



POLICE DEPARTMENT

July 1, 2024

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In the Matter of the Charges and Specifications	:	Case No.
- against -	:	2023-29346
Detective Edward Reardon	:	
Tax Registry No. 931015	:	
52 Detective Squad	:	

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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 CCRB-APU: Amanda Rodriguez, Esq.
Civilian Complaint Review Board
100 Church Street, 10th Floor
New York, NY 10007

For Respondent: Marissa Gillespie, Esq.
Karasyk & Moschella, LLP.
233 Broadway, Suite 2340
New York, NY 10279

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

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CHARGES AND SPECIFICATIONS

1. Detective Edward Reardon, on or about May 23, 2022, at approximately 1925 hours, while assigned to 052 Det. Sqd. and on duty, in the vicinity of [REDACTED] New York County, abused his authority as a member of the New York City Police Department, in that Detective Reardon detained [the complainant] without sufficient legal authority.

P.G. 212-11, Page 7, Paragraph 29

INVESTIGATIVE ENCOUNTERS

P.G. 200-02

MISSION, VISION, AND VALUES
OF NYPD

2. Detective Edward Reardon, on or about May 23, 2022, at approximately 1925 hours, while assigned to 052 Det. Sqd. and on duty, in the vicinity of [REDACTED] New York County, abused his authority as a member of the New York City Police Department, in that Detective Reardon seized [the car owner's] vehicle without sufficient legal authority.

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

PROHIBITED CONDUCT

P.G. 200-02

MISSION, VISION, AND VALUES
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REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on May 22, 2024.

Respondent, through his counsel, entered a plea of Not Guilty to the charged misconduct. The Civilian Complaint Review Board offered into evidence the hearsay statements of the complainant and the car owner, as well as Body-Worn Camera footage from three police officers at the scene. Respondent called Lieutenant [REDACTED] as a witness, 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 Not Guilty.

ANALYSIS

At approximately 1830 hours on May 23, 2022, there was a radio call for shots fired in the vicinity of [REDACTED].

Eyewitnesses provided a detailed description, including the license plate, of an orange Mustang that was seen circling the block where the shots had been fired. A witness also provided a description of the shooter, who the witness observed in the front passenger seat of the vehicle after the shots were fired. That vehicle then drove away from the location. (Tr. 51-52, 67)

A few minutes later, police officers from the 52 Precinct stopped an orange Mustang matching that description about a mile away, on [REDACTED]. At the time it was stopped, the driver of the Mustang (“the complainant”) was the only occupant; the alleged shooter was not present. The officers handcuffed the complainant and placed him inside an RMP. Other MOS arrived, including Respondent and a patrol sergeant, and after a preliminary investigation the complainant was placed under arrest and transported to the 52 Precinct. The vehicle was taken to the command for further investigation. The arrest of the complainant was voided approximately 1-2 hours later and he was released from custody, while the vehicle was held for approximately two months for investigation before it was released to its owner, the employer of the complainant. Respondent is charged with wrongfully detaining the complainant, and with seizing the vehicle without sufficient legal authority.

Body-Worn Camera (“BWC”) footage from the two apprehending officers, Police Officers [REDACTED] and [REDACTED] (CCRB Exs. 2 & 3) shows them handcuffing the complainant, searching his pockets, and placing him inside the RMP. The complainant states that the car is a

¹ Officer [REDACTED], who has since changed her name to Officer [REDACTED] will be referred to here as “Officer [REDACTED]” which is the name used on the date of the incident and in the video footage.

