



POLICE DEPARTMENT CITY OF NEW YORK

May 6, 2016

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Latoya Paradise
Tax Registry No. 940546
Transit Bureau District 33
Disciplinary Case No. 201 5-14048

Charges and Specifications:

1. Said Police Officer Latoya Paradise, on or about March 13, 2015, at approximately 1325 hours, while assigned to the Transit Bureau District 33 and on duty, inside the [REDACTED] [REDACTED], Kings County, wrongfully used force, in that without police necessity, PO Latoya Paradise struck Minor A's body with a blunt instrument and caused her to hit her head against a steel fence.

P.G. 203-11 – USE OF FORCE

Appearances:

For the CCRB: Cindy L. Horowitz and Vivian Ceden, Esqs.
Civilian Complaint Review Board
Administrative Prosecution Unit
100 Church Street, 10th Floor
New York, NY 10007

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

Hearing Date:

February 4, 2016

Decision:

Guilty

Trial Commissioner:

ADCT David S. Weisel

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before the Court on February 4, 2016. Respondent, through her counsel, entered a plea of Not Guilty to the subject charges. The CCRB called Minor A as a witness and Respondent testified on her own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

After reviewing the evidence presented at the hearing, and assessing the credibility of the witnesses, the Court finds Respondent Guilty of the charged misconduct.

FINDINGS AND ANALYSIS

Most of the facts in this matter are not in dispute. On Friday, March 13, 2015, at approximately 1325 hours, the complainant, 15-year-old Minor A, was heading home on the subway from school after an early dismissal. She and scores of other youths were changing trains at [REDACTED] when Minor A heard from friends that her cousin was getting arrested in the station. She ran to the fare control area and exited through the turnstiles to see what was going on. The headquarters of Transit District 33 also was in the station, prior to where one enters the turnstiles (Tr. 12-17, 41-42, 54-56; CCRB Exs. 1 & 2, exemplar photographs of station booth and turnstiles).

It was further undisputed that Minor A asked some of the officers with her cousin, who had been arrested for fighting, about the incident. They told her that they could not give her information because she was a minor. She headed to the emergency gate. At that time, Respondent struck Minor A's head between the swinging door and the frame of the gate. These parts of the gate thus were both the "blunt instrument" and the "steel fence" referred to in the specification (Tr. 8, 18, 20, 42-43, 48).

In dispute is whether Respondent struck Minor A intentionally and without police necessity. It was the CCRB's contention that Respondent was angered by a perceived lack of respect from the teenager, and hit her head into the gate on purpose. Respondent asserted that she was attempting to grab Minor A in order to impel her to pay the fare. Respondent said that she tripped while approaching Minor A, and while trying to stop herself with her hand, made contact with the complainant's head and hit it upon the gate. For the following reasons, the tribunal finds that the CCRB proved that Respondent struck Minor A intentionally.

Minor A testified that the officers told her friends that if they wanted to wait for her to call her cousin's mother, they had to go back into the paid zone. The officers wanted to break up the gathering crowd. According to Minor A, a shorter African-American female officer with blond hair (not Respondent) opened the service gate for them. After making the call, Minor A headed toward the gate, still on the phone with her aunt. She contended at trial that she and about 10 to 15 others had gotten permission to go through the gate from two officers, but admitted that she went to the gate two to three minutes after them. Minor A claimed that Respondent "buted in the conversation" with her aunt and asked what she said. Minor A told her, "I wasn't talking to you, miss," and kept walking. In response, Respondent grabbed Minor A's head, slammed the gate onto her body, and said, "[P]ay your fare, bitch." Respondent had Minor A by the shoulder, but the complainant got away from her and ran to another set of turnstiles to swipe her MetroCard. There, Respondent pulled her by her hair and punched her in the neck as other officers gathered. Minor A was arrested for theft of service and related Penal Law and MTA offenses, but the case later was dismissed (Tr. 18-22, 25-33, 36, 38-43, 46-48, 50-54).

Minor A testified that she felt pain in her head, neck, and back. She contended that she felt this pain for a number of days. She admitted, however, that she agreed with the CCRB investigator at her interview that her injuries were minor (Tr. 21-22, 46-48).

