



POLICE DEPARTMENT

January 19, 2021

-----X

In the Matter of the Charges and Specifications	:	Case No.
- against -	:	2018-18549
Sergeant Cecilia Luckie	:	
Tax Registry No. 938891	:	
Narcotics Borough Bronx	:	

-----X

At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Jeff S. Adler
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Javier Seymore, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: Matthew Schieffer, Esq.
The Quinn Law Firm
399 Knollwood Road, Suite 220
White Plains, NY 10603

To:

HONORABLE DERMOT F. SHEA
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

CHARGES AND SPECIFICATIONS

1. Said Sergeant Cecilia Luckie, while on-duty, while assigned to Narcotics Borough Bronx, on July 22, 2017, in Bronx County, engaged in conduct prejudicial to the good order and efficiency of the Department, in that said Sergeant failed to ensure subordinates wore their protective vests while performing enforcement duties.
P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT –
PROHIBITED CONDUCT
2. Said Sergeant Cecilia Luckie, while on-duty, while assigned to Narcotics Borough Bronx, on July 22, 2017, in Bronx County, did fail and neglect to secure medical attention for a prisoner in a timely manner.
P.G. 210-04, Page 1, Paragraph 1 PRISONERS REQUIRING
MEDICAL/PSYCHIATRIC
TREATMENT
3. Said Sergeant Cecilia Luckie, while on-duty, while assigned to Narcotics Borough Bronx, on July 22, 2017, in Bronx County, did fail and neglect to wear her protective vest while performing enforcement duties.
P.G. 204-18, Page 1, Paragraph 1(b) PROTECTIVE VESTS

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on December 11, 2020.

Respondent, through her counsel, entered a plea of Not Guilty to the subject charges. The Department called Lieutenant Brian Query, Detective Victor Reyes, and Sergeant Stephen Williams as witnesses. 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. Having reviewed all of the evidence in this matter, I find as follows:

Specification 1 (failure to ensure subordinates wore protective vests): Guilty

Specification 2 (failure to secure medical attention for prisoner): Not Guilty

Specification 3 (failure to wear protective vest): Guilty

Recommended penalty: five (5) vacation days.

ANALYSIS

This matter arose out of a joint buy-and-bust operation on July 22, 2017, involving the Narcotics Modules of the 47 Precinct and 48 Precinct in Bronx County. Respondent was the supervising sergeant of the 47 Module, whose responsibility included supervision of the prisoner van. During the course of the operation, an individual (“the prisoner”) was apprehended by the 48 Module for selling drugs, and placed in the prisoner van, where he remained while the operation continued for a prolonged period of time. The prisoner was later brought to the stationhouse, and was then transported to the hospital where it was learned that he had a dislocated elbow. It is alleged that Respondent failed to secure medical attention for the prisoner in a timely manner. Additionally, Respondent is charged with not wearing her protective vest during the operation, and not ensuring that her subordinates wore their vests as well.

Lieutenant Brian Query testified that on the date of the joint operation, he was the sergeant supervising the 48 Module. Following the completion of the drug sale, Query was involved in the apprehension of the prisoner, who fell to the ground during a brief struggle. The prisoner was handcuffed, and Query informed him that he might receive a Desk Appearance Ticket (“DAT”), which would have allowed him to be released from the precinct. Once the prisoner was placed in the prisoner van, the operation resumed. Query insisted that at the scene, the prisoner did not complain of pain, did not request medical attention, and Query did not observe any visible injuries on the body of the prisoner. (Tr. 25-28, 31, 35)

After the prisoner was brought back to the stationhouse, he was told that he would not be receiving a DAT. According to Query, the prisoner then, for the first time, complained of pain, and asked to go to the hospital. (Tr. 28)

Detective Victor Reyes testified that on the date of the incident, he was one of the police officers from the 47 Module assigned to the prisoner van at the time the prisoner was apprehended. When the prisoner was brought to the van, Reyes noticed that his clothes were disheveled, but he did not observe any injuries to the prisoner's body. The prisoner did not request medical attention, and never said he was hurt or in pain. (Tr. 43, 47, 50, 55)

At one point in the van, Reyes saw the prisoner, who was rear-cuffed, trying to move his hands down and under his body in order to reposition the handcuffs in front of himself. Reyes told the prisoner that he cannot do that, but the prisoner complained that he was uncomfortable, so Reyes agreed to front-cuff the prisoner. Reyes testified that he was trying to build rapport with the prisoner, with the hope that the prisoner would behave well during their time together in the van and later during arrest processing. He explained that it was common for rear-cuffed prisoners to complain, in general, about being uncomfortable, and Reyes did not believe the prisoner was suffering from any particular injuries. Reyes then called Respondent to alert her that he had front-cuffed the prisoner because the prisoner was uncomfortable; he never told Respondent that the prisoner required or requested medical attention, since no such request had been made by the prisoner. (Tr. 48-56)

