



POLICE DEPARTMENT

December 9, 2022

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In the Matter of the Charges and Specifications	:	Case Nos.
- against -	:	2021-23516
Detective Yosef Aisaa	:	2021-24253
Tax Registry No. 946723	:	
120 Precinct	:	

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

Before: Honorable Jeff S. Adler
Assistant Deputy Commissioner Trials

APPEARANCES:

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

For the Respondent: Marissa Gillespie, Esq.
Karasyk & Moschella, LLP
233 Broadway, Suite 2340
New York, NY 10279

To:

HONORABLE KEECHANT L. SEWELL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

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CHARGES AND SPECIFICATIONS

Disciplinary Case No. 2021-23516

1. Detective Yosef Aisaa, while assigned to the 66 Precinct Detective Squad or 70 Precinct Detective Squad, on or about and between February 1, 2016 and May 26, 2021, wrongfully and knowingly associated with a person, **Person A** reasonably believed to be engaged in, likely to engage in, or to have engaged in criminal activities. (*As amended*)

P.G. 203-10, Page 1, Paragraph 2(c)

PUBLIC CONTACT –
PROHIBITED CONDUCT

2. Detective Yosef Aisaa, while assigned to the 66 Precinct Detective Squad or 70 Precinct Detective Squad, on or about and between February 1, 2016 and May 26, 2021, wrongfully engaged in off-duty employment, without Department authority or permission to do so. (*As amended*)

P.G. 205-40, Page 4, Additional Data

OFF DUTY
EMPLOYMENT
PERSONNEL MATTERS

3. Detective Yosef Aisaa, while assigned to the 70 Precinct Detective Squad, on or about March 7, 2020, March 21, 2020, or January 26, 2021, wrongfully conducted a Department database inquiry for personal reasons unrelated to Department business. (*As amended*)

P.G. 219-14, Page 1, Paragraphs 2 and 3

DEPARTMENT
COMPUTER SYSTEMS
DEPARTMENT
PROPERTY

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

PUBLIC CONTACT –
PROHIBITED CONDUCT

P.G. 203-06, Page 2, Paragraph 16

PERFORMANCE ON
DUTY – PROHIBITED
CONDUCT

Disciplinary Case No. 2021-24253

1. Detective Yosef Aisaa, while assigned to the 70 Precinct Detective Squad, on or about October 5, 2021, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Detective drove a motor vehicle while its registration or privilege was suspended or revoked.

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT
GENERAL REGULATIONS

2. Detective Yosef Aisaa, while assigned to the 70 Precinct Detective Squad, on or about October 13, 2021, provided misleading or inaccurate statements during a Department interview.

A.G. 304-10, Page 1, Paragraphs 2 and/or 3

FALSE OR MISLEADING
STATEMENTS

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on September 9 and October 17, 2022. With respect to Disciplinary Case No. 2021-23516, Respondent, through his counsel, entered a plea of Guilty to Specifications 2 and 3, and a plea of Not Guilty to Specification 1. In Disciplinary Case No. 2021-24253, Respondent, through his counsel, entered a plea of Guilty to Specification 1, and a plea of Not Guilty to Specification 2. The Department Advocate called Sergeants Euborne Springer and Kenny Chan as witnesses; Respondent called Detective Erin Pignatelli as a witness, and testified on his own behalf. 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, the Tribunal finds as follows:

Case No. 2021-23516

Specification 1 (association): Not Guilty

Specification 2 (off-duty employment): Guilty

Specification 3 (computer misuse): Guilty

Case No. 2021-24253

Specification 1: (driving with suspended registration): Guilty

Specification 2: (misleading/inaccurate statement): Guilty

Recommended penalty: Thirty (30) vacation days.

ANALYSIS

Respondent faces charges in two unrelated cases. In the first matter (Case No. 2021-22516), it is alleged that Respondent wrongfully associated with an individual named Person A [REDACTED]. Respondent does not deny associating with Person A but claims that he did not have reason to believe that Person A had been engaged in criminal activities. Respondent also has pleaded guilty to the two additional charges in that case: failing to get the Department's permission to engage in off-duty employment, and wrongfully using the Department database in order to conduct inquiries for personal reasons. In the second matter (Case No. 2021-24253), Respondent admits that he was driving a vehicle whose registration was suspended at the time. He contests, however, the charge that he made misleading statements about the incident during his official Department interview. The two matters will be considered separately.

