



POLICE DEPARTMENT

February 10, 2020

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In the Matter of the Charges and Specifications :

Case No.

- against - :

2018-19812

Detective Christopher Greiner :

Tax Registry No. 930271 :

Narcotics Borough Brooklyn South :

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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 CCRB-APU:

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

For the Respondent:

James Moschella, Esq.
Karasyk & Moschella, LLP
233 Broadway, Suite 2340
New York, NY 10279

To:

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

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CHARGES AND SPECIFICATIONS

1. Detective Christopher Greiner, on or about July 19, 2017, at approximately 1615, while assigned to NARCBBS and on duty, in the vicinity of Location A, abused his authority as a member of the New York City Police Department, in that he stopped Person A without sufficient legal authority.

P.G. 212-11, Page 4, Paragraph 16

INVESTIGATIVE ENCOUNTERS

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on January 9, 2020.

Respondent, through his counsel, entered a plea of Not Guilty to the subject charge. The Civilian Complaint Review Board called CCRB investigator manager Monique West as a witness, who introduced into evidence a previous CCRB interview of Person A. Respondent 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 reviewed all of the evidence in this matter, I find Respondent not guilty.

ANALYSIS

This case involves a street encounter that occurred on July 19, 2017, at about 1615 hours, in the area of Location A. On that date, Respondent stopped Person A, and recovered a ziploc bag of marijuana from his person. At issue in this matter is whether Respondent abused his authority as a member of service by stopping Person A without sufficient legal authority.

Person A, who has a civil lawsuit pending against the NYPD, did not appear to testify at trial. Instead, the CCRB offered into evidence an in-person recorded statement, and the accompanying transcript (which is on the same disc), that Person A provided to the CCRB on August, 29, 2017. (CCRB Ex. 1) Hearsay evidence is admissible in an administrative tribunal,

and a case may be proven with such evidence, provided it is found to be sufficiently reliable and probative on the issues to be determined. *See Ayala v. Ward*, 170 A.D.2d 235 (1st Dep't 1991); *In the Matter of 125 Bar Corp. v. State Liq. Auth.*, 24 N.Y.2d 174 (1969). It is preferable to have testimony from a live witness, where opposing counsel has the opportunity to cross-examine, and the court can observe the demeanor of the witness. In the absence of live testimony from the witness here, this tribunal listened carefully to the prior recorded statement, and reviewed the accompanying transcript.

In his interview, Person A stated that he was walking [REDACTED] to buy items from a store when two males stopped him. One of the males touched Person A's right shoulder, and put his hand in the right pocket of Person A's shorts. Person A explained that he had money and scratch-off tickets in the right pocket of his shorts, and a bag of marijuana in the left pocket of his shorts, but that he was not carrying any items in either hand at the time. Person A claimed that he did not realize that the males were police officers, and, believing instead that they were trying to rob him, pushed one of them and ran away. The officers chased Person A, and he fell to the ground. The officers handcuffed him, searched his pockets, and confiscated the money and bag of marijuana found on his person. They proceeded to take Person A to the 78th Precinct where they called for an ambulance to examine him. Person A stated that he was released after being issued a ticket. (CCRB Ex. 1 at 3-4, 7, 9, 12, 27- 28, 31-32)

CCRB introduced into evidence the T.R.I. Incident – Investigating Supervisor's Assessment Report, in which Person A alleged that when the two police officers confronted him, he did not realize that they were police officers; rather, he thought he was being robbed and ran away. (CCRB Ex. 2)

A Google Maps image of the incident location was admitted as CCRB Ex. 3. The image included: (1) the route that Person A walked [REDACTED] to Location A, highlighted in green, and (2) the route that Respondent drove from [REDACTED] to Location A, marked in black ink.

Respondent, a detective with the Brooklyn South Narcotics Division, testified that he was conducting surveillance with his partner, Police Officer Dominick Ciaravino, as part of a Street Narcotics Enforcement Unit operation [REDACTED] after receiving several "kite" complaints of narcotics sales. Respondent testified that he was familiar with that location due to the high rate of narcotics sales and usage that were known to occur there. Respondent and his partner were in plainclothes and double parked in an unmarked vehicle in front of [REDACTED] where they were surveying its outside courtyard. (Tr. 43, 45-50, 74)

Respondent testified that he observed Person A "loitering" in the outside courtyard, pacing back and forth, and watching the building very distinctly with money in his hand. An unknown individual ran out from the building and approached Person A. Respondent watched as Person A proceeded to hand the individual money, and the individual reached into the front waistband area of his pants and handed Person A a small, dark object. Although he admittedly could not identify the object at the time, Respondent testified that from his 13 years of experience working at the Brooklyn South Narcotics Division, and his involvement in about 2,000 narcotics-related arrests, he concluded that this exchange between Person A and the individual was a drug sale. (Tr. 43, 45, 49, 51, 53-54, 77)

After the exchange, Respondent saw the individual run back inside the building, and Person A immediately walk in the direction behind Respondent's parked vehicle. Intending to

further observe Person A, Respondent drove around the block to catch up with him.

