

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

**In the Matter of the Appeal of Cory E. Harris
Personnel Order 2011-128**

Hearing Date: December 7, 2011

Hearing Location: 200 East Wells Street, Room 301A, City Hall
Milwaukee, Wisconsin

Commissioners: Richard C. Cox
Michael M. O'Hear
Carolina M. Stark

Hearing Examiner: John J. Carter

Appearances: Patricia A. Fricker, Assistant City Attorney
For the Milwaukee Police Department

Attorney Mark E. Christopher
For Appellant Cory E. Harris

PROCEDURAL HISTORY

The Chief of Police, Edward A. Flynn, charged Police Officer Cory E. Harris in Personnel Order 2011-128 dated September 7, 2011 with the following violations of Milwaukee Police Department Rules and Procedures:

1. Rule 4, Section 015.00; Core Value 3.00 – Integrity, referencing Guiding Principle 3.05: Failure to conform to and abide by the ordinances in effect in the City of Milwaukee, for which the Appellant received a three day suspension without pay.
2. Rule 4, Section 105.00; Core Value 3.00 – Integrity, referencing Guiding Principle 3.11: Untruthfulness, for which the Appellant was discharged from the Department.

The Appellant filed an appeal with Milwaukee Fire and Police Commission from the order of the Chief of Police and a hearing was held.

SUMMARY OF HEARING PROCEEDINGS

The hearing was held on December 7, 2011, was recorded by a stenographic reporter and the transcript of the proceedings a part of the record in this matter. Testimony was taken from the following witnesses in Phase I:

For the Chief of Police: Candy Gandy, Citizen Witness
Detective Douglas Marx, Milwaukee Police Department

For the Appellant: Police Officer Nicholas Dankert, Milwaukee Police Department
Sergeant Joshua Whiten, Milwaukee Police Department
Cory E. Harris, Appellant

Testimony was taken from the following witnesses in Phase II:

For the Chief of Police: Chief Edward A. Flynn, Milwaukee Police Department
Lieutenant Shunta Boston-Smith, Milwaukee Police Department

For the Appellant: Captain Eduardo Negron (Retired), Milwaukee Police Department
Captain Donald Gaglione, Milwaukee Police Department
Lieutenant James MacGillis, Milwaukee Police Department
Police Officer Bryan Norberg, Milwaukee Police Department
Police Officer Graham Kunisch, Milwaukee Police Department
Mary Kohl, Citizen Witness
Laura Manriquez, Citizen Witness
Cory E. Harris, Appellant

At the hearing, the Appellant withdrew his appeal to the first charge, to wit that he violated Rule 4 Section 015.00, Core Value 3.00 and Guiding Principle 3.05. Therefore, the Commission does not address the first charge in the Chief's order dated September 7, 2011.

Based upon the evidence received at the hearing, the Commission makes the following findings of fact and conclusions of law regarding the second charge in the Chief's order dated September 7, 2011:

FINDINGS OF FACT

1. Cory E. Harris (the Appellant) worked for the Milwaukee Police Department for approximately 10 years, including approximately 2 ½ years as a police aide and 7 ½ years as a police officer. The Appellant spent part of his time with the Department working on the community prosecution team with the Milwaukee County District Attorney's Office.

2. The Appellant was familiar with Milwaukee Police Department Rule 4 Section 105.00, Core Value 3.00 and Guiding Principle 3.11. He knew that violating these could result in discipline, including discharge from the Department.
3. On December 27, 2010, the Appellant was involved in an off-duty incident involving a citizen, Christian Mason. The Appellant had been dating Ms. Mason, and he attempted to end the relationship that evening. This upset Ms. Mason, and she made numerous harassing phone calls and text messages to the Appellant.
4. Later that same night, Ms. Mason arrived at a location near the Appellant's home, confronted him about the break up, took his house keys and drove to her apartment building. The Appellant chased Ms. Mason to her apartment building in his car, running a red traffic light in his pursuit.
5. At Ms. Mason's apartment building, the Appellant chased Ms. Mason to the building's door. Ms. Mason rang the doorbells of several apartment units in the building. One of the residents, Candy Gandy, heard her doorbell ring and Ms. Mason call for help. Ms. Gandy heard the Appellant announce that anyone who came to the door would get hurt. Ms. Gandy saw the Appellant physically struggle with Ms. Mason over some keys and heard the Appellant tell Ms. Mason that he would hit her again. Ultimately, the Appellant took Ms. Mason's cell phone and drove to the Milwaukee Police Department District 4 Station.
6. At the District 4 Station, the Appellant reported that Ms. Mason was harassing him. She also arrived at the District 4 Station and made allegations against him.
7. On December 28, 2010 at 2:46 a.m., Milwaukee Police Detective Douglas Marx interviewed the Appellant. Detective Marx told the Appellant that the interview was part of a criminal investigation for disorderly conduct and that he was the target of the investigation. In part, the Appellant told Detective Marx that he took Ms. Mason's cell phone when they confronted each other near his home.
8. When asked by Detective Marx if he had stopped at Ms. Mason's residence again, the Appellant answered, "No." When asked if he chased Ms. Mason to her front door, the Appellant answered, "No." When asked if he saw Ms. Mason ring doorbells at her residence, the Appellant answered, "No." When asked if Ms. Mason ever touched him, the Appellant answered, "No." When asked if during the entire event he had ever placed his hands on Ms. Mason, the Appellant answered, "No." The Appellant intentionally gave false answers to these questions and withheld information about the incident in order to avoid discipline for his conduct.
9. On February 28, 2011, the Milwaukee County District Attorney's Office interviewed the Appellant, and he acknowledged going to Ms. Mason's residence after the confrontation near his home and before going to the District 4 Station. As a result of the incident and interviews, the Milwaukee County District Attorney's Office will not work with the