Case No. 2021-23516

Sergeant Euborne Springer of the Detective Bureau Investigations Unit testified that in 2021, he conducted an investigation into Respondent's association with Person A. Person A ran a company called [REDACTED] Group ("[REDACTED]"), which leased ATM and credit card machines to businesses. Springer's investigation revealed that Respondent was working for [REDACTED]. The bulk of the work was making referrals: Respondent set up his own business where he made cold calls to solicit potential customers, then referred them to [REDACTED]. (Tr. 46-47, 54-55, 67-69)

An IAB analysis of Respondent's phone records (Dept. Ex. 2) showed that between August 18, 2020 and February 19, 2021, there were approximately 99 outgoing calls from Respondent's personal phone to Person A and 47 incoming calls from Person A to Respondent, for a combined total of 288.98 minutes of call time. (Dept. Ex. 3A, at p. 4, and Ex. 3B at p. 34)

During the same time period, there also were 26 calls from Respondent to [REDACTED], for a total of 65.92 minutes of call time. (Det. Ex. 3B at p. 39) (Tr. 36-37, 42-45, 47-48, 66)

Springer conducted a DAS Lite search of Person A's criminal history, which revealed three arrests: a 2012 arrest for aggravated unlicensed operation of a motor vehicle, a 2008 arrest for assault with intent to cause physical injury, and another 2008 arrest for possession of a forged instrument in the second degree. The printout does not indicate the final disposition on any of the three arrests, though the two from 2008 were both sealed. (Dept. Ex. 4, at p. 2) Springer testified that "as far as he knows," none of the arrests resulted in a conviction. When he interviewed Respondent on May 26, 2021, Respondent acknowledged a long-term relationship with Person A. Respondent was asked whether he was aware that Person A had, at some point, been arrested, and he answered, "Yeah, probably." Additionally, audit records (Dept. Ex. 1) show that on January 26, 2021, Respondent used the Department database to conduct a search of Person A which would have revealed the arrests. (Tr. 31-35, 49-53, 56-60)

Respondent testified that he and Person A have been friends since childhood and are like family to each other. Through Person A's family members, Respondent became aware that Person A had been "in trouble" several times in the past, though from Respondent's understanding it was nothing severe, just "minor infractions." Respondent was not aware of Person A ever having been convicted of criminal activity; when asked whether he considers Person A a criminal, Respondent emphatically answered, "Absolutely not." (Tr. 110, 112, 127, 131-33)

In February 2016, Respondent started a company called "Blueprint Processing." Respondent testified that he used his personal phone to solicit clients in need of ATM or credit card machines for their businesses. He directed interested merchants to Person A's company, [REDACTED] Group, in exchange for a referral fee. Respondent admitted that he did not seek

authorization from the Department for this off-duty employment. He explained that since it was not a storefront business, but done only by phone, he did not believe he needed authorization. Once he became aware of the requirement, he immediately filed the appropriate paperwork. (Tr. 109-13, 128-30)

Respondent conceded that on the three separate dates he used the Department's computer database to conduct unauthorized inquiries. He did so for personal reasons, on behalf of family members. One of the computer checks he conducted, on January 26, 2021, was of Person A. Respondent could not recall the specific reason for that inquiry. Respondent testified that he did not notice Person A's arrest history during the computer search. (Tr. 113-16, 125-26, 132)

Respondent has pleaded guilty to two of the three counts in this matter. Specification 2 charges Respondent with engaging in off-duty employment without first obtaining the Department's permission to do so. Respondent admitted that he did not contact the Department before engaging in a working relationship with [REDACTED]

Specification 3 charges Respondent with making inquiries on the Department's database for personal reasons. Respondent pleaded guilty to this charge as well, admitting that he conducted several unauthorized computer checks on the three dates listed, including one of Person A.

Specification 1 charges Respondent with wrongful association with Person A. Section 203-10 (2)(c) of the Patrol Guide prohibits an MOS from knowingly associating with any person "reasonably believed to be engaged in, likely to engage in, or to have engaged in criminal activities."

It is undisputed that Respondent has extensively associated with Person A with whom he grew up and who is like family to him. At issue is whether he did so while believing that Person A

had been involved in criminal activity. The evidence established only that Respondent was generally aware that Person A had been in trouble in the past. Respondent did not know the details, believing them to be nothing more than minor infractions. Respondent possessed no knowledge that Person A had ever been convicted of a crime. Indeed, no evidence was presented that Person A ever *was* convicted; in fact, two of the three arrests, the ones from 2008, were sealed. The mere fact of arrests, two from 2008 and one from 2012, is not sufficient to establish that Respondent had reason to believe that Person A was engaged in criminal activities.

Based on the totality of the evidence, I credit Respondent's testimony that he firmly believed his childhood friend had not been involved in criminal conduct. The record has failed to prove, by a preponderance of the credible evidence, that Respondent knowingly associated with a person he reasonably believed to have engaged in criminal activities. Accordingly, I find Respondent not guilty of Specification 1.

