

Dep't of Correction v. Lovelace

OATH Index No. 3501/24 (July 30, 2024), *adopted*, Comm'r Dec. (Aug. 21, 2024), **appended**,
aff'd, NYC Civ. Serv. Comm'n Case No. 2024-0573 (Nov. 29, 2024), **appended**

Petitioner proved that a correction officer utilized unnecessary and excessive force when he struck a restrained person in custody three times in the face with a closed fist. Termination of employment recommended.

NEW YORK CITY OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

In the Matter of
DEPARTMENT OF CORRECTION
Petitioner
- against -
VINCILSKI LOVELACE
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 Vincilski Lovelace, under section 75 of the Civil Service Law. Petitioner alleged that respondent utilized unnecessary and excessive force against a person in custody, Darlin Vasquez-Rojas. Specifically, petitioner contends that respondent struck Vasquez-Rojas, who was in restraints, three times in the head and facial area.¹

This case is designated for expeditious resolution under section F(2) of the Nunez Action Plan. *See Nunez v. City of New York*, 11 Civ. 5845 (LTS)(JCF) at 18-19 (S.D.N.Y. June 14, 2022). Trial was held before me on June 28, 2024. Petitioner relied on the testimony of a Department investigator, as well as documentary and video evidence. Respondent testified on his own behalf and offered documentary evidence. For the reasons set forth below, I find that petitioner proved the charge and recommend termination of respondent's employment with the Department.

¹The Department also charged respondent with submitting a false, misleading, inaccurate and/or incomplete report in connection with his use of force, but withdrew that charge prior to trial.

ANALYSIS

The charge stems from a use of force that occurred on December 30, 2023, in Building 16 of the Rose M. Singer Enhanced Supervision Housing Area (“RESH”) on Rikers Island, where respondent was assigned to monitor recreation. The facts surrounding the use of force are largely undisputed. Persons in custody had congregated in the recreational area and were complaining about not receiving mandated services. They were aggressive and agitated, and refused to “lock in” to their cells (Tr. 52, 82, 92, 100). The situation was deemed a “Level B” alarm, which denotes a situation “where there is an immediate threat to staff” and usually involves “a use of force [or] multiple inmate disruptions” (Tr. 98-99). Correction officers, including respondent, were dispatched to the location. After unsuccessfully attempting to control the situation using interpersonal communication skills, several correction officers deployed a chemical agent (“OC spray”) and restrained multiple persons in custody, including Vasquez-Rojas. Respondent and another officer were escorting Vasquez-Rojas, who was rear-cuffed, toward the front of the room when Vasquez-Rojas turned and spat toward respondent’s face. Respondent responded by punching Vasquez-Rojas three times in the face with a closed fist. Respondent did not deny his use of force. Instead, he contended that the three facial strikes were justified because: 1) a probe team had not been dispatched, and 2) he reasonably believed he was in imminent danger of serious bodily harm after Vasquez-Rojas spat at him.

Petitioner’s Evidence

Genetec video

To prove the charge, petitioner relied primarily on the Genetec surveillance video. The video contains no audio and captures the incident from several angles. Angle 84.49 shows the bottom tier recreational area of RESH, a large open space containing several long tables with metal seats attached, surrounded by two tiers of cells with numbers on the doors.

The relevant portion of the video begins with approximately seven persons in custody congregated near a table toward the front of the room, talking excitedly (Pet. Ex. 5k, Angle 84.49 at 2:03:53). Some are sitting and some are standing or moving about. A few begin wrapping towels around their heads (Pet. Ex. 5a, Angle 14.61 at 2:04:30). Several correction officers, most of whom are wearing gas masks, arrive at the scene, face the persons in custody, and appear to

engage verbally with them (2:04:30). One person in custody appears to yell something in the direction of the officers, who then deploy OC spray and advance. The persons in custody retreat to the back of the room (2:05:25-2:05:37).

There are now at least 16 people in the recreation area and the scene is chaotic (2:05:25-2:05:37). Respondent is close to the front of the room, next to the wall. He is wearing a blue Department-issued cap but no gas mask. He and three other officers, who are wearing gas masks, bring Vasquez-Rojas to the ground on his stomach and begin to rear cuff him (2:05:39-2:05:44). One of the officers walks away, and respondent and the remaining two officers finish rear cuffing Vasquez-Rojas (2:05:50-2:06:00). A second officer walks away, leaving respondent and one other officer, later identified as Officer Ward, with Vasquez-Rojas (2:06:02). The officers grab him by the back of his arms, bring him to his feet, and begin escorting him forward (2:06:03-2:06:06). Both officers are positioned behind Vasquez-Rojas as they walk, with Officer Ward holding his left arm and respondent holding his right arm (2:06:03-2:06:06).

After taking three steps forward, Vasquez-Rojas turns his head all the way to the right and spits toward respondent's face (2:06:07). It is unclear from the Genetec footage whether any of his saliva touches respondent's face, but a close-up of the video shows the trail of saliva in the air, just below respondent's chin (2:06:07). After spitting, Vasquez-Rojas immediately turns forward again, angling his head slightly downward (2:06:07). One second later, respondent punches Vasquez-Rojas on the right side of his face from behind, hitting him three times in succession with a right-hand uppercut (2:06:08-2:06:10). Respondent and Officer Ward then secure Vasquez-Rojas to the ground and, with the assistance of several other officers, further restrain him (2:06:11-2:07:09). Three seconds elapse between the moment when Vasquez-Rojas spits and respondent's third facial strike (2:06:07-2:06:10).

Documentary evidence

Petitioner submitted into evidence a recording and transcript of respondent's MEO-16 interview but did not rely on it at trial. Respondent's recounting of the incident during the interview mostly corresponded with the Genetec video (Pet. Exs. 6, 6a).

Petitioner also submitted respondent's December 30, 2023 medical report, which notes that he reported exposure to bodily fluid and was advised to wash the exposed area and gargle with antiseptic (Tr. 133-36; Pet. Ex. 8).

Investigator Ilic-Deluca's Testimony

Investigator Alexa Ilic-Deluca testified on behalf of petitioner. She has been a civilian investigator for the Department since September 2023 and is responsible for investigating high priority cases involving what the Department classifies as egregious uses of force (Tr. 12). She reviewed the Genetec video as part of her investigation into respondent's conduct, and concluded that his use of force was excessive and retaliatory (Tr. 17-18, 21). She found that respondent was not in imminent danger of serious bodily injury or death at the time of the incident, and that lesser means were available to gain compliance, such as control holds or takedown techniques (Tr. 33, 57). Respondent also could have secured Vasquez-Rojas to the wall or floor, or requested a spit mask (Tr. 81). On cross examination, Investigator Ilic-Deluca acknowledged that the initial alarm called for a Level B response, which requires a probe team, provided there is sufficient time and enough staff to form one (Tr. 49-50). Here, a probe team was not assembled, and none of the correction officers who responded to the emergency were wearing a helmet or face shield (Tr. 58).

Respondent's Evidence

Respondent testified on his own behalf. A correction officer since 2016, he is currently assigned to monitor persons in custody in enhanced supervision housing ("ESH") during their recreation time (Tr. 84, 89). These persons in custody have a history of being assaultive and have been deemed too violent to be housed with the general population (Tr. 90). ESH currently occupies one half of the Rose M. Singer Center, where it is known as "RESH." Housing for female persons in custody occupies the other half of the building (Tr. 97). At the time of the incident, RESH had no designated control room, control room supervisor, or station area (Tr. 98). Vests, shield masks, and other equipment were often unavailable, which impacted officers' ability to properly respond to alarms (*Id.*). Given the lack of equipment and staffing, a probe team was not assembled in response to the Level B alarm on December 30, 2023, as required by Operations Order 25/19 (Resp. Ex. A; Tr. 58-59, 114). Instead, officers were told to report directly to the area (Tr. 114).