Respondent testified that he saw Person A walk in a northbound direction. Respondent proceeded to turn left, make a U-turn, and park his vehicle southbound. Respondent "quietly" exited the vehicle and positioned himself on the street standing in between two parked cars; from there, he observed Person A holding a ziploc bag of marijuana in his left hand. (Tr. 49, 55-58, 62-63, 77, 83)

Respondent testified that he approached Person A with his shield out around his neck, identified himself as a police officer, and placed his hand on Person A's right shoulder with the intent to detain him and issue a summons for the marijuana. Person A placed the marijuana in his pocket, pushed Respondent with two hands, swung at P.O. Ciaravino, and ran away. Both Respondent and P.O. Ciaravino pursued Person A south and caught up with him, after which a five-minute struggle ensued until they were able to handcuff him. Respondent recovered the ziploc bag of marijuana from Person A's pocket, and arrested him for possession. Respondent and P.O. Ciaravino drove Person A to the 78 Precinct where he refused medical attention. Respondent notified his supervisor, IAB, and captain of the incident due to the physical injuries that Person A incurred during the arrest. Respondent vouchered the evidence, which later tested positive for marijuana. Person A was given a desk appearance ticket and subsequently released. (Tr. 63-71, 84-87)

Specification 1 charges Respondent with abusing his authority by stopping Person A. It is not in dispute that Respondent did detain Person A. At issue is whether Respondent had sufficient legal authority to do so. I find that he did.

Patrol Guide section 212-11 (16) states that reasonable suspicion is necessary before stopping and detaining a person for the purpose of conducting a criminal investigation. This section states in a Level 3 *Terry* stop, "Upon reasonable suspicion that the person has committed, is committing, or is about to commit a felony or Penal Law misdemeanor, stop and detain the person for the purpose of conducting a criminal investigation."

In his CCRB interview, Person A stated that police officers stopped him without any justification. He claimed that he was merely walking to the store when police officers confronted him without cause or provocation. However, Person A, who has a lawsuit pending against the NYPD, did not appear to testify, and defense counsel did not have the opportunity to cross-examine him regarding his version of the incident.

Meanwhile, Respondent testified in a detailed and consistent manner regarding the incident that transpired. Respondent came across as highly professional on the witness stand, answered questions willingly on cross-examination, and I credit his description of events. After initially observing Person A pacing in front of the building with money in his hand, Respondent observed Person A hand that money to another individual, who reached inside his waistband and handed Person A an object, at which point Person A and the other individual separated. Based on his extensive narcotics experience, training, and the high narcotics-related crime area, Respondent reasonably concluded that he had just observed Person A partake in a hand-to-hand drug transaction. *See People v. Jones*, 90 N.Y.2d 835 (1997) (finding probable cause that a narcotics transaction occurred when an experienced officer observed an exchange of an unidentified object for currency in a drug-prone location). Respondent then followed Person A in order to make further observations, and he saw Person A holding a ziploc bag of marijuana in his

left hand. Indeed, the marijuana subsequently was recovered from Person A's person after his apprehension.

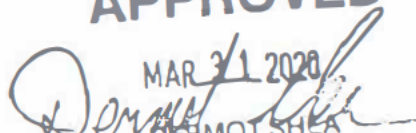
Under the totality of these circumstances, I find that at the time he stopped Person A, Respondent had a reasonable basis to believe that Person A was in possession of marijuana, which Respondent observed Person A holding in his hand, open to public view. As such, Respondent acted with sufficient legal authority when he detained Person A. The record has failed to establish, by a preponderance of the credible evidence, that Respondent abused his authority by stopping Person A, and I find him not guilty.

Respectfully submitted,



Jeff S. Adler
Assistant Deputy Commissioner Trials

APPROVED



MAR 31 2020
DERMOT SHEA
POLICE COMMISSIONER