

POLICE DEPARTMENT

March 31, 2023

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In the Matter of the Charges and Specifications	:	Case No.
- against -	:	2022-24601
Police Officer Jordan Gates-Rollins	:	
Tax Registry No. 966589	:	
Public Service Area 4	:	

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

Before: Honorable Paul M. Gamble
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Brittany Lercara & Jamie Moran, Esqs.
Department Advocate's Office
One Police Plaza, Room 402
New York, NY 10038

For the Respondent: Craig Hayes, Esq.
Worth, Longworth & 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

CHARGES AND SPECIFICATIONS

1. Police Officer Jordan Gates-Rollins, while assigned to Housing Bureau Police Service Area #4, on or about January 22, 2022, while on-duty, after having been given an order to accept or complete an overtime period or arresting processing assignment by Sergeant John Broderick, wrongfully failed to comply with said order.

A.G. 304-03, Page 1, Paragraph 2

COMPLIANCE WITH ORDERS

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

PERFORMANCE ON DUTY

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

PROHIBITED CONDUCT

2. Police Officer Jordan Gates-Rollins, while assigned to Housing Bureau Police Service Area #4, on or about January 22, 2022, while on-duty, was discourteous to on-duty New York City Police Department Sergeant John Broderick.

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

PROHIBITED CONDUCT

3. Police Officer Jordan Gates-Rollins, while assigned to Housing Bureau Police Service Area #4, on or about March 31, 2022, refused to answer a question during a Department interview. (*As amended*).

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

PROHIBITED CONDUCT

A.G. 318-11

INTERROGATION OF
MEMBERS OF SERVICE

A.G. 304-10

FALSE OR MISLEADING
STATEMENTS

4. Police Officer Jordan Gates-Rollins, while assigned to Housing Bureau Police Service Area #4, on or about January 22, 2022, while on-duty, after having been instructed to comply with supervisory direction or to be courteous or professional to supervisors by Lieutenant David DeJesus, wrongfully failed to comply with said directives.

A.G. 304-03, Page 1, Paragraph 2

COMPLIANCE WITH ORDERS

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

PERFORMANCE ON DUTY

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

PROHIBITED CONDUCT

5. Police Officer Jordan Gates-Rollins, while assigned to Housing Bureau Police Service Area #4, on or about March 31, 2022, was discourteous to an interviewing investigator during a Department interview. (*As added*)

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

PROHIBITED CONDUCT

A.G. 318-11

INTERROGATION OF
MEMBERS OF SERVICE

6. Police Officer Jordan Gates-Rollins, while assigned to Housing Bureau Police Service Area #4, on or about March 31, 2022, made a misleading or inaccurate statement during a Department interview. (*As added*)

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

PROHIBITED CONDUCT

A.G. 318-11

INTERROGATION OF
MEMBERS OF SERVICE

A.G. 304-10

FALSE OR MISLEADING
STATEMENTS

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on February 15 and 16, 2023. Respondent, through his counsel, entered pleas of Not Guilty. The Department called Sergeant Fazilatun Nessa, Sergeant John Broderick, Lieutenant Thomas Stephens, Deputy Inspector Carlos Peralta, and Lieutenant David DeJesus 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 evaluated all of the evidence in this matter, the Tribunal finds Respondent Guilty of Specifications 1 and 2. I find Respondent Not Guilty of Specifications 3, 4, 5 and 6. The Tribunal recommends that Respondent forfeit 20 vacation days on Specification 1 and on Specification 2, to run concurrently with each other.

ANALYSIS

The alleged misconduct in this case involves Respondent's attempts to keep a medical appointment on January 22, 2022, despite being selected to perform a mandatory overtime tour that day. It also involves the manner in which Respondent conducted himself during a Department interview.

The following is a summary of the facts which are not in dispute.

