



POLICE DEPARTMENT

December 11, 2013

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Naima Dominguez
Tax Registry No. 938383
62 Precinct
Disciplinary Case No. 2010-3038

The above-named member of the Department appeared before me on August 21, 2013, charged with the following:

1. Said Police Officer Naima Dominguez, while assigned to the 77 Precinct, while off-duty, on or about March 26, 2010, at a location known to this Department, in [REDACTED], did wrongfully consume an intoxicant to the extent that said officer was unfit for duty.

P.G. 203-04, Page 1, Paragraph 1 – FITNESS FOR DUTY

The Department was represented by Beth Douglas, Esq., Department Advocate's Office, and Respondent was represented by John Tynan, Esq.

Respondent, through her counsel, entered a plea of Guilty to the subject charge 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

The Respondent, having pleaded Guilty, is found Guilty as charged.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent, an eight-year member of the Department, is currently assigned to the 62 Precinct. She testified that she did not work on March 26, 2010, as it was her regularly scheduled day off. She drove to a nightclub that day, arriving at about 1:00 a.m. She consumed three alcoholic beverages and left after about three hours. A friend who she had gone to the club with drove her home, leaving her outside in her parked car, asleep. When Respondent awoke and went upstairs to her sixth-floor apartment, she realized that she had left her apartment keys in the car. Instead of taking the elevator, she decided to walk down the stairs. She had the urge to urinate. She thought she might have unbuckled her pants, but could not remember what happened next. She did remember waking up and seeing her neighbor and another officer. She did not remember what anyone said. Then she remembered waking up in an ambulance.

Before the incident, Respondent was never the subject of Department discipline and always received positive evaluations. As a result of the incident, she was placed on modified duty for 11 months. [REDACTED]

[REDACTED]. [REDACTED]

[REDACTED]. [REDACTED]

[REDACTED]

[REDACTED]. [REDACTED]

[REDACTED] She has been on full-duty status since March 2011. She received a rating of 3.5 on her 2012 annual performance evaluation.

On cross-examination, Respondent confirmed that she was at the club that day with Police Officers Zakee Smith and Juliet Moran. While at the club she consumed two

eight-ounce servings of a cocktail called the Incredible Hulk, which consisted of a blend of two different types of alcohol. She also drank a shot of Hennessy. Smith drove her home afterwards. Respondent was asleep when Smith left her in the car. The last thing she remembered was entering the stairwell. She confirmed that she was not the victim of sexual assault or any other crime that night. She was released from the hospital on crutches and with a neck brace. She explained, "I guess the way my neck was when I fell down the steps, like I had my neck crimped or whatever. I flipped through the steps and had bruises on my knees."

Respondent's neighbor discovered Respondent at the bottom of the stairwell lying in a clear pool of liquid with her pants pulled down. The neighbor called 911 and the Department came to investigate whether a sexual assault took place.

On redirect examination, Respondent confirmed that this was the only time that she consumed so much alcohol that she passed out and did not know where she was.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 N.Y. 2d 222 (1974).

Respondent was appointed to the Department on July 11, 2005. Information from her personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Department argued that Respondent should forfeit 20 vacation days with one year dismissal probation, ordered breath testing and cooperation with counseling. The Department offered two cases that established precedent for its recommendation: In one case, a five and a half year police officer with no disciplinary history was found unfit for duty while armed. *Case No. 02183/10*, (January 25, 2011). In the other case, a 20 year lieutenant with no prior disciplinary history was observed carrying alcoholic beverages back to his residence, had consumed an alcoholic beverage so that he was absent from a scheduled traffic stat meeting, and was deemed incoherent and confused. *Case No. 3419/10*, (May 9, 2012).

Under the circumstances, the Department's recommendation is reasonable. Not only was Respondent rendered unfit for duty by this episode, but she caused the Department to investigate whether a sexual assault had occurred. Because Respondent was so intoxicated that she was rendered unconscious, she could not assist the Department's investigation. Respondent offered no explanation, insight or mitigation for her irresponsible behavior that night. Absent an explanation, there was not sufficient information to determine that this incident was a one time event and a departure from Respondent's ordinary routine.

Therefore, it is recommended that Respondent be DISMISSED from the New York City Police Department but that her dismissal be held in abeyance for a period of one 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 hearings. I further recommend that Respondent forfeit 20 vacation days.

Respectfully submitted,



Amy J. Porter
Assistant Deputy Commissioner Trials

APPROVED
DEC 23 2013

RAYMOND W. KELLY
POLICE COMMISSIONER

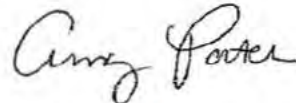
POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER NAIMA DOMINGUEZ
TAX REGISTRY NO. 938383
DISCIPLINARY CASE NO. 2010-3038

Respondent received an overall rating of 4.0 “Highly Competent” on her annual performance evaluation in 2012 and ratings of 3.5 “Competent/Highly Competent” in 2011 and 2010. [REDACTED]

[REDACTED] Respondent has no prior disciplinary record.

For your consideration.



Amy J. Porter
Assistant Deputy Commissioner – Trials