“diplomatic vehicle,” and that he is a valet to the “Ambassador,” the owner of the car; he later gives the officers the name and contact information of his employer. The complainant, unsolicited, tells the officers that he overheard them speaking and knows what they are talking about: there was an incident, he was there, he saw a lot of boys there, and then he left. He stated he did not know the boys, he just used to go to school there. [REDACTED] (CCRB Ex. 3 at 2:17)

Shortly after the stop, other MOS responded to the location, including Respondent and Sergeant [REDACTED] the patrol sergeant. The BWC footage from the initial two officers, as well as that of the sergeant (CCRB Ex. 4), continues to show the preliminary investigation being conducted at the scene. Officer [REDACTED] can be heard stating to Officer [REDACTED] that the women at the scene of the shooting gave a description of the car and the plate that matches the vehicle they have stopped. (CCRB Ex. 3 at 7:05) The officers then inform the sergeant that according to the eyewitness, the shots were fired in front of the school, and the vehicle did a couple of loops around the block after the shooting. The driver of the vehicle was light-skinned, and the shooter, who was in the passenger seat, was dark-skinned. (CCRB Ex. 2 at 8:10; Ex. 3 at 8:00)

Officer [REDACTED] is seen speaking by phone with an eyewitness, and then repeats to the sergeant what the witness is saying. According to Officer [REDACTED], the witness stated that the shooter was on foot when he fired the shots. After the shots, she observed him in the passenger seat of the vehicle, which had circled the block. The witness indicated that she was afraid, and did not want to do a show-up. (CCRB Ex. 3 at 10:50) A few minutes later, Officer [REDACTED] recounts for Respondent how a 911 caller observed a dark-skinned male, on foot, start shooting.

When the orange car drove around again, the eyewitness saw the shooter back inside the vehicle. (CCRB Ex. 3 at 14:25)

Respondent hands Officer [REDACTED] his phone, and has her repeat the information to his partner, who is at the scene where the shots were fired. (CCRB Ex. 3 at 21:08) Meanwhile, Respondent is seen speaking with the complainant, who is still inside the RMP. The complainant states that he goes to [REDACTED], he was sitting inside the car at the scene, and he starts to tell Respondent about it, but Respondent interrupts and says they will talk back at the precinct. (CCRB Ex. 2 at 23:45) About five minutes later, the complainant states to Officer [REDACTED] that he was with a friend, his friends are not in a gang, and they were just playing basketball. (CCRB Ex. 2 at 28:15)

The complainant did not appear to testify. The CCRB offered into evidence a recording of his CCRB interview, along with the accompanying transcript. (CCRB Exs. 6 & 6A) It is well-settled that hearsay evidence is admissible in administrative proceedings, and may form the sole basis for a finding of fact. The hearsay, however, must be carefully evaluated to determine whether it is sufficiently reliable. It is preferable to have testimony from a live witness, where opposing counsel has the opportunity to cross examine, and the court can observe witness demeanor. In the absence of live testimony from the complainant here, this tribunal carefully considered his prior statement, in conjunction with the other evidence presented, including the video footage.

In his interview, which occurred by phone on June 16, 2022, the complainant described how he was stopped and handcuffed by police officers. The complainant tried to explain to the officers that he was a valet for the owner of the car, and was on his way to return the car when he

was stopped. He was placed inside a police car and held at the scene while officers talked with each other, and then was transported to the precinct. (CCRB Ex. 6A at 5-14, 50)

During the CCRB interview, the complainant confirmed that he had parked the car on [REDACTED] before the shots were fired. Two friends of his got into the car with him and they were talking. They observed a group of kids arguing, and one of the complainant's friends exited the vehicle. The complainant drove up a hill and waited there, until the friend who had exited the car rejoined them. According to the complainant, the friend got back inside the vehicle and told them that someone had fired four shots but no one was hit. The complainant and his two friends again drove by the location where the shots had been fired, then left the area. He dropped off the friends and was on his way to return the car when he was stopped by police. The complainant stated that after he was brought to the precinct, he was questioned by Respondent. He provided this same description of events to Respondent. The car owner arrived at the precinct, and the complainant was subsequently released without charges. (CCRB Ex. 6A at 20-25, 35-37, 74-79, 87-88)

