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Anthony Reyes vs. Metro Civil Service

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November 4, 2015

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RE: In the Matter of: Anthony Reyes

Docket No. 43.02-128140J

Enclosed is an Initial Order rendered in connection with the above-styled case.

Administrative Procedures Division
Tennessee Department of State

/aem
Enclosure

cc: Lou Sorrow, Metropolitan Civil Service Commission

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

IN THE MATTER OF:

ANTHONY REYES

DOCKET NO. 43.02-128140J

NOTICE

ATTACHED IS AN INITIAL ORDER RENDERED BY AN ADMINISTRATIVE JUDGE WITH THE ADMINISTRATIVE PROCEDURES DIVISION.

THE INITIAL ORDER IS NOT A FINAL ORDER BUT SHALL BE REVIEWED BY THE CIVIL SERVICE COMMISSION:

A PARTY MAY FILE A PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION NO LATER THAN **November 19, 2015**.

YOU MUST FILE THE PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION. THE ADDRESS OF THE ADMINISTRATIVE PROCEDURES DIVISION IS:

SECRETARY OF STATE
ADMINISTRATIVE PROCEDURES DIVISION
WILLIAM R. SNODGRASS TOWER
312 ROSA PARKS AVENUE, 8th FLOOR
NASHVILLE, TENNESSEE 37243-1102

IF YOU HAVE ANY FURTHER QUESTIONS, PLEASE CALL THE ADMINISTRATIVE PROCEDURES DIVISION, **615/741-7008 OR 741-5042, FAX 615/741-4472**. PLEASE CONSULT APPENDIX B AFFIXED TO THE INITIAL ORDER FOR NOTICE OF REVIEW PROCEDURES.

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

IN THE MATTER OF:)
)
ANTHONY REYES) **No. 43.02-1281403J**
)

INITIAL ORDER

This matter was heard as a contested case in Nashville, Tennessee on August 14, 2015, before Anthony Adgent, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, and sitting for the Civil Service Commission of the Metropolitan Government of Nashville and Davidson County (Metro). Ms. Cynthia Gross, Esq. represented Metro, and Ms. Kim Gilleland, Esq. represented the Respondent.

The issue to be heard concerns termination of the Respondent for alleged violation of several MNPD Rules and Regulations and Metropolitan Civil Service Rules.

After review of the record and the evidence presented at hearing it is determined that the termination should be upheld.

FINDINGS OF FACT

Anthony Reyes was charged with violating the following MNPD Rules and Regulations and Metropolitan Civil Service Rules:

1. MNPD Manual 4.20, Deportment and Personal Appearance
Section 4.20.040, Personal Behavior
H. Honesty and Truthfulness

2. MNPD Manual 4.20, Deportment and Personal Appearance
Section 4.20.040, Personal Behavior
H. Honesty and Truthfulness

3. MNPDP Manual 4.20, Department and Personal Appearance
Section 4.20.050, Official Obligations
B. Instructions from Authoritative Source
4. MNPDP Manual 4.20, Department and Personal Appearance
Section 4.20.040, Personal Behavior
A. Adherence to Policy and Rules

To wit

MNPDP Manual 4.30, Secondary Employment
Section 4.30.080, Control Provisions

- A. An employee wishing to engage in any secondary employment must first request and obtain permission in writing on MNPDP Form 150, Secondary Employment Request, through his/ her chain of command.

5. MNPDP Manual 4.20, Department and Personal Appearance
Section 4.20.040, Personal Behavior
A. Adherence to Policy and Rules

To wit

MNPDP Manual 12.10, Security and Disposition of Law Enforcement Records and Files
Section 12.10.030, General Provisions

- A. It is the policy of the Metropolitan Police Department that no employee shall provide or divulge the contents or substance of any law enforcement records and files to any other person or entity, by any means whatsoever, unless:
 1. The employee is doing so in accordance with departmental policy and the S.O.P.'s of his/ her work location concerning public records, closed files, and protected files as determined by the Records Division Public Records Officer.
 - Or,
 2. The employee is doing so in conjunction with a criminal investigation, prosecution, or intelligence operation, and is providing such information to a federal, state, or local law enforcement agency or official for legitimate and legal purposes.

6. Metropolitan Civil Service Rules
Section 6.7, Grounds for Disciplinary Action
11. Violation of any written rules, policies or procedures of the department in which the employee is employed.
7. Metropolitan Civil Service Rules
Section 6.7, Grounds for Disciplinary Action
13. Dishonesty

1. During the relevant timeframe, Mr. Reyes was an employee of MNPDP. At the time of his termination, Mr. Reyes was employed as a Police Officer II in the West Precinct.

Terrence Graves is currently the Commander of the North Precinct. He has worked for MNPD for 18 years and has served in a supervisor position for approximately the past 12 years.

2. In his role as a supervisor, Commander Terrance Graves observed the job performance and decision-making skills of Anthony Reyes. Commander Graves witnessed Mr. Reyes attempt to enter dangerous situations without waiting for backup.
3. In Commander Graves's lengthy experience as a supervisor with MNPD, he noticed that Mr. Reyes received an unusual number of complaints against him and disciplinary actions compared to other officers. Mr. Reyes also had a history of being involved in car accidents in his patrol vehicle. At one point, Mr. Reyes had his take-home car privileges suspended as a result of being in these accidents.
4. When Terrence Graves assumed the role of Commander at the North Precinct, he was aware of Mr. Reyes's disciplinary history, so he sat Mr. Reyes down to counsel him on how to be a good officer.
5. In December of 2013, Mr. Reyes was working as a police officer at the North Precinct under Commander Graves's chain of command. Mr. Reyes's chain of command at that time was Sergeant Robert Nielsen, Sergeant Matt Hinshaw, Lieutenant Scott Byrd, and Commander Graves.
6. In December of 2013, Mr. Reyes was not authorized to drive a police vehicle to his secondary employment job at Dillard's.
7. On December 15, 2013, Mr. Reyes was involved in another car accident in his patrol vehicle while working his secondary employment job at Dillard's. Mr. Reyes notified Sergeant Nielsen, who then informed Commander Graves of the accident.

8. Mr. Reyes was ultimately disciplined for the December 15, 2013 accident because he was at fault for causing the accident, he had been disciplined for other car accidents, he was not authorized to be driving his patrol car at that time to or from his secondary job at Dillard's, and he was not logged into the laptop in the vehicle (which was another MNPD policy violation). Further, Mr. Reyes had been given explicit instructions from his supervisors that he was not authorized to use the patrol car for this extra job, and he violated an explicit instruction.
9. Significantly, on December 15, 2013, North Precinct Commander Terrence Graves issued a Memo that placed restrictions upon Mr. Reyes's ability to engage in secondary employment.
10. Sergeant Nielsen gave the Memo to Mr. Reyes that same day, on December 15, 2013.
11. Sergeant Nielsen explained the Memo to Mr. Reyes.
12. This was the first time in Mr. Reyes's career that a supervisor had sat him down and handed him a memo from a Commander. Thus, it was a significant event in his career as a patrol officer.
13. Mr. Reyes signed the Memo detailing the restrictions on secondary employment.
14. Mr. Reyes was notified of the restrictions, which provided that he was only allowed to engage in secondary employment through the Secondary Employment Unit, North Precinct Crime Reduction Initiatives, and Special Events.
15. When explaining the Memo, Sergeant Nielsen made sure to ask Mr. Reyes, "Do you understand what this is saying?" Sergeant Nielsen made sure that Mr. Reyes understood that there were only three types of secondary employment jobs that he could work at that point.

16. Specifically the Memo stated as follows:


MNPD-North Precinct

Memo

To: Anthony Reyes
From: Commander Terrence Graves
cc: Deputy Chief Brian Johnson
Date: December 15, 2013
Re: Extra Duty Privileges SUSPENDED

On December 15, 2013 at approximately 1445 hours you were involved in a traffic collision at 2126 Abbot Martin Road. The vehicle you were driving was not an assigned "take home" vehicle but you were permitted to drive the vehicle home. A preliminary investigation reveals that you were driving the police vehicle to/from an extra duty job. The extra duty job was authorized; however, the driving of the police vehicle to/from the extra job was not authorized. Given the circumstances surrounding this incident, YOUR EXTRA DUTY PRIVILEGES HAVE BEEN SUSPENDED INDEFINITELY with the exception of jobs scheduled through the Secondary Employment Unit and North Precinct Crime Reduction Initiatives.

If you have any questions, please direct them to your chain of command.


Sgt. Robert Cyphers 225870
L. S. M.

Cmdr. 
OFF. Reyes will also be allowed to work special events.

(Exhibit 4).

17. Commander Graves issued this Memo and placed restrictions on Mr. Reyes's secondary employment privileges for several reasons:
 - a. Mr. Reyes had been disciplined before;
 - b. Mr. Reyes had been involved in several car accidents in a patrol vehicle before;
 - c. Mr. Reyes was not authorized to drive his patrol vehicle to an extra-duty job, which is what he had done on December 15, 2013, when he caused the accident at Dillard's. Therefore, Mr. Reyes was driving a police car when he knew he should not have been driving it;
 - d. Mr. Reyes had repeatedly displayed poor decision-making skills, so he needed direct supervision by a MNPD supervisor at his secondary employment jobs.
18. Mr. Reyes was still allowed to work secondary employment jobs specifically scheduled through the Secondary Employment Unit (SEU), the North Precinct Crime Reduction Initiatives and Special Events because those jobs would have MNPD supervisors directly supervising Mr. Reyes.
19. This was the second time in Commander Graves's history as a supervisor that he had to place these types of restrictions on an employee.
20. Mr. Reyes had worked at the Grove Apartments as a courtesy officer in 2011, and then he moved back and re-assumed the position as the courtesy officer in September of 2013.
21. The position held by Mr. Reyes at the Grove Apartments was not obtained through the Secondary Employment Unit.
22. Mr. Reyes was aware and understood that this was not a Secondary Employment Unit position. Mr. Reyes completed the MPD Form 150 for approval to work at the Grove

Apartments, and he checked on the form that it was a proprietary security organization. He did not check that it was a Secondary Employment Unit position. Additionally, Secondary Employment Unit jobs are paid through an employee's Metro paycheck; whereas, the compensation Mr. Reyes received was an \$800 deduction in his monthly rent through the Grove Apartments and not a payment from the MNPD Secondary Employment Unit.

23. The MNPD Manual definition of "secondary employment" includes "the act of being employed or providing services or being compensated in any manner." In this case, Mr. Reyes was compensated with an \$800 reduction in rent through March of 2014.
24. After the issuance of Commander Graves's December 15, 2013 Memo, Mr. Reyes was not authorized to work at the Grove Apartments. At that time, Mr. Reyes should have notified the Grove Apartments that he could no longer work there. However, Mr. Reyes did not tell the Grove Apartments that he could no longer be employed as their courtesy officer.
25. By continuing to work at the Grove Apartments after December 15, 2013, Mr. Reyes was violating Commander Graves's directive contained in the Memo; therefore, he was violating instructions from an authoritative source.
26. In January of 2014, Mr. Reyes transferred from the North Precinct and began working as a police officer assigned to the West Precinct. His new chain of command at the West Precinct was Sergeant Sean Hanahan, Lieutenant Jason Sharpe, and Commander Marlene Pardue.
27. When Mr. Reyes transferred to the West Precinct, he informed his chain of command about his recent car accident at Dillard's. However, Mr. Reyes did not inform his

