

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

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**In the Matter of the Appeal of Jared J. Triplett**

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Hearing Date: April 11, 2016

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

Commissioners: Marisabel Cabrera  
Kathryn A. Hein  
Michael M. O’Hear

Hearing Examiner: Michael M. O’Hear

Appearances: Robin Pederson, Assistant City Attorney  
For the Milwaukee Fire Department

Attorney Christopher J. MacGillis  
For Appellant Jared J. Triplett

**PROCEDURAL HISTORY**

Fire Chief Mark Rohlfing charged Lieutenant Jared J. Triplett in an order dated July 16, 2015, with violating Milwaukee Fire Department rules and regulations. The charge (Exhibit 1) cited the following rules and regulations:

- 22.2: Use of department equipment and supplies
- 24.1: Rules, orders, laws, ordinances, etc.
- 24.2: General conduct
- 24.3: Conduct of officers and supervisors
- #2002-33: Smoking ban for department buildings and vehicles
- #2006-06: Commitment to professional conduct and behavior
- #2013-17: Department-wide accountability expectation

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

## **SUMMARY OF HEARING PROCEEDINGS**

The hearing was conducted on April 11, 2016. The hearing was recorded by a stenographic reporter. Testimony was taken from the following witnesses:

For the Fire Chief:                   Assistant Chief Gerard Washington, Milwaukee Fire Department  
  Chief Mark Rohlfing, Milwaukee Fire Department

For the Appellant:                   Lieutenant Jared Triplett, Milwaukee Fire Department  
  Firefighter Tim Trumble, Milwaukee Fire Department  
  Captain Joshua Parish, Milwaukee Fire Department  
  Assistant Chief Alonzo Chapman, Milwaukee County  
  Fire Department  
  Ricky Francis  
  Judith Sumbry

Based upon the evidence received at the hearing, the Commission makes the following findings of fact and conclusions of law.

### **FINDINGS OF FACT**

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

1. Jared J. Triplett began working for the Milwaukee Fire Department in 2004 as a fire cadet. In 2005, he became a firefighter, and continued in a variety of positions with the Department until 2015. There is no dispute that Triplett had a strong record of service to the Department. He achieved particular distinction representing the Department in the community as a fire educator and recruiter. No evidence was presented suggesting that he was involved in any misconduct of any sort prior to June 2015.
2. On the evening of June 1, 2015, while he was working at Station 26, Triplett permitted three civilians to record a music video using various items of Department equipment, including firefighting gear, a portable radio, a forcible reentry tool, and a fire hose and nozzle. Additionally, Triplett moved an apparatus for the performers and permitted them to pose in front of the apparatus, which had its flashing lights on.
3. The video was produced by an individual named Steve White, who was an acquaintance of Triplett's. It appears that Triplett permitted the video to be filmed at Station 26 as a favor to White. Triplett received no compensation for what he did, and he had no financial stake in White's business. Triplett had no specific knowledge of how the video was to be used, and he made no inquiries to determine what would be done with it.

4. The video, which was admitted into evidence at the hearing as Exhibit 6, depicted two performers lip syncing to a precoded song with sexually suggestive lyrics. In addition to the images from Station 26, some segments of the final video depicted a male and female performer in a bedroom. This portion of the video was somewhat more sexually explicit than the portion filmed at Station 26. Triplett was not involved in any way in the planning or filming of the bedroom scenes.
5. The segment from Station 26 included a brief sequence in which Triplett himself was depicted smoking a cigar. Triplett testified that he did not know this sequence would be included in the final video, and he did not give permission to White for his image to be used in this way.
6. The filming at Station 26 lasted about thirty minutes. There was no evidence that the filming interfered in any way with any responses to calls for service.
7. Triplett did not hear anything more about the video until June 16, 2015, when he was informed by coworkers that they had seen him in the video, which was available on-line to the public. Triplett then viewed the video himself. He testified that he was “surprised” and “shocked” by what he saw, and immediately asked White to take it down.
8. There was no evidence presented that any members of the public viewed the video, although it seems unlikely that viewing was entirely limited to Department personnel.
9. The video came to the attention of Assistant Chief Gerard Washington about the same time that Triplett first viewed it. Triplett was required to explain what happened, which he did in a formal written statement on June 17, 2015 (Exhibit 5). In his statement, he was forthcoming in admitting the basic facts set forth above.
10. The Chief convened a Board of Investigation to gather more information. On July 7, 2015, Triplett was interviewed by the Board. No recording was made of his interview.
11. The only real matter of factual dispute in this appeal related to what Triplett said at the July 7, 2015 interview. Assistant Chief Washington testified that Triplett denied knowledge that a video was going to be made; according to Washington, Triplett insisted that he thought only still camera shots would be taken at Station 26. This would be inconsistent with his earlier written statement, in which he clearly admitted that he knew a video would be made. (Exhibit 5) Counsel for the Chief thus argued that Triplett was dishonest in his statements to the Board of Investigation. On the other hand, as Triplett’s counsel argued, it seems unlikely that on July 7, 2015, Triplett would deny what he had already admitted on June 17, 2015. Moreover, at our hearing, Triplett denied making the statements he was accused of making on July 7, 2015, and his testimony was backed up by that of Local Union 215 Representative Tim Trumble, who was also present at the

July 7, 2015, interview. On this record, we cannot find that the Chief has proven by a preponderance of the evidence that Triplett lied to the Board of Investigation. We note that it is possible some honest miscommunication occurred on July 7, 2015. For instance, at our hearing, Triplett indicated that the words “shot” and “picture” did not necessarily mean “still shot” to him, but could encompass a sequence of video images, too.

