

Dep't of Correction v. Francis

OATH Index No. 2362/24 (June 21, 2024)

Petitioner proved that respondent engaged in conduct unbecoming an officer, and of a nature to bring discredit to the Department, when she failed to cooperate with and made threats to police officers during a traffic stop. Penalty of 60 days' suspension without pay recommended.

NEW YORK CITY OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

In the Matter of
DEPARTMENT OF CORRECTION
Petitioner
- against -
JASMINE FRANCIS
Respondent

REPORT AND RECOMMENDATION

TIFFANY HAMILTON, *Administrative Law Judge*

Petitioner, the Department of Correction (“the Department”), brought this employee disciplinary proceeding against respondent, Correction Officer Jasmine Francis, under section 75 of the Civil Service Law. Petitioner alleged that respondent engaged in conduct unbecoming a correction officer, and of a nature to bring discredit upon the Department, in that she refused to cooperate with and made threats to uniformed New York City Police Department officers during a vehicle stop.

Trial was held before me on May 7, 2024. Petitioner relied on documentary and video evidence, as well as the testimony of a Department investigator. Respondent relied on the testimony of two character witnesses and testified on her own behalf. For the reasons set forth below, I find that petitioner proved the charges. I recommend that respondent be suspended for 60 days without pay.

ANALYSIS

The charges stem from an off-duty incident that occurred on September 11, 2022 at approximately 9:55 a.m., off Ditmars Boulevard in Queens. Respondent was driving home from Rikers Island, where she had just completed an overtime shift, when two NYPD officers, Sergeant McFarland and Officer Kline, pulled her over for speeding.

Video Evidence

Petitioner relied, in large part, upon Sergeant McFarland's body-worn camera footage of the incident. The video begins with Police Officer Kline standing outside of a police vehicle, conversing with Sergeant McFarland (Pet. Ex. 3, 9:55:00-9:55:24). Their conversation is inaudible. Officer Kline then points a laser speed gun toward an approaching vehicle, respondent's SUV (9:55:25). After checking the speed, Officer Kline steps into the street and motions for respondent to pull over (9:55:32). Respondent initially stops the vehicle but then speeds up and attempts to drive around him (9:55:39-9:55:42). Officer Kline then steps in front of the vehicle and motions for respondent to pull over to the side of the road (9:55:43). Respondent stops the vehicle and Sergeant McFarland approaches the passenger door (9:55:45-9:55:49). Respondent is in the driver's seat and there are no passengers.

Sergeant McFarland asks respondent if she is a correction officer and she confirms that she is (9:55:50). Sergeant McFarland then says, "Give me your license." Respondent does not comply (9:55:54). He repeats, "Give me your license," and respondent replies, "I'm not giving you my shit" (9:55:58). Sergeant McFarland says, "Really?" and respondent replies, "Every time, I always get pulled over right here! Like, come on! Y'all know officers getting the fuck off" (9:56:00-9:56:03).

Respondent and Sergeant McFarland continue to exchange words. Respondent is on the phone with someone she later identifies as a colleague. The phone is on speaker, and her colleague can be heard saying, "Give them your license" (9:56:10). Respondent begins to look in her wallet, while continuing to complain about having been stopped. She then stops abruptly and says "I ain't giving nobody fucking nothing . . . What you want me to do? What you gon' do? Put me in jail? I'm not scared of fucking jail, nigga, I work there! . . . Today's my day off, I wanna go the fuck home and go to sleep!" (9:56:35-9:56:44). Sergeant McFarland tells respondent that if she had

pulled over she probably would have been given a courtesy (9:56:46). Respondent continues to yell. “All the fucking time! No! Niggas is tired of this shit! . . . So do what you have to do” (9:56:50-9:56:57). Sergeant McFarland says, “Step out of the car” (9:56:59). Respondent does not comply. Sergeant McFarland says, “Step out of the car” twice more (9:57:00-9:57:04). Respondent still does not comply, but throws her license on the dashboard of her vehicle (9:57:05).

Respondent eventually says, “Take this license. I don’t got time for this. All the time! Nobody’s fucking got time for this shit,” and hands her license to Sergeant McFarland, who directs her to pull further over to the right (9:57:06-9:57:11). Respondent pulls further over as directed, opens the driver side door but does not step out. She can be heard speaking loudly on the telephone, complaining that she is tired and wants to go home (9:57:22). Sergeant McFarland approaches the passenger side of the vehicle, and again explains that if she had pulled over as directed, she would have been given a courtesy (9:57:45). Respondent states that she just worked 20 hours and is tired, and has previously been pulled over in the same location (9:57:54).