- supervisors that Commander Graves had suspended his secondary employment privileges.
28. An officer must obtain approval through the Form 150 in order to engage in secondary employment. (TR 70:8-18, 71:9-25, 72:1-7; Exhibit 8). If a secondary employment job is continuing across a calendar year, the employee must re-submit the 150 Form each year.
 29. In January of 2014, Mr. Reyes submitted a MNPDP Form 150 through this chain of command, requesting permission to continue to work a secondary employment position as a courtesy officer at the Grove Apartments in exchange for reduced rent.
 30. In 2014, the deadline for approval of the 150 Form was February 1, 2014. If a 150 Form is approved for the employee to work the secondary employment position, the employee will receive an email from the secondary employment office. Mr. Reyes never received a confirmation email from the Secondary Employment Unit, because this Form 150 for the Grove Apartments job was never approved in February of 2014.
 31. Mr. Reyes's Form 150 had been initially reviewed and approved by his chain of command at West Precinct, and then Commander Pardue sent it to Deputy Chief Brian Johnson's office, as she does with all of these forms.
 32. At that time, Commander Pardue was unaware of Commander Terrence Graves's December 15, 2013 Memorandum placing restrictions on Mr. Reyes's secondary employment. However, Chief Johnson's office was aware of this Memorandum.
 33. Chief Johnson's office informed Commander Pardue about the Memorandum, so Commander Pardue contacted Commander Graves and requested a copy of the Memorandum.

34. The 150 Form was sent back to the West Precinct, and Commander Pardue disapproved the Form 150. Then Commander Pardue referred the matter to Lieutenant Jason Sharpe to initiate an investigation.
35. Lieutenant Sharpe emailed Sergeant Hanahan and directed him to tell Mr. Reyes on February 16, 2014, that he was not approved to work the Grove Apartments job.
36. On February 16, 2014, Sergeant Hanahan called Mr. Reyes by phone and told him that his request had not been approved and that he should not be working the job yet. Sergeant Hanahan then asked Mr. Reyes if he had been working the job, and Mr. Reyes said that he had not.
37. At the time of the phone call, Sergeant Hanahan knew that he would have to report back to Lieutenant Sharpe about what was said during the phone call, so Sergeant Hanahan was paying close attention to Mr. Reyes's answer to his question about whether he had been working the job. And when Sergeant Hanahan had asked Mr. Reyes if he had been working the job, Mr. Reyes specifically said that he had not.
38. Mr. Reyes admitted in the hearing before the ALJ that during the conversation with Sergeant Hanahan, "I told him I hadn't been doing anything."
39. On February 18, 2014, Lieutenant Sharpe directed Sergeant Hanahan to investigate whether Mr. Reyes had been working as a courtesy officer for the Grove Apartments and to see if they had any documentation of Mr. Reyes working in that capacity. So Sergeant Hanahan called the apartment complex and talked to one of the property managers, Stephanie Burns.
40. On February 19, 2014, Sergeant Hanahan went to the Grove Apartments and spoke to Ms. Burns, who provided him with a copy of an internal incident report that Mr. Reyes

had completed in his capacity as the courtesy officer. Sergeant Hanahan also met with another property manager, Ashley Monroe, who provided him with emails dated from December of 2013 through February 18, 2014, involving Mr. Reyes's work as the courtesy officer at the Grove Apartments.

41. Sergeant Hanahan provided 5 pieces of documentation to Lieutenant Sharpe that showed that Mr. Reyes had been working as a courtesy officer at the Grove Apartments. The documents from the Grove Apartments related to Mr. Reyes's performance of his job were dated through February 18, 2014, which is after February 16, when Sergeant Hanahan specifically told Mr. Reyes that he was not approved to work the job.
42. Based upon his conversations with the apartment complex managers, and review of the incident reports and emails that the Grove Apartments had provided to him, Sergeant Hanahan determined that Mr. Reyes had been employed as the courtesy officer at the Grove Apartments after Mr. Reyes specifically told Sergeant Hanahan that he had not been working there.
43. Upon completion of the West Precinct's investigation, Commander Pardue referred the matter to the Office of Professional Accountability for further investigation.
44. Mr. Reyes had been working as the courtesy officer at the Grove Apartments between December 15, 2013 and February 18, 2014. In addition to receiving the reduced rent, Mr. Reyes also continued to receive emails and phone calls from the Grove Apartments related to performing his duties as the courtesy officer after December 15, 2013, and through at least February 18, 2014.
45. During Mr. Reyes's OPA interview on April 8, 2014, Mr. Reyes stated that he had notified the staff at the Grove Apartments that he was not allowed to work at the

