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9-23-2011

CITY OF CHATTANOOGA vs. CARLOS E. WOODRUFF, SR., PETITIONER

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**BEFORE THE ADMINISTRATIVE JUDGE ON BEHALF OF THE
CITY COUNCIL OF THE CITY OF CHATTANOOGA**

IN THE MATTER OF:

DOCKET NO: 56.00-113118J

CARLOS E. WOODRUFF, SR.,

PETITIONER.

ORDER

This matter came to be heard on Friday, September 23, 2011 before the Honorable Dewayne Bunch, Administrative Judge with the State of Tennessee, while sitting in Chattanooga. Representing the City of Chattanooga was Mr. Ken Fritz, attorney for the City of Chattanooga. The Petitioner, Mr. Carlos E Woodruff, Sr. represented himself at the hearing. Testifying before the Court included Chief of Police Bobby Dodd, Sergeant Larry Guthrie and Officer Carlos Woodruff, the Petitioner.

HISTORY

The Petitioner was charged with several violations of the applicable Chattanooga City Code. The charges were that the Petitioner violated the Neglect of Duty code section, the Untruthfulness code section and the Extra Job Policy code section. The charges were properly brought to hearing before a disciplinary hearing per the Chattanooga City Code. The result of the disciplinary hearing was that the Petitioner was found in violation of Chattanooga City Code provisions as charged. Once the disciplinary hearing was completed, the Chattanooga City

Police Department imposed the disciplinary action upon the Petitioner. The punishment given to the Petitioner included the following;

- 1) Fourteen (14) days suspension without pay.
- 2) Six (6) month prohibition from working any extra jobs effective June 8, 2011, with the prohibition period ending December 8, 2011.

The Petitioner has appealed the decision but limits his appeal to the issue of the prohibition of working any extra jobs for a period of six months. Although the Petitioner has appealed, the Petitioner has served his two week suspension without pay and has not worked any extra jobs since June 8, 2011. The Petitioner is seeking relief from serving the entire six month prohibition from working extra jobs. The Petitioner is claiming undue financial hardship both personally and upon his family budget needs.

RULING

The Petitioner in the case does not contest his actions that led to the filing of the complaint against the Petitioner. The Petitioner does not contest the unpaid suspension from work for 14 days. The Petitioner is seeking only relief from the 6 month prohibition from outside work levied upon him as part of the disciplinary action in response for the Petitioner's violations of conduct and code.

The Petitioner appears to recognize and appreciate the opportunity that the Chief of Police has given the Petitioner by not terminating the Petitioner's employment due to the very serious nature of the Petitioner's actions. Time will tell if that is indeed the case. The Court finds that the Chief of Police's order of punishment is appropriate and justified due to the serious nature of the Petitioner's actions. That said, the Court does recognize the financial hardship that the six month prohibition of extra jobs during a consecutive six month period of time imposes

upon the Petitioner's family. Accordingly, based upon the facts and circumstances testified to, the Court modifies the underlying order to permit the Petitioner the opportunity to work extra jobs for one-half of each of the next four (4) months. This in effect maintains the underlying full term of punishment while mitigating the harsh unintended consequences upon the Petitioner's family. The order provides a one-half month window of opportunity for the Petitioner to work extra jobs during the next four months from October 2011 to February 2012. This should permit the Petitioner some relief from the financial hardships that are imposed upon his family and permit the full implementation of the six month punishment.

FINDINGS OF FACT

- 1) That the Petitioner is a law enforcement officer employed by the City of Chattanooga.
- 2) That the Petitioner has earned the distinction of Master Patrol Officer during his term of service.
- 3) That the Petitioner has notable positive evaluations for his job performance.
- 4) That the Petitioner has notable disciplinary actions of record during his term of service.
- 5) That the Petitioner was served notice of the hearing regarding the charges being levied against the Petitioner.
- 6) That the City conducted a disciplinary hearing pursuant to the Chattanooga City Code.
- 7) That the Petitioner attended the disciplinary hearing before the disciplinary hearing panel.
- 8) That the Petitioner had an opportunity to respond to the charges levied against the Petitioner.
- 9) That the Petitioner admits the violations and acts complained of and contained in the action filed against the Petitioner.

- 10) That the issue of termination of employment was discussed by the disciplinary panel charged with hearing the matter.
- 11) That the Chief of Police issued an order of punishment that suspends the Petitioner without pay for 14 days and prohibits the Petitioner from working extra jobs during a six month period from June 8th of 2011.
- 12) That the Petitioner filed an appeal of the order of the Chief of Police.
- 13) That the Petitioner had the opportunity to secure legal counsel at any point during this legal process.
- 14) That the Petitioner accepts his punishment and the order from the Chief of Police other than the Petitioner is seeking relief from the six month prohibition from working extra jobs due to financial hardship.
- 15) That the Petitioner admitted his mistakes with remorse and is thankful for the opportunity to continue to serve the citizens of Chattanooga as a member of the Chattanooga City Police Department.
- 16) That the Petitioner was very respectful of the parties that testified at his hearing and did not take issue with any of the disciplinary panels or IA's findings.
- 17) That the Chief of Police truly desires to "save this officer" and that the Petitioner "is a good employee".
- 18) That the charges against the Petitioner are very serious in nature and call into question his ability to continue to perform his job to the standards expected of a law enforcement officer.

19) That the uncontested evidence demonstrated that the Petitioner is suffering economic harm and that the Petitioner's family is suffering economic harm as a direct result of the Petitioner not being able to work extra jobs for a consecutive six month period of time.

CONCLUSIONS OF LAW

- 1) That the Petitioner was properly charged pursuant the Chattanooga City Code and the Rules and Regulations of the City of Chattanooga and the Chattanooga City Police Department.
- 2) That proper notice was given to the Petitioner.
- 3) That the issue before the Court is whether to affirm the underlying decision from which the Petitioner has appealed if there is a reasonable basis for the decision or to modify or set aside any decision of the Administrator on the basis of the evidence presented at the hearing.
- 4) That the evidence demonstrated that the underlying order should be modified to permit some relief to the Petitioner and, more importantly, to the Petitioner's family.

The Petitioner's appeal is granted to the extent that the underlying order of the Chief of Police is modified by modifying and extending the term of the prohibition of the Petitioner working extra jobs from the remaining two months (of the original six month prohibition) to four months with the Petitioner being granted the right to work extra jobs for one-half of each of the remaining four months of October, November, December and January. This should offer some financial relief to the Petitioner and his family while maintaining the seriousness of the underlying actions of the Petitioner which led to the Chief of Police's order.

IT IS SO ORDERED.

This Order entered and effective this 5 day of October, 2011

Dewayne Bunch
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this the
_____ day of _____ 2012.



THOMAS G. STOVALL, DIRECTOR
ADMINISTRATIVE PROCEDURES DIVISION
OFFICE OF THE SECRETARY OF STATE