On January 21, 2022, Respondent was assigned overtime for the following day, January 22, 2022, by Sergeant Harold Gates as he conducted roll call. Respondent had a medical appointment¹ on January 22nd that he had scheduled four months in advance (T. 199). Respondent informed Sergeant Gates that he had a personal matter to deal with after duty hours which would preclude performing overtime; Sergeant Gates directed Respondent to take the matter up with Sergeant Fazilatun Nessa, the PSA-4 administrative sergeant.

Sergeant Nessa testified that eight police officers were needed to staff the post-tour overtime for January 22nd (T. 41). She confirmed that Respondent spoke to her on January 21st and explained that he would be unable to take the overtime because he had "personal stuff" to do, handing her back the overtime slip. Sergeant Nessa did not take the slip back and told Respondent that he would have to find a replacement. Respondent was able to obtain relief coverage for the overtime, a fact which Sergeant Gates confirmed to Sergeant Nessa (T. 33-35).

On January 22, 2022, Respondent was working a day tour with Police Officers Flores and Anderson; Flores and Anderson had already been assigned to work post-tour overtime that day. Near the end of their tour, they made an arrest. Sometime after 1500 hours, Police Officer Flores

¹ Respondent conceded in his testimony that he did not explicitly inform any of his supervisors that the personal matter he referred to was, in fact, a medical appointment. He testified that had they asked for more details, he would have provided them, but that he was not volunteering the information (T. 200).

received a telephone call from Sergeant John Broderick, the patrol supervisor; in this conversation, Broderick told Flores, in sum and substance, "Tell your partner he either has to take the arrest or the overtime." Flores passed along Sergeant Broderick's message, to which Respondent replied, "No; I'll speak to him when I get back to the command," because his body-worn camera was on (T. 203).

When Respondent returned to PSA-4, he encountered Sergeant Broderick and they had a verbal exchange, the details of which are disputed. After their exchange, Respondent placed a telephone call to the PSA-4 Commanding Officer, Deputy Inspector (then Captain) Carlos Peralta; the details of this conversation are also in dispute.

Respondent did not perform an overtime tour that day. On March 31, 2022, he was questioned during an official Department interview. Respondent's department during this interview, as well as the substance of his responses, are in issue.

The following is a summary of the relevant evidence which was presented at the trial.

January 22, 2022 Incident

Respondent returned to the precinct after the arrest and escorted the arrestee's minor brother to the muster room before approaching Broderick. He stated that Broderick yelled out his name from behind the desk, and Respondent told him, "Give me one second" (T. 204). Broderick told Respondent he either needed to take the arrest or cover the post-tour overtime (T. 45, 48). Respondent informed Broderick he had spoken with Sergeant Nessa the day before and that he could not perform the overtime (T. 48).

Respondent admitted that he told Broderick, "If you want to give me a CD, just give me a CD." He explained that he made that statement because "[Broderick] wasn't listening to what [he] was saying ... [and he] wasn't going to go back and forth with him" (T. 206).

Sergeant John Broderick testified that Respondent, who had the least amount of seniority, was the only one available to take the overtime post, and that he went to speak with his ICO before calling Deputy Inspector Peralta (T. 50, 51-52). Broderick explained he was calling Peralta because Respondent was “disobeying a direct order[,] [s]o I called him up to basically suspend him” (T. 50, 52). Sergeant Broderick did not contact Sergeant Nessa to learn the details of the conversation she had with Respondent the previous day (T. 76). According to Sergeant Broderick, Deputy Inspector Peralta told him that he would have to make Respondent do the overtime tour; Broderick responded that he would have to suspend Respondent because he was going to refuse the order again (T. 52-53). Peralta then told Broderick, “Let him go home; we’ll deal with this tomorrow” (T. 53).

