



POLICE DEPARTMENT

December 26, 2024

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In the Matter of the Charges and Specifications :

- against - :

Police Officer Ayanna Simmons :

Tax Registry No. 945143 :

Housing PSA 3 :

Case No.

2023-28025

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

Before: Honorable Jeff S. Adler  
Assistant Deputy Commissioner Trials

APPEARANCES:

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

For the Respondent: Eric Sanders, Esq.  
The Sanders Firm P.C.  
30 Wall Street, 8<sup>th</sup> Floor  
New York, NY 10005

To:

HONORABLE JESSICA S. TISCH  
POLICE COMMISSIONER  
ONE POLICE PLAZA  
NEW YORK, NY 10038

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## CHARGES AND SPECIFICATIONS

1. Said Police Officer Ayanna Simmons, while on-duty and assigned to Police Service Area 3, on or about November 4, 2022, within the confines of Kings County, wrongfully engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer was discourteous to a supervisor.

A.G. 304-05, Page 1, Paragraph 1

GENERAL REGULATIONS  
PROHIBITED CONDUCT

2. Said Police Officer Ayanna Simmons, while on-duty and assigned to Police Service Area 3, on or about November 4, 2022, within the confines of Kings County, failed to timely report to her post, sector, or assignment as directed by a supervisor.

PG 202-01, Page 1, Paragraph 3

POLICE OFFICER

## REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on November 25, 2024. Respondent, through her counsel, entered a plea of Not Guilty to the subject charges. 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 find Respondent Not Guilty.

## ANALYSIS

It is alleged that on the morning of November 4, 2022, Respondent was late in reporting to her post, and that she was discourteous to her supervisor, Sergeant Ryan Thomas, when he questioned her about it.

Sergeant Thomas testified that he was the desk officer on the day of the incident. At roll call, which may have started five minutes late, Respondent was assigned to a particular fixed post. According to Thomas, she should have been out of the command by 0735 hours.

However, at some point between 0735 and 0750, Thomas was doing an inspection outside the stationhouse when he noticed Respondent's partner still standing in the parking lot. He asked why she had not gone to her post, and the officer answered that she was waiting for Respondent, who was in the locker room. Thomas went back inside and asked another female officer to check the locker room for Respondent; that officer reported back to Thomas that Respondent was, in fact, in the locker room. Thomas then observed Respondent walk past the desk and go outside to the lot. (Tr. 12-14, 20, 23-24)

Rather than allow Respondent to proceed directly to her post, Thomas summoned her back inside the stationhouse. Thomas testified that he asked Respondent why she was still at the command and not at her post. Respondent seemed upset, and answered that she had "personal stuff going on." Thomas explained to her that she needed to let him know her whereabouts so that he could account for her. According to Thomas, Respondent raised her voice during their conversation, and cut him off while he was speaking. He could not recall what specifically she said, but she did not use any profanity, nor did she scream at him. Thomas testified that Respondent asked him why she was still there if she needed to be on post, and then walked away before their conversation was complete. (Tr. 16-18, 24-27)

Respondent testified that immediately after roll call, which started 10 minutes late at 0720, she signed out and tested a Taser for her shift. She then went downstairs to use the restroom, "because [she] had some feminine issues that [she] needed to take care of" before heading to her post. Respondent did not notify the desk since she was merely using the restroom before heading to her fixed post, where there was no bathroom, and it was not customary to notify the desk before doing so. While in the restroom stall, she received a phone call from a female colleague asking where she was; Respondent said she was in the locker room and would

be up in a bit. Respondent testified that she was in the restroom for approximately 15 minutes, which was not a prolonged amount of time, considering the steps she has to take as a female, such as taking off and securing her gun belt. (Tr. 32-37, 40-41)

When she was finished in the restroom, Respondent went upstairs and walked straight to the parking lot and into the waiting RMP, with the intention of going directly to her post. However, before the vehicle could depart, she was summoned back inside to speak with Sergeant Thomas. Respondent testified that Thomas asked her why she was not on post, and she explained that she had to attend to personal issues. She explained to him, "As a female, I took some time to get myself together." Respondent also apologized for the delay and said she was on her way, but Thomas continued to question her "very aggressively." Respondent felt she was being "berated," and believed that Thomas's questions about her restroom activity were "invasive" and "embarrassing." She said to Thomas, "I'm going to have to respectfully remove myself from this conversation." According to Respondent, Thomas warned her not to be late again, then dismissed her. She returned to the RMP and was driven to her post. (Tr. 37-39, 41)

Specification 1 charges Respondent with being discourteous to her supervisor, Sergeant Thomas. It is alleged that Respondent was inappropriately confrontational with Thomas when he was trying to speak with her about the delay in getting to her post. After carefully considering the evidence presented, I am not persuaded that the Advocate has met its burden of proving that Respondent was discourteous.

The Advocate relied on the testimony of Thomas, who stated that Respondent raised her voice to him, and repeatedly cut him off as he was speaking, though he conceded that she did not use profanity, nor did she scream at him. Thomas also claimed that Respondent walked away from him before their conversation was completed.

Respondent, meanwhile, testified that it was Thomas who was being overly aggressive, and that she asked to be dismissed before walking back to the parking lot. She came across as sincere on the witness stand as she described how she felt unfairly berated and was embarrassed when Thomas called her back into the stationhouse and questioned her extensively about her use of the restroom. I credit Respondent's testimony of what occurred, including her detailed account of their discussion inside the precinct.

To be clear, Respondent's displeasure with the questions being asked would not relieve her of her responsibility to behave in a courteous and professional manner toward her supervisor. However, from the evidence presented at trial, I am not persuaded that Respondent crossed the line into behavior that would fairly constitute discourtesy. Rather, Respondent was uncomfortable at the "whole big to-do" over her need to take care of her personal hygiene, and she merely voiced her frustration to Thomas during the course of their conversation. Taken as a whole, Respondent's actions were not discourteous, and I find her Not Guilty of Specification 1.

Specification 2 charges Respondent with failing to report to her post in a timely manner. It is undisputed that Respondent was several minutes late in doing so, since she needed to use the restroom before heading out. At issue is whether that delay constituted misconduct on her part. I find that it did not.

On the one hand, Sergeant Thomas raised a valid concern regarding the need to report promptly to post in order to relieve the previous tour in a timely manner. However, based on the evidence presented here, I am not persuaded that Respondent was deliberately or unreasonably late in reporting. Immediately after the completion of roll call, which itself began several minutes late, Respondent checked out and tested her Taser, in preparation for going to her post. Before departing, however, she needed to use the restroom, which is where she was when

Thomas was trying to locate her. As Respondent credibly explained, having to undo and secure the equipment she was wearing added to her time in the restroom. With that in mind, I agree with Respondent that the 15 minutes she needed was not unreasonable.

Moreover, as soon as she was finished in the restroom, Respondent immediately walked to the parking lot and entered the RMP that would take her to post. Before the vehicle could depart, however, she was called back into the stationhouse, where her interaction with Thomas occurred. Respondent then returned to the RMP and went directly to her post.

Under the specific circumstances presented here, Respondent's delay in reporting to her post did not constitute misconduct. Accordingly, I find her Not Guilty of Specification 2.

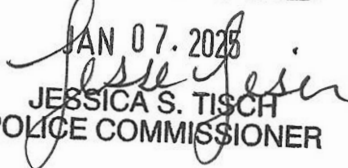
Respectfully submitted,



Jeff S. Adler

Assistant Deputy Commissioner Trials

**APPROVED**

JAN 07. 2025  
  
JESSICA S. TISCH  
POLICE COMMISSIONER