing his superior officers in a professional and respectful manner. The credible testimony of Gurley and Lochard established that Respondent did just the opposite, as he repeatedly interrupted and tried to talk over the Lieutenant, who was calmly attempting to address a lateness issue with the hope that Respondent would take steps to correct it. Rather than respectfully listening to the warning of his lieutenant, Respondent chose to make their conversation unnecessarily confrontational.

As the meeting was wrapping up, Respondent could easily have exited the office and returned to his post without further incident. Instead, he chose to make the threatening remark that he would "make a big deal out of this." Making matters worse, Respondent then activated his BWC to record his interaction with his supervisor, an act that he now acknowledges was inappropriate. On more than one occasion after that date, he accessed his BWC footage, which he also admitted was improper.

Additionally, Respondent committed misconduct by twice reporting late to his post, a command discipline level offense. Even allowing for a reasonable delay to use the restroom, Respondent took an excessive amount of time to report to his Sky Watch post, an important assignment in a high-crime area close to the command. Respondent's slight delay in returning to his post after the meeting is less troubling, as he was upset and stopped briefly to talk with a colleague before heading back out.

On balance, a forfeiture of thirty (30) vacation days is reasonable to address the totality of the misconduct in this case, a significant loss of days that will hopefully serve as a deterrent to

future misconduct. Taking into account the facts and circumstances in this matter, I recommend that Respondent forfeit thirty (30) vacation days.

Respectfully submitted,



Jeff Adler
Assistant Deputy Commissioner Trials

APPROVED



MAY 04 2023
KEECHANT L. SEWELL
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER CHRISTOPHER SCHROECK
TAX REGISTRY NO. 962091
DISCIPLINARY CASE NO. 2021-24268

Respondent was appointed to the Department on July 13, 2016. On his three most recent annual performance evaluations, he received Exceeds Expectations for 2019, and Meets Standards for 2017 and 2018.

Respondent has no formal disciplinary history.

For your consideration.

Jeff Adler
Assistant Deputy Commissioner Trials