Respondent acknowledged that he delivered three facial strikes to Vasquez-Rojas, who had just spat at him while in restraints. After the third facial strike, respondent secured Vasquez-Rojas to the floor using soft hand techniques, and then assisted him back up with the help of other officers and escorted him out of the area and to the clinic (Tr. 101, 119). Vasquez-Rojas refused medical

treatment, so respondent escorted him back to the housing area and secured him in his cell (Tr. 101). He did not observe Vasquez-Rojas to have any injuries (Tr. 101).

Respondent contended that his use of force was justified because he was in imminent danger of serious bodily harm once Vasquez-Rojas spat at him. He was concerned about potential disease and infection, and the three facial strikes were intended “to prevent injury” (Tr. 101). Also, given that the spitting was “unprovoked,” he was “worried about what else [Vasquez-Rojas would] do.” Specifically, he was worried about headbutting, something persons in custody sometimes do when rear-cuffed, given their inability to use their hands (Tr. 101-02). Respondent had been headbutted twice prior to this incident and noted that it only takes a “[s]plit second” (Tr. 103). Vasquez-Rojas had leaned forward after spitting, and according to respondent, “[u]sually when an inmate is going to headbutt, he would bend forward and then rock his head and torso back” (Tr. 108). In respondent’s opinion, if he had been wearing a helmet, it would have deterred Vasquez-Rojas from headbutting him (Tr. 115).

In addition to concerns about headbutting, respondent was also worried that Vasquez-Rojas might spit at him again and “continue the assault” (Tr. 104). He therefore “had to react quickly to prevent further injury” and determined that facial strikes would keep him safe (Tr. 111, 138).

The Charges

Petitioner charged respondent with using excessive and unnecessary force when, after being spat at, he struck a restrained Vasquez-Rojas three times in the facial area (Pet. Ex. 7; Tr. 8).

Petitioner has the burden of proving the charge 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). “If the evidence is equally balanced, or if it leaves the [trier of fact] in such doubt as to be unable to decide the controversy either way, judgment must be given against the party upon whom the burden of proof rests.” *Prince, Richardson on Evidence* § 3-206. Relevant factors in assessing credibility include demeanor, consistency of a witness’s testimony, supporting evidence, witness motivation, bias or prejudice, and the degree to which a witness’s testimony

comports with common sense and human experience. *Dep't of Sanitation v. Menzies*, OATH Index No. 678/98 at 2-3 (Feb. 5, 1998), *aff'd*, NYC Civ. Serv. Comm'n Item No. CD 98-101-A (Sept. 9, 1998).

I found Investigator Ilic-Deluca's testimony mostly credible. However, I did not afford her conclusions much weight as they were based mostly on the Genetec video, which I evaluated independently. I found some of respondent's testimony credible, although I did not credit his principal assertion, which was that he feared serious bodily injury when he struck Vasquez-Rojas.

Use of Force

Petitioner's Use of Force Directive 5006 R-D (the "Directive") defines a use of force as "any instance where Staff use their hands or other parts of their body . . . to restrain, subdue, or compel an Inmate to act or stop acting in a particular way" (Pet. Ex. 1 at § III). The Directive permits the use of force against a person in custody "[a]s a last resort and where there are no practical alternatives available to prevent physical harm to Staff, visitors, Inmates, or other persons"; or "[t]o enforce Departmental or Facility rules, policies, regulations, and/or court orders where lesser means have proven ineffective and there is an immediate need for compliance" (*Id.* at § V(A)).

The Directive outlines various uses of force "in order of least to greatest degree of force," and notes that when force is necessary, "Staff shall always use the minimum amount necessary to stop or control the resistance or threat encountered and it must be proportional to the resistance or threat encountered" (*Id.* at §§ II(C), VI(B)(1)(f)). Force may not be used "[t]o punish, discipline, assault, or retaliate against an Inmate" (*Id.* at § V(B)(1)(a)). The Directive "strictly prohibits the use of high impact force," including strikes or blows to the head, face, groin, neck, kidneys, and spinal column, kicks, choke holds, carotid restraint holds, and other neck restraints (*Id.* at § II(G)). The only exception to this prohibition is "a situation where a Staff Member or other person is in imminent danger of serious bodily injury or death, and where lesser means are impractical or ineffective" (*Id.* at § II(G)). Blows to the face and head constitute deadly physical force because they may cause serious physical injury or death. *Dep't of Correction v. Thompson*, OATH Index No. 2232/19 at 6 (Dec. 2, 2020), *adopted*, Comm'r Dec. (Apr. 13, 2021); *Dep't of Correction v. Ash*, OATH Index No. 397/21 at 3 (Apr. 12, 2021), *modified on penalty*, Comm'r Dec. (Apr. 27, 2021), *aff'd*, NYC Civ. Serv. Comm'n Case No. 2021-0229 (Dec. 3, 2021); *Dep't of Correction*

v. Bravo, OATH Index Nos. 424/15 & 426/15 at 12 (May 14, 2015) (“deadly physical force” includes a punch or a kick to the head).

An officer may use force “[t]o prevent or stop the throwing or spitting of any liquid substance,” including saliva (Pet. Ex. 1 at § V(A)(3)). Here, it is undisputed that Vasquez-Rojas spat at respondent. Despite questions raised by petitioner on cross-examination about where the spit actually landed, whether any saliva actually touched respondent’s face has no bearing on whether he was justified in using force. “The need for physical force is established by considering all elements of the situation confronting Staff and by the type and amount of resistance exhibited by the Inmate and applying an objective ‘reasonableness’ standard” (*Id.* at § VI(B)(1)(b)). The question before me is whether the level of force used by respondent was excessive and unnecessary in light of the threat Vasquez-Rojas presented.

At trial, respondent focused on the fact that a probe team was not properly assembled, there was insufficient gear and staff available, and there was no control room established at RESH. Respondent argued that with a probe team in place, the use of force might not have occurred. This argument is unavailing.

In *Department of Correction v. Seraphin*, OATH Index No. 1162/22 (Mar. 11, 2022), *adopted*, Comm’r Dec. (Apr. 26, 2022), a correction officer charged with using excessive force against a person in custody who splashed him with food argued that but for the Department’s failure to assemble a probe team his use of force would not have occurred, because his captain would have relieved him of his duties. The ALJ found this argument unpersuasive, reasoning that “the failure of a probe team to arrive . . . was not a contributing factor to the use of force” and “did not obviate [the officer’s] responsibility to remove himself from the scene” *Id.* at 7. Similarly, the lack of a probe team does not excuse respondent’s conduct. There is no evidence that the three facial strikes stemmed from the responding officers’ limited capacities or lack of gear.

Furthermore, the prohibition on high impact force applies to every correction officer at all times, regardless of whether they are part of an assembled probe team. This prohibition has only one exception: where the officer is in imminent danger of serious bodily injury or death, and lesser means are impractical or ineffective. Respondent’s use of force against Vasquez-Rojas does not fall within this exception.

When respondent delivered the three facial strikes, Vasquez-Rojas’s head was turned away from respondent, his hands were in mechanical restraints, and Officer Ward was holding onto the

back of his left arm. Despite respondent's testimony about the danger and frequency of headbutts by restrained persons in custody, there is no credible evidence that Vasquez-Rojas was about to headbutt respondent. Furthermore, there were at least seven other members of service in the room, several of whom were actively spraying chemical agents toward persons in custody. Under these circumstances, respondent's claim to have been in imminent danger of serious bodily harm is dubious.