Reyes acknowledged that he was not wearing a vest during his time with the prisoner van. He explained that he was told at the tactical meeting that he might be assigned as a ghost for part of the operation, during which time he would not be required to wear a vest. Reyes admitted, however, that he did not wear the vest while in the van, when he was not acting as a ghost. (Tr. 45-46)

Sergeant Stephen Williams of the Investigations Unit testified that he was assigned to investigate this matter. According to Williams, Respondent appropriately notified the Command Center that the prisoner had been transported to the hospital. IAB initially conducted interviews,

before the matter was referred to Williams. One of the people who had been interviewed by IAB was the prisoner, who stated that he had been injured when he fell on his arm and officers fell on top of him. In his hearsay statement, the prisoner said that he felt "discomfort," and claimed to have requested aid while he was inside the van. Another arrestee in the van also was interviewed, and similarly claimed that the prisoner requested medical attention. However, Williams did not, himself, interview either individual, and none of the officers whom Williams did interview indicated that the prisoner requested medical attention. Williams reviewed video footage from the van, and testified that the prisoner seemed to have "some deformity in his arm;" no such footage was introduced into evidence. Williams also determined that Respondent, and members of her team, were not wearing their protective vests. (Tr. 62-68, 71, 74-75, 83-84)

Respondent testified that she observed the prisoner fall to the ground while being arrested by Query and another officer; Respondent, herself, did not participate in the apprehension. After he was handcuffed, the prisoner asked Respondent why he was being arrested, and Respondent told him to stop selling drugs. Respondent insisted that she did not observe any injuries to the prisoner, and he did not complain of pain or request medical attention. The prisoner said nothing else to Respondent, and he was taken to the prisoner van; Respondent returned to a separate vehicle, and had no further direct contact with the prisoner during the operation. (Tr. 97-98, 106, 110)

Sometime later, Respondent received a call from Reyes, who informed her that he had given water to the prisoner, and had front-cuffed him because he had complained he was uncomfortable. As a matter of routine, Respondent asked Reyes if the prisoner needed to go to the hospital or had requested medical attention, and Reyes said he did not. Respondent testified that Reyes was one of her best investigators and she trusted his account, and so she felt no need to go check on the prisoner personally. Later, Respondent heard from Query that the prisoner

was asking to go to the hospital; Respondent insisted that had the prisoner requested medical attention earlier, she would have made immediate arrangements to transport him there, and doing so would not have disrupted the operation in any way. (Tr. 99-103, 109, 111-16)

Respondent acknowledged that she was not wearing her protective vest during a portion of the operation. She claimed that she initially was wearing the vest, but removed it in anticipation of the arrest of the prisoner. She explained that she expected to be part of the apprehension, and wanted to have the element of surprise on her side; if she were wearing her vest, it would have been clear to the suspect that she was a police officer. Respondent testified she only learned after the operation that neither her driver nor Reyes were wearing their vests. (Tr. 95-96, 104-05)

Specification 2 charges Respondent with failing to secure medical attention for the prisoner in a timely manner. Section 210-04 (1) of the Patrol Guide provides that when a prisoner in custody requires medical treatment, an MOS must request an ambulance and remove the prisoner to the hospital directly from the place of arrest, if necessary. Here, it is undisputed that the prisoner remained in the prisoner van for a prolonged time before eventually being brought to the hospital, where he was treated for a dislocated elbow. However, what is at issue is whether Respondent committed misconduct by not securing medical attention for the prisoner sooner. I find that based on the information she possessed at the time, Respondent did not act unreasonably with respect to the prisoner.

At the time the prisoner was arrested, Respondent had a brief, face-to-face conversation with him. The only concern voiced by the prisoner was why he was being arrested; he did not complain to Respondent of any pain, nor did he request medical attention. Additionally, even though Sergeant Williams claimed to have observed some deformity in the prisoner's arm by watching video from the van, no such footage was introduced into evidence, and I credit

Respondent's testimony that she, herself, did not observe any visible injuries to the prisoner. Indeed, Respondent's account was logical and consistent throughout, and I credit her statement that if she had any indication that the prisoner required medical treatment, she would promptly have ensured that he was brought to the hospital.

Once the prisoner was placed in the prisoner van, he was left in the custody of Reyes. At some point, Reyes called Respondent to inform her that he had front-cuffed the prisoner because he had complained he was uncomfortable. Respondent asked whether the prisoner needed or requested medical attention, and Reyes answered in the negative. Respondent explained how she had a strong working relationship with Reyes, and I find that she reasonably relied upon the information he provided.

