

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

In the Matter of the Appeal of Arttavius Bradford

Hearing Date(s): September 24, 2020

Hearing Location: City Hall, 200 E. Wells Street,
Milwaukee, Wisconsin
Room 301-A, 8:30 A.M.

Commissioners: Everett Cocroft
Fred Crouther
Nelson Soler

Hearing Examiner: Rudolph M. Konrad, Esq.

Appearances: For the Milwaukee Police Department,
Robin A. Pederson, Esq.
Office of the City Attorney

For Appellant, Arttavius Bradford
Brendan P. Matthews, Esq.
Rebecca Meyer, Esq.
Cermele & Matthews, S.C.

PROCEDURAL HISTORY

In Personnel Order 2020-20, dated March 3, 2020, Chief of Police Alfonso Morales ("Chief Morales" or "Chief") found that Police Officer Arttavius Bradford ("Officer Bradford") had violated Milwaukee Police Department Code of Conduct provision, Core Value 3.00, Integrity, referencing Guiding Principle 3.01, which prohibits members, whether on or off duty, from behaving in a way that a reasonable person would expect to bring discredit on the department or would create the appearance of impropriety or corrupt behavior. Specifically, Chief Morales found that Officer Bradford, while attending youth basketball classes with his two young sons, argued with two Milwaukee Public School Recreation Department youth basketball instructors in a loud and profane manner and used his position as a police officer to intimidate them. For this violation, Chief Morales suspended Officer Bradford for fifteen (15) working days without pay.

Officer Bradford appealed the Chief's order to the Milwaukee Fire and Police Commission.

SUMMARY OF PROCEEDINGS

A hearing was held and recorded by a stenographic reporter. Testimony was taken from the following witnesses:

For the Police Chief: Police Officer Arttavius Bradford
 Albert Dickenson
 Brian Foeckler
 Police Sergeant Matthew Palmer
 Assistant Chief Terrance Gordon

For Officer Bradford: Sergeant Rodney Washington
 Police Inspector Shunta Boston-Smith
 MPA Secretary-Treasurer, Danilo Cardenas
 Police Officer Arttavius Bradford

FINDINGS OF FACT

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

1. This discipline arises out of an incident that occurred on the morning of October 12, 2019, at Alexander Hamilton High School. Officer Bradford was off duty attending youth basketball classes with his two sons, ages six and nine. The classes were sponsored by the Milwaukee Public School's Recreation Department and were supervised and coached by MPS employees.

2. Coach Albert Dickenson ("Coach Dickenson") filed a citizen's complaint against Officer Bradford. He filled out the MPD Citizen Complaint form two days after the incident. In the complaint he states that he told Officer Bradford's older son to stop playing with a basketball. After he ignored his instruction, he told him that if he was going to give him "attitude," he could sit out for a while. This occurred at a time when the basketball floor was reserved for the younger children who had just finished their class to play and practice. The older children were permitted to play and practice after their class, which had not yet commenced. A moment after Bradford's older son put the basketball away, Officer Bradford confronted him, asking what he did to disrespect his son and make him cry. He then explained to Officer Bradford what had occurred. Officer Bradford asked why he "f***ing swore" at his son and if he knew who he was. He responded, "no." Officer Bradford told him his children would not lie, that he does not swear in front of his children, and that he was a MPD officer but he could "go back to his time on the streets and break your f***ing face." Coach Dickenson then tried to calm Officer Bradford down. At this point, Coach Brian Foeckler ("Coach Foeckler") stepped between them and told Officer Bradford, "We're done here, we're done here." Officer Bradford continued yelling. Coach Foeckler raised his hand as a gesture to stop and told Officer Bradford he needed to leave. Officer Bradford then slapped his hand away and demanded to see their boss. The coaches directed Officer Bradford to the office. A few minutes later Officer Bradford and the two coaches met with

recreation supervisors Michael Biba ("Biba") and Skyler Harmon ("Harmon"). Officer Bradford told the supervisors that Coach Dickenson had sworn at and disrespected his son, and, "I'm on the FBI task force for MPD and I can take your job, I can fix your slick mouth, too." Harmon and Biba calmed Officer Bradford down and persuaded him to leave. (Ex. 2)

3. At the hearing, Coach Dickenson testified that Officer Bradford's older son was playing with a basketball when the court was reserved for the younger children. He told him to put the basketball away and sit down. He did not swear at him, does not swear at the children, and would be reprimanded if he did. Officer Bradford came from behind and yelled at him, "Did you swear at my son?" "What did you say?" He told Officer Bradford he did not swear at his son and tried to explain what had occurred but was shouted over. Coach Dickenson felt threatened because Officer Bradford was pointing a finger in his face and stating words to the effect that he would go back to his time in the streets and break his f***ing face. He said he was a police officer, he did not teach his children to lie and does not swear in front of his children, although he was swearing using the terms "f***ing swear," and "f***ing coach." Coach Foeckler came over and told him to settle down but was verbally assaulted by Officer Bradford. Coach Foeckler told him, "We are done here, please leave." Coach Dickenson heard a slap, but did not see what occurred. When they met with Officer Bradford and their supervisors in the hallway, Officer Bradford threatened to "Wipe that slick mouth off your face," and "Take your jobs." He also threatened to call a squad. Coach Dickenson described Officer Bradford's conduct as aggressive, shouting, and loud.

4. A second citizen complaint against Officer Bradford was filed by Coach Brian Foeckler ("Coach Foeckler"). He also filled out the MPD Citizen Complaint form two days after the incident. In the complaint he states he was teaching basketball to 4-6 year old children at the far end of the court when he heard yelling and saw a parent yelling at a co-worker. He walked over with his hands in his pockets and immediately stepped between them. He began to tell the parent to just leave and go home, but the parent became angrier. The parent, Officer Bradford, told him he was a police officer who worked with the FBI taskforce. As Officer Bradford came closer to him he raised his hands. Officer Bradford violently smacked them down and said he would take this to the street and handle it. Coach Foeckler told Officer Bradford not to put his hands on him and just go home. During the subsequent meeting with the supervisors, Officer Bradford again yelled and pointed his fingers at him. He tried to explain the gym rules but Officer Bradford cut him off and said, "I will take you to the street and take care of you." He told him not to threaten him and Officer Bradford responded that he could take him to jail right now if he wanted to. (Ex. 3)

5. At the hearing, Coach Foeckler testified he heard a noise and saw a parent arguing with Coach Dickenson. He walked over with his hands in his pockets to try to deescalate the situation. Officer Bradford was angry. Coach Foeckler stepped between them. Officer Bradford told Coach Foeckler that Coach Dickenson had disrespected his son and continued to talk over him. Coach Foeckler told Officer Bradford to go home. Officer Bradford told him he would take it to the streets to settle this. Coach Foeckler told him again to go home. He never touched Officer Bradford, but when he raised his hand and told him to leave, Officer Bradford slapped his hand down. He heard Coach Dickenson shout "Sorry, I'm sorry," and

heard Officer Bradford drop the "F-bomb." To him the situation was "crazy, insane." When they met again in the hallway with their supervisors, Officer Bradford was still yelling and making remarks such as "I'll have your jobs . . . I can take you to jail . . . I'll wipe that smirk off your face . . . take it to the streets." After this confrontation with Officer Bradford, he feared Officer Bradford would be outside waiting for him.

6. On December 10, 2019, Sergeant Matthew Palmer ("Sergeant Palmer") interviewed Biba and Harmon. Biba told him Officer Bradford identified himself as a Milwaukee police officer. He interpreted that as an attempt to enhance his credibility. Officer Bradford was "extremely agitated" and claimed Coach Dickenson disrespected his son. The coaches maintained no one cursed Officer Bradford's son, but that he was told to get off the court. Officer Bradford admitted slapping Coach Foeckler's hand away but claimed he had pointed a finger in his face. Officer Bradford continued to reference his MPD position "almost as a threat," making reference to the FBI task force, threatening to jail Coach Foeckler, and possibly threatened to "smash" in Coach Foeckler's face. Officer Bradford left when Biba told him to leave. Biba felt Officer Bradford was "using his position in a threatening manner," and scared his coaches. (Ex. 4)

7. Harmon told Sergeant Palmer that he and Biba tried to talk to the coaches about Officer Bradford's complaint, but they were unable to do so because Officer Bradford was upset, confrontational, and yelling at the instructors. The coaches were defensive but did not yell back. Officer Bradford made no physical contact, but made verbal threats including that he was part of the FBI taskforce and could look into Coach Foeckler, and that the coaches would not keep their jobs, but he did not hear him threaten to take Foeckler to jail or to "take care of him." (Ex. 4)

8. The events at the gym were recorded by a security camera that recorded video but no sound. The two minute video shows an animated confrontation between Officer Bradford and the two coaches. The video shows Officer Bradford approaching Coach Dickenson and then standing directly in front of him, he then raises his hand and points at the coach, at his son, and at the coach again and takes a step forward. At that point Coach Foeckler, hands in his pockets, walks up to the confrontation and steps directly between Coach Dickenson and Officer Bradford. The video shows what appears to be momentary contact at stomach level between the two. Coach Foeckler continued to take steps to remain between Coach Dickenson and Officer Bradford. Coach Foeckler takes his right hand from his pocket and raises it shoulder height in what appeared to be a palm-out stop gesture. Officer Bradford than strikes down Coach Foeckler's hand. The argument continued for about thirty (30) more seconds when Officer Bradford leaves to find the coaches' supervisor. (Ex. 4) Officer Bradford testified that during this time he was angry and upset and described his conduct as "boisterous," but not threatening.

