



POLICE DEPARTMENT CITY OF NEW YORK

October 20, 2016

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Fateemah Hopson
Tax Registry No. 943376
104 Precinct
Disciplinary Case No. 2015-14227

Charges and Specifications:

1. Said Police Officer Fateemah Hopson, assigned to the 104th Precinct, on or about and between March 26, 2014 and March 11, 2015, within the confines of Queens County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said Police Officer was evaluated by the Department Surgeon and did exaggerate her limitations in operating a motor vehicle.
P.G. 203-10, Page 1, Paragraph 5 - PROHIBITED CONDUCT
2. Said Police Officer Fateemah Hopson, assigned as indicated in Specification #1 on or about and between March 26, 2014 and March 11, 2015, within the confines of Queens County, did wrongfully cause false entries to be made in Department records, to wit: said Police Officer made misleading statements to a Department Surgeon regarding her limitations in operating a motor vehicle.
P.G. 203-05, Page 1, Paragraph 4 - PERFORMANCE ON DUTY -
GENERAL

Appearances:

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

For Respondent: John Tynan, Esq.
Worth, Longworth & London, LLP
111 John Street – Suite 640
New York, NY 10038

Hearing Date:

September 13, 2016

Decision:
Pleaded Guilty

Trial Commissioner:
ADCT Jeff S. Adler

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on September 13, 2016. Respondent, through her 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 as charged.

SUMMARY OF EVIDENCE IN MITIGATION

On January 29, 2014, Respondent fell to the ground while in the process of arresting a suspect for assault. Respondent suffered injuries to her shoulder, neck, and ankle, for which she was out sick until late May, 2014. After that, she was restored to limited duty, and by July, 2014 was back to full duty. Following a car accident in December, 2014, Respondent again went out sick until March, 2015. In March she returned to limited duty, and went back to full duty in May, 2015.

During the time period when she was on sick leave, Respondent made several visits to the Department's Orthopedic Surgeon, Dr. Miller. Respondent testified that in each of her meetings with Dr. Miller, she was asked about what tasks she was unable to perform because of her condition. Dr. Miller specifically asked her whether she could

operate a vehicle, and she told the doctor that she could not and did not drive.

Respondent admitted at trial, though, that she did in fact drive a car during that time period, including to and from the doctor's office. She testified that there were times when other people were too busy to drive her, so she had to drive herself, such as in emergency situations like getting to the district surgeon. However, rather than explaining this to Dr. Miller, she simply said that she did not drive. (Tr. 18-19, 21-22, 34-38, 45) Further, Respondent acknowledged that based on multiple line of duty injuries she's had in the past, she was aware that what she told the district surgeon about her physical condition directly affected her duty status. (Tr. 32-33)

Regarding her injuries, Respondent initially was diagnosed with a sprained shoulder. When her condition did not improve, she had an MRI [REDACTED] [REDACTED]. Respondent claimed that she aggravated her neck injury during a car accident in December, 2014. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] (Tr. 11-12, 23-27, 29)

Respondent insisted that she was not looking to avoid work. Rather, she aspires to get back to full duty, where she can resume being the active police officer that she was before the injury. (Tr. 28)

PENALTY RECOMMENDATION

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 January 10, 2007. Information from her personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Department Advocate recommends that Respondent be placed on dismissal probation for a period of one (1) year, and forfeit 30 vacation days. Counsel for Respondent argues against probation and asks for a lesser penalty, stressing that Respondent was not shirking her duties. According to counsel, Respondent was an active police officer before these injuries, and wants nothing more than to get back to police work. [REDACTED]

On the one hand, this tribunal is sympathetic to the medical difficulties encountered by Respondent, and encouraged by Respondent's articulated enthusiasm for getting back to enforcement. However, notably absent from Respondent's testimony was any meaningful sign of remorse for misleading the district surgeon about her ability to drive; at no time did she give any real indication that she regretted her actions. Additionally, Respondent said nothing to suggest that she's learned anything from this experience, nothing to inspire confidence that she would be unlikely to repeat the same conduct in the future.

The legal precedent in this area consistently calls for a penalty that includes probation. In *Disciplinary Case No.* [REDACTED], a 9-year detective with no disciplinary history negotiated a penalty of one-year dismissal probation and 35 vacation days for telling the district surgeon he was unable to drive, even though he was seen

driving. And in *Disciplinary Case No.* [REDACTED], cited by the Department Advocate, a 21-year officer with no disciplinary history negotiated a penalty of one-year dismissal probation and 30 vacation days for telling the department surgeon he was unable to drive, and could not walk without a cane, even though he was seen driving a vehicle and walking without a cane.

As the Department Advocate noted, as part of its very generous sick leave policy, the Department requires that each member of the service be truthful and cooperative with the medical staff who monitor the member's condition. Here, Respondent repeatedly exaggerated the level of her injury, deliberately misleading the doctor who was responsible for evaluating her ability to perform her duties. Considering the totality of circumstances of this case, as well as the legal precedent, mitigation is not warranted, and I recommend that Respondent be DISMISSED from the New York City Police Department, but that her dismissal be held in abeyance for one (1) year, pursuant to Section 14-115(d) of the Administrative Code, during which time she remains on the force at the Police Commissioner's discretion and may be terminated at any time without further proceedings, and further that Respondent forfeit thirty (30) vacation days, as an appropriate penalty.

APPROVED

JAN 23 2017
James P. O'Neill
JAMES P. O'NEILL
POLICE COMMISSIONER

Respectfully submitted,



Jeff S. Adler
Assistant Deputy Commissioner Trials



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER FATEEMAH HOPSON
TAX REGISTRY NO. 943376
DISCIPLINARY CASE NO. 2015-14227

Respondent was appointed to the Department on January 10, 2007. Her last three annual performance evaluations were 4.0 overall ratings of "Highly Competent" in 2013 and 2015 and a 3.5 rating of "Highly Competent/Competent" in 2014. Respondent has no prior disciplinary history.

[REDACTED]

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials