



POLICE DEPARTMENT

April 24, 2024

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In the Matter of the Charges and Specifications	:	Case No.
- against -	:	2023-28327
Police Officer Bao Tran	:	
Tax Registry No. 940813	:	
Transit District 32	:	

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

Before: Honorable Jeff S. Adler  
Assistant Deputy Commissioner Trials

APPEARANCES:

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

For the Respondent: Richard Murray, Esq.  
299 Broadway, Suite 1700  
New York, NY 10007

To:

HONORABLE EDWARD A. CABAN  
POLICE COMMISSIONER  
ONE POLICE PLAZA  
NEW YORK, NY 10038

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## CHARGES AND SPECIFICATIONS

1. Said Probationary Sergeant Bao Tran,<sup>1</sup> while on duty and assigned to Housing PSA 2, on or about August 28, 2022, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: Probationary Sergeant Bao Tran called a Police Officer known to the Department "Mohammed, Islam and Mojumder," in reference to said Police Officer's national origin and religion.

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

PROHIBITED CONDUCT

P.G. 205-36, Page 1, Paragraph 1

EMPLOYMENT DISCRIMINATION

## REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on March 7, 2024. Respondent, through his counsel, entered a plea of Not Guilty to the charged misconduct. The Department called Police Officers [REDACTED] and [REDACTED] as witnesses. Respondent called Sergeant [REDACTED] as a witness, introduced into evidence a prior statement of Police Officer [REDACTED], and 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, I find Respondent Guilty, and recommend a penalty of 20 vacation days and EEO training.

## ANALYSIS

On August 28, 2022, Respondent was the desk sergeant at the PSA 2 stationhouse in Kings County. One of the police officers he was supervising was Officer [REDACTED], who was on restricted duty from a leg injury and was assigned to the Telephone Switchboard ("TS"). That assignment required him to handle primarily administrative tasks, such as answering calls and

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<sup>1</sup> Respondent was demoted from Probationary Sergeant to Police Officer on September 6, 2023.

doing data entry on a Department computer. It is alleged that on that day, Respondent made disparaging remarks to [REDACTED], who is a Muslim of Bangladeshi descent.

[REDACTED] initiated an EEO case against Respondent with an e-mail complaint two days later on August 30, 2022. His complaint was in two parts, alleging that Respondent gave him improper job assignments, and that Respondent made disparaging remarks to him. Only the second allegation was substantiated, which is the subject matter of this trial. Additionally, [REDACTED] retained an attorney and filed a lawsuit against the Department, in which Respondent also is named as a defendant. (Tr. 49-52, 60-62, 126)

The parties are in essential agreement regarding the sequence of events that occurred on August 28, 2022. Early in the tour, Respondent tasked [REDACTED] with inputting data, and told [REDACTED] to use Respondent's computer, which was behind the desk. At some point, another sergeant asked to use the computer, so [REDACTED] stepped aside before he was able to finish the assignment. When Respondent saw [REDACTED] just standing there he asked whether the job had been completed, and [REDACTED] explained what had happened. Respondent directed [REDACTED] to instead use a computer in the cell area, but [REDACTED] told him that because he was on restricted duty, he should not be placed in an area where he was exposed to prisoners. Since there were no prisoners in the cell area at the time, Respondent again directed [REDACTED] to use the computer in the cell area. (Tr. 25-27, 45-48, 89-91, 106-07)

A short time later, Respondent had [REDACTED] return to the front, and made a "CRAFT" entry regarding [REDACTED]'s conduct, noting that [REDACTED] had paused his assignment without informing the supervisor. (Dept. Ex. 1) When [REDACTED] complained that he was treating him "like a perp," Respondent suggested he call his delegate, which [REDACTED] did later that day. (Tr. 31-35, 86-88, 91-92)

At issue is whether during the course of these interactions, Respondent made disparaging remarks to [REDACTED] regarding his national origin and religion. [REDACTED] testified that when he was unable to complete the assignment on the computer behind the desk, Respondent stated to him, "Mohammed, go back to the cell" to do the rest of the work. [REDACTED] corrected him, stating that his name was "[REDACTED]" not "Mohammed," and Respondent answered, "You're all the same, you're all Muslim." [REDACTED] stated that Respondent also said to him, "You Muslim, you don't deserve your job, you brown, you loser, you lazy as fuck." (Tr. 27-28, 34, 53-55, 58, 65)

