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CLAUDE MANN, Grievant.

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**BEFORE THE CIVIL SERVICE COMMISSION OF THE METROPOLITAN  
GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY**

**IN THE MATTER OF:**

**CLAUDE MANN,**  
*Grievant*

**DOCKET NO: 43.02-111934J**

**INITIAL ORDER**

This contested case came to be heard on December 5, 2011, in Nashville, Tennessee, before Administrative Judge Lynn M. England, assigned by the Secretary of State, Administrative Procedures Division, and sitting for the Metropolitan Government of Nashville and Davidson County Civil Service Commission. Ms. Jennifer Cavanaugh, Assistant Metropolitan Attorney, represented the Davidson County Sheriff's Office. The Grievant, Claude Mann, was present and was represented by Mr. Richard McGee, of the Nashville Bar.

This matter became ready for consideration upon the filing of Proposed Findings of Fact and Conclusions of Law.

The subject of this hearing was Grievant's appeal of his termination and eighteen (18) day suspension from the Metropolitan Nashville Police Department ("MNPD") for violation of the following: MNPD General Order 06-05, "Department and Personal Appearance", VII. Personal Behavior: H. Obstruction of Rights; MNPD General Order 06-05, "Department and Personal Appearance," VII. Personal Behavior: A. Adherence to Policy and Rules of the Metropolitan Government, *to wit* General Order 05-21 "Use of Force"; MNPD General Order 06-05, "Department and Personal Appearance", VII. Personal Behavior: U. Acting Impartially; MNPD General Order 06-05, "Department and Personal Appearance," VII Personal Appearance, Official Obligations: J. Devoting Entire Time to Duty; as well as Civil Service Rules Section 6.7 "Grounds For Disciplinary Action".

After consideration of the testimony and evidence presented, the arguments of counsel, and the entire record in this matter, it is determined that the Grievant's termination shall be overturned and he shall receive a twenty day suspension. This determination is based on the following Findings of Fact and Conclusions of Law:

### **FINDINGS OF FACT**

1. Grievant was employed as a Police Officer with the MNPD from June 1, 1984 to March 29, 2011. On November 18, 2007, he was employed as a Police Officer II.
2. On November 18, 2007, the events leading up to his termination occurred. He was involved in an altercation which was the cited basis for termination.
3. Grievant was a patrol officer working under the DUI Enforcement Grant.
4. Grievant patrolled the area of Jefferson Street, 11<sup>th</sup> Avenue North and Meharry Boulevard.
5. This is a very high crime area for many offenses including drug and alcohol related crimes. Grievant has made numerous arrests for driving under the influence in this neighborhood throughout the years he has patrolled this zone.
6. According to the Grievant's Automatic Vehicle Locator (AVL) he spent approximately thirty minutes traveling from one end of 11<sup>th</sup> Avenue North to the other.
7. Grievant has personally known all the parties involved in the incident on November 17 – 18, 2007 for several years.
8. Grievant knew Mary Dailey, an elderly lady, lived at 1024 11<sup>th</sup> Avenue North, Nashville, Tennessee 37208 with her disabled son, Wayne Jenkins. Ms. Dailey is also the mother of Liz Leggs and Barbara Sweeney. Ms. Leggs was the girlfriend of the Grievant for 17 years prior to the date in question.
9. Barbara Sweeney and Derrick Asbury had been in a relationship for several years.

10. Grievant knew of Asbury and Sweeney's tumultuous relationship. He also knew that Derrick Asbury had been beating Barbara Sweeney for years and that Derrick Asbury had seriously injured Ms. Sweeney during these beatings.
11. Grievant knew that Derrick Asbury had been arrested in 2006 for assaulting Barbara Sweeney. He also knew that Derrick Asbury had been arrested by another Metro Police Officer for criminal trespass and disorderly conduct at 1024 11<sup>th</sup> Avenue North, the previous month, on October 21, 2007.
12. While on patrol on the evening of November 17-18, 2007, Grievant saw Barbara Sweeney drive through the alley behind Mary Dailey's house at 1024 11<sup>th</sup> Avenue North. He knew that Ms. Sweeney had been staying with her mother for about a month. He saw Ms. Sweeney walk into the house about 1:00 a.m.
13. Grievant continued on his patrol and a short time later he saw Derrick Asbury stooped over and then running at a full pace into Ms. Dailey's house.
14. Knowing that Mr. Asbury had been banned by Mrs. Dailey from her home, Grievant contacted his girlfriend, Liz Leggs. Based on his conversation with Ms. Leggs, and previous conversations with Ms. Dailey, Grievant believed Derrick Asbury was not allowed in Ms. Dailey's home.
15. Ms. Leggs was under the belief that an order of protection was in place prohibiting Derrick Asbury from having contact with her sister, Barbara Sweeney.
16. Grievant then made a call for other officers to respond to 1024 11<sup>th</sup> Ave. North.
17. Two officers responded to the call by Grievant. One was an officer in training, Adam Weeks. Along with Officer Weeks was Officer Michael Lawson. Officer Lawson was not Officer Weeks' regular training officer. Officer Lawson had been an officer for about one year at the time. The Grievant was the senior officer present at the scene.