A recording of the CCRB's phone interview with the car owner on June 14, 2022, also was admitted into evidence. (CCRB Exs. 1 & 1A)² The car owner confirmed that the complainant, who was driving the vehicle, was his employee. The owner had responded to the precinct where the complainant was being held, and was told that the complainant was suspected of having been involved in a shooting. According to the car owner, Respondent initially told him that the car would be released the next day. However, the following day, Respondent informed him by phone that the vehicle would be held for further investigation. In the weeks that

² Counsel for the CCRB informed the Court that the car owner passed away prior to trial.

followed, the car owner was unable to obtain any explanation for why they continued to hold his vehicle. (CCRB Ex. 1A at 2, 6-7, 9, 15, 20, 26)

Respondent testified that he initially responded to [REDACTED] and observed shell casings, which confirmed that gunshots had been fired. Patrol officers were interviewing witnesses to the incident. Respondent then drove to the location where officers had stopped the orange Mustang and already had handcuffed the complainant for reckless endangerment in connection with the shooting. Respondent testified that the complainant needed to come back to the precinct because he had been driving the vehicle that was involved in the shooting. At the precinct, the complainant was Mirandized and questioned by Respondent about the incident. The complainant eventually conceded that he had been at the scene where shots were fired, that he drove his vehicle around the block as described by the witness, and that he had two friends in the car with him, though he remained vague as to the details. According to Respondent, the patrol sergeant made the decision to have the complainant's arrest voided, and the complainant was released from custody less than two hours after being detained. (Tr. 51-57, 64-65, 70)

The vehicle, though, was retained and vouchered as investigatory evidence. No evidence was recovered when the vehicle was searched, but Respondent testified that since the car had been used in the commission of a shooting, they needed to take additional investigative steps. For instance, they wanted to obtain a warrant in order to search the vehicle's GPS system for additional evidence. The Bronx District Attorney's Office took a long time responding to that request.³ Sometime in July 2022, the DA's Office ultimately denied the request to seek a

³ On June 12, 2022, while he was waiting for the DA's response, Respondent prepared a DD5 report closing the case because all leads were exhausted. Respondent explained that the report merely signified that he was not actively pursuing the investigation at that point, and not that the case was permanently closed. Indeed, two weeks prior to his testimony at this trial, a shooting occurred where the ballistics evidence matched the shell casings in this case, and so the investigation remains ongoing. (Tr. 61, 72-74, 77-78)

warrant; Respondent conceded that he did not prepare a DD5 documenting his conferral with the DA's Office. After learning of the DA's decision, Respondent agreed to release the Mustang to its owner. On July 21, 2022, the vouchered status of the vehicle was changed from "Investigatory" to "Safekeeping," (CCRB Ex. 5; Resp. Ex. A), and the vehicle was subsequently released to the owner. (Tr. 57-63, 72-81)

Lieutenant [REDACTED] testified that at the time of the incident, he was the C.O. of the 52 Detective Squad. On the day that shots were fired near [REDACTED], Respondent called [REDACTED] on his phone and informed him of the situation. [REDACTED] as supervisor, made the decision that the vehicle should be held for further investigation. It was [REDACTED]'s expectation that Respondent would reach out to the DA's Office to obtain a warrant, which would give police access to the vehicle's GPS tracking records in order to trace the car's route. [REDACTED] testified that the process with the DA's Office is often a long one, and he could not recall any further involvement on his end into the investigation of the vehicle. (Tr. 37-38, 40-41, 43-44, 46-47)

Specification 1 charges Respondent with detaining the complainant without sufficient legal authority. It is undisputed that police officers handcuffed the complainant at the location of the car stop. Respondent, the lead detective, responded to where the complainant was being held, and after further investigation the complainant was transported to the precinct under arrest. At issue is whether Respondent lacked probable cause to do so. It is well-settled that "probable cause" does not require proof beyond a reasonable doubt or evidence to warrant a conviction; rather, it requires information sufficient to support a reasonable belief that an individual has committed a crime. *See People v. McRay*, 51 N.Y.2d 594, 602 (1980).

