



OFFICE OF THE POLICE COMMISSIONER

ONE POLICE PLAZA • ROOM 1400

October 4, 2023

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Wilkenson Pierre**
Tax Registry No. 949486
Times Square Unit
Disciplinary Case No. 2023-28036

The above named member of the service appeared before Assistant Deputy Commissioner Anne E. Stone on July 13, 2023, and was charged with the following:

DISCIPLINARY CASE NO. 2023-28036

1. Police Officer Wilkenson Pierre, while assigned to Patrol Borough Manhattan South, on or about and between March 7, 2022 through February 16, 2023, did fail and neglect to reside within the City of New York or Counties of Westchester, Rockland, Orange, Putnam, Nassau or Suffolk, as required. (*As amended*)

A.G. 304-25, Page 1, Paragraph 1

RESIDENCE REQUIREMENTS

2. Police Officer Wilkenson Pierre, while assigned to Patrol Borough Manhattan South, on or about and between March 7, 2022 through February 16, 2023, after having been directed by New York City Police Lieutenant Euclides Lopez to comply with the Residence Requirements as a Member of the Service of the New York City Police Department, did fail and neglect to comply with said order.

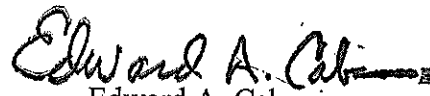
A.G. 304-03, Page 1, Paragraph 2

COMPLIANCE WITH ORDERS

In a Memorandum dated August 28, 2023, Assistant Deputy Commissioner Anne E. Stone found Police Officer Wilkenson Pierre guilty of Specification Nos. 1 and 2, after Police Officer Pierre entered a plea of guilty to said Specifications in Disciplinary Case No. 2023-28036. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

After reviewing the facts and circumstances of this matter, it was determined that a higher penalty is warranted due to Police Officer Pierre's disciplinary history involving the same misconduct.

It is therefore directed that Police Officer Pierre forfeit fifty (50) vacation days and be placed on one (1) year dismissal probation.


Edward A. Caban
Police Commissioner



POLICE DEPARTMENT

August 28, 2023

-----X

In the Matter of the Charges and Specifications	:	Case No.
- against -	:	2023-28036
Police Officer Wilkenson Pierre	:	
Tax Registry No. 949486	:	
Times Square Unit	:	

-----X

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

Before: Honorable Anne E. Stone
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Javier Seymore, Esq.
Department Advocate's Office
One Police Plaza, Room 402
New York, NY 10038

For the Respondent: John Tynan, 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

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CHARGES AND SPECIFICATIONS

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A.G. 304-03, Page 1, Paragraph 2

COMPLIANCE WITH ORDERS

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on July 13, 2023. Respondent, through his counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. 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 recommend the forfeiture of thirty (30) vacation days and one year dismissal probation for Specification 1, to run concurrently with forfeiture of twenty (20) vacation days for Specification 2.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent is a married father of two young children. Respondent testified that he owns two homes: a two-family home located at in Brooklyn, which he has owned for more than eight years; and, a home in East Brunswick, New Jersey that he purchased with his wife in 2018. (Tr. 12-13) Respondent admitted to wrongfully residing in the New Jersey residence from

approximately March 7, 2022 through February 16, 2023, in violation of the residency requirements set forth in Administrative Guide 304-25. (Tr. 17-18)

Respondent acknowledged that he was aware that the residency requirements compel officers to reside in specific counties within the state of New York. (Tr. 16) Indeed, in a prior disciplinary case, he pled guilty on September 15, 2022, and forfeited thirty (30) vacation days for residing in his New Jersey home full time from November, 2018 through March 7, 2022. During the official Department interview related to that investigation, he was ordered by Lieutenant Euclides Lopez of the Internal Affairs Bureau to reside within New York State, in one of the counties listed in A.G. 304-25. Respondent testified that after receiving that order, he began staying at his home in Brooklyn during the work week, but he soon reverted to living at his New Jersey residence full time. (Tr. 17-18)

Respondent testified that his wife works full-time as a nurse, and most of their extended family resides in New Jersey, which made finding child care in Brooklyn challenging. He spoke about the superiority of the schools in East Brunswick when compared to those in Brooklyn, which was another factor in the decision to move his family to New Jersey. (Tr. 15-16, 20)

He explained that his tenants in the second floor apartment of the home in Brooklyn stopped paying rent for 11 months, and that it took another seven months to evict them. In order to pay the mortgage on the home in Brooklyn, as well as pay for the legal fees associated with the eviction, Respondent was forced to rent out a bedroom in the first floor apartment; he then shared the common areas with his new tenant as roommates. This inconvenience, along with the financial and emotional stress of the situation with the delinquent tenant, drove Respondent to return to living full time in New Jersey. In February, 2023, after the eviction was completed, and after his Department interview in the instant matter, Respondent returned to living at his home in