- apartment complex as their courtesy officer. Specifically, Mr. Reyes told one of the apartment managers that he had to “lay low for a little bit” until his 150 Form was approved, and he stated that he could not respond to calls.
46. Mr. Reyes’s previous defense was that he did not know that the Grove Apartments “was included in the whole thing,” and that he did not consider the place where he lived to be an extra job.
 47. Stephanie Burns is employed as the Property Manager at the Grove Apartments in Nashville, Tennessee.
 48. Anthony Reyes was employed as the after-hours representative (courtesy officer) at the Grove Apartments beginning in the summer of 2013.
 49. Mr. Reyes continued to perform these job duties between December 15, 2013, and March 18, 2014, and he received an \$800 per month reduction in his rent as a result of holding this position.
 50. Anthony Reyes responded to calls for service at the Grove Apartments as part of his job duties.
 51. The Grove Apartments would not have allowed Anthony Reyes to work as the after-hours representative, if Mr. Reyes had informed the staff that that he was not authorized by the Metropolitan Nashville Police Department to perform these job duties.
 52. Mr. Reyes would not have received the reduction in his rent, if he was not working for the Grove Apartments as the after-hours representative.
 53. Mr. Reyes continued to receive the \$800 per month reduction in his rent and calls for service through March 18, 2014, because Mr. Reyes never informed the Grove

Apartments staff that he could not perform the job duties of the after-hours representative.

54. Mr. Reyes admits that he received \$800 off of his monthly rent at the Grove Apartments when working there as a courtesy officer, and that he could not afford to live there without the \$800 reduction in rent. Mr. Reyes would have had to move, and he had a baby on the way during the time period of December of 2013 through February of 2014.
55. Mr. Reyes stated to the OPA investigators that he had told the Grove he could not work there; however, he was still receiving emails from the Grove requesting him to perform his job duties and he was still receiving the \$800 in rent reduction. Further, Stephanie Burns confirmed that Mr. Reyes never informed the Grove Apartments staff that he could not perform the job duties of the after-hours representative.
56. Mr. Reyes received the reduction in rent at the Grove Apartments through March of 2014. The Grove Apartments only provided the reduction in rent to the courtesy officer, not to other people living at the apartment complex.
57. During the hearing before the ALJ, Mr. Reyes attempted to argue that he did not lie to Sergeant Hanahan on February 16, because he wasn't "actively doing police work" at the Grove Apartments between February 1 and February 16. However, Mr. Reyes was employed by the Grove Apartments through March of 2014, and he was receiving compensation the entire time.
58. During the hearing before the ALJ, Mr. Reyes submitted an email to attempt to establish that he had informed the Grove Apartments that he could not work there. His email states, "I'm still waiting on the approval of my form from the police

department they kept sending it back for corrections I'll let you know when it's approved." That is very different than telling the Grove, "I am not authorized to be employed as your courtesy officer" or "I can no longer work at the Grove as the courtesy officer."

59. Further, this email chain between Stephanie Burns and Anthony Reyes began on February 16 at 5:10 p.m., before the phone call with Sergeant Hanahan that took place at 10:01 p.m. Ms. Burns emailed Mr. Reyes about "another bike theft," the need for a police report, the fact that this was the 4th report in the past 14 days, and the need for them to decide a course of action the next day. (Exhibit 10). Mr. Reyes responded to the email and inquired about the bike theft details, and Ms. Burns responded that she would have the other managers provide Mr. Reyes with all the details the next day. Therefore Mr. Reyes's statement to Sergeant Hanahan that he had not been working there, even in Mr. Reyes's proposed context of the time frame between February 1 through February 16, is blatantly false.

60. Mr. Reyes ran vehicle tags on his MNPDP computer on several occasions for the Grove Apartments, and he provided the information to the Grove staff members who are not law enforcement personnel. It is against MNPDP policy to run tags and then provide that information to non-law enforcement.

