

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

In the matter of the complaint of

WILLIE DANTZLER

v.

P.O. JEFFREY THIELE

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND DECISION**

FPC Complaint No. 06-41

Hearing Date(s): May 28, 2008 and August 6, 2008

Conducted Before: Steven Fronk, FPC Hearing Examiner

*Appearances: Willie Dantzler in person and by Attorney Alan Eisenberg
Jeffrey Thiele in person and by Attorney Matthew Granitz*

*Allegation(s): Officer Jeffrey Thiele violated MPD Rule 4, Section 2/060.00
when interacting with Willie Dantzler on October 24, 2006.*

SUMMARY OF PROCEEDINGS

On October 31, 2006, Willie Dantzler filed a citizen complaint against Milwaukee Police Officer Jeffrey Thiele for his conduct during their interaction on October 24, 2006. As a result of Mr. Dantzler's complaint, a hearing was held before a hearing examiner of the Board of Fire and Police Commissioners on May 28, 2008, and continued on August 6, 2008. At the hearing on May 28, 2008 testimony was received from Mr. Willie Dantzler and Police Officer Jeffrey Thiele. At the hearing on August 6, 2008 additional testimony was received from Police Officer Jeffrey Thiele, as well as testimony from Police Officer Michael Wawrzyniakowski, Mr. Sammy Glass and Police Sergeant Rupert Reilly. A transcript of the proceedings is available, and a summary of testimony will not be provided here. A three-member panel of the Board of Fire and Police Commissioners now issues its decision after considering the evidence received during the hearing.

FINDINGS OF FACT

1. On October 24, 2006, Police Officer Jeffrey Thiele was a member of the Milwaukee Police Department, with 12 ½ years of service to the Department, and he was bound by the rules and regulations thereof.
2. On October 24, 2006, Officer Thiele was on plainclothes duty in an unmarked squad car with his partner, Police Officer Michael Wawrzyniakowski. At approximately 2:42 p.m., Officer Thiele saw an AT&T service technician outside of his van near the intersection of 29th Street and Concordia Avenue in Milwaukee, Wisconsin. Officer Thiele also saw two adult males, Willie Dantzler and Louis Smith, walking near the AT&T worker.
3. Based upon his training and experience, Officer Thiele believed that Mr. Dantzler and Mr. Smith were possibly flanking the AT&T worker to rob him. In response, Officer Thiele and his partner quickly got out of their car and approached the three men.
4. As Officer Wawrzyniakowski headed towards Mr. Smith, Officer Thiele headed towards Mr. Dantzler and identified himself as a police officer, showing his badge and duty belt. Officer Thiele ordered Mr. Dantzler to stop and take his hands out of his pockets. While doing this, Officer Thiele passed the AT&T worker and briefly confirmed that he was fine.
5. Mr. Dantzler stopped, but he refused to take his hands out of his pockets. Officer Thiele again ordered Mr. Dantzler to take his hand out of his pockets, and he explained that he was stopping him because it looked like a possible robbery. As Dantzler continued to disobey his orders, Officer Thiele began to raise his voice; however, Officer Thiele did not use profanity towards Mr. Dantzler.
6. When Officer Thiele got behind him, Mr. Dantzler took a bottle of vodka and an unopened can of beer out of his pocket. The vodka bottle's cap was screwed on, but the seal was broken and a small amount of vodka remained in the bottle. Officer Thiele took the bottle and threw it to the ground.
7. In order to conduct a pat-down search for weapons, Officer Thiele ordered Mr. Dantzler to raise his arms out to his sides like an airplane. Mr. Dantzler initially

raised his arms, but then dropped them. Several times Officer Thiele lifted Mr. Dantzler's arms back up to the airplane position and repeated his orders, but Mr. Dantzler continued to drop his arms. When Mr. Dantzler dropped his arms, he turned his head and looked back towards Officer Thiele. Based upon his training and experience, Officer Thiele believed that Mr. Dantzler was doing this to gain target acquisition of him. During the pat-down search of Mr. Dantzler, Officer Thiele did not find any weapons.

8. By this time, Officer Wawrzyniakowski had allowed Mr. Smith to leave the scene. Officers Thiele and Wawrzyniakowski concluded that Mr. Dantzler and Mr. Smith were not attempting to rob the AT&T worker.
9. With assistance from Officer Wawrzyniakowski, because Mr. Dantzler was resistive, Officer Thiele handcuffed Mr. Dantzler and put him in the back seat of the squad car. Officer Thiele told Mr. Dantzler that he was arrested because public drinking and public possession of an open intoxicant are prohibited. Mr. Dantzler explained that he was holding the vodka bottle after taking it from Mr. Smith.
10. Mr. Dantzler gave his correct identification information as requested by Officer Wawrzyniakowski. Mr. Dantzler was 58 years old and had problems with his knees and back. Officer Wawrzyniakowski conducted a background and warrant check for Mr. Dantzler with negative results. Then, Officer Thiele conducted another background and warrant check for Mr. Dantzler, finding only that he had had a speeding ticket in Missouri in 1984.
11. Officer Thiele attempted to converse with Mr. Dantzler as he was still in custody in the back of the squad car. Mr. Dantzler did not want to pleasantly converse, and Officer Thiele believed he was being argumentative. As a result, Officer Thiele decided to take Mr. Dantzler to the District 7 police station.
12. At the District 7 police station, Officer Thiele handcuffed Mr. Dantzler to a bench in a temporary holding facility in the garage. Ultimately, Officer Thiele issued Mr. Dantzler a Milwaukee Municipal Citation for publicly possession an open intoxicant in violation of ordinance 106-1.8 and released him.

13. Milwaukee City Ordinance 106-1.8 prohibits, in applicable part, any person from possessing on his or her person "...any bottle or receptacle containing alcohol beverages if the bottle has been opened, the seal broken or the contents of the bottle or receptacle have been partially removed upon any public alley, highway, pedestrian mall, sidewalk, or street within the limits of the city."

APPLICABLE LEGAL STANDARD

The burden is upon the citizen complainant to show by a preponderance of the evidence that Officer Thiele violated Milwaukee Police Department Rule 4, Section 2/060.00 and that a preponderance of the evidence supports a finding of just cause as defined in Wis. Stats. §62.50(17) (b).

CONCLUSIONS OF LAW

1. Mr. Dantzler's claim that Officer Thiele violated MPD Rule 4, Section 2/060.00 by initially stopping him, ordering him to take his hands out of his pockets and searching him for weapons is without merit. Police officers have authority to order citizens to obey their lawful instructions, such as to stop, take their hands out of their pockets and stand still while being searched for weapons. Police officers are repeatedly required to make split-second decisions to ensure their own safety and the safety of citizens before they can begin to investigate a situation. Police officers are not required to take time out while making these split-second decisions to explain their reasoning to citizens or to convince citizens to obey their orders.

Citizens must comply with the lawful orders of police officers, even if they do not understand why the officer is issuing the order or if they do not agree with the order. Citizens who fail to do so violate the law in addition to placing themselves, other citizens and the officers in unnecessary danger.

2. Officer Thiele acted attentively and zealously in identifying the situation on October 24, 2006, as a *possible* robbery in progress. He acted reasonably and quickly to ensure the safety of the citizens on scene, as well as his own safety and that of his partner, in order to investigate. In no way did Officer Thiele's conduct during his initial stop, search and placement of Mr. Dantzler in the squad car violate MPD Rule 4, Section 2/060.00.
3. While Officer Thiele's initial interaction with Mr. Dantzler did not violate MPD Rule 4, Section 2/060.00, he went on to subject Mr. Dantzler to greater indignity than was necessary when he took him to the District 7 police station and handcuffed him to a bench in the garage holding cell. Specifically, Officer Thiele had already determined that Mr. Dantzler was not attempting to commit a robbery, that he was 58 years old and that he had no prior criminal convictions or outstanding warrants.

Knowing that he was going to give Mr. Dantzler a municipal citation for public possession of an open intoxicant, it would have been enough for Officer Thiele to issue the citation and release Mr. Dantzler at the scene of the incident with a verbal warning about the importance of following police orders and about the dangers of failing to do so. While Officer Thiele may have been reasonably frustrated with Mr. Dantzler's failure to obey his initial orders, under the circumstances of this case, it was not necessary for Officer Thiele to subject Mr. Dantzler to the indignity of being taken to the police station and handcuffed to the bench in garage holding cell. Therefore, Officer Thiele violated MPD Rule 4, Section 2/060.00 by subjecting Mr. Dantzler to greater indignity that was necessary.

4. MPD Rule 4, Section 2/060.00 is reasonable because it provides sensible guidance regarding appropriate and inappropriate exercise of police authority. Additionally, it has the reasonable purpose of ensuring that police officers fulfill their duties without abusing their authority.

5. Officer Thiele could reasonably be expected to know that subjecting a citizen to greater indignity than necessary would probably result in disciplinary action because he should have been aware of MPD Rule 4, Section 2/060.00, and he had 12 ½ years of experience as a Milwaukee Police Officer.

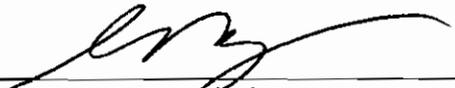
6. Recording in Officer Thiele's permanent personnel file that he violated MPD Rule 4, Section 2/060.00 reasonably relates to the seriousness of this rule violation and to his record of service to the department. First, there is no evidence that Officer Thiele previously violated any MPD rules during his 12 ½ years of service to the Department. Second, while the Commission recognizes the seriousness of violating this rule, Officer Thiele made a good-faith error in judgment when he took Mr. Dantzler to the District 7 police station and handcuffed him to the bench in the holding cell. Under these specific circumstances, recording the rule violation in Officer Thiele's permanent personnel file, without additional disciplinary action, sufficiently recognizes the seriousness of his conduct, punishes him and deters him from repeating this type of conduct.

DECISION

We therefore find that Police Officer Jeffery Thiele violated MPD Rule 4, Section 2/060.00, and we hereby order that this finding be recorded in his permanent personnel file. We order no additional disciplinary action.

Board of Fire and Police Commissioners
Of the City of Milwaukee

By:



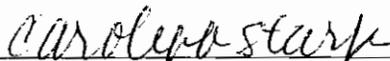
Ernesto Baca, Commissioner

03.19.2009
Date



Paoi Lbr, Commissioner

3/19/09
Date



Carolina Stark, Commissioner

03/05/09
Date