Respondent indicated that she was assigned to TD 33 and specifically on the day in question to a school post at the Utica Avenue station on the A and C lines. At 1230 hours, she testified, she took her meal at TD 33 headquarters, located at [REDACTED]. She heard from other officers that an officer needed assistance on the mezzanine. Respondent ran up there to find that an individual already had been arrested for assault, so she went back downstairs. Respondent indicated that Minor A approached her and asked her about the incident. She responded that she did not really know anything, but that an adult could contact the command for more information (Tr. 56-60, 64, 69-70, 87-89).

Respondent testified that a supervisor directed her to disperse the crowd that was gathering both outside and inside the paid area of the station. The majority of the crowd refused, however. In fact, when Respondent told Minor A to leave, she responded, "[F]uck the police, y'all can die." Respondent walked toward the service gate but Minor A was directly in front of her. Respondent asserted that she tripped when she lost her footing as she turned "around yelling at the people to the left to leave." She tripped over her own foot and caught herself by hitting the top of the gate. In doing so, she accidentally struck Minor A with the gate. She asserted that she only was trying to clear out the rest of the station, and that she attempted to stop Minor A only after the teen had entered. Respondent conceded that Minor A was the first teen stopped from going through the gate and that she actually only made it midway through. She admitted that the door was heavy and made of a hard material (Tr. 60-62, 73-76, 80-81, 83-85, 89-91).

Respondent denied giving Minor A permission to enter through the service gate, and denied hearing any officer give general permission to the crowd to do so. It would be unusual in Respondent's view to have the crowd move back into the paid zone in light of the assault that had just occurred. After she hit Minor A with the door, Respondent testified, she pulled her in an effort to place her under arrest (Tr. 62-64, 85-87).

CCRB Exhibit 3 was Metropolitan Transportation Authority surveillance video from the station. The video (camera angle 5 beginning at 1340 hours) shows several youths just outside the service gate, appearing to watch some kind of encounter in the unpaid area (1340.30). About a minute later, a black female police officer with blondish hair opens the service gate and allows them to enter back into the system. Various other youths follow, as do some adults, pulling the gate open without assistance from any officer or passenger. At approximately 1345.20, Minor A and Respondent are seen walking side by side as Minor A says something dismissively. Minor A opens the gate and steps toward the threshold. Respondent strides with her left foot forward and right arm straight out, with palm faced out. She holds the door with two hands, and then pushes it toward Minor A, with her left fist gripping the door and her right palm extended upon the door. Minor A's left leg, neck and head are caught between the door and the frame of the gate. Respondent pulls Minor A back and tells her something in a terse manner. Many officers and passengers of diverse ages go through the gate in the next three to four minutes (Tr. 24-25, 36-38, 50-51, 71-73, 77-79).

Here, the video surveillance was the most persuasive evidence. The video does not support Respondent's defense that she tripped on the way to the service gate. She walked toward the gate with Minor A, held up her right hand, grabbed the gate, and closed it with both hands against Minor A's head, body and neck, causing the complainant's head to be caught between the door and the frame. If this was to apprehend Minor A for theft of service, it was

an unnecessary use of force. An arrest could have been made easily in this case without resorting to closing the door on her head. As such, Respondent is found Guilty.

PENALTY RECOMMENDATION

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on January 9, 2006. Information from her personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The CCRB's recommendation of the forfeiture of 15 vacation days is supported by precedent. Respondent's action was gratuitous but the complainant's injuries were minor in nature. See, e.g., Case No. 2014-12476, pp. 8-9 (Feb. 18, 2016) (15 days for officer that struck prisoner in side of head after he thought he spit at him; prisoner's injuries consisted of scratches behind ear). Accordingly, the Court recommends that Respondent receive a penalty of 15 vacation days.

Respectfully submitted,



David S. Weisel

Assistant Deputy Commissioner Trials

APPROVED

JUN 23 2016

WILLIAM J. BRATTON
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER LATOYA PARADISE
TAX REGISTRY NO. 940546
DISCIPLINARY CASE NO. 2015-14048

Respondent was appointed to the Department on January 9, 2006. In 2015, she received a 3.5 overall rating of "Highly Competent/Competent" in her annual performance evaluation. She received ratings of 4.0 "Highly Competent" in 2012 and 2013. [REDACTED]

Respondent has no prior disciplinary history. However, following trial in the matter at bar, she received charges and specifications for making false statements during her CCRB interview regarding the incident that was the subject of this trial. She was placed on modified assignment on February 10, 2016, and remains modified to date.

For your consideration.

Respectfully submitted,

David S. Weisel
Assistant Deputy Commissioner Trials