



City of Cleveland
Justin M. Bibb, Mayor

Department of Public Safety

Karrie D. Howard, Director
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October 7, 2022

Patrol Officer Damynique Spencer-Phillips #499
C/o Second District Headquarters
3481 Fulton Road
Cleveland, Ohio 44109

Re: SR2022-0265, DBI2022-0073

Patrol Officer Spencer-Phillips #499:

This letter is to advise you, Patrol Officer Spencer-Phillips #499, of the result of the administrative pre-disciplinary hearing you attended on Friday, August 12, 2022. The hearing was held to address the results of an internal investigation wherein you were alleged to have engaged in improper procedures and/or misconduct. You were charged with a series of rule violations, which follow:

FACTUAL SUMMARY

During the Fourth Quarter of 2021 Sick Review, you, Patrol Officer Damynique Spencer-Phillips #499 used 40 hours of undocumented sick time and displayed a pattern of sick use that preceded or followed scheduled vacation days, holidays or compensatory time.

On or about May 3, 2022, you, Patrol Officer Damynique Spencer-Phillips #499 called-in prior to your 0800 hour shift to use compensatory time that you knew you did not have.

On or about July 6, 2022, you Patrol Officer Damynique Spencer-Phillips #499 failed to report to The Academy Unit for your scheduled Continued Professional Training (CPT) and subsequently used sick leave after being ordered to report to your district of assignment.

STATEMENT OF POLICY

In part: The Manual of Rules sets forth the conduct and behavior to be followed by officers and employees. Any violation of these rules shall be a basis for disciplinary action. Disciplinary action includes, but is not limited to, verbal and written reprimands and the preferring of divisional charges, which can result in suspension, loss of pay, demotion or termination. The rules and standards contained in this manual shall apply whether the officer or employee is on or off duty. Where a conflict exists between a Rule and a General Police Order, the Rule provision shall be adhered to.

SPECIFICATIONS

Specification #1: (SR2022-0265) During the Fourth Quarter 2021 Sick Review, you, Patrol Officer Damynique Spencer-Phillips #499, used 40 hours of undocumented sick time and displayed a pattern of sick use that preceded or followed scheduled vacation days, holidays and compensatory time, in violation of General Police Order 1.3.06. (*Group I Violation*)

Specification #2: (DBI2022-0047) On or about May 3, 2022, you, Patrol Officer Damynique Spencer-Phillips #499, called-in prior to your 0800 hour shift to use compensatory time that you knew you did not have, in violation of General Police Order 4.04.05 and Manual of Rule 2.02. (*Group I Violation*)

Specification #3: (DBI2022-0047) On or about May 3, 2022, you, Patrol Officer Damynique Spencer-Phillips #499, willfully disobeyed a lawful order. You were ordered to check your compensatory and sick time balance days prior, which you did, but then chose to disregard the order and use the compensatory time in a deceitful manner when the Officer-in-Charge (who was filling-in) was not familiar with your personal situation, in violation of Civil Service Rules 9.10.2 and 9.10.8. (*Group III Violation*)

Specification #4: (DBI2022-0073) On or about July 6, 2022, you, Patrol Officer Damynique Spencer-Phillips #499, failed to report to the Academy Unit for your scheduled 2022 Continued Professional Training (CPT), in violation of General Police Order 4.04.01 and Manual of Rules 10.01 and 10.02. (*Group I Violation*)

Specification #5: (DBI2022-0073) On or about July 6, 2022, you, Patrol Officer Damynique Spencer-Phillips #499, used Sick Leave after arriving late to your 2022 Continued Professional Training (CPT) and being ordered to report to your district, in violation of General Police Order 1.3.06. (*Group I Violation*)

These specifications are in violation of the rules and procedures of the Division of Police, Department of Public Safety.

RULES, POLICIES AND PROCEDURES

General Police Order 1.3.06: Sick Leave Review (Effective Date: January 1, 2020)

General Police Order 4.04.01: Patrol Section Responsibilities (Effective date: February 12, 2021)

General Police Order 4.04.05: Overtime and Compensatory Time (Effective date: February 12, 2021)

Manual of Rules for the Conduct and Discipline of Employees of the Cleveland Division of Police, Rules 2.02, 10.01 and 10.02

PREDISCIPLINARY HEARING

In attendance at the administrative pre-disciplinary hearing that I presided over were you, President Jeffrey Follmer, First Vice President David Medina, Second Vice President Andrew Gasiewski and Attorney Joseph Delguyd of the Cleveland Police Patrolmen's Association, Assistant Director Amanda Boutton and Law Clerk Caroline Lettrich of the Department of Law, Sergeant Edward Kutina and Sergeant Michael Chapman of the Second District, Lieutenant Charles DePenti of the Case Preparation Unit, Sergeant Kelly Smith, Assistant Director George Coulter and Assistant Director Jakimah R. Dye of the Department of Public Safety.

During the hearing, you acknowledged receipt of the charge letter; you and your representatives waived the reading of your charge letter and were then afforded the opportunity to be heard. You entered a plea of "No Contest" to Specification #1, Specification #2 and Specification #4 and "Not Guilty" to Specification #3 and Specification #5, as set forth in the charge letter.

HISTORY, FINDINGS, AND CONCLUSIONS

Discipline History

No discipline history.

Findings and Conclusions

- ***Mitigating and Aggravating Factors***

Mitigating: No discipline history.

Aggravating: Multiple violations.

- ***Anomalies***

None.

Disciplinary Conclusion

A thorough review was conducted by the Department of Public Safety. Upon carefully reviewing the evidence incorporated into the record by reference, statements made at the hearing, and pertinent rules, policies and procedures, I have determined that you, Patrol Officer Damynique Spencer-Phillips #499 violated General Police Order 1.03.06 when you used 40 hours of undocumented sick time and displayed a pattern of sick use that preceded or followed scheduled vacation days, holidays or compensatory time during the Fourth Quarter of 2021 (*Specification #1*). You violated General Police Order 4.04.05 and Manual of Rules 2.02 when you called-in prior to your 0800 hour shift to use compensatory time that you knew you did not have on or about May 3, 2022 (*Specification #2*). You violated General Police Order 4.04.01 and Manual of Rules 10.01 and 10.02 when you failed to report to the Academy Unit for your scheduled Continued Professional Training (CPT) on or about May 3, 2022 (*Specification #4*) and violated General Police Order 1.3.06 when you used Sick Leave after being ordered to return to your district of assignment by a superior officer after arriving late to your Continued Professional Training (CPT) on or about May 3, 2022 (*Specification #5*).

As a member of the Cleveland Division of Police, Department of Public Safety, you are obligated to abide by the Division's Manual of Rules and General Police Orders. The Division of Police cannot operate and professionally meet its objectives while tolerating a failure to comply with professional expectations or being subject to utter disregard for policy.

Based on the foregoing, I find you **"Guilty"** of Specifications #1, Specification 2, and Specification #4 as these specification are undisputed. You in fact did, and acknowledged that you, use sick time in such a manner that created a pattern of leave following vacation, holidays and compensatory time. You also did fail to report to the Academy Unit for scheduled training. With regard to Specification #5, the evidence and testimony supported you using sick time to take off work after arriving late. Because you did confer with the District 2 Timekeeper as ordered by a superior officer, I find you **"Not Guilty"** of Specification #3. **Consistent with City of Cleveland policies and procedures, I am issuing you a three (3) workday suspension without pay for four (4) First Group I Violations. Additionally, I am placing you on Step-1 of the Sick Leave Abuse Control Program.** Pursuant to the procedures of the Step-1 Sick Abuse, you are to provide documentation to the Medical Director prior to being returned to duty for any sick leave taken from the date of this letter until October 3, 2023. Further, members who are found to be abusing sick leave within one year of completing Step-1 Sick Abuse shall result in the member automatically escalating to Step-2 Sick Abuse. This corrective action is within the First Group I violation range of the discipline matrix where aggravating factors (*multiple violations*) outweigh mitigating factors (*no discipline history*).

The above imposed suspension shall commence, and be effective the next working day after you are served with this notice. You shall surrender your badge, police identification card, unloaded departmentally issued firearm and three (3) loaded magazines plus one (1) live round to your Commanding Officer or designee, at the end of your shift. Upon completion of the suspension days, you shall retrieve the aforementioned property from your Commanding Officer or designee upon reporting for duty. **Additionally, you shall, within five (5) work days of returning from suspension, read General Police Order 1.3.06, General Police Order 4.04.05, General Police Order 4.04.01 and Manual of Rules 2.02, 10.01 and 10.02, and expect to be reinstructed by a superior officer on those Orders and that Rule. Upon completion of the reinstruction, you will email (as an attachment) indicating reinstruction, and endorsed by the same superior officer, to the Case Preparation Unit (caseprep@clevelandohio.gov) and The Department of Public Safety (publicsafetyadmin@clevelandohio.gov).**

It is the Division's earnest desire that this letter will serve as a deterrent against future acts of this nature. Any prospective acts of same or similar conduct may lead to progressive discipline. Pursuant to the terms and conditions of the collective bargaining agreement between the City of Cleveland and the Cleveland Police Patrolmen's Association, verbal disciplinary warnings and disciplinary written reprimands shall not be used for progressive discipline purposes after one (1) year from the date the discipline was administered, and disciplinary suspensions shall not be used for progressive discipline purposes after three (3) years from the date the discipline was administered.

Sincerely,

A handwritten signature in black ink, appearing to read "Karrie D. Howard", with a stylized flourish at the end.

Karrie D. Howard, Chief Director
Department of Public Safety

Patrol Officer Damynique Spencer-Phillips #499

October 7, 2022

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KDH:dad:kas

cc: Dornat Drummond, Chief, Division of Police
George Coulter, Assistant Director of Operations, Department of Public Safety
Jakimah R. Dye, Assistant Director, Department of Public Safety
Sammy Morris, Acting Deputy Chief, Field Operations
Brian Carney, Commander, Bureau of Compliance
Thomas Stacho, Commander, Second District
William Menzalora, Chief Assistant Director of Law
Michael Pike, Assistant Director of Law
Amanda Boutton, Assistant Director of Law
Christopher Viland, Superintendent, Internal Affairs Unit
William Mokshefsky, Sergeant, Officer-in-Charge, Personnel Unit
Jeffrey Follmer, President, Cleveland Police Patrolmen's Association
Cynthia Oliver, Sergeant, Officer-in-Charge, Timekeeping Unit
Melissa Dawson, Sergeant, Officer-in-Charge, Employee Assistance Unit
Paul Patton, Director, Department of Human Resources
Aikaterini Houston, Safety Medical Unit Manager
Eve Bonvissuto, Assistant Administrator, Department of Human Resources
Sharon Evers, Medical Director, Medical Unit
Michael Spreng, Secretary, Civil Service Commission
Michael Hess, Chairman, Civilian Police Review Board
Michael Evanovich, Investigator, Department of Justice
Richard Rosenthal, Member, Monitoring Team
Jason Goodrick, Executive Director, Cleveland Community Police Commission
Hassan Aden, Federal Monitoring Team