Sergeant McFarland asks her how long she has been with the Department, and she replies, “five” (9:57:55). He asks, “And you’re acting like this?” Respondent replies, “I act like this on the regular! I don’t give a fuck about no ticket right now” (9:58:01-9:58:04). Sergeant McFarland responds, “Well, do you give a fuck about your job?” Respondent replies, “I don’t give a fuck about that shit either. I’m tired. They can take that shit, too” (9:58:08). She says that she is not afraid of jail, prison, or losing her freedom (9:58:10-9:58:29).

Respondent then says, “They lucky they didn’t give me a firearm. I’m so fucking glad” (9:58:49). She does not look at Sergeant McFarland as she says this but looks straight ahead, while Sergeant McFarland is still standing next to the open passenger side window. Respondent then states, “I’ll call you back,” and disconnects the call (9:59:09). A few minutes pass and respondent sits quietly in the front seat (9:59:09-10:01:36). She then asks Sergeant McFarland why she got pulled over in the first place, and he replies, “for speeding” (10:01:38).

After another minute passes, respondent says, “How long is this gonna take? I’m trying to go home and go the fuck to sleep before I fucking hurt somebody. Dead ass. I’m tired of this shit. Every fucking day” (10:02:33)¹. Several more minutes pass, and respondent places a call to her

¹ Petitioner’s Intradepartmental Memorandum (Pet. Ex. 2), which contains a transcript of portions of the video, quotes respondent as saying, “I want to go home and go to sleep before I fucking kill someone.” I listened carefully to the video multiple times and heard the word “hurt” and not the word “kill.”

mother (10:05:03; Tr. 85). The phone is on speaker and the conversation can be heard in the video. Respondent tells her mother that she “just got pulled over by the stupid cops” (10:05:06). Her mother asks, “What did you do?” Respondent replies that she was pulled over for speeding in the same spot in which she had previously been stopped (10:05:11-14). Respondent tells her mother, “I’m tired of them. I’m tired of them. They lucky I don’t have a firearm” (10:05:21). Her mother tells her to calm down. Respondent responds, “I’m tired of them. They got nothing better to do. Just give me the ticket, before I slap one of them” (10:05:28).

Officer Kline eventually approaches the passenger side of respondent’s vehicle and gives respondent a summons. She says, “Just give me my shit. Fucking dickhead. Both of y’all. Fucking dickheads. Both of y’all. Fucking stupid ass monkey. Take that fucking ticket, too” (10:05:54-10:06:12). Respondent then throws the ticket out of the window and speeds off.

Documentary Evidence

Petitioner submitted the Department of Correction Employee Rules and Regulations sections 3.20.030 and 3.20.300, as well as the Special Investigation Unit Closing Report (Pet. Exs. 1, 2). Respondent submitted her handwritten overtime record covering the period between February 1, 2022 and December 10, 2022 (Resp. Ex. A).

Trial Testimony

Investigator Steven Delgado testified on behalf of petitioner. He has been employed by the Department for more than seven years. He first served as a correction officer and then became an investigator four years ago (Tr. 10-11). He is currently assigned to the Special Investigation Unit, where he conducts investigations into employee misconduct (Tr. 11-12). On September 15, 2023, he was assigned to investigate respondent’s conduct during the September 11, 2022 traffic stop (Tr. 12-13). He reviewed the body worn camera footage and prepared a closing memorandum concluding that respondent engaged in conduct unbecoming a correction officer (Pet. Ex. 2). He based this conclusion on her failure to comply with law enforcement’s directives and on the threats she made toward the officers (Tr. 19-20).

On cross-examination, Investigator Delgado acknowledged that nothing in his case files addressed the cause of respondent’s behavior (Tr. 28-29). He also acknowledged that he did not

conduct an MEO-16 interview of respondent, did not question the two officers about the incident, and did not review respondent's overtime logs (Tr. 28-30).

Correction Officer Ismaelite Dortelus testified on respondent's behalf. She joined the Department in July of 2018, and is currently assigned to the Robert N. Davoren Center ("RNDC") at Rikers Island. She has worked with respondent since joining the Department, and regards her as professional and dependable (Tr. 59). She has never seen respondent lose her temper or have "negative interactions with supervisors" at work (Tr. 60-61). Officer Dortelus also spoke about the working conditions at Rikers Island, describing them as "[t]iresome," "stressful," and "tough" (Tr. 55, 58). Correction officers work long hours, often with no meal or water breaks, and very little time to sleep between tours (Tr. 55, 58). A 16-hour shift without a meal is not uncommon (Tr. 55). Officer Dortelus and her colleagues are often forced to get by on "sips of water" (*Id.*).

Correction Officer Kaiheem O'Garra, who is respondent's cousin, also testified on her behalf. He has been a correction officer for 16 years and is also assigned to RNDC (Tr. 65). He sees respondent regularly at work, mostly in passing, and approximately twice a month outside of work (Tr. 71-72). He usually works five days a week, mostly double shifts (Tr. 67). He does not typically receive a meal release during the workday, even when he works a double shift (Tr. 67-68). According to Officer O'Garra, correction officers are rarely able to even hydrate during a tour, because "they scrutinize anything you bring in," and do not allow unsealed water bottles into the building (Tr. 68-69). Officers often have no energy due to working long hours without food and water or adequate sleep, and, in his view, are likely to "falter somewhere" as a result. "We're human. We get tired just like everybody else" (Tr. 70).

Respondent testified on her own behalf. A correction officer since July 2018, respondent is currently assigned to RNDC, where she works four days per week (Tr. 74, 76). At the time of this incident, she worked mandatory overtime each workday, resulting in 16-to-20-hour shifts, usually with no meal break (Tr. 76). According to respondent, it is "very rare that [an officer] ever gets a meal in Rikers Island at all" (*Id.*). She also seldom gets enough sleep in between tours (Tr. 89). Respondent describes the pace as "draining" and "exhausting" (Tr. 76). "You can't function, [you have] headaches[,] and you just can't even think because you're too hungry. So you can't even think or anything. And you just – your stomach is sick, you are hurting because you can't eat and nobody knows how it feels but you and your partners" (Tr. 77).

Respondent sustained a work-related injury in 2022, prior to the vehicle stop (Tr. 81). She suffered a tear in her knee and foot, and was required to undergo two surgeries (*Id.*). She continued to work overtime as she was recovering from these surgeries, and did so on the day of the incident (*Id.*).

When respondent was pulled over on September 11, 2022, she was driving from work to her home in Amityville, Long Island (Tr. 77). She acknowledged that she was speeding (Tr. 94). She was in a rush to get home so that she could take a nap before going to see her stepfather, who had been diagnosed with lung cancer and was in the hospital (Tr. 78-79). She had been pulled over in the same location a few months earlier (Tr. 79). According to respondent, “those cops sit out there every single day and they harass officers in that same location all the time” (*Id.*). She believes that police officers harass corrections officers “[b]ecause they know correction officers go home that way . . . Correction officers live in Queens, Brooklyn, Long Island” (Tr. 94).

Respondent asserted that the alleged threats were not directed toward the police officers but toward the person with whom she was speaking on the phone. She claimed she “wasn’t going to actually slap” the officer, but that she was having a conversation with her mother (Tr. 86). According to respondent, she is “not stupid enough to say that to an officer,” and was merely speaking out of frustration (Tr. 84-85).

Respondent suggested that her behavior during the vehicle stop was not reflective of her usual character. “That’s not me. That’s not me at all. Usually I don’t curse, I don’t curse at all” (Tr. 91). She described her conduct as “disgusting” and “embarrassing” (*Id.*).

Asked at trial why she refused to comply with the officer’s directives, respondent replied, “Why was I going to step out the car, for what, I didn’t do anything” (Tr. 95). She added that it was “ridiculous” for the Department to charge her with misconduct because the traffic summons had already been adjudicated and she paid the fine (Tr. 91-92). Asked whether she thought it was okay “to act that way with law enforcement while they’re in the course of their employment,” respondent replied, “Do y’all think it’s okay that I don’t get to go home to my family?” (Tr. 100).

On July 27, 2023, after having received a penalty of a fine and points on her license, respondent filed a civilian complaint against the officers because Sergeant McFarland “never showed up to court” (Pet Ex. 2; Tr. 97). Respondent read the complaint narrative into the record: “Ms. Francis acknowledged she was tired from working a double tour and was possibly speeding when she left work at Rikers Island. While at the court hearing[,] only Police Officer Kline

showed. Ms. Francis believed Police Officer Kline lied or may have falsified documents because he did not issue her the summons . . . Ms. Francis paid a fine of \$200 and received points on her driver's license" (Tr. 98).

The Charges

The petition alleges that respondent engaged in conduct unbecoming a member of the Department and of a nature to bring discredit upon the Department, in violation of Rules and Regulations Chapters 3.20.030 and 3.20.300, in that she refused to cooperate with and made threats to NYPD Officers during a vehicle stop by the NYPD for a traffic infraction (ALJ Ex.1). The petition also alleges that respondent was subsequently "charged with harassment in the second degree, a violation of the NYS Penal Law and Vehicle Traffic Law, Obedience to police officers and flagpersons."

There is nothing in the record to support the assertion that respondent was charged with second degree harassment following the traffic stop. Petitioner did not discuss a second degree harassment charge at trial. Respondent denied having been charged with this violation. Whether respondent was charged with second degree harassment is not dispositive of whether she engaged in the alleged misconduct. I therefore find that the portion of the petition alleging that respondent was charged with second degree harassment must be dismissed.

Petitioner bears the burden of proving the charges by a preponderance of the credible evidence. *See Dep't of Correction v. Hall*, OATH Index No. 400/08 at 2 (Oct. 18, 2007), *adopted*, Comm'r Dec. (Nov. 2, 2007), *aff'd*, NYC Civ. Serv. Comm'n Item No. CD 08-33-SA (May 30, 2008). Preponderance has been defined as "the burden of persuading the triers of fact that the existence of the fact is more probable than its non-existence." Prince, Richardson on Evidence § 3-206 (Lexis 2008); *see also Rinaldi & Sons, Inc. v. Wells Fargo Alarm Service, Inc.*, 39 N.Y.2d 191, 196 (1976).

I found both of respondent's character witnesses credible. However, neither was present during the vehicle stop, and I therefore gave their testimony, which mostly described working conditions at Rikers Island, little weight. I found Investigator Delgado's testimony to be generally credible, although I did not give his testimony much weight because his investigation was based almost exclusively on the video, which I evaluated independently. As for respondent, while I found her testimony to be mostly credible, the matter does not turn on her credibility. She did not

deny the conduct at issue, which was captured on video. The issue before me is whether her words and actions amounted to misconduct.

It is well-established that an agency may discipline an employee for off-duty misconduct. *Cromwell v. Bates*, 105 A.D.2d 699, 699 (2d Dep't 1984); *Zazycki v. City of Albany*, 94 A.D.2d 925, 926 (3d Dep't 1983); *Dep't of Correction v. Dash*, OATH Index No. 336/06 at 9 (Mar. 28, 2006), *aff'd*, NYC Civ. Serv. Comm'n Item No. CD 07-66-SA (June 13, 2007). To do so, the agency must first establish a nexus between the off-duty misconduct and the employee's job duties. *Dep't of Correction v. Boyce*, OATH Index No. 789/97 at 19 (July 9, 1997), *aff'd*, NYC Civ. Serv. Comm'n Item No. CD 99-75-SA (July 19, 1999) (citations omitted); *see also Dep't of Correction v. Johnson*, OATH Index No. 1177/99 at 2 (July 16, 1999). Here, there is a clear nexus between respondent's conduct and her law enforcement duties as a correction officer. *See Dep't of Correction v. Ortiz*, OATH Index No. 986/07 at 4 (June 25, 2007), *aff'd*, NYC Civ. Serv. Comm'n Item No. CD08-22-A (May 9, 2008) (finding a sufficient nexus between a correction officer's duties and his failure to cooperate with police instructions); *Dep't of Correction v. Santos*, OATH Index No. 1349/15 at 14-15 (Oct. 26, 2015), *adopted*, Comm'r Dec. (Mar. 9, 2016), *aff'd*, NYC Civ. Serv. Comm'n Case No. 2016-0207 (June 20, 2016) ("The very nature of respondent's duties as a correction officer requires that he remain calm and attempt to de-escalate volatile situations during which he, his fellow officers, and inmates may be in danger."). "As a law enforcement employee [her]self, respondent bears a special responsibility to abide by the directions and commands of police officers even when [s]he believes them to be wrong." *Dash*, OATH 336/06 at 9.

Failure to cooperate

Petitioner alleges that respondent failed to cooperate with the NYPD officers during the September 11, 2022 traffic stop. Failure to cooperate with law enforcement is a particularly "troublesome form[] of misconduct," as it raises doubts about that officer's "ability to function in an organization such as the Department, where respect for law enforcement is a paramount concern." *Santos*, OATH 1349/15 at 15.

Sergeant McFarland and Officer Kline gave respondent three specific directives: 1) pull over; 2) hand over her license; and 3) step out of the vehicle. Respondent argued that she did in

fact cooperate with the officers, albeit neither promptly nor cheerfully, in that she eventually pulled over her vehicle and handed over her license as directed.

With respect to the first directive, when Officer Kline first motioned for respondent to pull over, she briefly stopped and then sped up and appeared to attempt to drive around him. He stepped in front of her car and she was forced to comply. After an initial dialogue, Sergeant McFarland told her to pull over further, which she did.

I find that petitioner failed to prove by a preponderance of the evidence that respondent did not comply with the first directive, to pull over. The directive was non-verbal, and respondent did in fact stop the vehicle and pull over. Although she appeared to momentarily speed up to try to go around Officer Kline, this lack of compliance lasted approximately two seconds, after which respondent obeyed the directive. She also complied with Sergeant McFarland's instruction to pull over further to the right.

As to the second directive, when Sergeant McFarland first instructed respondent to hand over her license, she looked in his direction but did not comply. He repeated the instruction, to which respondent replied, "I'm not giving you my shit . . . I ain't giving nobody fucking nothing. What you gon' do? Put me in jail? I'm not scared of fucking jail, nigga, I work there!" Her brazen refusal to comply lasted for approximately two minutes before she finally handed over her license.

In *Department of Correction v. Akua*, OATH Index No. 1435/05, supplemental rep. and rec. at 2 (Jan. 30, 2006), a correction officer was charged with engaging in conduct unbecoming an officer and of a nature to bring discredit upon the Department when he "failed to or initially refused to cooperate with the police officers' orders to put down his firearm and get down on the ground." In determining that the correction officer's "failure to comply promptly with lawful instructions from police officers was misconduct," the administrative law judge credited testimony that the correction officer mockingly referred to the police officers as "rookies" and failed to cooperate immediately, taking at least ten seconds to comply with their orders. *Id.*

Similarly, respondent's failure to promptly hand over her license amounts to misconduct. Respondent defiantly refused to follow instructions, taunting the officers with profanity, racial epithets, and other disrespectful and highly inappropriate language. Although petitioner did not charge respondent with discourtesy, her offensive language was integral to her contemptuous refusal to comply. That she ultimately handed over her license does not negate her initial misconduct. I find that petitioner proved that respondent failed to follow the second directive.

With respect to the third directive, to step out of the vehicle, respondent once again failed to comply. Sergeant McFarland gave the order three times, but respondent remained inside her vehicle during the entire traffic stop. Respondent sought at trial to justify her unwillingness to follow the directive: “Why was I going to step out the car, for what, I didn’t do anything” (Tr. 95). Her blatant defiance bespeaks a lack of respect for the officers’ authority, which is troubling given her role as a correction officer. Moreover, respondent’s assertion that she “didn’t do anything” is false – she was speeding. However, regardless of whether respondent was speeding, she should have obeyed the officer’s repeated orders to step out of the vehicle. Petitioner proved that respondent failed to follow this third directive.

Having established that respondent refused to follow two of the officers’ three directives, petitioner met its burden of proving that respondent failed to cooperate with NYPD officers. This charge is sustained.

Threatening Statements

Petitioner alleged that respondent made threatening statements toward the NYPD officers during the vehicle stop. Investigator Delgado identified the following statements as threats: 1) “They lucky they didn’t give me a firearm. I’m so fucking glad;” 2) “I’m tired of them. They got nothing better to do. Just give me the ticket, before I slap one of them;” 3) “I’m tired of them. I’m tired of them. They lucky I don’t have a firearm” (Tr. 38-39).² Respondent was on the telephone when she made all three statements and was not looking at the officers. Respondent argued that the statements were directed toward the person on the other end of the line and not toward Sergeant McFarland.

An indirect statement made in the presence of the intended recipient can constitute a threat for section 75 purposes. *See Dep’t of Social Services (Human Resources Admin.) v. Miles*, OATH Index No. 1432/20 at 7-9 (Dec. 10, 2020), *aff’d*, NYC Civ. Serv. Comm’n Case No. 2021-0126 (Aug. 19, 2021) (finding that a job opportunity specialist engaged in threatening conduct by stating on the phone at his cubicle, in an agitated manner and within earshot of colleagues, “I’m going to shoot up this place”). Here, although respondent was not speaking directly to Sergeant McFarland

² Investigator Delgado stated he did not interpret as threatening respondent’s comment, “I’m trying to go home and go the fuck to sleep before I fucking hurt somebody. Dead ass.” Instead, he determined that this comment was “[e]xpressing that she worked long hours” (Tr. 40).

when she made the troubling remarks, she spoke within his earshot and for his benefit. That she was not looking toward either officer when she made these statements did not detract from her purpose, which was to menace and intimidate law enforcement. Indeed, after hearing respondent say over the phone, “They lucky I don’t have a firearm,” her mother said, “Calm down,” suggesting that respondent’s language required defusing. A reasonable interpretation of respondent’s comment is that if she had been in possession of a firearm, she would have used it. I find that this language, along with her reference to slapping one of the officers, amounted to a threat and thus constitutes misconduct. This charge is sustained.

FINDINGS AND CONCLUSIONS

- 1) Petitioner proved that respondent refused to cooperate with NYPD officers by failing to promptly present her license or step out of her vehicle as directed, in violation of Department Rules and Regulations sections 3.20.030 and 3.20.300.
- 2) Petitioner proved that respondent made threats to NYPD officers, in violation of Department Rules and Regulations sections 3.20.030 and 3.20.300.

RECOMMENDATION

After making the above findings, I requested and reviewed a summary of respondent’s personnel history, on Departmental form 22R. Respondent has worked for the Department since July 2018. In April 2022, she accepted a 15-day suspension to resolve charges involving a use of force incident. She has no other history of misconduct.

Respondent’s behavior toward the police officers was indefensible. Her conduct reflected not only a lack of respect for law enforcement, but also a lack of maturity and restraint. Although she conceded that her behavior was “disgusting” and “embarrassing,” respondent’s trial testimony suggested she believed her actions were justified. For example, she seemed unwilling to take accountability for the fact that she was speeding when the officers pulled her over. Instead, she faulted the officers for doing their job, insisting that they targeted her because she was a correction officer and complaining that they had previously stopped her in the same location. At no point during her testimony did respondent express remorse about her conduct. Rather, her comportment and tone reflected continued indignation.

There are mitigating considerations. Respondent and her two witnesses testified extensively about their challenging working conditions, and I have taken this testimony, as well as respondent's overtime record, into consideration. There is no question that working long hours in a correctional facility without sufficient breaks would take a physical and mental toll on anyone. Fatigue and hunger, however, do not excuse respondent's conduct. Her attempt to make a causal connection between her working conditions and her misconduct, without the benefit of expert testimony, is unavailing. Many of respondent's colleagues operate under similar conditions but can nonetheless conduct themselves appropriately toward law enforcement.

Respondent also testified that when she was pulled over she had been rushing to get home so that she could visit her stepfather, who was hospitalized with lung cancer. While a sick family member might explain why respondent was speeding, or why she may have been on edge, it does not justify her behavior. Nor does the fact that respondent was recovering from an injury.

For respondent's misconduct, petitioner recommended a penalty of 60 days' suspension without pay. This penalty is appropriate, particularly given that respondent's disciplinary history is not unblemished. Cases involving correction officers who engaged in comparable conduct toward law enforcement have resulted in similar, or more severe, penalties. See *Dep't of Correction v. Jackson*, OATH Index No. 1388/03 at 6-8 (Dec. 19, 2003) (60-day penalty for a correction officer who refused to hand over his license to a state environmental police officer, questioned the officer's authority to stop him, attempted to drive away, lied that he was a "court officer," and disobeyed the officer's order to remain at the scene until a state trooper arrived); *Akua*, OATH 1435/05 at 2-3 (60-day suspension for correction officer who engaged in various forms of off-duty misconduct, including failing to cooperate immediately with police officers who ordered him to drop his weapon and get down on the ground when they approached him in a nightclub parking lot); *Dep't of Correction v. Simpson*, OATH Index No. 718/90 at 22-23 (May 11, 1990) (termination for correction officer involved in off-duty racist verbal harassment and menacing of City investigators).

Accordingly, I recommend that respondent be suspended for 60 days without pay.

Tiffany Hamilton
Administrative Law Judge

June 21, 2024

SUBMITTED TO:

LYNELLE MAGINLEY-LIDDIE
Commissioner

APPEARANCES:

LISA HYNES, ESQ.
Attorneys for Petitioner

JOEY JACKSON LAW, PLLC
Attorneys for Respondent
BY: ADRIAN LAURIELLO, ESQ.