18. Grievant also requested a supervisor, either a sergeant or lieutenant, respond to the scene. Grievant was informed by the two officers that a sergeant was not going to respond to the call.
19. Rather than leave these two officers alone at the scene, Grievant, as the more experienced officer, remained with them. Grievant informed them of Derrick Asbury's recent arrest for trespass and disorderly conduct at the residence. He also informed them that Derrick Asbury had been ordered not to be there, which was his belief at the time.
20. All three officers went to the front door of Ms. Dailey's house to ensure that she and Ms. Sweeney were safe. Ms. Dailey answered the door.
21. Ms. Dailey was not aware that Ms. Sweeney was in her home at the time. Grievant then informed her that he had seen Ms. Sweeney enter the home and that Derrick Asbury had followed Ms. Sweeney into the home. Grievant asked Ms. Dailey if she had invited Derrick Asbury into her home, to which she replied that she had not.
22. Grievant requested to see Ms. Sweeney to make sure she was safe. Ms. Dailey went inside and returned with Ms. Sweeney to the front door.
23. Ms. Sweeney was visibly upset. She was crying and her face was swollen. She had abrasions and contusions on her face.
24. Officer Weeks was of the opinion at that point that Ms. Sweeney had been abused.
25. Grievant asked Ms. Sweeney if Derrick had "done that to her" and she continued to cry. When asked by Grievant if Derrick was in the house, she moved aside and motioned towards the inside of the house.
26. Ms. Dailey then instructed the Grievant, "Claude, go in there and get him out."
27. The Grievant entered the house and proceeded to the back bedroom. Shining his flashlight into the darkened room, the Grievant saw a figure moving in the back of the room.
28. The Grievant ordered Derrick Asbury to show his hands.

29. Hearing the Grievant order Derrick Asbury to show his hands, the other two officers entered the house and proceeded to the bedroom to offer assistance.
30. The bedroom is very small. Inside the bedroom at this point is Derrick Asbury, Officers Weeks and Lawson and the Grievant along with a full or queen-size bed.
31. Derrick Asbury is about five feet eight inches tall and weighs about two hundred fifty pounds. He is a much bigger man than any of the three officers.
32. Derrick Asbury did not comply with the Grievant's instructions to show his hands, but instead dived under the bed.
33. Officer Weeks then drew his weapon, fearing Derrick Asbury was reaching for a gun under the bed.
34. When Grievant tried to stand Derrick Asbury up, Asbury elbowed the Grievant causing him to fall backward. Officer Weeks determined that Grievant needed assistance and moved the bed out of the way. Breaking free from Grievant, Derrick Asbury then grabbed Officer Weeks in a bear hug and with his head under Officer Week's chin, shoved him against the wall.
35. Both Officer Lawson and the Grievant together tried to pull Derrick Asbury off Officer Weeks and attempted to handcuff him. Asbury continued to struggle and fight all three officers.
36. The officers had to employ increasing levels of control techniques they had been trained to use. Derrick Asbury continued to struggle with all three officers, refusing to comply with their commands.
37. Officer Lawson then announced he was going to pepper spray Asbury. When Officer Lawson sprayed Asbury, it did not affect him. In fact, it seemed to agitate and inflame him even more. Even though the spray covered his entire face, he continued to fight the officers for several minutes.
38. At this point, the officers began to use hard empty hand techniques to control and handcuff him. This did not work.