12. From the start, Triplett has accepted responsibility for his error in judgment in permitting the video to be made at Station 26. At the hearing, it appeared to us that he was genuinely and deeply remorseful regarding this misconduct.

### **CONCLUSIONS OF LAW**

13. Disciplinary appeals before this Board are normally divided into two parts. In Phase I, we determine whether a violation of a Department rule has been proven by a preponderance of the evidence. In making this determination, we are guided by the first five “just cause” standards set forth in Wis. Stat. §62.50(17)(b). In Phase II, we determine whether the “good of the service” requires discharge or some lesser discipline. In making this determination, we are guided by the sixth and seventh statutory just cause standards. We also take into account the categories of evidence specified in Section 14 of our own Rule XVI (i.e., evidence regarding “character, work record, and the impact of the misconduct on the complainant, department, and community”).
14. In the present matter, Triplett has waived Phase I and concedes that he violated Department rules except with respect to the alleged untruthfulness at the July 7, 2015 Board of Investigation interview. For the reasons indicated above in ¶ 11, we cannot sustain the untruthfulness charge and thus will not consider it for purposes of Phase II. Before proceeding to our discussion of Phase II, however, we note our concern that Triplett’s alleged untruthful statements were not specifically identified in the formal complaint against him (Exhibit 1). As a matter of fairness, it seems to us desirable for such statements to be clearly set out in the charging document.
15. The sixth just cause standard is, “Whether the chief is applying the rule or order fairly and without discrimination against the subordinate.” Triplett’s admitted misconduct clearly violated Department rules and warranted a significant sanction. It appears that appropriate investigatory and disciplinary procedures were followed in this case. There is no apparent basis for inferring any sort of impermissible discrimination against Triplett. We conclude that the sixth just cause standard is satisfied.
16. Putting aside the untruthfulness charge, the only real dispute in the present appeal seems to be how to apply the seventh just cause standard: “Whether the proposed discipline reasonably relates to the seriousness of the alleged violation and to the subordinate’s record of service with the chief’s department.” The Chief makes no argument as to

record of service, but focuses entirely on the seriousness of Triplett's misconduct, contending that the misconduct was so outrageous that termination is required for the good of the service. Conversely, Triplett concedes that his violation was serious, but relies on his positive record of service to outweigh that seriousness.

17. How best to weigh an aggravating violation versus a mitigating record of service is a judgment call, not a matter of objective fact-finding. That said, we do agree with the Chief's counsel that there are some violations that are so serious that no record of good service can offset them. However, we do not think this to be such a case.
18. Although framed by reference to a multitude of different rules, Triplett's sustained violations really boil down to two actions: (1) smoking a cigar in Station 26, and (2) permitting the filming of a video in Station 26 using Department gear and other property. We certainly support the Department's no-smoking policy, but we do not understand the Chief to be contending that, standing alone, a first-time violation of that policy would warrant termination. We are much more concerned about the use of Department property for unauthorized, private purposes. Further aggravating this misconduct was the fact that the video record created was released to the public, thereby associating the Milwaukee Fire Department and its trademark with a sexually suggestive music video that reflected poorly on the Department's professionalism. Although Triplett testified that he did not actually know the video would be publicly released, we think he knew or should have known of the possibility. His seemingly cavalier attitude regarding the Department's reputation leaves us unwilling to retain him in a position of such responsibility as lieutenant. Indeed, we are struck by the total lack of deliberation on Triplett's part in allowing a relatively unknown individual to produce a video at the station of unknown content and an unknown use. Triplett asked no questions of the videographer and by his own admission, he did not even think to ask questions. A supervisor, especially at the rank of lieutenant, has a leadership role and should be more thoughtful and thorough in making decisions.
19. On the other hand, Triplett's misconduct caused no physical harm to anyone and damaged no Department property. Moreover, Triplett testified that his actions did nothing to compromise the ability of Station 26 to respond promptly and effectively to calls for service, and we have no basis in the record for concluding otherwise. Finally, we note that the video recording on June 1, 2015, was a relatively brief, one-time incident, and Triplett took immediate corrective action after he learned that the video had been publicly released.
20. Weighing against the seriousness of the violation is Triplett's positive record of service, including his work with young people. Also reflecting well on Triplett's character is his acceptance of responsibility for the June 1, 2015, incident. We note, too, the many Phase

II witnesses who testified to Triplett's reliability, care for others, and devotion to public service. Exhibits 21-34 document various aspects of Triplett's positive record of service.

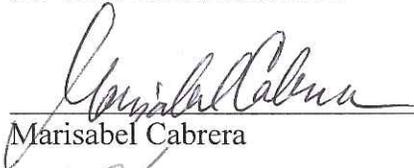
21. Taking into account the sixth and seventh just cause standards, including the specific considerations identified in our rules, we conclude that the good of the service does not require that Triplett be discharged from the Department. However, we believe that the good of the service does still require a severe, if somewhat lesser, sanction. It is very important for all Department members to understand that neither Department property nor its trademark (i.e., brand or image) may be used for unauthorized, private purposes. It is also very important for all Department members to be cognizant of the ways that their actions may harm the Department's reputation and ultimately undermine the community trust that is necessary for the Department to be able to provide effective service. Given the importance of these values, we conclude that the good of the service requires that Triplett be demoted to his prior rank. Although his responsibilities will be diminished, we hope and expect that Triplett will provide many more years of good service to the people of Milwaukee.

**DECISION**

The charges against the Appellant, Jared J. Triplett, are sustained in part, and it is hereby ordered that he be reduced to his prior rank.

Dated at Milwaukee, Wisconsin.

BY THE COMMISSION:

  
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Marisabel Cabrera

April 21, 2016

  
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Kathryn A. Hein

April 21, 2016

  
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Michael M. O'Hear

April 21, 2016