Lieutenant Thomas Stephens testified that he was on duty behind the desk at a computer terminal as this interaction occurred. Broderick testified that Respondent was “agitated” and that Respondent raised his voice at Broderick when he stated he was not taking the arrest or the overtime (T. 50). He testified that he overheard the interaction as he was behind the desk, but he did not find it necessary to intervene. Lieutenant Stephens described Respondent’s behavior as “unprofessional” and stated that the commotion was so loud he had to stop what he was doing (T. 90). He testified further that while he believed other officers stepped in and took Respondent into an office, the interaction between Respondent and Broderick never became physical (T. 98).

Deputy Inspector Carlos Peralta testified on January 22, 2022, while off duty, he received a call from Respondent, who informed told him that Sergeant Broderick directed him to perform overtime, that he was unable to do it because of a personal issue, and that he had previously resolved the issue with Sergeant Nessa (T. 107, 131, 133). He then informed Respondent that

the overtime needed to be covered by someone, and that Respondent could find an alternative person (T. 108).

Peralta then spoke with Broderick on the phone after speaking with Respondent; in that conversation, Broderick informed him that Respondent had been ordered to perform the post-tour overtime but that he had refused to do it and stated that he would rather take a Command Discipline (T. 108-09, 120, 131-32). Broderick also alluded to a conversation Respondent told him that he had with Sergeant Nessa (T. 133). Inspector Peralta told him to let Respondent go home and they would deal with it the next day by having Housing Inspections handle it (T. 53, 125, 130). Peralta gave Broderick permission to assign the overtime to Officer Delacruz² and Respondent went home, once given permission to leave the precinct (T. 109-10, 130).

The Department Interview

Lieutenant David DeJesus was the Integrity Control Officer at PSA-4 on January 22, 2022; he was transferred to the Housing Bureau Investigations Unit in February of 2022 (T. 135). He testified that he was present for Respondent's Department interview on March 31, 2022 with Sergeants Tozaj and Orion. Lieutenant DeJesus stated that Respondent entered the room with a "hostile glare" and "exhibit[ed] intense eye contact with each of the investigators" (T. 144). DeJesus further stated that Respondent was distracted by his cell phone and asked to put it away, then was distracted by his smart watch (T. 144).

During the interview, Lieutenant DeJesus stated they wanted to discuss his "other disciplinary shortcomings" because there was a "history of this behavior," and Respondent told them it was not relevant and he was not answering questions about it (T. 146; see Dept. Ex. 1A at

² Delacruz was on the "Do Not Fly" list, a weekly overtime list, because he had an excessive amount of overtime. The overtime assignment of an officer on that list requires the approval of a lieutenant or supervisor of higher rank (T. 54, 121).

22-23). Sergeant Tozaj did not follow up with further questions or order him to answer, nor did any of the other investigators present (T. 156-57).

Respondent testified that he did not raise his voice or yell at Broderick; he also denied being escorted away by other officers (T. 207, 226). Respondent testified he called Deputy Inspector Peralta because he was told by another officer that Broderick was calling the duty captain, and presumed it was to suspend him (T. 207-08). Respondent denied that he rolled his eyes, raised his voice, and interrupted the investigators during his Department interview (T. 214).

Respondent conceded that he was obligated as a Member of Service to obey lawful orders and that Sergeant Broderick had the authority to issue him an order (T. 226-28). He also characterized his relationship with Sergeant Broderick as, "Usually, my dealings with Sergeant Broderick is never really a conversation. It's what he says goes, and that's it. He's not going to care what I have to say. So I know if I was trying to explain it to him, it's like beating a dead horse, so . . ." (T. 249-50).

Credibility

I credit the respective testimonies of Sergeant Nessa and Lieutenant Stephens as disinterested witnesses. The substance of their testimonies seemed consistent with other supervisors in this Department who have testified before me regarding the performance of their duties and observations they made during such performance.

I further find Deputy Inspector Peralta to be a credible witness. The substance of his testimony is consistent with previous executives who have testified before this Tribunal regarding the exercise of their command function; in this case, however, he became involved as a fact witness.

