



POLICE DEPARTMENT

June 23, 2023

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In the Matter of the Charges and Specifications :

- against - :

Police Officer Claudia Pinzon :
Tax Registry No. 966278 :
61 Precinct :

Case No. 2020-22065

Police Officer Louis Carrion :
Tax Registry No. 960331 :
Strategic Response Group 5 :

Case No. 2020-22063

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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: Theresa Freitas, Esq.
Nicole Jardim, Esq.
Civilian Complaint Review Board
100 Church Street, 10th Floor
New York, NY 10007

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

To:

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

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CHARGES AND SPECIFICATIONS

Disciplinary Case No. 2020-22065

1. Police Officer Claudia Pinzon, on or about September 3, 2019, at approximately 1457 hours, while assigned to the 61 Precinct and on duty, in the vicinity of [REDACTED] [REDACTED] Kings County, abused her authority as a member of the New York City Police Department, in that she entered [REDACTED] [REDACTED] without sufficient legal authority.

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

PUBLIC CONTACT –
PROHIBITED CONDUCT

Disciplinary Case No. 2020-22063

1. Police Officer Louis Carrion, on or about September 3, 2019, at approximately 1457 hours, while assigned to the 61 Precinct and on duty, in the vicinity of [REDACTED] [REDACTED] Kings County, abused his authority as a member of the New York City Police Department, in that he entered [REDACTED] [REDACTED] without sufficient legal authority.

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

PUBLIC CONTACT –
PROHIBITED CONDUCT

REPORT AND RECOMMENDATION

The above-named members of the Department appeared before me on May 18, 2023. Respondents, through their counsel, entered pleas of Not Guilty to the subject charges. The CCRB called Karen and Cordel Fox as witnesses, and introduced into evidence Body-Worn Camera (“BWC”) footage from several police officers, as well as video footage from home security cameras. Respondents testified on their own behalves. 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 Respondents Guilty, and recommend that they each forfeit ten (10) vacation days.

ANALYSIS

This case involves an allegation that Respondents each wrongfully entered the Brooklyn home of Cordel and Karen Fox on September 3, 2019. There is no dispute that the two officers did enter the home; at issue is whether they had sufficient legal authority to do so.

The facts surrounding their entry are essentially undisputed as well. Early in the afternoon, an individual (“the 911 caller”) reported a larceny in progress, claiming that he observed a woman removing packages from the front of his building, and bringing them to a separate location several houses down at [REDACTED]. The 911 caller directed the officers to the house, where they tried to ascertain whether anyone was home. Receiving no response, multiple officers, including Respondents, walked to the side of the house, passed through two gates into the back yard, and entered the house. The officers looked around inside, saw no one, and promptly exited the residence. While Respondents were still inside, the owners of the house, Cordel and Karen Fox, arrived and credibly explained to the officers out front that no larceny had occurred, since the packages were taken with the permission of the owner for safekeeping.

Cordel Fox (“Cordel”), who runs her own day care business, testified that she has resided for 25 years in her two-family home at [REDACTED]. Cordel lives on the top floor, while her daughter Karen occupies the first floor. On the day of the incident, Cordel was looking after two young children from the neighborhood, who live approximately four houses down the block from Cordel. It was the birthday of one of the children, and the child’s mother was expecting some packages to be delivered that day. Cordel and the two children went to their mother’s building and retrieved the two packages, with the intention of bringing them back to Cordel’s house. (Tr. 45-48)

On their way back to her home at [REDACTED], she noticed a man (“the 911 caller”) in a red truck watching them. Cordel testified that the 911 caller asked them about the packages, but Cordel did not recognize him and so she did not respond. Instead, she instructed the two children to run ahead to her house with the packages and place them inside. The 911 caller cursed at Cordel, and she cursed back. Cordel then walked with the children toward the Dollar Tree store. (Tr. 48-53)

On the way to the store, Cordel noticed several police cars driving by. Soon after, she received a notification on her phone from her doorbell camera. Cordel testified that she looked at her phone and observed that police officers were at her house. She said “hello,” received no response, and so she and the children hurried home. According to Cordel, she did not personally witness the police officers enter her home, but later saw on video that they had done so. The officers did not show her a warrant, and she did not consent to having them enter her home. (Tr. 54-55, 57-60)

Karen Fox (“Karen”) testified that on the afternoon of the incident, she was on her way home when she received a call from a neighbor, who informed her that there were police officers in front of her house banging on the door. Karen was concerned about the well-being of her mother, but the neighbor said it did not appear that anyone was home. The neighbor asked the officers to take her phone and speak with Karen, but they refused. Karen called her mother, Cordel, who was unable to speak because she was trying to speak with the officers through her doorbell camera, and so Karen rushed home. Upon arrival, Karen observed her mother speaking with the officers in front of the house, explaining to them that she did not steal the packages; the packages had been retrieved from the home of the children her mother was babysitting, which was approximately nine houses away. (Tr. 23-26, 38-40)

From her subsequent review of the video footage, Karen observed that police officers, including both Respondents, had walked into her yard and entered her house. Nothing inside the house was taken, moved, or damaged by the officers. Karen testified that no one was home at the time the officers entered, and nobody gave them permission or authority to do so. (Tr. 31-33, 35-37)

Video footage from home security cameras (CCRB Exs. 2-7) captures what occurred at the home, as does the BWC footage from several police officers (CCRB Exs. 1, 8-10). In particular, the BWC footage from Officer Thomas Costarella (CCRB Ex. 1) shows much of the relevant police activity at the location.

In the footage, approximately eight police officers can be seen following the 911 caller as he directs them to the location where he claimed the woman brought the packages. Upon arriving at [REDACTED], Respondent Carrion and Officer Costarella proceed up the front steps of the house. Respondent Carrion rings the doorbell as Officer Costarella knocks on the screen door, which is locked, though the inside door appears to be ajar. Officer Costarella observes the packages in question between the locked screen door and the inside door. Respondent Carrion rings the doorbell a second time, eliciting a “hello” from an unidentified person through the doorbell camera. Respondent Carrion asks if anyone is home, and Officer Costarella identifies them as police, but they do not receive a response. Respondent Carrion takes a picture to try to determine the address on the packages.

Respondent Carrion suggests checking if there is an opening in the back since there is a large yard back there. Officer Costarella agrees, and the video footage shows them making their way towards the back, joined by several other officers, including Respondent Pinzon. One of the officers opens two separate gates, and the officers proceed into the yard, where there are several

different stairways into the house. As other officers make their way up one staircase, both Respondents follow Officer Costarella down a staircase, through a door, and into the basement. Officer Costarella yells “hello” before the officers proceed inside.

Once inside, Respondent Carrion can be seen leading the group up a stairway to a door; he knocks, opens the door, yells “hello,” and enters into the kitchen area with Officer Costarella and Respondent Pinzon following. Respondent Pinzon walks to the right toward the living room. The three ascertain that no one is in the house, and retreat back to the yard the same way they entered. In total, the officers were inside the house for approximately one minute and forty-five seconds. During the time they were inside, it did not appear the officers were searching the house other than to see if there was anyone home.

Outside, several officers can be seen speaking with Cordel Fox, who states that she lives in the house. She sends two children with Officer Costarella and Respondent Carrion to retrieve the packages from inside the house. The children explain the packages belong to their mother and confirm the address and name with the officers. They also explain that the owner of the house, Cordel Fox, is their babysitter. The officers conclude there was a misunderstanding.

Respondent Carrion testified that he and his partner, Officer Ferrari, responded as back-up to the location. There already were several police officers at the residence, including Officer Costarella, who was the senior officer present. Through the glass window of the front door, Respondent Carrion observed packages inside the doorway, but could not see to whom they were addressed, nor did he see signs of anyone being home. He then walked to the back yard with several other officers to see if the individual who allegedly took the packages was still at the location. (Tr. 66-70, 75, 79-80)

One of the officers opened two separate gates in order to gain access to the yard.

Respondent Carrion testified that he followed Officer Costarella down a set of stairs, through a door, and into the basement of the house. The officers called out if anyone was home, for their safety as well as the safety of anyone inside the house, but received no response. They went upstairs to the kitchen, looked around, but did not see anyone there, and so they retraced their steps and exited the home through the basement. Respondent Carrion estimated that he was inside the house for approximately one-to-three minutes. (Tr. 71-72, 80-87)

Respondent Pinzon testified that she and her partner, Officer Radashkovskiy, also responded to the call of a female stealing packages from a porch. The 911 caller directed the officers to [REDACTED] where the packages had allegedly been taken. Respondent Pinzon remained at street level, while other officers went up the stairs of the house to investigate. She then accompanied several officers to the rear of the residence, and entered the back yard through two gates. Respondent Pinzon testified that she followed Officer Costarella and Respondent Carrion down some steps and entered the home through the basement door. Once inside she looked around, but saw no one. The officers walked upstairs to the kitchen and living room areas, but nobody was there either. While upstairs they heard a commotion outside, so she and her colleagues returned to the basement and exited the house. Respondent Pinzon insisted that she did not touch or move anything during her brief time inside the home. She walked to the front of the house, where she observed a lieutenant engaged in conversation with individuals who she later learned to be the Foxes; it was determined that no larceny had occurred. (Tr. 90-97, 100, 106-12)

Each Respondent is charged with one specification, alleging wrongful entry into the house at [REDACTED]. It is well-settled that the Fourth Amendment of the United States

Constitution prohibits warrantless entry into a home. There are certain exceptions to that rule, such as when voluntary consent is given, or there are exigent or emergency circumstances justifying the entry. Otherwise, any such entry into a home is presumptively unreasonable.

