

**BOARD OF FIRE AND POLICE COMMISSIONERS  
OF THE CITY OF MILWAUKEE**

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**In the matter of the complaint of**

**BOARD DECISION**

**PATRICK MOORE**

**V.**

**POLICE SERGEANT TONY HENDRIX**

**FPC Complaint No. 07-29**

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Having reviewed the complaint in this case, applicable Milwaukee Police Department rules, the transcript and exhibits resulting from a hearing conducted regarding this matter together with the proposed findings of fact and recommendation as prepared by Hearing Examiner Roy B. Evans, we reach the following decision:

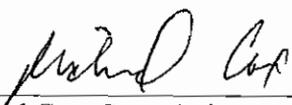
**It is our unanimous decision** that the record *is not sufficient* in this case to find that Police Sergeant Tony Hendrix utilized more force than was reasonably necessary in dealing with Mr. Patrick Moore and we therefore order that the charge alleging a violation of MPD Rule 4, Section 2/445.00 be dismissed.

**It is our further unanimous decision** that the record *is not sufficient* in this case to find that Police Sergeant Tony Hendrix failed to utilize appropriate courtesy and civility in dealing with Mr. Patrick Moore and we therefore order that the charge alleging a violation of MPD Rule 4, Section 2/060.00 also be dismissed.

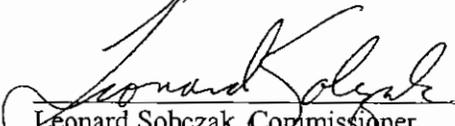
**All charges and the complaint herein are dismissed**, and we adopt the Findings of Fact and Recommendation as attached hereto and make them a part of this Decision by reference.

Board of Fire and Police Commissioners  
Of the City of Milwaukee

By:

  
\_\_\_\_\_  
Richard Cox, Commissioner

11/20/08  
Date

  
\_\_\_\_\_  
Leonard Sobczak, Commissioner

11/20/08  
Date

  
\_\_\_\_\_  
Kathryn Hein, Commissioner

11/20/08  
Date

BOARD OF FIRE AND POLICE COMMISSIONERS  
OF THE CITY OF MILWAUKEE

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In the matter of the Citizen Complaint of:

**PATRICK MOORE**

VS

**POLICE SERGEANT TONY HENDRIX**

**SUMMARY OF PROCEEDINGS**  
**FINDINGS OF FACT**  
**AND RECOMMENDATION**

**FPC COMPLAINT NO.07-29**

**SUMMARY OF PROCEEDINGS**

This Complaint proceeded to a hearing on July 18, 2008 before Attorney Roy Bradford Evans acting as Hearing Examiner on behalf of the Board.

Complainant, Patrick Moore, appeared in person and, acting on his own behalf, pro se. Police Sergeant Tony Hendrix appeared in person and by counsel Attorney William R. Rettko. The Complainant alleges that during his arrest he was harassed and verbally abused by Sergeant Hendrix and that Sgt. Hendrix was also otherwise discourteous and uncivil towards the Complainant.

**Testimony of Patrick Moore:** The Complainant testified that on an unidentified Saturday afternoon in September, 2005, he was tending to a tenants garden and pulling weeds at 2708 W. Meinecke Street, City of Milwaukee. (Complainant never established a definite date or time which was identified by the defense as August 13, 2005, at approximately 3:15 P.M.) As he tended the garden he

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noticed a police officer, ( identified as Sergeant Tony Hendrix) speaking with neighbors across an alleyway. He stated that Sgt. Hendrix called to him at which time he got up from his knees and slowly walked towards the officer to see what he wanted. He indicated that Sgt. Hendrix began to complain about a pile of weeds on the edge of the alley. He indicated to Sgt. Hendrix that this was "not a matter for police to spend time on." He stated that Sgt. Hendrix reacted to the comment by taking him by the arm and forcefully moving him towards the police vehicle. The Complainant stated that he questioned the Sergeants actions and had an exchange of words regarding his treatment. In the exchange Sergeant Hendrix complained that the Complainant was "spitting" on him which the Complainant denied. At that time he alleges that Sgt. Hendrix pushed him up against the van and in doing so ripped his t-shirt. He claimed that he appealed to the crowd that had gathered in the alley. At some point the Complainant was arrested and taken into custody. He was transported to the District (3? ) Station for processing of a disorderly conduct citation. He was released. Complainant felt that he was humiliated and treated discourteously by Sgt. Hendrix and that his actions were motivated by the need to display his authority to who ever called and complained about the weed pile. The Complainant also testified that he attempted to have the matter mediated, however, Sgt. Hendrix refused which set up the matter or this trial hearing.