Case No. 2021-24253

On the afternoon of October 5, 2021, Respondent was driving to work from his home in Staten Island. After crossing the Verrazzano-Narrows Bridge, he was pulled over at approximately 1528 hours by a Triborough Bridge and Tunnel Authority ("TBTA") sergeant for driving with a suspended registration. The suspension stemmed from Respondent's alleged failure to pay E-ZPass tolls and related fees totaling more than \$9,000.00. In addition to driving with his registration suspended, Respondent is charged with making inaccurate or misleading statements during his official Department interview regarding the status of the unpaid tolls and fees at the time of the vehicle stop. (Tr. 84-85, 97)

Sergeant Kenny Chan of the Detective Bureau Investigations Unit testified that in October 2021, he was assigned to investigate this matter. On October 13, 2021, Chan conducted an official Department interview of Respondent (Dept. Exs. 5 & 5A). During that interview, Respondent stated that he had paid the amount due prior to the traffic stop. When specifically asked to confirm that he had paid off the outstanding balance prior to the car stop, Respondent answered, "Yes, sir," and added that he had a confirmation number from E-ZPass. (Dept. Ex. 5A at 9-11; Tr. 79-80, 84-85, 96)

At the time of the interview, Chan was not yet in possession of the E-ZPass records in connection with this incident. Subsequently, he obtained the records of Respondent's account (Dept. Exs 6A-6C), which indicated that on October 5, 2021, Respondent used his credit card to make two payments to E-ZPass, one for \$9,519.18, the other for \$119.00, thereby paying off the total amount owed. The records show that Respondent made these payments at approximately 1608 hours, while he was still at the scene of the vehicle stop, which occurred at 1528 hours, and lasted more than one hour. When Respondent was interviewed a second time on February 22, 2022, he acknowledged that he misspoke during his initial interview, and had actually made the payments *during* the car stop, not prior to the stop. (Tr. 86-94)

Respondent testified that he had been involved in an ongoing dispute with E-ZPass for several months prior to the vehicle stop. According to Respondent, his E-ZPass transponder was not working properly, in that it was not being detected when he drove across the bridge to and from work. Instead, the toll camera captured only his license plate, and billed him at a higher rate which did not include the resident discount. With additional surcharge fees added on, the total amount due reached more than \$9,000.00. Respondent made multiple calls to E-ZPass supervisors in an attempt to rectify the situation, to no avail. (Tr. 116-18, 134)

Respondent testified that at the time he was pulled over on October 5, he did not even know that his registration had been suspended. Once the TBTA sergeant who stopped him alerted him to the suspension, Respondent called his union delegate, Detective Erin Pignatelli¹, for guidance. Pignatelli did a computer check and confirmed that Respondent's registration had in fact been suspended for toll violations. Respondent testified that he immediately called E-ZPass and was informed that he needed to pay the entire amount due in order to lift the suspension. While still at the scene waiting for his vehicle to be towed, Respondent used his credit card to pay the entire amount owed, which totaled \$9,638.18. (Tr. 119-21, 133-34)

According to Respondent, when he was interviewed on October 13, 2021 regarding the incident, he was nervous and feeling financial stress based on the incident and the large payments he had just made. He testified at trial that he misspoke during his interview when he said that he had paid off the amount due prior to the stop and had confirmation of that payment; he should instead have stated that he paid off the tolls and fees before the end of the stop, but not prior to the stop itself. Respondent insisted that he was not intending to mislead his questioners, and that if he knew his registration was suspended he would have paid the amount due immediately. At his second interview in February 2022, he corrected his mistake as to precisely when the violations were paid off. (Tr. 122-23, 135-40, 143-45)

Specification 1 charges Respondent with driving while his registration was suspended. Respondent pleaded guilty to this charge, admitting that he was driving with a suspended registration on October 5, though he first learned of the suspension during the car stop.

¹ Detective Pignatelli testified that when Respondent called her on October 5, he sounded "shocked and surprised" that his registration had been suspended. (Tr. 104-05)

Specification 2 charges Respondent with making misleading or inaccurate statements during his Department interview on October 13, 2021. A misleading statement is one which is intended to misdirect the fact finder and materially alter the narrative.

Here, it is undisputed that Respondent repeatedly stated during his interview that he had paid off the amount due on the tolls prior to the car stop of October 5. Contrary to Respondent's statements, he made the payments on the tolls and surcharges only after he was stopped for driving with a suspended registration. Respondent made those payments during the stop itself, while he was waiting for his vehicle to be towed.

Since the incident occurred only a week prior to the interview, the sequence of events should have been fresh in his mind. Respondent concedes that he should have been more precise in his statements to the investigators as to when he paid off the amount due. He explained that he was nervous and feeling a great deal of stress about the incident and the amount he had to pay for tolls and fees due to a faulty transponder. Nevertheless, Respondent, like all MOS, has an obligation to answer questions truthfully. This he failed to do, and I find him guilty of Specification 2.