Here, there is no dispute that Respondents each entered the house through the basement. Respondents admitted that they did so, and their entry is captured in video footage. At issue is whether they had sufficient legal authority to do so. Based on the credible evidence presented, I find that they did not.

On the one hand, I credit that Respondents and their fellow officers did reasonably rely upon the information provided by the 911 caller. Even though it later turned out that the packages were not stolen, at the time the officers responded to the call they did have a good faith basis to investigate the alleged larceny. That investigation led them to the house at [REDACTED]

[REDACTED].

Nevertheless, Respondents did not have a sufficient legal basis for their warrantless entry into the home of Cordel and Karen Fox. From outside the front door, the police officers did not observe signs that anyone was inside, nor did they receive consent to enter. Several officers, including Respondents, walked to the side of the home and passed through two gates to enter the back yard. Both Respondents then entered the house through the basement, but did not see anyone inside. They also walked upstairs to the kitchen and living room areas, looked around, but did not observe anyone there either, and promptly exited the residence.

Even though another officer, Officer Costarella, was the first to walk down the steps into the basement, Respondents each chose to enter the house as well and are accountable for their actions. There were no exigent circumstances to justify their entry: the underlying offense they were investigating, a larceny of packages from a building, was not violent in nature; there was no

reasonable basis for the officers to believe that they were dealing with an armed suspect; and they did not have a strong reason to believe that there was a suspect inside the premises, let alone one who was likely to escape if not swiftly apprehended (*see People v. McBride*, 14 NY3d 440 [2010]). Nor was there any indication that there was an emergency at hand requiring an immediate need for assistance for the protection of life or property (*see People v. Mitchell*, 39 NY2d 173 [1976]).

As such, based on the totality of the particular circumstances presented here, there was not an urgent need to justify Respondents' warrantless entry. The record has established, by a preponderance of the credible evidence, that Respondents wrongfully entered [REDACTED]. Accordingly, I find both Respondents 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. Respondents' employment histories also were examined. *See* 38 RCNY § 15-07. Information from their personnel records that was considered in making these penalty recommendations are contained in attached memoranda.

Respondent Pinzon, who was appointed to the Department on July 2, 2018, and Respondent Carrion, who was appointed to the Department on January 6, 2016, have each been found guilty for wrongfully entering a residence. The CCRB recommends that they each forfeit 10 vacation days, the presumptive penalty for a wrongful entry. Under the specific circumstances presented here, that penalty is reasonable.

As discussed above, I am mindful that at the time they entered the house, Respondents were investigating allegations that packages had been stolen, based on information provided by an identified, on-scene source. Upon arrival at the house, they observed packages inside the front doorway, which supported their suspicions. The officers were inside the house for less than two minutes, during which time they did not appear to move or damage any of the Foxes' possessions.

Nevertheless, it is troubling that without sufficient legal authority to do so, Respondents each chose to join a fellow officer in entering the home of Cordel and Karen Fox. Without a warrant and without consent, they passed through two closed gates to get into the back yard, then walked through a basement door and entered the house. Once inside, they looked around the basement, then proceeded upstairs to continue their search. Respondents walked around the kitchen and living room areas, before returning to the basement and exiting the home. There were no exigent or emergency circumstances to justify this intrusion into a private residence, and there needs to be accountability for Respondents' actions.

On balance, the presumptive penalty of 10 vacation days is appropriate to address the misconduct here, a significant loss of days that will hopefully deter Respondents from future misconduct. Taking into account the totality of the facts and circumstances in this matter, I recommend that each Respondent forfeit ten (10) vacation days.

Respectfully submitted,

Jeff S. Adler
Assistant Deputy Commissioner Trials

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Jeff S. Adler
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APPROVED

DEC 20 2023

EDWARD A. CABAN
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER CLAUDIA PINZON
TAX REGISTRY NO. 966278
DISCIPLINARY CASE NO. 2020-22065

Respondent was appointed to the Department on July 2, 2018. On her three most recent annual performance evaluations, she was rated “Exceeds Expectations” for 2020, 2021, and 2022.

Respondent has no disciplinary history.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER LOUIS CARRION
TAX REGISTRY NO. 960331
DISCIPLINARY CASE NO. 2020-22063

Respondent was appointed to the Department on January 6, 2016. On his three most recent annual performance evaluations, he was rated “Exceed Expectations” for 2020 and 2022, and “Exceptional” for 2021. He has been awarded two medals for Meritorious Police Duty.

In 2018, Respondent forfeited 15 vacation days after pleading guilty to failing to safeguard his Department issued firearm, resulting in an accidental discharge, and improperly disposing of the cartridge.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials