

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

In the Matter of the Appeal of Angela A. Phillips

Hearing Dates: May 13, 2016
 May 31, 2016

Hearing Location: Room 301-A, City Hall, 200 E. Wells Street, and Room 111, 809 N. Broadway

Commissioners: Steven M. DeVougas
 Kathryn A. Hein
 Michael M. O'Hear

Hearing Examiner: Rudolph M. Konrad

Appearances: For the Milwaukee Police Department,
 Assistant City Attorney Robin A. Pederson

 For Angela A. Phillips
 Attorney Rodney L. Cubbie

PROCEDURAL HISTORY

In an order dated October 13, 2015, Chief of Police Edward A. Flynn charged Angela A. Phillips with violating Milwaukee Police Department rules and regulations. The charge (Exhibit 1) cites the following rules and regulations:

- Core Value 3.00, *Integrity*, Referencing Guiding Principle 3.01
- Core Value 3.00, *Integrity*, Referencing Guiding Principle 3.11

Phillips, the Appellate in this matter, filed an appeal with the Milwaukee Fire and Police Commission from the order of the Police Chief and a hearing was held.

SUMMARY OF HEARING PROCEEDINGS

The hearing was held on May 13, 2016, and May 31, 2016. The hearing was recorded by a stenographic reporter. On May 13th, testimony was taken from the following witnesses:

For the Police Chief: Angela A. Phillips, adversely
 Police Officer Derek Jeter
 Police Sergeant Christopher Schroeder

For the Appellant: None called

On May 31st, testimony was taken from the following witnesses:

For the Police Chief: Assistant Chief of Police Carianne Yerkes

For the Appellant: None called

FINDINGS OF FACT

We find the following facts have been established by a preponderance of the evidence.

1. Angela A. Phillips joined the Milwaukee Police Department as a Police Officer on April 12, 1993, and continued to serve in that position until October 13, 2015. At the time of her discharge she was assigned to the Sensitive Crimes Division, in which she had served for ten years. (Ex. 16).
2. Angela Phillips has a daughter named Alecea Phillips, who owned a 2001 Saab automobile. On October 31, 2014, Alecea left her Saab parked in a McDonald's Restaurant parking lot at 82nd and Hampton Street. The vehicle stalled and would not start. Alecea told her mother that the vehicle was at McDonald's and would not start, and that she had permission to leave it there. Angela Phillips' husband attempted to start the vehicle but failed. Shortly thereafter, Alecea Phillips learned her vehicle was no longer at the McDonald's lot. (Exs. 3, 14).
3. A month later, on December 1, 2014, Alecea Phillips went to the 7th District Police Station to report her vehicle stolen. At District 7, the attending officer checked the tow records and told Alecea that her vehicle had been towed, and therefore she would not be permitted to file a stolen vehicle report. She claimed the officer directed her to an address on Wright Street as the location of the tow lot. (Exs. 3, 14).
4. After Alecea Phillips failed to find her vehicle at the Wright Street location, there is no evidence or explanation offered why she did not return to the District 7 and report that her vehicle was not at that location. Tow Slip No. 1603899 indicates the vehicle was towed on November 2, 2014, and taken to the tow lot on 4000 W. Mitchell Street. (Ex. 7).

5. On December 2, 2014, Angela Phillips went to the 5th District Police Station to report her daughter's vehicle had been stolen. Police Officer Derek Jeter, whom she has known for twenty years, took the report. The report had to be filed by the vehicle owner; nevertheless, Angela Phillips, who is not the owner, filed the report and signed her daughter's name, "Alecea Phillips," in two places on the report where the owner's signature was required. (Ex. 4). Officer Jeter testified that Angela Phillips submitted the stolen vehicle report unaccompanied by anyone.
6. Officer Jeter looked up the tow record on the computer and marked on the report that the Tow File was checked. (Ex. 4). He told Angela Phillips where the tow lot was located if the vehicle had in fact been towed. He advised her to have a supervisor meet her at the tow lot in case problems arose, and for the supervisor to inform the towing company the vehicle may have been towed illegally. A copy of the Tow Slip printed on December 2, 2014, contains the note entered on November 2, 2014, stating the vehicle was at the 4000 W. Mitchell Street tow lot. (Ex. 7).
7. On December 5, 2014, Angela and Alecea Phillips went to the tow lot at 4000 W. Mitchell Street to recover the vehicle. Angela Phillips requested a MPD supervisor to meet her there and Sergeant John P. Corbett responded to the location. Although Sergeant Corbett did not provide testimony during the hearing, two audio recordings of his interviews with Internal Affairs detectives were admitted into evidence. (Exs. 9 & 10).
8. Upon his arrival, Sergeant Corbett spoke to Angela Phillips and he memorialized the information he received from her in his report dated December 8, 2014. (Ex. 5). Angela Phillips told him that her daughter's car went missing from a McDonald's parking lot in early November. She stated to him that her daughter spent some time looking for the car and located it at a tow lot at 40th and Lincoln (Mitchell). Before finding the car, her daughter had not reported it stolen. Angela Phillips further advised Sergeant Corbett that her husband had called the tow company owner, Shaun Brayden, who told him that \$1,000.00 had to be paid to retrieve the car. She indicated that her husband and Mr. Brayden argued about the validity of the tow. Thereafter, she said her daughter reported the car stolen. (Exs. 5 & 9).
9. During the Internal Affairs Division's criminal investigation of this matter, Detective Charles Shepard interviewed Angela Phillips on February 9, 2015. A copy of this video was admitted into evidence. (Ex. 3). When Angela Phillips was asked if her daughter had reported the vehicle stolen she replied, "It was reported stolen." She responded in this passive fashion to several follow-up questions about who exactly reported the vehicle stolen. She finally said she and her daughter reported it stolen. When asked directly if her daughter was with her when the vehicle was reported stolen, she answered "yes"; they reported it together. When asked if she signed her daughter's name to the theft report, she replied, "I could have." She then admitted she filled out the report and signed her daughter's name to it. However, she denied speaking with anyone at the tow company before reporting the vehicle stolen. She denied that she was aware of any fees until she

went to the tow lot, and she denied that she or her husband ever had a telephone conversation with the tow company owner. (Exs. 3, 4, 14).

10. Angela Phillips attributed her untruthful and evasive answers to Detective Shepard's questions to confusion caused by a medical treatment she was receiving at the time. She also denied making the statements at the tow lot attributed to her in Sergeant's Corbett's report. She accused Sergeant Corbett of being biased against her because of her involvement in an investigation in 2009, in which he had a personal interest. The Commission did not find her explanations to be credible. (Ex. 20).

CONCLUSIONS OF LAW

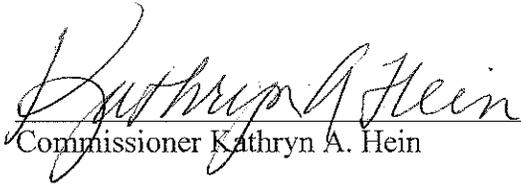
11. This appeal is governed by the seven just cause standards set forth in Wis. Stat. sec. 62.50(17) (b). The Commission must find by a preponderance of the evidence that there is just cause to sustain the charges. Preponderance of the evidence means "more likely than not," rather than just possible. See, e.g., *U.S. v. Johnson*, 342 F.3d 731, 734 (7th Cir. 2003). We conclude that all seven standards are satisfied with respect to the charge against Angela Phillips.
12. The first just cause standard asks, "whether the subordinate could reasonably be expected to have knowledge of the probable consequences of the alleged conduct." Angela Phillips had been a police officer for twenty years; accordingly, she should know that integrity and honesty are fundamental to police work. Both principles are clearly established in Milwaukee Police Department rules and are currently embodied in Core Value 3.00. Angela Phillips knowingly signed her daughter's name to an official police report and was deliberately untruthful in her answers when questioned about who signed the report. The Commission does not find Phillips' explanations and excuses to be credible. We conclude the Chief has satisfied the first standard by a preponderance of the evidence.
13. The second just cause standard asks, "whether the rule or order the subordinate allegedly violated is reasonable." Core Value 3.00 – Integrity, tells department members their conduct must be beyond reproach and worthy of public trust. This requires them to be honest and truthful in word and deed. Reference Guiding Principle 3.01, requires department members to behave on and off duty so as to not discredit the department or to create the appearance of impropriety or corrupt behavior. Reference Guiding Principle 3.11, requires department members to be "complete, honest, and accurate with respect to all relevant facts and information pertaining to any criminal or civil investigation, report or inquiry." (Ex. 1). We have no difficulty concluding that the integrity policy is reasonable. Nor is it necessary to explain at length the self-evident reasons that the integrity policy is reasonable. The subject is also addressed in Paragraph 22 of this decision. We conclude the Chief has satisfied the second standard by a preponderance of the evidence.

14. The third just cause standard asks: "whether the Chief, before filing the charge against the subordinate, made a reasonable effort to discover whether the subordinate did in fact violate the rule or order." Sergeant Christopher Schroeder testified regarding the effort made to investigate this case. In addition, an extensive criminal investigation was conducted by Detective Charles Shepard. These efforts are reflected in Exhibit 8. We conclude the Chief has satisfied the third standard by a preponderance of the evidence
15. The fourth just cause standard asks, "whether the effort was fair and objective." Reviewing the entire record in this matter, we find no evidence pointing to any animus directed against Angela Phillips. She was given several opportunities to be honest and forthright about her conduct but declined to do so. The only accusation of bias made on the record was Angela Phillips' accusation of bias on the part of Sergeant Corbett, which the Commission found to be not credible. We conclude the Chief has satisfied the fourth standard by a preponderance of the evidence.
16. The fifth just cause standard asks, "whether the Chief discovered substantial evidence that the subordinate violated the rule or order as described in the charges filed against the subordinate." In this case the false report submitted by Angela Phillips was submitted into evidence as Exhibit 4. Her false statements to Detective Shepard about who signed the report were recorded on video tape. (Ex. 3). Her statements to Sergeant Corbett and Detective Shepard were admissions of wrongdoing. The tow records indicate she knew the vehicle she reported stolen had been towed. We conclude the Chief has satisfied the fifth standard by a preponderance of the evidence.
17. The sixth just cause standard asks, "whether the Chief is applying the rule or order fairly and without discrimination against the subordinate." As discussed above, we find a thorough investigation was conducted with no credible evidence of animus against Phillips. The testimony of Assistant Chief of Police Carianne Yerkes and the Discipline Review Summary and the supporting documents establish the considerations, both aggravating and mitigating, that were presented for the Chief's consideration, and we find nothing unfair or improper about any of them. (Ex. 15, 16, 17, 20, 21). We conclude the Chief has satisfied the sixth standard by a preponderance of the evidence
18. The seventh and final just cause standard asks, "whether the proposed discipline reasonably relates to the seriousness of the alleged violation and to the subordinate's record of service with the department." We noted earlier that the need for police officer to be truthful in the performance of their duties, in writing official reports, and in answering question during an inquiry is self-evident. Moreover, we find the testimony of Assistant Chief of Police Carianne Yerkes, explaining how police officers' untruthfulness damages the effectiveness of the police department particularly and law enforcement generally, to be credible and convincing. The seriousness of this violation cannot be understated. Angela Phillips filed a false official document. When questioned about it by her superior officers she was untruthful and evasive. The Commission concludes that those reasons alone justify discharge. The Commission, however, in its consideration of this matter gave no weight to any of the negative incidents in her employment history. Those incidents were too old or of a minor nature. In addition, the Commission did not take into

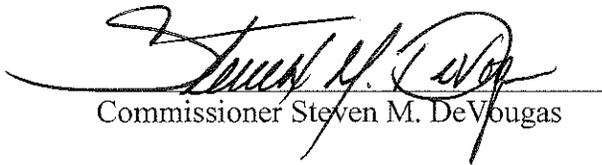
consideration any alleged financial loss that might have been incurred by the towing company. We conclude the Chief has satisfied the seventh standard by a preponderance of the evidence. We further conclude that the good of the service requires that Angela A. Phillips be discharged from the Milwaukee Police Department for the charges have been sustained. The Commission bases its decision upon substantial evidence.

DECISION

The Appellant, Angela A. Phillips, is ordered discharged from the Milwaukee Police Department.


Commissioner Kathryn A. Hein

7/5/16
Date


Commissioner Steven M. DeVogus

6/29/16
Date


Commissioner Michael M. O'Hear

7/5/16
Date