Respondent's testimony was corroborated by Reyes and Query. Reyes confirmed that he never told Respondent that the prisoner requested medical attention since no such request had, in fact, been made. Reyes credibly explained how it was not unusual for a prisoner to express discomfort at being rear-cuffed, and Reyes did not have any indication that the prisoner here required hospitalization; he only agreed to front-cuff the prisoner in an effort to build rapport with him, since they would be spending extensive time together in the van and during arrest processing. I credit Reyes's detailed and consistent account of what transpired, rather than the untested hearsay claims of the prisoner and the other arrestee, neither of whom appeared to testify, and neither of whom had their accounts subjected to cross examination.

Like Respondent and Reyes, Query did not observe any signs of injury to the prisoner. Query came across as professional and responsible as he described the apprehension of the prisoner, and how the prisoner did not complain of pain or request medical assistance. Indeed, during his initial encounter with the prisoner, Query told him that he might be released from the precinct with a DAT, which may have motivated the prisoner to remain silent about his injury

since he anticipated a quick release. Later, at the stationhouse, Query informed the prisoner that he would not be receiving a DAT; then, for the first time, the prisoner asked to go to the hospital. Again, since the prisoner did not appear to testify, he could not be questioned as to how the expectation of receiving a DAT affected his behavior.

With the benefit of hindsight, we now know that the prisoner suffered a dislocated elbow when he was arrested. However, at the time of the incident, Respondent reasonably relied upon her own observations and interaction with the prisoner, where she saw no indication that the prisoner required medical treatment, as well as the information provided by her trusted colleague responsible for safeguarding the prisoner, who specifically told her that the prisoner did not need, or request, medical attention. Under these specific circumstances, the credible evidence has failed to establish that Respondent committed misconduct, and I find her not guilty of Specification 2.

Specifications 1 and 3 deal with the failure of Respondent and her subordinate officers to wear their protective vests, as required by Patrol Guide Section 204-18 (1). Respondent and her team members conceded that they were not wearing their vests during part of the operation; they offered explanations for that failure, none of which were persuasive. Respondent testified that she removed her protective vest in anticipation of being involved in the apprehension of a drug seller. However, her desire to gain the element of surprise on a perpetrator left her dangerously exposed to potential harm, and was not reasonable under the circumstances. Respondent was, at that moment, engaged in enforcement activity, yet she failed to follow an important requirement designed for her own safety.

Similarly, the explanation offered by Reyes as to why he was not wearing his protective vest was unpersuasive. Reyes testified that there was a chance that he would be assigned to the role of ghost at some point during the operation. However, that possibility did not absolve him

of the responsibility to follow safety requirements while he was assigned to the prisoner van. Not only was Reyes dealing directly with prisoners, there also was potential for interaction with people who might try to help the prisoners escape. Under these circumstances, his failure to wear his protective vest was not justified.

As the supervising sergeant, Respondent was responsible for ensuring that the members of her team wore their protective vests while performing enforcement duties. This she failed to do with regard to her driver, as well as Reyes, and I find her guilty of Specification 1. Additionally, the credible evidence has established that Respondent wrongfully failed to wear her own protective vest while performing enforcement duties, and I find her guilty of Specification 3.

PENALTY

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 July 11, 2005. Information from her personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum. Respondent has no disciplinary record.

The Department Advocate recommends a penalty of ten (10) vacation days: five (5) days for the failure to secure medical attention, and five (5) days for the vest-related offenses. As discussed above, Respondent has been found not guilty of the medical attention specification. For the remaining charges, I agree with the Advocate that the forfeiture of five (5) vacation days is appropriate.

It was undisputed that Respondent was not wearing her protective vest while performing enforcement duties. Specifically, she chose to remove her vest as she and her colleagues were

preparing to apprehend a suspect in a drug sale. The Patrol Guide emphasizes that an officer “**MUST** wear a protective vest” when performing enforcement duties. Respondent used poor judgment in prioritizing the element of surprise over her personal safety. Additionally, Respondent failed to ensure that her subordinates were wearing their protective vests: both her driver and Reyes were not wearing their vests while under Respondent’s supervision.

To be sure, Respondent has a strong record with the Department, including being awarded four medals. However, there needs to be accountability for her dangerous disregard of the safety requirements regarding protective vests. Taking into account the totality of the facts and circumstances in this matter, I recommend that Respondent forfeit five (5) vacation days.

Respectfully submitted,

Jeff S. Adler
Jeff S. Adler

Assistant Deputy Commissioner Trials





POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
SERGEANT CECILIA LUCKIE
TAX REGISTRY NO. 938891
DISCIPLINARY CASE NO. 2018-18549

Respondent was appointed to the Department on July 11, 2005. On her last three annual performance evaluations, she twice received 4.5 overall ratings of “Extremely Competent/Highly Competent” for 2017 and 2018, and once received a 4.0 rating of “Highly Competent” for 2016. She has been awarded four medals, two for Excellent Police Duty and two for Meritorious Police Duty. [REDACTED]

Respondent has no disciplinary record.

For your consideration.

Jeff S. Adler
Jeff S. Adler

Assistant Deputy Commissioner Trials