



POLICE DEPARTMENT

August 5, 2022

-----X

In the Matter of the Charges and Specifications	:	Case No.
- against -	:	2021-23328
Police Officer Eugenia Williams	:	
Tax Registry No. 945101	:	
Queens Warrant Squad	:	

-----X

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

Before: Honorable Paul M. Gamble
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Michael Ricottone, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: Peter Brill, Esq.
Brill Legal Group, P.C.
306 Fifth Avenue, Penthouse
New York, NY 10038

To:

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

CHARGES AND SPECIFICATIONS

1. Said Police Officer Eugenia Williams, while on-duty and assigned to the 109th Precinct, on or about and between January 19, 2021, and February 3, 2021, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer was discourteous and insubordinate to her supervisor.

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT –
PROHIBITED CONDUCT

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on June 1, 2022, and June 23, 2022. Respondent, through her counsel, entered a plea of Not Guilty to the subject charge. The Department called Sergeant Jason Vidal and Lieutenant Andrea Bodon as witnesses. Respondent called SPAA Evelyn Monloe and testified on her 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 of Specification 1. I recommend that Respondent forfeit 30 vacation days.

SYLLABUS

In this case, the issue before the Tribunal is whether Respondent was discourteous and insubordinate to her supervisor from January 19, 2021, to February 3, 2021. The evidence presented during the hearing raises the issue of whether Respondent was, in fact, allegedly discourteous and insubordinate to two supervisors, Sergeant Jason Vidal and Lieutenant Andrea Bodon.

The most severe misconduct alleged was Respondent's inclusion of allegedly offensive language in two responses to emails sent to her by Sergeant Vidal on issues of professional performance. The Department also presented evidence of three instances where Sergeant Vidal allegedly observed Respondent violating uniform regulations.

The Department also presented evidence at the hearing that Respondent allegedly grabbed the shoulders of another supervisor, then-Sergeant Andrea Bodon, during a meeting with Respondent and both supervisors.

After considering the evidence of Respondent's alleged misconduct from January 19, 2021, to February 3, 2021, I have found her Guilty of the sole Specification.

ANALYSIS

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

Sergeant Jason Vidal was the administrative sergeant in the 109th Precinct from January 2020 through May 2022. As the administrative sergeant, he was Respondent's direct supervisor while she was a property specialist during that period. As a property specialist, Respondent was obligated to wear the administrative uniform, as opposed to the uniform police officers assigned to patrol duties were compelled to wear. The summer administrative uniform in the 109th Precinct during the relevant period consisted of "duty trousers, short-sleeve shirt, no cap, no tie," and the winter administrative uniform consisted of "duty trousers, long-sleeved shirt, and an optional tie" (T. 21-22).

At the hearing, Respondent admitted that she was aware of the administrative uniform requirements (T. 265-66). She further admitted that on January 21, 2021, she sent electronic responses to Sergeant Vidal's emails, but denied any intent to be disrespectful or insubordinate (T. 250-51, 254-55).

The following is a summary of the relevant evidence presented at the hearing.

Sergeant Jason Vidal testified that on three occasions, December 15, 2020; January 12, 2021; and January 19, 2021, he observed Respondent out of uniform.

On December 15, 2020, he observed Respondent in an improper uniform and instructed her to change into the administrative uniform. On cross-examination, Respondent conceded that

she was wearing Timberland boots, jeans, and a sweater when Sergeant Vidal spoke to her (T. 270).

On January 12, 2021, Sergeant Vidal observed Respondent again in jeans, Timberland boots, and a sweater. He testified that he did not say anything to her about her allegedly improper uniform on that date because he wanted another supervisor present for the conversation and could not find one at the time (T. 29-30).

On January 19, 2021, Sergeant Vidal observed Respondent wearing jeans, boots, a black bubble jacket, and a black beanie cap; Respondent disputed that she was wearing those items while on duty that day, but asserted that her previous supervisors informed her that it was permissible to wear “regular clothes” while she performed her duties (T. 38, 275, 280).

The January 13, 2021 Meeting

Sergeant Vidal called for a meeting on January 13, 2021, with Respondent and Lieutenant (then-Sergeant) Andrea Bodon. In this meeting, he informed Respondent that he had observed her out of uniform on January 12, 2021. He instructed her regarding the uniform she was required to wear and the responsibilities of a property specialist. During the meeting, Respondent acknowledged that she understood the instructions discussed. Sergeant Vidal sent an email memorializing the discussion to Respondent following the meeting; Lieutenant Bodon was copied on the email (T. 29-32, 145-46; Dept. Ex. 1).

The January 19, 2021 Meeting

Sergeant Vidal testified that he had another meeting with Respondent on January 19, 2021, at her request. Police Officer Cutaia was present at the meeting as Respondent’s union delegate. During that meeting, Sergeant Vidal stated that he raised various issues he has had with Respondent in the past and then discussed the current issue that she was not wearing the proper administrative uniform despite being instructed several times to do so. When asked why

she was not in uniform that day, Respondent told him that she was outside helping a tow truck operator with a vehicle and did not want to be in uniform in case someone flagged her down and she was out there by herself. Sergeant Vidal informed Respondent that it was her duty to be in uniform and that it was not an excuse to be in civilian clothes because she could have radioed for assistance (T. 38, 40-42, 275).

The January 20, 2021 Meeting

On January 20, 2021, Sergeant Vidal said he received a call from the desk sergeant that day informing him that Respondent requested lost time. He asked Respondent to come to his office to discuss why she needed lost time and why she did not go to him directly for approval of the request. Sergeant Vidal testified that he had asked Lieutenant Bodon to be present as he did not “feel comfortable having any conversation with [Respondent] alone and [he] also wanted a witness.” He asked Respondent, “What’s going on? Why do you need lost time that you didn’t even come to me, you went straight to the desk, I’m your direct supervisor,” and she immediately started “yelling, screaming, cursing, and pulling her hair.” According to Sergeant Vidal, Respondent said, “I can’t fucking deal with you right, Sergeant Vidal, I can’t take this right now.” When Lieutenant Bodon attempted to calm Respondent down, Respondent stated Sergeant Vidal “just attacked [her] as soon as [she] walked into the room.” At that point, Respondent informed Sergeant Vidal and Lieutenant Bodon that she had just suffered a death in the family. He stated that Respondent grabbed Lieutenant Bodon by the shoulders “violently” and shook her while saying, “I can’t deal with this; call me a fucking bus” (T. 44-47). Respondent admitted on cross-examination that she grabbed Lieutenant Bodon, but added that she called her later that evening to apologize (T. 282).

The January 21, 2021 Emails

On January 21, 2021, Sergeant Vidal sent two emails to Respondent. The first email was regarding the information on vouchered vehicles and the second email was to explain what type of vehicle she was supposed to be using while performing her duties as a property specialist (Dept. Exs. 2 and 3). Respondent responded to the first email, writing “yessa boss” (Dept. Ex. 2). Respondent responded to the second email, writing “A Yessa Boss” (Dept. Ex. 3).

Sergeant Vidal testified that he found these responses to be “very discourteous, very unprofessional” because to him, as an African-American man, those words were used by enslaved people (T. 51). He further expounded that Respondent, as an African-American woman, “should know better as far as the context of those words and what they were used for and how it would affect [him], someone else being a minority as well (T. 49-51). Respondent included Lieutenant Acevedo, Lieutenant Zollino, and Sergeant Lawrence in the email responses from her to Sergeant Vidal (T. 54-55; Dept. Exs. 2 and 3).

The February 3, 2021 Meeting

During a meeting on February 3, 2021, Respondent was informed that she was being removed from her position as a property specialist. Officer Cutaia, Lieutenant Acevedo, Lieutenant Zollino, Sergeant Lawrence, and Sergeant Vidal were present during that meeting. Sergeant Vidal described Respondent’s behavior as becoming more aggressive as the meeting continued. According to Sergeant Vidal, Lieutenant Zollino informed Respondent she would receive a Command Discipline for discourtesy for what she wrote in the emails (T. 58-59). Sergeant Vidal testified that Respondent initially told them that “she was confused that day, she had a lot going on, that she did not know what she texted”; she later said to them that the keyboard malfunctioned on the computer she used to send the email (T. 59).

Lieutenant Andrea Bodon

Lieutenant Andrea Bodon testified that in January 2021, she was the training sergeant at the 109th Precinct. She knew Respondent, who, in addition to being the property specialist for the 109th Precinct at that time, was also a Police Academy classmate. Lieutenant Bodon characterized Sergeant Vidal as a “stickler for certain things,” stating that he is a “military guy ... as long as you do what you’re supposed to do, he doesn’t bother anyone” (T. 142).

On January 12, 2021, she observed Respondent wearing jeans and boots during her tour. Lieutenant Bodon testified that on January 20, 2021, Respondent went into the administrative office and “immediately ... had like an attitude” (T. 148). She confirmed that she attempted to calm Respondent down after she began to yell. Lieutenant Bodon stated that she was going to call an ambulance for Respondent but needed to arrange for her son. At that point, Respondent stood up, grabbed Lieutenant Bodon with two hands on her left shoulder, and dug her nails into her shoulder. Lieutenant Bodon had red marks and a nail mark on her shoulder because of Respondent’s actions. Lieutenant Bodon told Respondent to get off her and to calm down. Respondent apologized and stated that she needed to go. Lieutenant Bodon testified that Respondent obtained her phone number from a colleague and called her that evening to apologize for what had happened earlier that day (T. 148-49, 151-53, 181).

Respondent’s Testimony

Respondent testified that her duties as the property specialist included “officially keeping track of all the property that has been vouchered within the precinct” (T. 216). She explained she had to “maintain and ensure that [anything vouchered] is accurate, and make sure it gets to the right destination in a timely manner” (*Id.*). She was the property officer at the 109th Precinct for five years and had five annual reviews; she asserted that all but the last one from Sergeant Vidal were above standards.

Respondent testified that her work relationship with Sergeant Vidal became contentious after an incident involving missing property within the Precinct for which she claimed she was not investigated (T. 218, 223-227). She testified that he would call her into his office to discuss her uniform, and when he was not “getting the replies or reaction that he wanted from [her], it just ... grows to another level” (T. 228). Respondent claimed that she contacted Lieutenant Acevedo to discuss her issues with Sergeant Vidal, but they could not meet (T. 228). She stated that when Sergeant Vidal returned from a vacation, he called her into his office and had a “yellow memo pad with everything [she] did when he was on vacation with bullet points on them, and he ... talk[ed] to [her] about everything that went on” (T. 229).

Respondent testified that she requested the January 19, 2021 meeting with Sergeant Vidal and Police Officer Cutaia because she did not understand what was going on between her and Sergeant Vidal; at the meeting, she raised the issue of the vehicle coordinator and plant maintenance worker being allowed to wear regular clothes and argued that it was unfair to her. She claimed that previous supervisors had told her that she could wear civilian clothing during her tour (T. 235, 280).

Respondent explained that on January 20, 2021, she was outside the precinct, speaking with her former partner about her aunt being in hospice, when she received a call informing her that her aunt had passed away. She stated that she called the desk sergeant and requested lost time, explaining to him the circumstances of her request (T. 240-241). Respondent testified that she did not immediately go back into the precinct but eventually received a call from Sergeant Vidal directing her to “go upstairs forthwith in your uniform” (T. 242). Respondent stated that when she saw him standing in the doorway, he told her that he was her immediate supervisor and that any requests for time off were supposed to go through him (T. 242-43).

Respondent admitted that she was emotional and began to yell; she also admitted that she grabbed Lieutenant Bodon. Respondent further conceded that she requested an ambulance before calming down and leaving the office to fill out a "28." Respondent then had a discussion with Police Officer Cutaia to arrange another meeting with Sergeant Vidal (T. 242-45).

While Respondent admitted that she sent the email responses to Sergeant Vidal in Department Exhibits 2 and 3, she claimed that the computer keyboard she was using "lagged" on specific keys¹; she explained that she would press the keys on the keyboard but that the characters did not appear on the screen as she pressed them. She testified that she kept striking keys until characters appeared but did not realize that she had typed out the words with multiple letters before sending the response (T. 252-53, 284).

Respondent offered that at the time she sent the responses, she was in the middle of a time-sensitive task, processing a large quantity of drugs before sending them out for laboratory testing. She stated Sergeant Vidal entered the room where she was vouchering the paraphernalia twice: once to tell her to check her emails and once to ask her to reply immediately. Respondent testified that she thought she typed "yes, sir" before sending her responses to the emails without checking for typos (T. 251-53). She claimed that she apologized for the email responses and explained that the contents were not intended to be viewed as a "derogatory term" nor were they sent in a "malicious way," but rather because of the keyboard lagging as she typed her responses (T. 254, 285-86).

Respondent testified that later that day, she had another meeting with Sergeant Vidal, but she had to wait for Officer Cutaia, who worked 1600-0000 hours (T. 246). Respondent testified that the point of the meeting was to discuss what happened the day prior, but Sergeant Vidal focused on her uniform again and that he stated, "Look at this. You're not in uniform now" (T.

¹ Respondent testified it was the keyboard's A, S, F, T, and U keys (T. 284).

246). Respondent explained she was not in uniform because she was at the end of her tour and not working. She stated that she requested to talk to the CO, but Sergeant Vidal said, "You don't need to talk to anyone. This conversation is over" (T. 247). According to Respondent, they did not discuss her email responses, as she did not realize there was an issue with the replies until she was called down to EEO (T. 253-54).

During the meeting on February 3, Respondent was informed by Sergeant Zollino that she was receiving a Command Discipline for the emails she sent on January 21, as well as for discourtesy, for "rolling [her] eyes and sucking [her] teeth" on January 13 (T. 256). She testified that she believed the discipline was personally motivated, as she was being removed from her position as the property specialist for the e-mail incident that she thought had already been investigated by EEO² (T. 257-58).

Respondent disagreed with Sergeant Vidal's interpretation of the emails as a "caricature of the way enslaved individuals in the south spoke to enslavers" (T. 249, 251). Respondent testified that she had heard those words before but in the context of someone saying "Hey, boss" or in comedy movies in a "joking way or comedic way" (T. 297-98). When further questioned about the significance of those words, Respondent insisted that it was not a derogatory term, that there was no racial undertone to it, and that she did not know the origin of the phrase (T. 299-300).

SPAA Evelyn Monloe

SPAA Monloe testified that she worked in the complaint room of the 109th Precinct for approximately one year and was familiar with both Sergeant Vidal and Respondent (T. 198). She testified that she had the opportunity to observe Sergeant Vidal's interactions with Respondent during that period and described them as unfair (T. 205). Monloe added that she believed Sergeant Vidal had also mistreated her (T. 201). She explained, "When there's one minor thing that he feels wrong with you, or he doesn't like it, he's going to keep trying to go

² Respondent testified that she received a letter from EEO that stated there were no grounds for investigation and that EEO did not discipline her.

after that person, and will not stop until he has his point proven, and he does it to whoever he feels like” (T. 206).

Credibility

I credit the testimony of Sergeant Vidal as logical and consistent with the other evidence in the record. While Respondent attempted to raise doubt about his impartiality, the evidence demonstrates that the observations he made of her professional deficiencies were well within his purview as a supervisor and not an arbitrary exercise of his authority based upon some alleged animus.

Similarly, I credit Lieutenant Bodon’s testimony as forthright and logical. Her description of Respondent’s behavior during the January 20, 2021, meeting was not only credible, but also illustrative of Respondent’s state of mind.

In contrast, Respondent’s testimony was self-serving, implausible, and against the weight of the credible evidence in the record. Her attempt to reframe patently offensive conduct as either innocent behavior or excusable due to stress was unpersuasive.

SPAA Monloe’s testimony is similarly unpersuasive on the issue of Sergeant Vidal’s alleged bias against Respondent. Her characterization of how he performed his supervisory duties was conclusory and unsupported by any independent evidence. In addition, her testimony revealed her own potential bias against Sergeant Vidal, further limiting the probative value of her testimony.

Specification 1: Discourtesy/Insubordination

I find that the Department has met its burden of proof by a preponderance of the credible, relevant evidence that Respondent was discourteous and insubordinate to her supervisor between January 19, 2021, and February 3, 2021. In this case, I note that the pleading accuses

Respondent of misconduct directed toward a single supervisor while the evidence supports a finding that she committed misconduct toward two supervisors.

As to the email responses sent by Respondent on January 21, 2021, I do not credit her testimony that the offensive content of the responses was a typographical error caused by a malfunctioning keyboard. I also do not credit her claim that she was unaware of the racial undertones of including “Yessa Boss” in an email to Sergeant Vidal.

I take judicial notice that “yessa” is a colloquial pronunciation of “yes, sir,” similar to “yessum.”³ This pronunciation is chiefly associated with African-Americans.⁴ I take further judicial notice that “Yessa, boss” is a form of affirmation that evokes the servility and obsequiousness demanded of enslaved Africans in the antebellum South, which survived the Civil War and persisted in the South through the Jim Crow era and well into the 20th century. The imagery it conjures is of a pernicious caricature: the deferential servant who seeks to reassure the master of his superiority by asserting that the servant “knows his place.”

I find that this phrase is racially charged, as it is associated with a belief in the inherent inferiority of people of African descent. Although African-Americans are now unquestionably citizens of the United States, under the provisions of the 13th, 14th, and 15th Amendments to the United States Constitution, the use of this antebellum phrase implicitly invokes the ideology of white supremacy, a despicable legacy that the aforementioned constitutional provisions were intended to overcome.

I find that Respondent’s use of this phrase, directed toward an African-American supervisor, is disrespectful, at best, and insubordinate. The clear intent of this phrase was to mock Sergeant Vidal’s authority, despite Respondent’s assertion that she was “confused.” This

³ <https://www.lexico.com/en/definition/yassuh>

⁴ *Id.*

phrase is not a string of words someone stumbles upon; its usage suggests a purposeful attempt to diminish the object of the phrase, in this case, Sergeant Vidal. That Respondent did so in writing, on an email message response copied to other supervisors, is inexcusable.

Sergeant Vidal's and Lieutenant Bodon's testimonies support a finding that Respondent was insubordinate to Lieutenant Bodon when she placed her hands on her during the January 20, 2021, meeting. While I credit Respondent's testimony that she received news of a death in her family and was highly emotional, grabbing a superior officer by her shoulders and shaking her does not respect the traditional boundaries between superiors and subordinates.

Sergeant Vidal's testimony also illustrated several incidents where Respondent was not in proper uniform, despite her admissions at trial that she knew what the proper administrative uniform was and that she was not in proper uniform on January 19, 2021. Respondent's attempts to explain these deficiencies were unpersuasive.

I further find that Respondent's misconduct during the period charged was prejudicial to good order, efficiency, and discipline in this Department. The evidence presented by the Department supports a finding that Respondent flouted uniform regulations and took umbrage at being held accountable for her deficiencies by her supervisor. Her email responses to Sergeant Vidal on January 21, 2021, manifest a lack of respect for authority, in general, and a lack of respect for Sergeant Vidal. Finally, her outburst during the January 20 meeting in which she grabbed Lieutenant Bodon and shook her was unprofessional and inexcusable.

No paramilitary organization can be effective if such blatant breaches of discipline are not addressed directly and firmly. Supervisors cannot perform their functions if subordinates are permitted to mock them or physically accost them without consequence.

Therefore, I find Respondent Guilty of Specification 1.

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 record was also examined (*see* 38 RCNY §15-07). Information from her 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 9, 2007, was found Guilty of being discourteous and insubordinate to her supervisor. The Department has recommended a penalty of 20 vacation days; I find that recommendation insufficient to address the seriousness of Respondent's misconduct.

According to the Disciplinary Matrix, the presumptive penalty of insubordination is 20 penalty days; the aggravated penalty is 30 penalty days. The range of penalties for engaging in conduct prejudicial to the good order and efficiency of the Department varies from a mitigated penalty of training to an aggravated penalty of termination. I find the aggravated penalty of 30 days for insubordination warranted.

The evidence established that Respondent sent a response to an email from her supervisor on a matter of Department business, which included an offensive statement. The evidence further shows that this statement was intended to mock her supervisor's authority and was particularly vicious because her supervisor is an African-American.

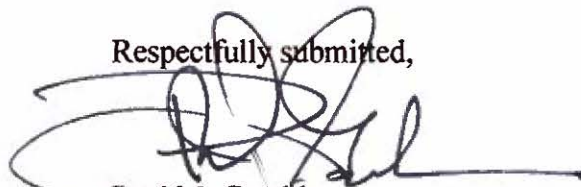
Respondent also admitted to grabbing Lieutenant Bodon without any justification. While I acknowledge that people react differently in times of grief, there was no excuse for her to become physical with a supervisor.

What is most concerning to this Tribunal is Respondent's incredulous testimony regarding the email responses she sent on January 21, 2021. Respondent's claim that the keyboard was lagging causing a typographical error in not one email but two separate emails, is unpersuasive and illogical. Respondent was adamant that she did not see what was offensive about the phrase, claiming that she had heard it in comedy movies and skits, and there was no racial undertone to it.

Respondent's unwavering commitment to that dubious account of how the phrase came to be typed, and her incredulous claim that she did not understand why Sergeant Vidal found it offensive, are disquieting from a 15-year Member of Service.

Accordingly, I recommend that Respondent forfeit 30 vacation days.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Paul M. Gamble', written over a horizontal line.

Paul M. Gamble
Assistant Deputy Commissioner Trials

APPROVED

DEC 21 2022

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 EUGENIA WILLIAMS
TAX REGISTRY NO. 945101
DISCIPLINARY CASE NO. 2021-23328

Respondent was appointed to the Department on July 9, 2007. On her three most recent annual performance evaluations, she was rated “Exceptional” for 2017, 2018, and 2019. She has been awarded one medal for Meritorious Police Duty.

Respondent has no formal disciplinary history. She was placed on Level 1 Discipline Monitoring from April 2014 to April 2015.

For your consideration.

Paul M. Gamble
Assistant Deputy Commissioner Trials