**Testimony of Sergeant Tony Hendrix:** Sergeant Hendrix testified that on August 13, 2005 at approximately 3:15P.M., he responded to a citizen complaint about an adjacent property owner who was harassing their church by putting weed clippings on their property. They had contacted the police and filed several complaints in the past. Having been recently assigned to District 5, Sgt. Hendrix responded because he had initially been involved in earlier matters. After arriving on the scene and parking his van, he spoke to the church members who pointed the Complainant out. That he approached the Complainant who immediately charged him, without warning, shouting profanities and stating that the Sergeant was interfering with his work. The Sergeant stated that he told the Complainant if he continued that he would be placed under arrest for disorderly conduct. He stated that the Complainant continued and was placed under arrest. He stated that the Complainant struggled and had to be forcefully placed in the police van. The crowd began to shout at the Complainant and Sgt. Hendrix drove him out of the area to District 5 for processing. That sometime later he received notice that a citizen complaint had been lodged against him by the Complainant.

**Proposed FINDINGS OF FACT with regards to Police Sergeant Tony Hendrix.**

1. At all times pertinent hereto Police Sergeant Tony Hendrix was a member of the Milwaukee Police Department and bound by the rules and regulations thereof.

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2. On August 13, 2005, Sgt. Hendrix was assigned to the 5<sup>th</sup> District but was called to a 3<sup>rd</sup> District location (2708 W. Meinecke st.) because of his past involvement with the issue as a member of the 3<sup>rd</sup> District station.
3. Complainant alleges that he was pulling weeds and tending to his tenants garden when he was summoned by Sgt. Hendrix. That they exchanged words and that Complainant was subsequently arrested and forcefully placed in he police van. That Sgt. Hendrix ripped the Complainant t-shirt in the process, used unnecessary force and was otherwise rude and discourteous. All of which caused him humiliation.
4. Milwaukee Police Department Rule 4, Section 2/445.00 permits a police officer to use force in the performance of his/her duties but, requires that the degree of such force used be only that which a reasonable police officer would deem necessary given the same circumstances and information.
5. Milwaukee Police department Rule 4, Section 2/060.00 requires that all members of he Department be courteous and use civility toward the public with any conduct to the contrary not being tolerated. When required to act, members must do so with firmness in his tone of command and use utmost patience and discretion in his/her arrest of the complainant.
6. Sergeant Hendrix testified that he followed police procedure in arresting the

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Complainant and did not use unnecessary force or display rude behavior in the process. That he was not uncivil towards the Complainant but, used firmness in his tone of command and used utmost patience and discretion in his arrest of the Complainant.

7. That the burden of proof in this matter is upon the Complainant to show, by a preponderance of the evidence, that the accused officer took the action complained of and that such action was in violation of Milwaukee Police Department Rules and Standard Operating Procedures.

8. The evidence presented by the Complainant, Patrick Moore, in this case is insufficient to prove that Milwaukee Police Sergeant Tony Hendrix used excessive force, was otherwise discourteous or, uncivil in carrying out his duties during the arrest of the Complainant.

#### **HEARING EXAMINERS RECOMMENDATIONS**

The Complainant, Patrick Moore, has the burden of proof and is required to show by a preponderance of the evidence (i.e. more likely than not) that Sergeant Hendrix used more force than was reasonably necessary and was uncivil and discourteous in his arrest of the Complainant. At hearing the Complainant provided no evidence proof or witness testimony to support his

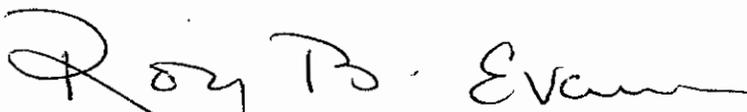
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allegations against Sgt. Hendrix. Sergeant Hendrix responded to a routine police complaint matter and was confronted by the Complainant whom he had summoned for questioning. In the process the Complainant became unruly , was placed under arrest, physically placed in the police van while disorderly, cited for disorderly conduct and transported to the District station for booking. Sergeant Hendrix provided credible testimony and, without any proof or evidence to the contrary, his actions were appropriate and within the Milwaukee Police Department Rules and Standard Operating Procedures.

**THEREFORE**, it is the determination of the Hearing Examiner that in consideration of all of the evidence, proof and testimony that the Complainant, Patrick Moore, did not provide nor present the greater weight of evidence to support his allegations and I hereby recommend that the complaint of Patrick Moore against Police Sergeant Tony Hendrix be dismissed.

I recommend that a copy of this complaint and final decision in this matter be forwarded to the Milwaukee Police Department so that the information contained herein shall be included and maintained as part of the Department Early Information Program (EIP).

Respectfully Submitted this 25<sup>th</sup> day of August, 2008



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Roy Bradford Evans, Esq. , Hearing Examiner