PENALTY

In order to determine an appropriate penalty, this Tribunal, guided by the Department's Disciplinary System Penalty Guidelines, 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 8, 2008, has been found guilty of several charges, including making misleading statements during an official Department interview, engaging in off-duty employment without authorization, and using the Department's database to conduct several inquiries for personal reasons. He also has been found not guilty on the charge of wrongful association. The Department Advocate has recommended termination based on the multiple acts of misconduct committed by Respondent, while counsel for Respondent asks for a penalty of 15 vacation days. The penalties for each of the two cases will be considered separately.

With respect to Case No. 2021-24253, Respondent pleaded guilty to Specification 1, admitting that he was driving while his registration was suspended. However, I also credit his testimony that at the time he was pulled over, Respondent was in the process of trying to resolve the erroneous E-ZPass charges, and he was unaware and shocked that his registration had been suspended. He promptly called his delegate, who confirmed the suspension.

The more serious charge is for the misleading statement, where Respondent misstated when it was that he paid off the amount due for the tolls and surcharges. For misleading statements, the Disciplinary Guidelines provide for a presumptive penalty of 30 penalty days and dismissal probation, while the mitigated penalty is 20 days.

As discussed above, the goal of any internal investigation is to get to the truth, and Respondent's misleading statements here ran contrary to that objective. However, it also is important to keep in mind the surrounding circumstances. Based on a faulty E-ZPass transponder, Respondent erroneously accumulated a staggering amount of fees. To his credit, as soon as he learned that his registration was suspended, Respondent took immediate action, paying off more than \$9,000.00 in fees while still at the scene. At trial, he acknowledged that he

should have been more precise during his Department interview, by making it clear that he paid off the amount due before he left the scene, rather than before he was stopped. I also credit that Respondent was understandably nervous and stressed during his interview in light of what had just transpired, which impacted the answers he provided. At a subsequent Department interview in February 2022, he corrected his misstatement as to when precisely he paid off the fees. On balance, the mitigated penalty of twenty (20) vacation days is appropriate to cover the two charges in this case, a significant loss of days that will hopefully serve as a deterrent to future misconduct.

In Case No. 2021-23516, Respondent has pleaded guilty to two additional charges. Engaging in off-duty employment without authorization is a “Schedule C” Command Discipline offense. Respondent conceded that he did not obtain the proper authorization for the referral work he was doing; he mistakenly believed that since he conducted the work by phone, rather than as a storefront business, he did not need to secure approval. Once he learned that he was mistaken, he filed the appropriate paperwork with the Department. For this offense, I recommend the forfeiture of five (5) vacation days.

Additionally, Respondent candidly admitted he committed misconduct in that on three separate dates, he made computer checks for personal reasons. The checks were made on behalf of family members, and did not impact the Department’s business. Nevertheless, there needs to be accountability for those actions. Since the degree of the misuse was relatively minor, and Respondent accepted responsibility for his actions, the mitigated penalty of five (5) vacation days is appropriate here, to run consecutively to the penalty for unauthorized employment, bringing the total number of vacation days under this case to ten (10) days.

Since the two cases here involve separate and distinct acts of misconduct, the penalties for each of the cases should run consecutively to each other: twenty (20) vacation days under Case No. 2021-24253, and ten (10) vacation days under Case No. 2021-23516. Taking into account the totality of the facts and circumstances in these matters, I recommend that Respondent forfeit a total of thirty (30) vacation days.

Respectfully submitted,



Jeff S. Adler
Assistant Deputy Commissioner Trials

APPROVED

AUG 18 2023

EDWARD A. CABAN
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: SUMMARY OF EMPLOYMENT RECORD
DETECTIVE YOSEF AISAA
TAX REGISTRY NO. 946723
DISCIPLINARY CASE NOS. 2021-23516 and 2021-24253

Respondent was appointed to the Department on July 8, 2008. On his three most recent annual performance evaluations, he twice received 3.5 overall ratings of "Highly Competent/Competent" in 2019 and 2020 and received a 4.0 rating of "Highly Competent" in 2021. He has been awarded two medals for Excellent Police Duty.

In 2019, Respondent forfeited 16.04 hours of time and leave, was ordered to pay restitution in the amount of \$343.38, and forfeited 20 vacation days after pleading guilty to using a Department vehicle for a non-Department or non-City purpose during his scheduled tour on six occasions, being absent from his assignment without permission or police necessity, failing to make required entries in the command/movement log during his tours, operating a Department vehicle with its turret lights activated without police necessity on four occasions, improperly submitting overtime slips that inaccurately stated he had worked certain amount of overtime periods when he had not done so, and wrongfully transporting a civilian in a Department car without supervisory permission on four occasions.

Respondent was placed on Level 2 Discipline monitoring on June 26, 2020.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials