



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

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November 4, 2014

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Flamond Beecham**
Tax Registry No. 934467
25 Precinct
Disciplinary Case No. 2013-9182

The above named member of the service appeared before Assistant Deputy Commissioner David Weisel on April 14, 2014, and was charged with the following:

DISCIPLINARY CASE NO. 2013-9182

1. Police Officer Flamond Beecham, assigned to the 28th Precinct, on or about March 6, 2013, while assigned to Transit Bureau District # 11, consumed an intoxicant to the extent that said Police Officer was unfit for duty, to wit: said Police Officer reported to work at Transit Bureau District # 11 while unfit for duty. *(As amended)*

P.G. 203-04, Page 1, Paragraph 2

FITNESS FOR DUTY

2. Police Officer Flamond Beecham, assigned as indicated in Specification # 1, on the date indicated in Specification # 1, consumed an intoxicant to the extent that said Police Officer was unfit for duty, while armed.

P.G. 203-04, Page 1, Additional Data

FITNESS FOR DUTY

3. Police Officer Flamond Beecham, assigned as indicated in Specification # 1, on the date indicated in Specification # 1, impeded an investigation into the events concerning his fitness for duty on March 6, 2013, by failing to timely provide the identification and contact information of the person who transported him to Transit District # 11. *(As amended)*

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

**PUBLIC CONTACT-
PROHIBITED CONDUCT,
GENERAL REGULATIONS**

4. Police Officer Flamond Beecham, assigned as indicated in Specification # 1, on the date indicated in Specification # 1, appeared late for duty, to wit: said Police Officer reported to work approximately one (1) hour after the commencement of his tour of duty. *(As amended)*

P.G. 203-03, Page 1, Paragraph 3

**COMPLIANCE WITH ORDERS,
GENERAL REGULATIONS**

POLICE OFFICER FLAMOND BEECHAM

DISCIPLINARY CASE NO. 2013-9182

In a Memorandum dated July 23, 2014, Assistant Deputy Commissioner David S. Weisel found the Respondent Guilty of Specification Nos. 1, 2, 3, and 4 in Disciplinary Case No. 2013-9182. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

I have considered the totality of issues and circumstances in this matter and direct that Police Officer Beecham be offered a post-trial negotiated agreement in which he shall forfeit thirty (30) suspension days (already served), be placed on one (1) year dismissal probation, cooperate with counseling, and be made the subject of Ordered Breath Testing, as a disciplinary penalty. If Police Officer Beecham does not agree to the terms of this post-trial negotiated agreement, as noted, this Office is to be notified without delay.


William J. Bratton
Police Commissioner



POLICE DEPARTMENT

July 23, 2014

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Flamond Beecham
Tax Registry No. 934467
25 Precinct
Disciplinary Case No. 2013-09182

The above-named member of the Department appeared before the Court on April 14, 2014, charged with the following:

1. Said Police Officer Flamond Beecham, assigned to the 28 Precinct, on or about March 6, 2013, while assigned to Transit Bureau District #11, consumed an intoxicant to the extent that said Police Officer was unfit for duty, to wit: said Police Officer reported to work at Transit Bureau District #11 while unfit for duty. (*As amended*)

P.G. 203-04, Page 1, Paragraph 2 FITNESS FOR DUTY

2. Said Police Officer Flamond Beecham, assigned as indicated in Specification #1, on the date indicated in Specification #1, consumed an intoxicant to the extent that said Police Officer was unfit for duty, while armed.

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

3. Said Police Officer Flamond Beecham, assigned as indicated in Specification #1, on the date indicated in Specification #1, impeded an investigation into the events concerning his fitness for duty on March 6, 2013, by failing to timely provide the identification and contact information of the person who transported him to Transit District #11. (*As amended*)

P.G. 203-10, Page 1, Paragraph 5 GENERAL REGULATIONS
PUBLIC CONTACT – PROHIBITED CONDUCT

4. Said Police Officer Flamond Beecham, assigned as indicated in Specification #1, on the date indicated in Specification #1, appeared late for duty, to wit: said Police Officer reported to work approximately one (1) hour after the commencement of his tour of duty. *(As amended)*

P.G. 203-03, Page 1, Paragraph 3 GENERAL REGULATIONS
COMPLIANCE WITH ORDERS

The Department was represented by Rudolph Behrmann, Esq., Department Advocate's Office. Respondent was represented by Craig Hayes, Esq., Worth, Longworth & London LLP.

Respondent pleaded Guilty to the subject charges 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

Respondent, having pleaded Guilty, is found Guilty.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent, a 10-year member of the Department, previously was assigned to Transit District 11 and worked midnights. On March 5, 2013, he was scheduled to work his regular tour. Earlier that night, he was with a female friend that he was dating. They were celebrating the friend getting a new job, and he consumed two alcoholic beverages. He also had taken Tylenol liquid cold medicine because he was feeling sick. He thought about calling in sick to work, but he did not like going sick and did not do it often. His friend drove him to work. Due to his waffling over whether or not to go sick, he arrived at work late.

When Respondent arrived at work, he "still wasn't a hundred percent but [he] felt like [he] could have toughed through it." He walked past the desk to get to the locker room. He put

on his uniform, which included his gun belt and firearm. While still in the locker room, two supervisors approached him and asked if he had been drinking. He admitted to them that he had drunk alcohol over the last six hours or so. He also told them that he was not feeling well.

Respondent conceded at trial that the alcohol had something to do with how he felt that day. He acknowledged that he was unfit for duty while armed in the locker room. He called it a "stupid mistake." He was at the time a member of the Department's boxing team and "felt like a tough person." He was suspended from duty. Currently, Respondent was "kind of taking a break" from the boxing team.

At one point, the supervisors asked Respondent how he got to work that day. Respondent told them about his friend driving him to the command, but when they asked him for the friend's contact information he did not provide it. He explained his reasoning: "I felt like I was already in trouble so anything that she said wouldn't change anything because what I said was the truth and I didn't want to get her involved because she's not an MOS or anything like that. I just didn't want to get her involved at all."

[REDACTED]

[REDACTED]

[REDACTED]

He currently was assigned to the 25 Precinct.

On cross examination, Respondent testified that he sometimes drove to work and sometimes took the train. He often left his car at work. He understood that his supervisors asked him how he got to work because they suspected him of being unfit for duty. Because he would not give the supervisors his friend's contact information, they could not verify his claim that he had been driven to work. He might have told the supervisors his friend's name.

On re-direct examination, counsel asked Respondent, "That morning while they were questioning you, was your judgment, in your opinion, a hundred percent or were you, in fact, unfit at that stage?" Respondent answered, "I was unfit, I wasn't a hundred percent."

Upon questioning by the Court, Respondent clarified that he had been dating his friend off and on for three years, but did not consider her to be his girlfriend. He did not know if the cold medicine he took caused drowsiness. [REDACTED]

On continued re-direct examination, Respondent stated that he was restored to full duty status in November 2013.

On re-cross examination, Respondent admitted that he took the cold medicine prior to drinking two shots of alcohol.

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 1, 2004. Information from his personnel file that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent has pleaded Guilty to being unfit for duty and related offenses. A day prior, Respondent was celebrating the new job of a female friend. They were dating but not boyfriend/girlfriend. Respondent indicated that he drank two shots of liquor. But he also had a cold and took cold medicine. When he went to work, he did not feel well but decided to tough it out. His female friend drove him to work and he arrived about an hour late. A supervisor saw

him and suspected him of being intoxicated. A fitness-for-duty examination confirmed it. Respondent just had gotten into uniform to begin his tour so he was armed.

The supervisors suspected that Respondent might have driven to work under the influence of alcohol, as his personal vehicle was in the parking area. Although at the mitigation hearing Respondent explained that sometimes he left his car at work and took the subway home, the supervisors asked him how he got to work that day. He told them that a friend drove him but he refused to give her contact information so that they could confirm. At the hearing Respondent testified that he might have stated her name only. He testified that he did not want to get her involved.

Respondent has pleaded Guilty and acknowledged his responsibility in this case. The only issue is punishment. The Advocate recommended a penalty of the loss of the 30 days already served on suspension, an additional 30 vacation days, and the imposition of dismissal probation for a period of one year.

Counsel for Respondent urged that the penalty involve the loss of any reasonable amount of days but not dismissal probation. He pointed out that many fitness-for-duty cases do not include probation. He also argued that Respondent already has participated in and successfully completed the Department's alcohol treatment program, which included [REDACTED] [REDACTED] subsection to breath testing. The Advocate basically contended that probation was justified by the nature of Respondent's conduct and continuing pattern of misconduct.

Two of Respondent's prior cases were noted. One, from 2007, involved a disagreement between Respondent and a supervisor at his command concerning that command's needs and Respondent's perceived permission to be assigned to practice because he was on the

Department's boxing team. The charges involved discourtesy and unauthorized absences. After a combined trial-mitigation hearing, Respondent received a penalty of the forfeiture of 30 vacation days (*Case No. 2008-00342 [84601/08]* [Dec. 12, 2011]).

In the second case, from 2011, Respondent was involved in a domestic incident with a female acquaintance, not the same individual as the instant case. Respondent did not contact the patrol supervisor and deleted relevant text messages between him and the woman. Respondent pleaded guilty and received a penalty of the forfeiture of 40 total penalty days. He also agreed to attend counseling (*Case No. 2011-04872* [Apr. 18, 2012]).

Dismissal probation may be imposed where the officer's prior disciplinary record indicates that prior penalties have not led to improved conduct, or where the facts indicate that the officer again will engage in misconduct. See *Case No. 2011-05299*, pp. 9-10 (Dec. 17, 2012). The focus here should be on whether a period of further monitoring of Respondent is necessary in light of his prior record and the instant case.

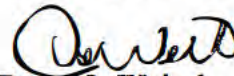
While Respondent is a long-serving Department member with an otherwise improving work record, this is his third major infraction in less than a decade. He came to work knowing he had consumed cold medicine that apparently caused drowsiness, on top of the two shots he had drunk the night before. He then retrieved his firearm and could have been turned out had it not been for the supervisor's intervention. Respondent only compounded the problem when he refused to give his friend's contact information. The Court does not find this to be the sort of information that only should have been revealed at a formal Patrol Guide interview. Finally, this is not the first incident in which Respondent has been ordered to attend counseling.

In sum, Respondent's prior misconduct in tandem with the instant proceeding is troubling enough that dismissal probation is warranted. This will ensure close monitoring of Respondent's future conduct and will serve to enforce the seriousness of these continuing breaches.

Respondent's counsel correctly stated that there is a wide range of precedential penalties in fitness-for-duty cases. Here, Respondent's misconduct was serious but there were no aggravating factors like criminal or violent conduct.

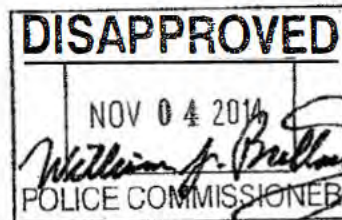
Accordingly, the Court recommends that Respondent be *DISMISSED* from the New York City Police Department, but that his dismissal be held in abeyance for a period of one year, pursuant to Administrative Code § 14-115 (d), during which time he is to remain on the force at the Police Commissioner's discretion and may be terminated at any time without further proceedings. The Court further recommends that Respondent forfeit the 30 days he previously served on suspension in this matter. Cf. *Case No. 2008-01099* (Feb. 17, 2010) (seven-year officer with no prior record forfeited 30 suspension days already served and was placed on one year dismissal probation when, while off-duty, he took two prescribed narcotic drugs and drank alcohol, resulting in loss of consciousness, transport to hospital, and blood alcohol content of 0.26).

Respectfully submitted,



David S. Weisel

Assistant Deputy Commissioner – Trials



POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER FLAMOND BEECHAM
TAX REGISTRY NO. 934467
DISCIPLINARY CASE NO. 2013-09182

Respondent received an overall rating of 3.5 "Highly Competent/Competent" on his last three annual performance evaluations. [REDACTED]
[REDACTED]

Respondent has been the subject of two prior adjudications. In 2011, he forfeited 30 vacation days after a trial-mitigation hearing for being discourteous to a supervisor, failing to comply with an order, being absent without leave for a period of over an hour, extending his meal without authorization, and failing to respond to a radio transmission. In 2012, he pleaded guilty to failing to request the response of a patrol supervisor to the scene of a domestic altercation in which he was a participant and, upon having been informed that he was the subject of an investigation, deleting relevant text messages. For this misconduct he forfeited ten vacation days, 30 pre-trial suspension days, and was required to attend counseling. Respondent has been on Level II Discipline Monitoring since February 2014.

For your consideration.



David S. Weisel
Assistant Deputy Commissioner – Trials