I find that Respondent's credible testimony that he contacted Deputy Inspector Peralta because he had his telephone number, suggests that Peralta had voluntarily provided his number. Based upon that inference, it is more likely than not that Deputy Inspector Peralta provided Respondent his number in the hope that his involvement, as a leader in this Department, would be a resource to assist Respondent in becoming a productive Member of Service.

This relationship, however, was challenged when Respondent sought his intercession in his dispute with Sergeant Broderick. I find that despite a possible bias in favor of Respondent, Deputy Inspector Peralta's conduct admirably accomplished the dual goals of being supportive of Respondent, without abrogating his command responsibilities to maintain good order and discipline. I find that his resolution of the immediate personnel issue on January 22nd was an exercise of his command discretion; his referral of the matter to the Housing Investigations Unit, however, was an exercise in command responsibility.

I find Sergeant Broderick to be a credible witness, albeit with some arguable bias. His concession that he took no steps to verify Respondent's assertion that he had previously resolved the overtime issue with Sergeants Nessa and Gates supports an inference that he felt no need to contact them. This mindset apparently took no note of how Respondent might perceive it in that moment, as he already believed that Sergeant Broderick bore some animus against him. I further find that his escalation of the situation to a possible suspension scenario involving the duty captain, rather than exercising his discretion to inquire further into a facially plausible explanation Respondent offered, supports another inference that he was personally invested in the more stringent approach.

Finally, I find Respondent to be a credible witness, with some exceptions. As a party to this action, he is interested in the outcome of this proceeding. I find that his testimony

minimized the tenor of his comments to Sergeant Broderick, largely because Lieutenant Stephens, a disinterested witness, characterized the interaction in a materially different manner. I do credit his concession that he and Sergeant Broderick had a fraught relationship. As discussed in detail below, I find that his belief in the correctness of his actions collided with the lawful authority exercised by an individual with whom he had a difficult professional relationship, resulting in the January 22nd confrontation.

Specification 1: Failure to Comply with an Order

I find the Department has met its burden by a preponderance of the credible, relevant evidence that Respondent failed to comply with Sergeant Broderick's order, to either take the arrest or work the post-tour overtime.

Sergeant Broderick had the authority, by virtue of his rank and his position as the patrol supervisor, to issue Respondent an order. Using an objective test, the direction was clear and unambiguous. There is no dispute that Respondent heard the order, because he responded to it. Based upon this Tribunal's precedent, I find that Sergeant Broderick issued Respondent a lawful order (*See Disciplinary Case No. 2016-16421 [Oct. 23, 2017] citing Dep't of Correction v. Hipp, OATH Index No. 337/00 [Dec. 3, 1999]*).

The remaining question is whether Respondent's words and actions constitute a refusal of that order. Based upon the surrounding circumstances, I find that it did.

I have credited Respondent's testimony that he informed Sergeant Broderick that he had previously secured permission from Sergeants Gates and Nessa to be exempted from performing the overtime tour on January 22nd. While Sergeant Broderick conceded during his testimony that he never sought to verify Respondent's assertion independently, his concession is not dispositive of the issue.

Sergeant Broderick testified that he asked Respondent why he could not perform the overtime, a fact which Respondent does not dispute. Respondent elected not to disclose to Broderick his reason for seeking an exemption from performing the overtime. As a matter of law, the content of Respondent's previous discussions with Sergeants Nessa and Gates cannot be imputed to Sergeant Broderick. Even if Broderick was aware of the contents of Respondent's previous discussion with the other two supervisors, he still had the authority to issue an order to Respondent.

I find it more likely than not that Respondent's perception of his relationship with Sergeant Broderick colored his analysis of the situation. While he may have loathed the idea of disclosing the personal nature of his exemption request to a supervisor with whom he did not get along, his decision not to do so left it entirely within Sergeant Broderick's discretion whether or not to verify Respondent's assertions regarding his previous discussions.

It is not this Tribunal's role as fact-finder to inquire why Sergeant Broderick did not confer with his fellow supervisors, or whether there had been a change in circumstances from the previous day's resolution, which exempted Respondent from performing overtime, requiring him to issue a new order in an attempt to achieve the same staffing goal. The onus was on Respondent to communicate the rationale behind his exemption request *de novo* to Broderick in a respectful manner, or run the risk that the request would be denied summarily. I find that he made his position clear when he told Sergeant Broderick that he could issue Respondent a Command Discipline; implicit in that unsolicited remark is that he was not going to comply with Broderick's order.

I do not find that Respondent's subsequent telephone conversation with Deputy Inspector Peralta, in which Respondent obtained permission to find a relief and avoid performing the

overtime himself, operates as a defense to the accusation of disobedience of an order from Sergeant Broderick. While Respondent achieved the same result he thought had been secured the day before, he still disobeyed Sergeant Broderick's order, even if it was later countermanded by their Commanding Officer.

Accordingly, I find Respondent Guilty of Specification 1.

Specification 2: Discourtesy to Sergeant Broderick

I find the Department has met its burden by a preponderance of the credible, relevant evidence that Respondent was discourteous to Sergeant Broderick.

Discourtesy, as defined in the Matrix, includes "acting in a rude or unprofessional manner (such as demeanor or tone)" (Disciplinary Matrix, p. 26).

This Tribunal has previously held that telling a supervisor, "You do whatever you have to do," in a demeaning tone, constitutes discourtesy (*Disciplinary Case No. 2015-14337* [Jun. 23, 2016]; *see Disciplinary Case No. 2012-7886* [Feb. 26, 2013])[*"I don't give a f – k, give me twenty CDs"*]).

It is undisputed that when Respondent told Sergeant Broderick that he was unable to take the overtime or the arrest, he also told him "If you want to give me a CD, just give me a CD." Lieutenant Stephens' credible testimony established that Respondent's tone was loud and, in his opinion, unprofessional. Based upon this record, I find that Respondent's tone and language were rude and inappropriate for a work setting, especially when directed toward a supervisor.

Based upon the foregoing, I find Respondent Guilty of Specification 2.

Specification 3: Refusal to Answer Questions

I find the Department has not met its burden by a preponderance of the credible, relevant evidence that Respondent refused to answer a question during a Department interview.

Administrative Guide Section 318-11 states that Members of the Service are to “answer questions specifically directed and narrowly related to official duties. (Refusal shall result in suspension from duty.)”

Sergeant Tozaj asked Respondent during his Department interview about prior discipline he may have received from other supervisors at his command; Respondent replied, “That has nothing to do with this ... So I’m not gonna [sic] discuss it. It has nothing to do with this situation” (Dept. Ex. 1A at 22-23). Her follow-up question asked if Respondent had an issue receiving orders from supervisors, to which he responded that he did not (*Id.* at 23). Neither Sergeant Tozaj, nor any of the other investigators, raised Respondent’s prior disciplinary history again during the remainder of the interview. Lieutenant DeJesus conceded on cross-examination that, “As it relates to the discipline, we were unsure if that was in fact admissible and, in hindsight, like this is one of those interviews, one of those hearings where we would like to have back . . .” (T. 156).

Respondent answered the questions posed to him about what occurred on January 22nd and questions about his past interactions with Broderick, including a Command Discipline he received from Broderick. His acknowledgement of having received discipline initiated by Broderick could inform the investigators regarding Respondent’s state of mind at the time of the incident. Questioning Respondent about his prior disciplinary history with supervisors other than Sergeant Broderick, which the investigators would presumably be able to verify without resorting to questioning Respondent, seems argumentative and not designed to advance any

investigatory purpose. Respondent was within his rights to assert that the subject matter was irrelevant; the investigators, however, did not follow-up with a warning of the consequences of failing to answer a question and to pose it to Respondent again. By their decision not to pursue that line of questioning, it seems unfair to now attempt to sanction Respondent for a non-answer they treated as trivial at the time.

Accordingly, I find Respondent Not Guilty of Specification 3.

Specification 4: Failure to Comply with an Order

I find the Department has not met its burden by a preponderance of the credible, relevant evidence that Respondent failed to comply with supervisory direction to be courteous or professional to supervisors by Lieutenant David DeJesus³.

DeJesus testified that he observed Respondent roll his eyes during the interview, raise his voice, and cut off the investigators while they spoke; however, he never admonished Respondent for this behavior (T. 149-50). Respondent was told once to put his phone away and once to stop looking at his smart watch by Sergeant Tozaj. Based upon the audio recording of the interview, it appears that he complied with those directives, as he was not instructed a second time. Lieutenant DeJesus conceded on cross-examination that he never admonished Respondent for raising his voice, cutting off the investigators' questions or rolling his eyes (T. 149-150). A review of the interview recording confirms that DeJesus never gave any order or direction to "be courteous or professional to supervisors."

Respondent cannot have failed to comply with an order that he was not given.

Accordingly, I find Respondent Not Guilty of Specification 4.

³ While the pleading in Specification 4 refers to misconduct alleged to have occurred on January 22, 2022, Lieutenant DeJesus was only questioned about his observations of Respondent's Department interview conducted on March 31, 2022.

Specification 5: Discourtesy to Investigators

I find the Department has failed to meet its burden of proof by a preponderance of the credible, relevant evidence that Respondent was discourteous to investigators during his Department interview on March 31, 2022.

Inasmuch as Respondent's participation in a Department interview is not voluntary, it would not be surprising that he may experience a range of emotions about being subjected to official questioning. Since Respondent and Lieutenant DeJesus were acquainted with each other from DeJesus' previous assignment as the Integrity Control Officer for PSA-4, their personal dynamic may have also been a factor bearing on DeJesus' perception of Respondent's state of mind. Finally, Respondent's belief, expressed during the interview, that he had been targeted by Sergeant Broderick, could also have had an impact upon the manner in which he received the investigators' questions.

While Respondents are expected to maintain decorum and professionalism during an interview, even a contentious one, there is insufficient evidence, on this record, to support a finding that Respondent was discourteous.

As discussed above in the analysis of Specification 4, Lieutenant DeJesus testified that Respondent raised his voice and spoke over the investigators during the interview. I listened to the audio recording of the interview and did not find Respondent's tone, or the manner in which he answered questions, to be objectively discourteous. Based upon my review, I find that Respondent did manifest his displeasure with the encounter by using a curt tone, but I do not find that it crossed the threshold of discourtesy.

DeJesus also testified that Respondent had a "hostile glare" and "intense eye contact with each of the investigators" (T. 144). There was no independent evidence of this behavior offered

by the Department other than his testimony. Under all of the surrounding circumstances, finding misconduct based upon such subjective criteria would open respondents to unwarranted accusations of discourtesy.

Based upon the foregoing, I find Respondent Not Guilty of Specification 5.

Specification 6: Misleading or Inaccurate Statements

I find the Department has not met its burden of proof by a preponderance of the credible, relevant evidence that Respondent made misleading or inaccurate statements in his Department interview with respect to what he meant by telling Broderick to issue a Command Discipline.

Administrative Guide procedure 304-10 defines "inaccurate statement" as "a statement that a member of the service knows, or should know, includes incorrect material information. There is no intent to deceive, but rather the member's actions are grossly negligent." This section also defines a "misleading statement" as "a statement that is intended to misdirect the fact finder, and materially alter the narrative by: (a) intentionally omitting a material fact or facts, (b) making repeated claims of "*I do not remember*" or "*I do not know*" when a reasonable person under similar circumstances would recall, or have been aware of, such material facts, or (c) altering and/or changing a member's prior statement or account when a member of the service is confronted with independent evidence indicating that an event did not occur as initially described, will generally be considered a misleading statement."

During the Departmental interview, Sergeant Tozaj asked Respondent what he meant by telling Sergeant Broderick to "give him a CD." Initially, Respondent replied that he was not refusing a lawful order by saying that, but that it just meant "if he's going to give me a CD, give me a CD" (Dept. Ex. 1A at 13). When asked again what he meant, he told the investigators, "It was just a statement" (*Id.* at 30).

Based upon the evidence in the record, none of these statements fall within the definition of a misleading or inaccurate statement. Respondent was not intentionally omitting a material fact, or providing incorrect information, to the investigators. Respondent was asked why he told Broderick to give him a CD and he gave his explanation. While this explanation confirmed that he made the statement, which had evidentiary significance, as set forth above, Respondent's refusal to adopt the investigator's view of the meaning of a statement, under these circumstances, does not amount to misconduct.

Accordingly, I find Respondent Not Guilty of Specification 6.

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 October 24, 2018, has been found Guilty of failure to comply with a lawful order from, and being discourteous to, Sergeant Broderick.

The Department has recommended a penalty of 30 suspension days, 30 vacation days, and one-year dismissal probation; since Respondent has been found Guilty of only Specifications 1 and 2, and acquitted of the other four Specifications, this penalty recommendation is excessive.

The presumptive penalty for failure to comply with a lawful order is 20 penalty days; the mitigated penalty is 15 days and the aggravated penalty is 30 days.

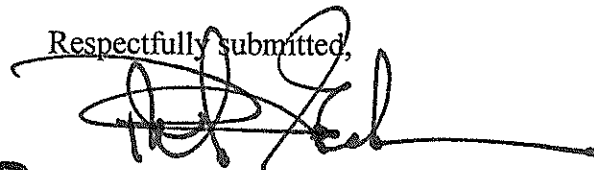
There is no presumptive penalty in the Disciplinary Guidelines for discourtesy to a fellow Member of Service; the closest analogue is insubordination, for which the presumptive penalty is 20 penalty days. The mitigated penalty is 15 penalty days and the aggravated penalty is 30 penalty days. I find that the facts of this case, where Respondent disobeyed an order and used discourteous language to do so, support a characterization of the misconduct as insubordinate, although insubordination was not explicitly charged.

The evidence in the record supports a finding that Respondent justified his actions, in his own mind, as standing up for himself; Sergeant Broderick, on the other hand, interpreted his assertiveness as defiance and sought to suspend him. Once Respondent brought the matter to the attention of Deputy Inspector Peralta, he was faced with the Solomonic task of de-escalating a conflict between members of his command, while maintaining good order and discipline by holding Respondent accountable for his actions.

Based upon this record, I recommend the imposition of a penalty which reinforces: (1) the non-negotiable requirement for compliance with lawful orders; and (2) the need for Members of Service to treat each other with respect.

Accordingly, I recommend that Respondent forfeit the presumptive penalty of 20 vacation days for failure to comply with Sergeant Broderick's order and the presumptive penalty of 20 vacation days for discourtesy to Sergeant Broderick. I further recommend that both penalties run concurrently with each other, as the misconduct plead in each Specification occurred at the same time, during the same transaction.

Respectfully submitted,



APPROVED

Paul M. Gamble
Assistant Deputy Commissioner Trials

OCT 03 2023

EDWARD A. CABAN
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER JORDAN GATES-ROLLINS
TAX REGISTRY NO. 966589
DISCIPLINARY CASE NO. 2022-24601

Respondent was appointed to the Department on October 24, 2018. On his most recent annual performance evaluations, he was rated “Exceeds Expectations” in 2021 and received a 3.5 overall rating of “Highly Competent/Competent” in 2020.

Respondent has no formal disciplinary history. He was placed on Level 1 Discipline monitoring on September 30, 2022; monitoring remains ongoing.

For your consideration.

Paul M. Gamble
Assistant Deputy Commissioner Trials