In determining whether there was probable cause, we look to the facts and circumstances that existed at the time the decision was made to transport the complainant to the precinct. There had been a report of shots fired near [REDACTED] which Respondent confirmed by visiting the crime scene; he observed shell casings at the location, and eyewitnesses being interviewed about what had occurred. These witness interviews yielded relevant information about what had transpired: a dark-skinned male, on foot, had fired several gunshots. After the shooting, the individual who had fired the shots was observed in the passenger seat of a vehicle that had been circling the block. The witness accounts, including one from a named individual who provided her contact information, produced a detailed description of the car, a distinctive orange Mustang, including the license plate, which was broadcast over the police radio.

A few minutes later, officers from the 52 Precinct stopped the vehicle about a mile away from where the shots had just been fired. The complainant was driving the Mustang, which matched the description of the vehicle used in the commission of the shooting. Respondent arrived at the location of the car stop, where the complainant was already in handcuffs. He learned from the apprehending officers that although the complainant maintained he had done nothing wrong, he had placed himself at the crime scene: as captured by the BWC footage, the complainant, more than once, volunteered to the officers that he knew about the incident, and that he had been at the location in his vehicle, with at least one friend.

Counsel for the CCRB notes that the alleged shooter was no longer in the vehicle at the time it was stopped, no incriminating evidence was recovered from inside the car, and no show-up was conducted at the scene of the car stop. Nevertheless, the officers had detailed information that had been provided by a named eyewitness, much of which was corroborated by the complainant himself, who admitted that he had, in fact, been driving the Mustang at the scene

of the shooting as described. Under these specific circumstances, Respondent had a reasonable belief that the complainant had been involved in the commission of a crime, in that he drove away with the shooter after he fired the shots.

The credible evidence has failed to establish that Respondent wrongfully detained the complainant without sufficient legal authority. Accordingly, I find Respondent Not Guilty of Specification 1.

Specification 2 charges Respondent with wrongfully seizing the vehicle owned by the employer of the complainant. It is undisputed that the orange Mustang was seized by the police; it was driven back to the 52 Precinct by officers, and held as investigatory evidence for approximately two months before being released to the owner. At issue is whether this seizure constituted misconduct on Respondent's part. Based on the credible evidence, I find that it did not.

Under Section 218-19 of the Patrol Guide, vehicles may be seized and invoiced as investigatory evidence when additional investigation is required. Here, Respondent testified credibly that they held the Mustang because it had been observed as the vehicle in which the shooter fled the scene. Specifically, they wanted to obtain a warrant in order to review the car's GPS records. As Lieutenant [REDACTED] explained, that information would allow the police to track the movements of the Mustang on the day in question, providing information as to its location before and after the shots were fired, which might, in turn, lead to additional relevant video evidence.

Unfortunately, the process of trying to obtain a warrant took a long time, while Respondent awaited a response from the Bronx DA's Office. As such, the vehicle was retained for approximately two months, until the DA's Office informed Respondent that no warrant

application would be made. At that point, Respondent had the voucher classification of the Mustang changed from "Investigatory" to "Safekeeping," and the vehicle was released to its owner.

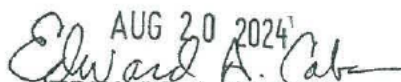
Under this specific set of circumstances, the evidence has failed to establish that Respondent lacked sufficient legal authority to seize the car, which had been used in the commission of a shooting. He had a legitimate investigatory purpose for doing so, as he attempted to gather additional evidence in connection with the shots that were fired near [REDACTED] [REDACTED]. Moreover, Lieutenant [REDACTED], Respondent's supervisor, authorized the steps taken by Respondent, which were reasonable. Accordingly, I find Respondent Not Guilty of Specification 2.

Respectfully submitted,



Jeff S. Adler
Assistant Deputy Commissioner Trials

APPROVED

AUG 20 2024

EDWARD A. CABAN
POLICE COMMISSIONER