61. Mr. Reyes had a prior disciplinary history. In fact, Mr. Reyes had already received 21 suspension days in the year preceding this matter.

62. Based on the foregoing, on August 28, 2014, MNPDP filed disciplinary charges against Mr. Reyes.

63. On September 23, 2014, MNPD held a disciplinary hearing. Mr. Reyes was present for the hearing and he was represented by counsel. Mr. Reyes presented his defense to the charges.
64. Based upon the evidence presented during the September 23, 2014 hearing, MNPD concluded that Mr. Reyes had violated MNPD rules and policies and the Civil Service Rules.
65. It is problematic for a police officer to be untruthful. The public expects police officers to be truthful and have integrity. If police officers are untruthful and lose the public's trust, it causes friction and noncooperation with the police. Truthfulness is in the law enforcement code of ethics. An officer's untruthfulness could be used to discredit his future testimony in criminal cases.
66. A violation of MNPD's truthfulness policy leads to dismissal. The disciplinary panel and Deputy Chief Todd Henry found that Mr. Reyes had been untruthful.
67. On September 23, 2014, Mr. Reyes was found to be in violation of all of the above-listed charges. MNPD determined that Mr. Reyes should be dismissed from his employment.
68. Accordingly, Mr. Reyes received a disciplinary action letter dated September 23, 2014, notifying Mr. Reyes of his termination and twelve day suspension. The same letter explained Mr. Reyes's right to appeal the decision within fifteen calendar days from the date of notification.
69. Mr. Reyes filed his appeal to the Civil Service Commission on October 3, 2014.

CONCLUSIONS OF LAW

70. Mr. Reyes violated MNPD Manual 4.20, Department and Personal Appearance, Section 4.20.040, Personal Behavior, H. Honesty and Truthfulness, when he lied to Sergeant Hanahan on February 16, 2014. Sergeant Hanahan asked if he had been working at the Grove Apartments, and Mr. Reyes said “no.” That statement was not truthful. Mr. Reyes never told the Grove that he could no longer be employed as their courtesy officer. He continued to receive requests to respond as their courtesy officer through at least February 18, 2014. He also received reduced rent through March of 2014. He was clearly employed as the courtesy officer for the Grove Apartments, and his statement to Sergeant Hanahan was dishonest.

71. Mr. Reyes also violated MNPD Manual 4.20, Department and Personal Appearance, Section 4.20.040, Personal Behavior, H. Honesty and Truthfulness, when during Mr. Reyes’s OPA interview on April 8, 2014, Mr. Reyes stated that he had notified the staff at the Grove Apartments that he was not allowed to work at the apartment complex as their courtesy officer. Specifically, Mr. Reyes stated that he told one of the apartment managers that he had to “lay low for a little bit” until his 150 Form was approved, and he stated that he could not respond to calls. As evidenced by the Affidavit of Stephanie Burns, the fact that Mr. Reyes was still receiving calls and emails from the Grove Apartments through at least February 18, 2014, and he was still receiving reduced rent through March of 2014, it is clear that Mr. Reyes did not tell the Grove that he could not respond to calls or be their courtesy officer.

72. Mr. Reyes also violated MNPD Manual 4.20, Department and Personal Appearance, Section 4.20.050, Official Obligations, B. Instructions from Authoritative Source, by

violating Commander Graves' December 15, 2013 Memo when he continued to work at the Grove Apartments after that date.

73. Mr. Reyes also violated the following MNPDP policy related to secondary employment:

MNPDP Manual 4.20, Department and Personal Appearance
Section 4.20.040, Personal Behavior
A. Adherence to Policy and Rules

To wit

MNPDP Manual 4.30, Secondary Employment
Section 4.30.080, Control Provisions

B. An employee wishing to engage in any secondary employment must first request and obtain permission in writing on MNPDP Form 150, Secondary Employment Request, through his/ her chain of command.

Mr. Reyes's Form 150 was not approved in February of 2014. He did not have approval to engage in secondary employment at the Grove; yet he continued to do so in violation of MNPDP policy.

74. Mr. Reyes also violated the following MNPDP policy:

MNPDP Manual 4.20, Department and Personal Appearance
Section 4.20.040, Personal Behavior
A. Adherence to Policy and Rules

To wit

MNPDP Manual 12.10, Security and Disposition of Law Enforcement Records and Files

Section 12.10.030, General Provisions

B. It is the policy of the Metropolitan Police Department that no employee shall provide or divulge the contents or substance of any law enforcement records and files to any other person or entity, by any means whatsoever, unless:

3. The employee is doing so in accordance with departmental policy and the S.O.P.'s of his/ her work location concerning public records, closed files, and protected files as determined by the Records Division Public Records Officer.

Or,

4. The employee is doing so in conjunction with a criminal investigation, prosecution, or intelligencer operation, and is providing such information to a federal, state, or local law enforcement agency or official for legitimate and legal purposes.

Mr. Reyes admitted to running tags of vehicles on his MNPD computer for the Grove Apartments on several occasions, and divulging that information to the apartment managers who were not law enforcement. These actions violated MNPD policy.

75. Mr. Reyes's actions also violated Civil Service Rule Section 6.7 (11) and (13).

76. Termination is appropriate in this case because Mr. Reyes was untruthful to Sergeant Hanahan and to OPA. Further, Mr. Reyes had been counseled and he had an extensive disciplinary history that should have helped him learn the consequences of violating MNPD Policy, and yet he still violated numerous policies in this matter. (TR 126:3-20).

77. Mr. Reyes's prior disciplinary history includes a written reprimand (10/29/10); formal counseling (12/6/11); 1 day suspension (1/7/12); 1 day suspension (2/10/12); 5 day suspension and formal counseling (8/27/12); 7 day suspension (4/30/13); 2 day suspension (9/26/13); and, a 19 day suspension (6/3/14). (Exhibit 11).

78. Based on Mr. Reyes dishonesty, numerous policy violations, and his disciplinary history, termination is the appropriate disciplinary action in this case. The decision of MNPD in this case is upheld.

This Order is entered and effective as of the 4th day of Nov., 2015.


Anthony Adgent
Administrative Law Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 4th
day of Nov., 2015.


J. Richard Collier, Director
Administrative Procedures Division

APPENDIX B TO INITIAL ORDER

NOTICE OF REVIEW PROCEDURES

Review of Initial Order

(1) Pursuant to the provisions of T.C.A. §4-5-315, notice is hereby given that this Initial Order will be reviewed by the Civil Service Commission. Pursuant to Civil Service Commission Policy 6.8 A-1, paragraph 0, the parties may file written briefs with the Commission.

(2) A party may file a petition for reconsideration of this Initial Order, within fifteen (15) days after the entry date of the Initial Order. This petition must be filed with the Administrative Procedures Division at the above address. A petition for reconsideration is deemed denied if no action is taken within twenty (20) days of filing. See T.C.A. §4-5-317 on petitions for reconsideration.

After the disposition of the petition for reconsideration, the Initial Order will be subject to the Civil Service Commission's review as set forth in paragraph (1) above.

A party may petition the agency for a stay of the Initial Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

Review of Final Order

Within fifteen (15) days after the entry date of a Final Order by the agency, a party may petition the agency for reconsideration of the Final Order. If no action is taken within twenty (20) days for filing of the petition, it is deemed denied. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Final Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

A person who is aggrieved by a final decision in a contested case may seek judicial review of the Final Order by filing a petition for review in Davidson County Chancery Court within sixty (60) days of the entry date of a Final Order or, if a petition for reconsideration is granted, within sixty (60) days of the entry date of the Final Order disposing of the petition. (However, the filing of a petition for reconsideration does not itself act to extend the sixty day period, if the petition is not granted.) A reviewing court also may order a stay of the Final Order upon appropriate terms. See T.C.A. §4-5-322 and §4-5-317.