



POLICE DEPARTMENT

October 3, 2023

-----X
In the Matter of the Charges and Specifications :

Case No.

- against - :

2021-23848

Police Officer Pierre Pradieu :

Tax Registry No. 940593 :

67th Precinct :

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

Before: Honorable Paul M. Gamble, Sr.
Assistant Deputy Commissioner Trials

APPEARANCES:

For the CCRB-APU:

Brian Arthur, Esq.
Civilian Complaint Review Board
100 Church Street, 10th Floor
New York, NY 10007

For the Respondent:

Michael Martinez, Esq.
Worth, Longworth & London, LLP
111 John Street, Suite 640
New York, NY 10038

To:

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

COURTESY • PROFESSIONALISM • RESPECT

Website: <http://nyc.gov/nypd>

CHARGES AND SPECIFICATIONS

1. Police Officer Pierre Pradieu, on or about August 12, 2019, at approximately 1815 hours, while assigned to the 67th Precinct and on duty, in the vicinity of the 67th Precinct stationhouse, Kings County, wrongfully used force, in that he used physical force against Complainant¹ by slamming him into a wall, then down to the ground, without police necessity.

P.G. 221-02, Page 2, Prohibition 11

USE OF FORCE

2. Police Officer Pierre Pradieu, on or about August 12, 2019, at approximately 1815 hours, while assigned to the 67th Precinct and on duty, in the vicinity of the 67th Precinct stationhouse, Kings County, wrongfully used force, in that he hit Complainant against the ground, without police necessity.

P.G. 221-02, Page 2, Prohibition 11

USE OF FORCE

3. Police Officer Pierre Pradieu, on or about August 12, 2019, at approximately 1815 hours, while assigned to the 67th Precinct and on duty, in the vicinity of the 67th Precinct stationhouse, Kings County, wrongfully used force, in that he used physical force against Complainant, in that he dragged him by his rear handcuffs to another cell, without police necessity.

P.G. 221-02, Page 2, Prohibition 11

USE OF FORCE

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on August 14, 2023.

Respondent, through his counsel, entered a plea of Not Guilty. CCRB presented evidence of Complainant's hearsay statement and video evidence from inside the 67th Precinct holding cell area. Respondent testified on his own behalf and offered additional video evidence from the holding cell area. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having evaluated all the evidence, the Tribunal finds Respondent Not Guilty of the charged misconduct.

¹ Complainant's identity is known to the Tribunal.

ANALYSIS

The following is a summary of the facts which are not in dispute. On August 12, 2019, Complainant was arrested in the 67th Precinct and brought to the holding cell area for arrest processing. During a preliminary search, Complainant's sneakers were taken from him because he refused to remove the shoelaces.² They were placed on the floor, under a desk, just outside the detention cell bars. He was placed in a holding cell with two other detainees. The holding cell area was monitored through closed-circuit cameras, which record constantly.

Once he was placed in the holding cell, Complainant removed a basketball jersey he was wearing, lay on the cell floor, and used the jersey to retrieve the sneakers from under the desk. After trying for several minutes, Complainant was able to pull one sneaker close to him and reached through the bars to seize it. He took the sneaker into the cell, placed it on his left foot, and began pacing.

Respondent, who was assigned to monitor the holding cell area, observed Complainant retrieve his sneaker from outside the cell and returned to the holding cell to once again confiscate Complainant's sneaker. The propriety of his actions to regain control of that sneaker is in dispute. After taking Complainant's sneaker from him again, Respondent was ordered back into the holding cell area to confiscate Complainant's jersey. The propriety of his actions in seizing the jersey is also in dispute.

Finally, Respondent decided to move Complainant from the holding cell he was initially placed into another cell where he would be detained by himself. The actions he took in restraining and transporting Complainant are also in dispute.

² The removal of a prisoner's shoelaces before being detained in a holding cell is in accordance with Patrol Guide procedure 210-08(5)(f) (T. 34; P.G. 210-08).

After Complainant was separated from the other detainees, he complained of back pain. Respondent and other police officers caused him to be transported to a hospital for a medical evaluation. Respondent completed a Threat, Resistance, Injury (TRI) report and was interviewed by supervisors regarding his interactions with Complainant.

The following is a summary of the relevant evidence presented during the hearing.