[REDACTED] testified that later in his tour, when he returned from meal, Respondent called him "Mazumder," "Alamin," and "Islam," the names of other Bangladeshi officers in the command. (See Resp. Ex. B, Roll Call Reports) When [REDACTED] again corrected him as to his name, Respondent replied, "You all the same, you all Muslim." As a result of his interactions with Respondent, [REDACTED] was nervous and was shaking. (Tr. 23, 36-39, 59)

Police Officer [REDACTED] testified that she also was working as a TS operator on the day of the incident. She confirmed that [REDACTED] complained to her that Respondent was treating him like a perp. At some point, she heard Respondent state to [REDACTED], "Islam, Mazumder, Alamin, whatever your name is." According to [REDACTED], at the time he made this remark, Respondent waved his hand toward [REDACTED] in a dismissive gesture. (Tr. 71-76)

Police Officer [REDACTED], who was working with Officers [REDACTED] and [REDACTED] on the date of the incident, was not available to testify due to illness. Instead, a recording of his official Department interview, and the accompanying transcript, were admitted into evidence. (Resp. Exs. A & A1). In that interview, which occurred on September 19, 2022, [REDACTED] stated that there were times that he observed Respondent giving [REDACTED] a hard time. Specifically, Respondent "yelled at him, he belittled him, sometimes he'd call him a few names." When

asked for an example of what names Respondent called [REDACTED], [REDACTED] stated that he called [REDACTED] "a scam artist," since [REDACTED] sometimes took his time when completing a task. [REDACTED] stated that he did not ever hear Respondent refer to [REDACTED] by different Muslim or Islamic names. (Resp. Ex. A1 at 6-9)<sup>2</sup>

Sergeant [REDACTED], who was an investigator with EEO Division at the time of the incident, testified that he was assigned to investigate this matter. In September 2022, he separately interviewed Officers [REDACTED], [REDACTED], and [REDACTED], as well as Respondent. [REDACTED] focused only on [REDACTED]'s complaint, and did not interview anyone else from the command as to whether they had been discriminated against by Respondent. Based on these interviews, and a consideration of the totality of the circumstances, the allegation that Respondent had improperly assigned work to [REDACTED] was determined to be unfounded, but the allegation regarding the disparaging remarks based on national origin and religion was substantiated. [REDACTED] testified that he, himself, has an unrelated pending lawsuit against the Department for discrimination, and is represented by the same attorney that is handling Officer [REDACTED]'s lawsuit. (Tr. 122, 125-28, 131, 138)

Respondent testified that there were multiple times where [REDACTED] was slow to complete assignments, and he repeatedly failed to notify Respondent that his tasks were incomplete. When he instructed [REDACTED] to use the computer in the cell area on the day of the incident, there were no prisoners present; Respondent insisted that he would immediately have moved [REDACTED] if prisoners were brought in. He confirmed that when [REDACTED] complained that he was being treated like a perp, Respondent suggested that he call his union representative. (Tr. 86-88, 91-92, 108)

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<sup>2</sup> According to [REDACTED], [REDACTED] started work later on the day of the incident, and was not present when the disparaging remarks were made. (Tr. 24-25)

Respondent denied making any of the disparaging comments attributed to him. He repudiated the testimony of Officer [REDACTED] claiming that he did not say to [REDACTED], "Islam, Mazumder, Alamin, whatever your name is." Respondent testified that he did not call [REDACTED] lazy or make a comment that "brown people are lazy." Respondent, who is Vietnamese, insisted that he feels no animosity toward Muslims, Indians, or East Asians. He stated that at the time of the incident, he had just recently been transferred to the command, and may have made the mistake of calling an officer by the wrong name. Respondent testified that on one prior occasion, he had asked [REDACTED] what "[REDACTED]" stands for, and [REDACTED] had responded, "[REDACTED]" Respondent added that other than that one conversation, he did not call [REDACTED] or other officers in the command, by their first names, and he did not call [REDACTED] by the name "Mohammed" on the day of the incident. (Tr. 93-97, 101-04, 109-11, 114-16)

Specification 1 charges Respondent with making disparaging remarks to Officer [REDACTED] regarding [REDACTED]'s national origin and religion. Respondent denied making the comments. After carefully considering the evidence in this matter, I credit [REDACTED]'s testimony that the disparaging statements were, in fact, made.