Brooklyn. According to Respondent, he sleeps there on all working days, spending the night at his home in New Jersey only on his RDO's and vacation days. (Tr. 14-20)

PENALTY

In order to determine an appropriate penalty, this Tribunal, guided by the Department's Disciplinary System Penalty Guidelines ("Disciplinary Matrix"), considered all relevant facts and circumstances, including potential aggravating and mitigating factors established in the record. Respondent's employment history also was examined. *See* 38 RCNY § 15-07. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached memorandum.

Respondent, who was appointed to the Department on July 6, 2010, has pled guilty to residing outside the City of New York or the counties of Westchester, Rockland, Orange, Putnam, Nassau or Suffolk, as required, and also to failing to comply with the lawful order of Lieutenant Lopez, who directed him to reside in one of the counties in New York State permitted by A.G. 304-25.

The Department Advocate recommends Respondent forfeit thirty (30) vacation days and be placed on one year dismissal probation as the aggravated penalty for the violation of the residency requirement to run *consecutively* with the presumptive penalty of twenty (20) vacation days for the failure to obey a lawful order. The Department cited progressive discipline when making their request for an aggravated penalty. They pointed out the short period of time since Respondent's initial guilty plea for the same misconduct, and his knowledge that he was violating Department policy as rationale for recommending forfeiture of a total of fifty (50) penalty days and one year dismissal probation. Respondent, through his attorney, asked for a lesser penalty of thirty (30) vacation days and one year dismissal probation, and urged the

tribunal to take into account the various circumstances surrounding the misconduct when making its recommendation.

With respect to Specification #1, I recommend forfeiture of thirty (30) vacation days and one year of dismissal probation. Because this was Respondent's second time violating the residency requirement, and considering he was specifically warned after the first case, an aggravated penalty is warranted. With respect to Specification #2, I recommend Respondent forfeit the presumptive penalty of twenty (20) vacation days for his failure to comply with Lieutenant Lopez's lawful order. However, since the failure to comply was taken into account in assessing the aggravated penalty in Specification #1, my recommendation diverges from the Department's, in that I recommend that the twenty (20) days run *concurrently*, as opposed to consecutively, with the thirty (30) day recommendation for Specification #1.

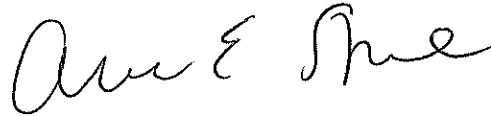
The facts of this case are straightforward, and Respondent has admitted to both of the charges. He was forthcoming during his testimony, and accepted responsibility for his actions. Indeed, Respondent several times referenced feeling "shame" in himself for having violated Department policy, and I found his contrition to be sincere. Respondent received ratings of "Exceeds Expectations" on his last three (3) annual evaluations, and his Commanding Officer rated him an eight (8) out of ten (10).

Forfeiture of thirty (30) vacation days is a significant penalty on its own, and the addition of one year of probationary monitoring will serve as a deterrent to future misconduct of any type, and in particular further violations of the residency requirement.

Based on the record, I recommend that Respondent forfeit a total of thirty (30) vacation days and be DISMISSED from the New York City Police Department, but that his dismissal be held in abeyance for a period of one (1) year pursuant to Section 14-115(d) of the Administrative

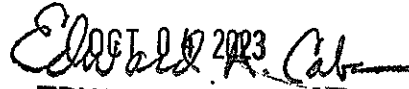
Code, during which time he remains on the force at the Police Commissioner's discretion and may be terminated at any time without further proceedings.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Anne E. Stone".

Anne E. Stone
Assistant Deputy Commissioner Trials

DISAPPROVED

A handwritten signature in cursive script, appearing to read "Edward A. Caban".

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 WILKENSON PIERRE
TAX REGISTRY NO. 949486
DISCIPLINARY CASE NO. 2023-28036

Respondent was appointed to the Department on July 6, 2010. On his three most recent performance evaluations, he received “Exceeds Expectations” for 2018, 2021, and 2022.

In September 2022, Respondent forfeited 30 vacation days after pleading guilty to failing to comply with the residency requirement from November 1, 2018 through March 7, 2022. In connection with that case, he was placed on Level 2 Discipline Monitoring in October 2022; monitoring remains ongoing,

For your consideration.

Anne E. Stone
Assistant Deputy Commissioner Trials