39. Next, Officer Weeks struck Asbury on his thigh with his ASP baton four to five times. Officer Weeks was then able to secure a handcuff to one of his hands.
40. Derrick Asbury continued to struggle but Officer Lawson grabbed his other hand and handcuffed him.
41. Derrick Asbury then turns and spits on the Grievant. Next, Asbury heads toward Officer Lawson. The Grievant then withdrew his ASP baton and struck Derrick Asbury between the shoulder blades and his upper back multiple times. In the course of striking Derrick Asbury, the Grievant struck him in the back of the head.
42. Officer Lawson instructed the Grievant, "That's enough".
43. A supervising officer was called to the scene to perform a use of force evaluation.
44. The Use of Force form was completed by Sgt. Stephen Beck. The reasons for the use of force were identified on line 12 as follows: in self defense, in defense of others and non-compliance to commands. The subject's levels of resistance were identified on line 31 as follows: attempt to flee escape, actively resisted arrest and assaulted officer physically.
45. Derrick Asbury was taken to the hospital. While he was at the hospital, he continued to be aggressive. Asbury spit at Officer Lawson. He spit at the EMT's that were administering care. His actions were so aggressive that Office Lawson and Officer Weeks had to place a spit guard on Derrick Asbury.
46. Derrick Asbury refused medical treatment once he arrived at the hospital.
47. Derrick Asbury was arrested that night. He was charged with aggravated criminal trespassing, two counts of assault and one count of resisting arrest.
48. Derrick Asbury, represented by counsel, entered a plea of guilty to aggravated criminal trespass and to the charge of assault against the Grievant.
49. No lawsuit was filed against MNPD by Derrick Asbury regarding his arrest. Nor did he file a complaint with the Office of Professional Responsibility against the Grievant.

50. Expert testimony was presented by Sergeant Bob Allen regarding police procedure, defense tactics and uses of force. He explained in detail the continuum that is taught regarding the use of force policy of the Metropolitan Police Department in place in 2007.
51. According to Sgt. Allen, the continuum is: First - officer presence; Second - soft empty hand control; Third - pepper spray; Fourth - Hard empty hand control; Last - Baton and deadly force.
52. Sgt. Allen was of the opinion that the proper use of force continuum had been followed by the Grievant in this instance up to the point of his use of the ASP baton. Sgt. Allen did not agree the use of the ASP baton was the most appropriate force necessary under the circumstances.
53. Derrick Asbury has a significant criminal history. This criminal history includes a number of arrests and convictions for domestic assault, resisting arrest and assaulting police officers.
54. Ms. Leggs, was well aware of the numerous times Derrick Asbury had beaten her sister. She took her to the hospital in April of 2006, when Derrick Asbury beat Ms. Sweeney on her birthday. Ms. Sweeney suffered a split lip, swollen head, black eyes and her teeth were knocked back. Ms. Leggs shared this information with Officer Mann.
55. Ms. Leggs also saw her sister on several other occasions following Derrick Asbury's assaults, even when he began beating her again on her birthday in April 2007.
56. Ms. Leggs was also threatened by Derrick Asbury. He went to Ms. Dailey's house following one of the beatings he had inflicted on Barbara Sweeney. When Ms. Leggs, Ms. Dailey and Ms. Sweeney tried to get him to leave, he told Ms. Leggs that she could not tell him what to do and he would not leave if he didn't want to.

57. Grievant was aware of this history of violence and of prior attempts to get Derrick Asbury to leave Ms. Dailey's home at 1024 11<sup>th</sup> Avenue North before the events of November 17 & 18, 2007.
58. Grievant spoke to Barbara Sweeney's employer at the Campus for Human Development on several occasions. The first time was after she was beaten by Derrick Asbury on April 7, 2006. In fact, after the assault, she sought an order of protection against Derrick Asbury.
59. The violence continued and Grievant was hoping that Ms. Sweeney's employer would help her to get counseling for domestic violence. He spoke to them on two more occasions. Once prior to the November 17-18, 2007, incident and again after Derrick Asbury's arrest on November 18, 2007.
60. Grievant also counseled Ms. Sweeney on numerous occasions regarding the effects of being a long-term victim of domestic violence.
61. When Ms. Sweeney was terminated from her employment, she blamed the Grievant for her termination, even though he had spoken to them on prior occasions and she had not been terminated. No testimony was presented as to the reason for her termination.
62. A complaint was filed by Barbara Sweeney against the Grievant related to the altercation sometime later in the month of November.<sup>1</sup> She later withdrew the complaint.
63. From November 17-18, 2007, Grievant remained a Metro Police Officer, receiving his regular performance evaluations until the date of his termination in March 2011. None of his evaluation scores were unacceptable.