9. In his PI-21 Officer Bradford denied yelling or shouting and claimed they were "just talking," and denied making the threatening statements alleged by Coach Dickenson. He claimed he did not become loud and claimed he "swatted" down Coach Foeckler's hand because he touched his nose. When pressed on this point, he was adamant that the coach's

hand was not in a "stop" position and that the coach touched his nose, although the video shows the hand in a stop position and does not show any contact at that point. He further denied making the threatening statements alleged during the conversation with the coaches' supervisors, but did admit stating he could call a squad, that he was a member of the FBI taskforce, and that he was not a thug, but a police officer. He maintained he did this because Coach Foeckler began to laugh and he wanted to show he was serious. Moreover, he believes his statement that he could call a squad was justified because he felt threatened by Coach Foeckler's action on the court. He acknowledged that threatening to take a basketball instructor to jail over an argument would embarrass or cause discredit to the MPD, but denied he threatened to take anyone to jail. Finally, Officer Bradford maintained he handled the situation appropriately as a parent, but he should have approached the supervisors directly instead of speaking to the instructors. (Ex. 1, 4)

10. In his testimony, Officer Bradford admitted he was "boisterous," but denied making any threats. He also admitted that he had identified himself as a police officer attached to the FBI taskforce when he spoke to the supervisors. He also acknowledges he should have handled the matter differently, and he should have made his complaint directly to the coaches' supervisors. (Ex. 1, 4)

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 the first six just cause standards are satisfied and sustain the imposition of discipline. In reference to the seventh standard, however, we conclude that the preponderance evidence supports a seven (7) day suspension in lieu of fifteen (15) days.

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." The Code of Conduct provision in issue prohibits conduct, whether on or off duty, that a reasonable person would expect to bring discredit on the department or would create the appearance of impropriety or corrupt behavior. Threatening citizens with physical harm, verbally assaulting them, and intimidating them with threats of police action are clearly a violation of the Code of Conduct. A reasonable police officer would conclude that engaging in such egregious behavior would bring discredit on the department and create the appearance of improper behavior. 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." The rule alleged to have been violated in this case is necessary to maintain public confidence in the integrity and professionalism of the MPD. 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 Palmer testified regarding the effort made to investigate this case, which is recorded in his Citizen Complaint Supervisor's Report. (Ex. 4) His report includes a summary of the content of the gym's security camera video, his interviews of the two coaches, their supervisors and Officer Bradford's PI-21 statement. Officer Bradford also submitted a memorandum stating his understanding of what had occurred, which is part of the investigative file. (Ex. 6) We conclude the Chief has satisfied the third standard by a preponderance of the evidence.

15. The fourth just cause standard asks, whether the investigative effort described above was "fair and objective." Reviewing the entire record in this matter, we find no evidence of any animus directed against Officer Bradford or unfairness or lack of objectivity in the investigation. 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." Both coaches testified that Officer Bradford engages in loud, profane, and threatening behavior in the gym. Their testimony was for the most part consistent with what they had written in their citizen's complaint two days after the incident. The two supervisors described to Sergeant Palmer Officer Bradford's loud and threatening behavior in the hallway. The video shows an over-the-top animated dispute taking place in the gym. Officer Bradford denies swearing, but admits to being "boisterous," and admits he made remarks about his position as a police officer and his connection to the FBI taskforce, but denies he did so to threaten the coaches. The weight of the evidence—four credible witnesses and the video tape—supports the findings that Officer Bradford engaged in behavior that violated the Code of Conduct as charges and that his denials are not credible. 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 the officer. The testimony of Assistant Chief Terrance Gordon, the Discipline Review Summary, and the supporting documents establish the considerations that were presented for the Chief's review. (Ex. 10) 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." Officer Bradford argued that the Commission should take into consideration the fact that his behavior was triggered by what he perceived to be mistreatment of his son. This argument is not convincing because he could have dealt with the matter differently, which he admits. Officer Bradford also argues that the discipline in this case is more severe than in prior cases for similar offenses. In reviewing prior disciplines for similar offenses, it must be acknowledged that the facts of each case are different and the

discipline in each case is evaluated in the context of the officer's past performance, prior disciplines, and the extent to which the officer accepted responsibility for his or her actions. Nevertheless, we note that some prior disciplines offered into evidence at the hearing were less severe for what appeared to be more egregious conduct. Finally, Officer Bradford admitted that he should have handled the matter in a more professional manner. Taking these factors into consideration, we conclude that a seven (7) working day suspension without pay is the appropriate discipline.

DECISION

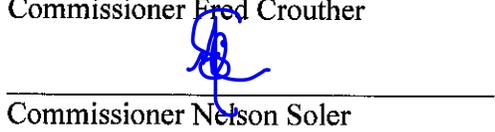
The Chief's discipline is sustained and the Appellant, Arttavius Bradford, is ordered suspended from the Milwaukee Police Department for a period of seven (7) working days without pay.



Commissioner Everett Cocroft



Commissioner Fred Crouther



Commissioner Nelson Soler

10.8.2020
Date

Oct 6th 2020
Date

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Date