Complainant did not testify; instead, CCRB offered hearsay evidence from his recorded telephone interview³ (CCRB Ex. 3, 4). In his statement, Complainant claimed that Respondent wanted him to remove his shirt, and an argument ensued. He asserted that Respondent grabbed his neck and hurt his back. He claimed further that Respondent dragged him while he was rear-cuffed and became “physical.” Complainant told the CCRB investigator that he went to the hospital because of pain in his ankle and back (CCRB Ex. 4 at 2-3, 4-5, 7).

CCRB offered in evidence two video recordings from the 67th Precinct holding cell area; Respondent offered a third view of the cells (CCRB Ex. 1, 2; Resp. Ex. B). CCRB Exhibit 2 appears to capture the most relevant portion of Respondent’s interaction with Complainant. The pertinent parts of the recordings are summarized below:

- 08:18-08:23: Complainant and two other males are inside the holding cell. Complainant is in his socks, shorts, and a basketball jersey. Complainant removes his basketball jersey.
- 08:24-12:00: Complainant uses his basketball jersey through, and underneath, the bars of the cell to retrieve one of his blue sneakers from under a desk on the other side of the room.
- 12:30-13:06: Respondent and two other officers open the cell. Respondent is seen speaking with Complainant. He then walks toward Complainant, places his hands on Complainant’s shoulders, and continues to walk forward. Complainant walks backward until the back of his legs make contact with a bench, and then his back comes into contact with a wall. Respondent holds Complainant against the wall by his shoulders while another officer

³ CCRB scheduled an in-person interview with Complainant, but he never appeared for it. He later informed CCRB that he intended to file a civil action.

removes Complainant's sneaker. The officers exit the cell, and Respondent locks the cell door.

- 13:18- 13:30: Respondent stands outside the cell speaking to Complainant; Complainant's basketball jersey is off his body and slung over his shoulder. As Complainant begins to put his jersey back on over his head, Respondent enters the cell with another officer behind him. Respondent approaches Complainant and attempts to pull his jersey from his torso as Complainant walks away. Respondent eventually moved Complainant to a position facing the wall and tried to pull his jersey off again. While Complainant has his back to Respondent, Respondent pulls his jersey and brings Complainant to the ground.
- 13:31-13:41: Complainant lays on his back with his arms out, away from his body. Respondent is standing over him, gripping Complainant's jersey, attempting to pull it over Complainant's head. Three more officers come to assist.
- 14:04-14:39: Respondent and six other officers, including a sergeant, help remove the jersey and lift Complainant off the ground.
- 14:40- 15:33: As Complainant is stood up, his jersey is no longer on his torso. The sergeant and several other officers handcuff him.
- 15:56-16:13: Respondent begins walking out of the cell while holding Complainant's arm. Complainant turns his body towards Respondent and throws himself on the ground. Respondent grabs his wrists while two other officers take hold of Complainant's legs and arms, before they carry Complainant out of view of the camera.

(CCRB Ex. 2).

Respondent testified that on August 12, 2019, he was on duty as a cell attendant in the 67th Precinct (T. 32). He testified that he had never seen Complainant before that day when he was arrested for stealing a car (T. 33). Respondent witnessed two other officers "having trouble" with Complainant when he was first brought to the holding cell area (T. 34). When he went to assist, he became aware that Complainant was refusing to remove the laces from his sneakers (*Id.*). Respondent told Complainant that he could remove his laces or his sneakers would be taken from him (*Id.*). In response, Complainant became "belligerent" and refused again to

remove the laces (T. 35). Respondent then forcibly removed Complainant's sneakers and placed them under a table in front of the desk in the holding cell area (*Id.*).

After Respondent removed Complainant's sneakers, he went to his desk outside the holding cell area (T. 35). He testified that he heard banging, kicking, and yelling from Complainant in the holding cell but could not recall what he was saying (*Id.*). Respondent, who was monitoring the holding cell through a closed-circuit camera, observed Complainant remove his jersey and attempt to retrieve his sneakers with it (T. 36). According to Respondent, he watched Complainant for two to three minutes, believing it was unlikely that he would be successful in retrieving the sneakers (*Id.*). Ultimately, Complainant reached one sneaker by "fishing" for it with his jersey (T. 36-37).

After Respondent made this observation, he enlisted other officers to return with him to the holding cell area to retrieve Complainant's sneaker (T. 37). Respondent testified that when he and the other officers entered the holding cell, he approached Complainant and "guided" him to the wall, while another officer removed the sneaker (T. 38).

On cross-examination, Respondent explained that when he first entered the holding cell to remove Complainant's sneaker, he used his arm to "guide" Complainant to the wall, exerting minimum force. Respondent acknowledged that Complainant was not actively resisting by either pushing Respondent's arms away or attempting to hit him (T. 54).

Respondent testified that after he and the other police officers left the cell area, Sergeant Kim directed him to take Complainant's jersey (T. 39). Respondent returned to the holding cell area and saw Complainant holding the jersey in his hand; he told Complainant that he would have to put the basketball jersey back on, or it would be forcibly taken from him (*Id.*). Respondent then opened the cell door, which prompted Complainant to attempt to put the jersey

back on hurriedly; Complainant then told him, “No, I’m taking it from you” (T. 40). Respondent grabbed the jersey and tried to pull it off Complainant's torso. Still, Complainant resisted having the jersey removed by tensing his body (*Id.*). At that point, Respondent backed Complainant against the wall as they faced each other and tried to pull the jersey over his head (T. 40, 53). When Respondent could not remove the jersey, he brought Complainant to the floor (T. 40, 49).

Respondent testified that stepping over Complainant to remove his jersey was unsuccessful because Complainant clenched his arms at his side, with his hands towards his chest, holding the jersey, making it impossible to remove (T. 40-41). As Respondent pulled the jersey upward to remove it from Complainant's body forcibly, Complainant’s body jerked upward (T. 42). The jersey was eventually removed by cutting it off Complainant’s body (T. 79, 80). During this interaction, several other officers and Sergeant Kim entered the cell to assist Respondent and maintain control of the other detainees (T. 42).

Respondent testified that he decided to place Complainant into a cell by himself; to that end, he attempted to handcuff Complainant in the holding cell (T. 43). Complainant resisted being handcuffed but, assisted by other police officers, he succeeded in securing Complainant’s hands (T. 43, 45, 49-50). The police officers also used leg shackles to restrain Complainant’s legs (T. 47). According to Respondent, once Complainant was rear-handcuffed and the officers began exiting the cell with him, he dropped his body onto the floor (T. 43-44, 75). Respondent instructed Complainant to stand up, and he refused, leading to Respondent and the other officers, including the sergeant, carrying Complainant to the other cell (T. 45, 46).

After Complainant was moved to another cell, he began complaining of back pain (T. 47, 76, 78). An ambulance was called, and Complainant was taken to the hospital (T. 46-47). Based

on the injury complaint, Respondent immediately spoke with his supervisors, and they watched the video of the holding cell room; he then completed a TRI Report (T. 47-49).

On cross-examination, Respondent explained that when he brought Complainant to the ground, Complainant landed on his back while Respondent held onto his jersey (T. 63, 64, 72). Respondent testified that when he and the other officers picked up Complainant and carried him to the new cell, he picked him up by his handcuffs (T. 76). He also admitted that he made an entry on the TRI report that Complainant had significant contusions (T. 78).

I credit Respondent's testimony as logical, forthright, and consistent with the independent evidence in the record. I considered his candid admissions to using force further indicia of his veracity, especially since the testimony regarding the actions he took was consistent with the depiction of those actions in the holding cell video recordings.

I do not find Complainant's hearsay statement to have probative value. It contained "bare bones" accusations and factual assertions which were not supported by the video evidence of his interaction with Respondent.

Patrol Guide procedure 210-01, "Prisoners General Procedure," establishes responsibilities for Members of Service in order to "safeguard prisoners in police custody" (P.G. 210-01). Patrol Guide procedure 210-08, "Guidelines for Prisoner Holding Pens," establishes responsibilities for Members of Service to "ensure the integrity, control and humane treatment of prisoners lodged in command/detective squad holding pens" (P.G. 210-08).

Specification 1

I find that CCRB has failed to meet their burden of proof by a preponderance of the relevant, credible evidence that Respondent unlawfully used force against Complainant by slamming him into a wall and then onto the floor, without police necessity.

Patrol Guide procedure 221-01 states that “[f]orce may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody” (P.G. 221-01).

Based upon my review of the video recording of Respondent’s contact with Complainant, Respondent’s testimony, and Complainant’s telephone interview, the degree of force used against Complainant was reasonable.

After opting to surrender his sneakers, rather than remove the laces from those sneakers to ensure his safety, as well as the safety of other detainees, Complainant defiantly reacquired one of those sneakers using his jersey and then reaching through the cell bars. It is unclear what Complainant’s purpose at that point may have been since he only had one shoe on. Still, an objective police officer could become concerned that Complainant was not disposed to follow instructions, even while detained, which represented a greater risk to himself or others. As a threshold matter, force was warranted to regain control over Complainant, his sneaker, and, ultimately, the holding cell environment.

A review of CCRB Exhibit 1 shows Respondent and other police officers entering the holding cell and, using only the force necessary to stabilize Complainant in a standing position, moving him backward until he was braced against the wall of the holding cell. Complainant’s sneaker was removed, and he was permitted to move about the holding cell unrestricted. There was no evidence to support the assertion that he was “slammed” against the wall or pushed toward the wall in a manner likely to have injured his back or his head. I note that while the police were regaining control of Complainant and his sneaker, the other two detainees moved to the far left of the holding cell, thereby avoiding any contact with either the police officers or Complainant.

A short time later, Respondent entered the holding cell a second time to retrieve Complainant's jersey. He again made physical contact with Complainant, attempting to hold him against another wall of the holding cell to enable him to remove Complainant's jersey. The video evidence shows that Complainant resisted those efforts, turned away from Respondent, and reached for the holding cell bars. At that point, Respondent grabbed Complainant and pushed him to the floor while maintaining a grip on his jersey with both hands, where he continued trying to remove Complainant's jersey.

Based upon the totality of the circumstances, I find the force Respondent used to move Respondent toward the wall the second time was neither a "slam," in the common understanding of that term, nor was it unreasonable. The maneuver Respondent used to throw Complainant to the ground was reasonable. While he did use force to push Complainant off-balance and onto his back, his hold on Complainant's jersey ameliorated any impact he had with the floor, minimizing the likelihood that he would injure his head against the floor. CCRB did not offer any medical records or other evidence to corroborate Complainant's allegation of injury.

Based upon the foregoing, I find Respondent Not Guilty of Specification 1.

Specification 2

I find that CCRB has failed to meet their burden of proof by a preponderance of the relevant, credible evidence that Respondent unlawfully used force against Complainant by hitting him against the ground, without police necessity.

The video evidence shows that while Complainant was on the holding cell floor, Respondent had control of Complainant's jersey and was trying to pull it off his torso. While attempting to do this, Complainant extended his arms to the sides, making it extremely difficult to pull the jersey off. The video shows Respondent pulling hard at the jersey, which causes

Complainant's torso to rise off the floor, but that action does not appear consistent with an attempt to propel Complainant against the floor.

I find that Respondent's actions in pulling at Complainant's jersey were reasonable, but they were frustrated by Complainant's resistance to having his jersey removed.

Accordingly, I find Respondent Not Guilty of Specification 2.

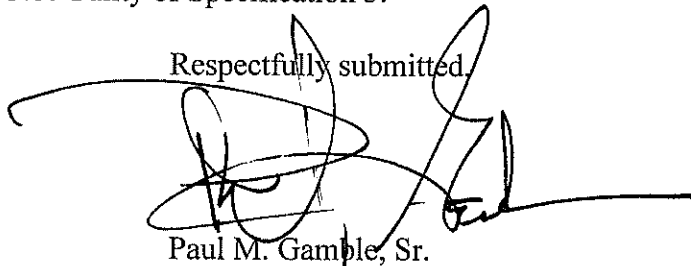
Specification 3

I find that CCRB has failed to meet their burden of proof by a preponderance of the relevant, credible evidence that Respondent unlawfully used force against Complainant by dragging him by his handcuffs to another cell without police necessity.

A review of CCRB Exhibit 2 shows Respondent and another police officer holding Complainant's wrists before lifting him off the floor; other police officers, who are only briefly in camera range, lift Complainant's feet. The officers then lift Complainant and carry him out of camera range. Complainant's wrists are handcuffed, but the action recorded on the video is not consistent with the assertion that Respondent dragged Complainant by the handcuffs, as alleged in the specification.

Accordingly, I find Respondent Not Guilty of Specification 3.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read 'Paul M. Gamble, Sr.', is written over the text 'Respectfully submitted,'.

Paul M. Gamble, Sr.
Assistant Deputy Commissioner Trials

APPROVED

DEC 15 2023

EDWARD A. CABAN
POLICE COMMISSIONER