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<sup>1</sup> Neither the original complaint nor a report of the original complaint exists in the file. As a result, the *exact* date of the complaint and the *exact* nature of the complaint are unknown.

## CONCLUSIONS OF LAW

1. The Department, as the party "seeking to change the present state of affairs," has the burden of proof under Rule 1360-4-1-.02(7) of the Uniform Rules of Procedure for Hearing Contested Cases before State Administrative Agencies, TENN. COMP. R. & REGS. ch. 1360-4-1 (June 2004 (Revised)), to prove by a preponderance of the evidence that the discipline imposed was appropriate under relevant law and regulations.

2. MNPD General Order 06-05, "Department and Personal Appearance," VII. Personal Behavior: H. Obstruction of Rights:

Employees shall not knowingly deprive any person of any right to which they are entitled by law or the rules and regulations of the Metropolitan Government.

3. MNPD General Order 06-05, "Department and Personal Appearance," VII Personal Behavior: A. Adherence to Policy and Rules of the Metropolitan Government, *to wit* General Order 05-21 "Use of Force".

### XIV. USE OF DEADLY FORCE IN SELF DEFENSE

Authorized employees may use deadly force when they have a reasonable belief that the action is immediately necessary to prevent imminent death or serious bodily injury of a human being, including the employee.

### XV. USE OF DEADLY FORCE TO EFFECT AN ARREST

Authorized employees may use deadly force to effect the arrest of a fleeing felon only when:

- A. The employee has probable cause to believe the individual to be arrested has committed a felony involving the infliction or threatened infliction of serious bodily injury; AND
- B. The employee has probable cause to believe that the individual to be arrested poses a threat of death or serious bodily injury, either to the employee or others unless immediately apprehended; AND
- C. Where feasible, the employee has identified himself/herself as a police employee and given warning such as, "STOP-POLICE-I'LL SHOOT," that deadly force is about to be used unless flight ceases; AND
- D. If all other means of apprehension available to the employee under the attendant circumstances have been exhausted.

4. MNPD General Order 06-05, "Department and Personal Appearance," VII Personal Behavior: U. Acting Impartially:

Employees shall not use their authority as an employee of MNPD to take any action in a matter in which they are an interested or involved party. This shall include, but not be limited to, intervening in or making arrests, issuing arrest or traffic citations, etc., in controversies arising between their family member or household members, arrests stemming from their own quarrels, or between themselves and their family members or household members, friends, and/or neighbors. **Employees shall be allowed to act to prevent injury to another, imminent or ongoing property damage, or when a felony has been committed.** (*emphasis added*)

5. MNPD General Order 06-05, "Department and Personal Appearance," VII Personal Appearance, Official Obligations: J. Devoting Entire Time to Duty:

During their period of duty, employees shall devote their entire time and effort to their duties. Employees shall not conduct personal business, sleep on duty, or cease to perform their duties before the end of the work period, except with prior approval from their immediate supervisor.

6. Metro Nashville's Civil Service Rule, 6.7 provides as follows:

The following constitute grounds for disciplinary action:

1. Neglect or failure to perform official duty.
2. Deficient or inefficient performance of duties.
3. Insubordination toward the supervisor.
4. Absence without notification or approval for leave.
5. Neglect or disobedience to the lawful and reasonable orders given by a supervisor.
6. Drinking intoxicating beverages, using drugs not specifically prescribed to the employee by a licensed physician or using a controlled substance while on duty, whether under the influence of the beverage, drug, or controlled substance or not.
7. Being under the influence of intoxicating beverages or drugs not specifically prescribed for the employee by a licensed physician or controlled substances when on duty or upon reporting to duty.
8. Public Intoxication while off duty, in uniform, or wearing any other evidence of being an employee of the Metropolitan Government or when driving a government owned vehicle.
9. Possession of illegal drugs or a controlled substance while on or off duty or any violation of Civil Service or departmental rules, policies, or procedures related to the substance abuse program.
10. Violation of any provision of the Metropolitan Charter or any written Executive or Administrative Orders.
11. **Violation of any written rules, policies or procedures of the department in which the employee is employed.**
12. Violation of any of the rules or regulations of the Metropolitan Civil Service Commission.
13. Dishonesty.
14. Immoral conduct.
15. Conviction of a felony.
16. Inability to perform duties, when reasonable accommodation has been considered and cannot be made.

17. Neglect or failure of any employee to properly and promptly make reports or furnish information specifically required by the Civil Service Commission.
  18. Excessive absenteeism and/or excessive tardiness and/or abuse of sick leave.
  19. Any attempt (outside of official Commission meetings), directly or indirectly, by an employee to influence the judgment of the Metropolitan Civil Service Commission or any member thereof, with reference to any issue pending before the Commission.
  20. Violation of safety rules, regulations or procedures.
  21. Unauthorized sleeping on duty.
  22. Damage to or loss of Metropolitan Government property caused by negligent acts of the employee.
  23. Unlawful or unauthorized possession of a weapon, as defined by applicable laws, while on duty or while on Metro property.
  24. Using abusive or profane language so as to create a disturbance in the work place or when directed toward a member of the public.
  25. Gambling on Metro property or while on duty.
  26. Falsifying employment or promotional application or any official document of Metro Government.
  27. Disclosing confidential information to unauthorized persons.
  28. The use or threat of violence or intimidation when directed toward another person.
  29. Participation in strikes, work slow-downs, boycotts, sick-ins, picketing for the purpose of preventing others from coming to work or other similar job actions.
  30. Discrimination on the unlawful basis of race, sex, color, age, religion, national origin, handicap or lawful political or employee group affiliation.
  31. Participation in a pattern of harassment toward an employee of Metropolitan Government.
  32. Any failure of good behavior which reflects discredit upon himself, the department and/or the Metropolitan Government.
  33. Conduct unbecoming an employee of the Metropolitan Government. (emphasis added).
7. This is a de novo proceeding, and no presumption of correctness attaches to the action of the agency. The burden of proof rests with the agency and the agency must prove by a preponderance of the evidence that 1) the Grievant acted or failed to act as the agency alleges; 2) the Grievant's action constitutes a disciplinary offense; and 3) the recommended discipline is appropriate for the given offense. Big Fork Mining Co. v. Tennessee Water Quality Control Board, 620 S.W. 2d 515 (Tenn. App. 1981), (interpreting Tennessee Civil Service law).

## ANALYSIS

MNPD has failed to carry its burden of proof by the preponderance of the evidence that the Grievant violated MNPD General Order 06-05, "Department and Personal Appearance, " VII. Personal Behavior: H. Obstruction of Rights.

Mrs. Dailey told the Grievant, "Claude, go in there and get him out" referring to Derrick Asbury. The facts are clear and supported by the testimony of Mrs. Dailey. Derrick Asbury was a trespasser in her home and Mrs. Dailey wanted him removed from the property.

The fact that a "stay away order" was not in place is of no consequence. Grievant was aware that Derrick Asbury had been arrested at that home the previous month. Once Mrs. Dailey became aware that Derrick Asbury was in her home she wanted him removed.

Insufficient evidence was introduced to prove by a preponderance of the evidence that Grievant violated General Order 06-05, VII. H.

MNPD has carried its burden of proof that the Grievant violated MNPD General Order 06-05, "Department and Personal Appearance," VII Personal Behavior: A. Adherence to Policy and Rules of the Metropolitan Government, *to wit* General Order 05-21 "Use of Force".

The use of force by an officer is designed to effectuate control over a suspect. An officer is only authorized to use force that is reasonably necessary to effect lawful objectives.

Derrick Asbury was a trespasser in Mrs. Dailey's home. The officers were attempting to remove him from the home and place him under arrest. He responded by resisting arrest and assaulting police officers.

Asbury was about five feet eight inches tall and weighed about two hundred fifty pounds. He was much bigger than any of the three officers.

Asbury was instructed by Grievant to show his hands, instead he dove under the bed. Not knowing if he was reaching for a weapon, Officer Weeks began to draw his

weapon. The Grievant tried to get him up and after Asbury stood up, he elbowed the Grievant, sending him backward. This was the first act of violence by Derrick Asbury.

The struggle between the officers and Derrick Asbury continued as they attempted to gain control over him.

The Grievant is found to have employed appropriate use of force continuums when struggling with Asbury.

Derrick Asbury pinned Officer Weeks against a wall in a bear hug and wedged the top of his head under Offices Weeks' chin and against his neck and throat.

Then, Derrick Asbury spit on the Grievant. In response, the Grievant struck Derrick Asbury between the shoulder blades and struck his head with his ASP baton. Of particular note in the testimony was that Grievant did not use the baton stretched to its full length, it was still in the compact position. Secretions are considered dangerous. The Grievant's striking in response was in the spur of the moment.

However, as an officer Grievant is often required to make spur of the moment decisions many times in life or death situations. Derrick Asbury was handcuffed. He was in a small room with three police officers. The Grievant's use of force in self defense to the "spitting incident" was excessive.

As a result it is determined that the Grievant should sustain a twenty day suspension for his actions.<sup>2</sup>

MNPD has failed to carry its burden of proof by the preponderance of the evidence that the Grievant violated MNPD General Order 06-05, "Department and Personal Appearance," VII. Personal Appearance, Official Obligations: J. Devoting Entire Time to Duty.

The MNPD alleges that Grievant's "AVL" indicated he spent approximately thirty minutes travelling from one end of 11<sup>th</sup> Avenue North to the other while he was working the

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<sup>2</sup> Grievant attempted to introduce MNPD Form 313 – Internal Disciplinary Resolution. Metro objected to its objection to its introduction on the basis of settlement negotiations and hearsay. After review of Rule of Evidence 408, no consideration or weight was given to this document. It played no part in this decision.

DUI grant. No evidence was introduced to prove that this was time spent conducting personal business. Grievant's testimony was that he was patrolling his designated area. This testimony was found to be credible.

MNPD has failed to carry its burden of proof by the preponderance of the evidence that the Grievant violated MNPD General Order 06-05, "Department and Personal Appearance," VII. Personal Appearance, Official Obligations: U. Acting Impartially.

MNPD alleges that because the Grievant had a prior personal relationship with the parties he was required to refrain from any involvement. The evidence shows otherwise. The Grievant observed Derrick Asbury running into Mrs. Dailey's home. The Grievant was well aware of Derrick Asbury's violent history. In fact, Grievant was under the impression that an order of protection was in place. Assuming the circumstances were different and he knew Derrick Asbury as an abuser of his wife from only a professional knowledge rather than personal he was still required to investigate.

Furthermore, MNPD alleges that once the other two officers arrived Grievant should have removed himself from the situation, due to his personal relationship with the parties. Grievant requested a senior officer to come to the scene. He was then informed that a senior officer was not available. At that point, Grievant determined that he was the senior officer at the scene and should remain with the two junior officers. Again, the fact that he knows the parties personally does not change anything. It is difficult to believe that the object of this policy is for a police officer when personally acquainted with any parties must totally remove himself from the scene solely because of that familiarity. Especially when he suspects a crime is being committed.

Grievant has a disciplinary history but he has never been disciplined for any violations involving use of force. While it is determined that he used excessive force when striking Derrick Asbury, due consideration is given to the fact that it was in the heat of the moment and Derrick Asbury did not sustain any significant injuries. In fact, he refused medical treatment upon arrival at the hospital.

Further consideration is given to the fact that the original complaint filed by Barbara Sweeney was withdrawn and in fact is not to be found in the record.

Accordingly, it is hereby **ORDERED** that the Appellant's termination for violating **MNPD General Order 06-05, Department and Personal Appearance, VII.**

**Personal Behavior: A. Adherence to Policy and Rules of the Metropolitan Government, to wit General Order 05-21 "Use of Force"** is **REVERSED** and he should be **REINSTATED** to his former position with full back pay and benefits, minus a twenty day suspension.

It is further **ORDERED** that the Appellant's suspensions for **violating MNPD General Order 06-05, "Department and Personal Appearance", VII. Personal Behavior: H. Obstruction of Rights; MNPD General Order 06-05, "Department and Personal Appearance,"; MNPD General Order 06-05, " Department and Personal Appearance", VII. Personal Behavior: U. Acting Impartially; MNPD General Order 06-05, "Department and Personal Appearance," VII Personal Appearance, Official Obligations: J. Devoting Entire Time to Duty,, as well as Civil Service Rules Section 6.7 Grounds For Disciplinary Action** are reversed.

It is so **ORDERED**.

This Order entered and effective this 29 day of May, 2012 England  
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this  
29 day of May, 2012 Stovall, Director

Administrative Procedures Division