On the one hand, this tribunal is mindful that [REDACTED] has a pending lawsuit in connection with this matter. However, I am not persuaded that his trial testimony was fabricated in support of that lawsuit, or that Sergeant [REDACTED]'s investigation into this matter was compromised by his own litigation in which he is represented by the same attorney. Rather, I found [REDACTED]'s testimony as to what transpired to be consistent and logical, and I credit his account regarding the remarks made to him by Respondent. Indeed, [REDACTED] was so troubled by Respondent's comments that he promptly contacted his delegate the same day, and filed an EEO complaint two days later.

Moreover, [REDACTED]'s testimony received significant corroboration from Officer [REDACTED], who also was working as a TS operator at the time of the incident. [REDACTED], a disinterested witness, testified that she heard Respondent say to [REDACTED], "Islam, Mazumder, Alamin, whatever your name is." On the witness stand, she also demonstrated how Respondent made a dismissive gesture with his hand toward [REDACTED] at the time he made this comment. The specificity with which she described this interaction is a significant factor in support of its reliability. Further, there was no indication that [REDACTED] had any motive to falsify her testimony against Respondent, and I credit her account.

As such, I find that Respondent did make the disparaging statements regarding [REDACTED]'s national origin and religion as alleged. This was not a situation where Respondent was simply confused as to [REDACTED]'s correct name. Rather, Respondent, who had worked with [REDACTED] several shifts per week during the month preceding the incident, made these insulting comments despite being well aware of [REDACTED]'s name. These remarks were gratuitous, belittling, and served no legitimate purpose. For Respondent, who at the time of the incident was a supervising sergeant, to make comments such as these, runs completely counter to the good order, efficiency, and discipline of the Department. Accordingly, I find Respondent Guilty.

### 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 has no formal disciplinary record.

Respondent, who was appointed to the Department on January 9, 2006, has been found guilty of making disparaging remarks to Officer [REDACTED], a Muslim of Bangladeshi descent. As discussed above, he made several belittling, offensive comments to a member of service whom he was supervising. Moreover, Respondent made these remarks in an open area of the command, where at least one other MOS heard some of what was said.

These actions took a toll on [REDACTED], who testified that he was nervous and shaking from his interactions with Respondent that day. Particularly troubling is how dismissively Respondent addressed [REDACTED] lumping him together with other Bangladeshi officers. The Department promotes an inclusive and accommodating work environment for all members of the service, so that employees are treated with dignity and respect in the workplace. The comments made by Respondent constitute unacceptable workplace conduct, and there must be appropriate accountability.

The Department Advocate asks that Respondent forfeit 20 vacation days, the presumptive penalty for making disparaging remarks such as these. Additionally, the Advocate asks that Respondent receive EEO remedial training. In light of the circumstances presented here, that request is reasonable. Taking into account the totality of the facts and issues in this matter, I recommend that Respondent forfeit twenty (20) vacation days, and that he receive appropriate training.

**APPROVED**

JUN 05 2024

EDWARD A. CALEAN  
POLICE COMMISSIONER

Respectfully submitted, by AES

/s/ Jeff S. Adler

Jeff S. Adler  
Assistant Deputy Commissioner Trials





## POLICE DEPARTMENT CITY OF NEW YORK

From: Deputy Commissioner – Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD  
POLICE OFFICER BAO TRAN  
TAX REGISTRY NO. 940813  
DISCIPLINARY CASE NO. 2023-28327

Respondent was appointed to the Department on January 9, 2006. On his most recent performance evaluations, he was rated “Meets Standards” for 2021, and 2023, and in 2022 he was rated 2.5, “Below Competent,” while a probationary sergeant.

Respondent has no formal disciplinary history. He was demoted from probationary sergeant on September, 6, 2023, in connection with the current matter.

For your consideration.

*KS/ Jeff S. Adler*  
*by AES*

Jeff S. Adler  
Assistant Deputy Commissioner Trials