Appellant in the community prosecution program and will not use him as a witness in court proceedings.

10. On May 6, 2011, Milwaukee Police Sergeant Lisa Gagliano interviewed the Appellant about the incident and the discrepancies between his statements to Detective Marx and the District Attorney.
11. In other cases where members of the Milwaukee Police Department have violated Rule 4 Section 105.00 for untruthfulness, the imposed discipline has ranged from a one-day suspension to discharge.
12. The Appellant's record of service with the Department includes one meritorious mention on November 9, 2007, and no prior demerits. The Appellant had a good reputation with other members of the Department and members of the community.

CONCLUSIONS OF LAW

13. The Appellant was familiar with Milwaukee Police Department Rule 4 Section 105.00, Core Value 3.00 and Guiding Principle 3.11, and he knew that violating these could result in his discharge. Therefore, the Appellant could reasonably be expected to have knowledge of the probable consequences of his conduct on December 27 and 28, 2010 as required by Wisconsin Statute §62.50(17)(b)(1).
14. The nature of police work requires absolute honesty from police officers. Therefore, Milwaukee Police Department Rule 4 Section 105.00, Core Value 3.00 and Guiding Principle 3.11 are reasonable as required by Wisconsin Statute §62.50(17)(b)(2).
15. Both the Milwaukee County District Attorney's Office and Milwaukee Police Department Sergeant Lisa Gagliano investigated both the Appellant's conduct and the inaccuracy of his initial statements to Detective Marx. Therefore, the Chief made a reasonable effort to discover whether the subordinate did in fact violate a rule or order before filing charges against him as required by Wisconsin Statute §62.50(17)(b)(3).
16. The Appellant had opportunities both with the Milwaukee County District Attorney's Office and with Sergeant Gagliano to explain his conduct involving Ms. Mason and his failure to provide complete truthful statements to Detective Marx. Therefore, the Chief's effort to discover whether the subordinate did in fact violate a rule or order was fair and objective as required by as required by Wisconsin Statute §62.50(17)(b)(4).
17. The investigation showed that the Appellant gave false answers and withheld complete information about the incident involving Ms. Mason when interviewed by Detective Marx. Therefore, the Chief discovered substantial evidence that the Appellant violated the rule or order as described in the charge of untruthfulness filed against him as required by Wisconsin Statute §62.50(17)(b)(5).

18. The Chief discovered evidence that the Appellant intentionally gave false answers about his own potentially criminal conduct during a criminal investigation in violation of Department rules, and he disciplined the Appellant for this. The Chief has consistently treated untruthfulness by police officers as a serious offense. Therefore, the Chief applied the rule against the Appellant fairly and without discrimination as required by Wisconsin Statute §62.50(17)(b)(6).
19. The Commission has given due consideration to the impressive evidence presented by the Appellant regarding his record of service and good reputation within the Department and the community. However, the Commission credits Chief Flynn's testimony at the hearing regarding the seriousness of the Appellant's misconduct and the negative effect that his record of untruthfulness would have on his ability to perform a critical job function, that is, to testify in court. Therefore, discharging the Appellant from the department reasonably relates to the seriousness of his violation as required by Wisconsin Statute §62.50(17)(b)(7). While the Commission regards it as very unfortunate that the Appellant's promising career with the Department has ended, it concludes that his misconduct warrants his discharge.

DECISION

Cory E. Harris is hereby discharged from the Milwaukee Police Department.

Dated at Milwaukee, Wisconsin.

BY THE COMMISSION:



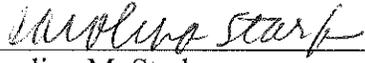
Richard C. Cox

January 10th, 2012



Michael M. O'Hear

January 13th, 2012



Carolina M. Stark

January 13, 2012