Our cases have rejected similar claims of imminent danger of serious bodily harm, where persons in custody were restrained and other factors limited any threat of injury. *See Dep't of Correction v. Carnes*, OATH Index No. 2067/24 at 15-16 (Feb. 16, 2024) (rejecting a correction officer's claim that he was in imminent danger of serious bodily injury, where the officer swung and then forcibly pulled a rear-cuffed person in custody who was smaller than him, causing the person in custody's upper body and face to hit a metal partition and food slot); *Dep't of Correction v. Paul*, OATH Index No. 1712/21 at 34-35 (Feb. 7, 2022), *adopted*, Comm'r Dec. (Apr. 20, 2022), *aff'd*, 220 A.D.3d 423 (1st Dep't 2023) (rejecting a captain's claim that he was in imminent danger of serious bodily harm when he used a prohibited chokehold on a person in custody who was "on the ground in mechanical restraints and was outnumbered at least three to one"); *Dep't of Correction v. Alce*, OATH Index No. 1507/21 at 5 (Aug. 31, 2021) (finding that a correction officer was not in imminent danger of serious bodily injury or death when he used a chokehold on a restrained person in custody, because the officer "could have easily stepped back or called for a supervisor to assist"); *Dep't of Correction v. Antoine*, OATH Index No. 873/21 at 29-30 (June 16, 2021), *adopted*, Comm'r Dec. (Oct. 19, 2021) (finding that a correction officer was not in imminent danger of serious bodily harm when he bashed a person in custody's head into a cabinet and later onto the floor even though the person in custody was "prone on the floor and restrained" and had "stopped resisting").

Even if respondent could credibly establish that he was in imminent danger of serious bodily injury after Vasquez-Rojas spat at him, the exception to the prohibition on high impact force also requires him to demonstrate that lesser means were impractical or ineffective. Here, however, lesser means could have effectively eliminated any threat posed by Vasquez-Rojas. Respondent could have used soft hand techniques, secured Vasquez-Rojas to the wall or floor, or punched his body instead of his face. He also could have let go of Vasquez-Rojas, as he was rear-cuffed and under Officer Ward's physical control. Indeed, respondent acknowledged at trial that

lesser means were available to him, but noted that he “didn’t have much time to make a decision to think about how [he] was going to react” (Tr. 137-38). Instead, he abandoned his training and immediately opted for facial strikes, a level of force disproportionate to the threat confronting him. Even one facial strike would have been prohibited under the circumstances. Three facial strikes amounted to an unnecessary and excessive use of force that was also retaliatory and punitive in that their sole purpose was to inflict pain on Vasquez-Rojas. *See Alce*, OATH 1507/21 at 5 (finding a correction officer’s use of force retaliatory and punitive, where he pushed a restrained person in custody in the neck and used a prohibited chokehold when he could have easily stepped back or called for assistance); *Dep’t of Correction v. Joseph*, OATH Index No. 3676/23 at 22-23 (Aug. 14, 2023), *adopted*, Comm’r Dec. (Oct. 12, 2023), *aff’d*, NYC Civ. Serv. Comm’n Case No. 2023-0545 (Jan. 18, 2024) (finding a captain’s facial strike toward a non-compliant person in custody displaying antagonizing behavior deliberate and retaliatory because there was no imminent danger). With each facial strike, respondent surpassed “the minimum amount necessary to stop or control the resistance or threat encountered” (Pet. Ex. 1 at § II(C)).

In addition, the fact that Vasquez-Rojas refused medical attention and did not sustain visible injuries does not excuse respondent’s excessive use of force, as blows to the head constitute deadly force regardless of whether they result in injury. *See Dep’t of Correction v. Victor*, OATH Index No. 388/15 at 16 (Apr. 2, 2015), *adopted*, Comm’r Dec. (June 4, 2015), *aff’d*, NYC Civ. Serv. Comm’n Case No. 2015-0794 (Aug. 20, 2015) (even though no significant injuries resulted from blows and stomps by officer on a person in custody’s head and face, such force was deadly); *Seraphin*, OATH 1162/22 at 8.

In sum, I find that petitioner has met its burden of proving that respondent utilized unnecessary and excessive force against a person in custody. The charge is therefore sustained.

FINDINGS AND CONCLUSIONS

1. Petitioner proved that respondent utilized unnecessary and excessive force when he struck a restrained person in custody three times in the face with a closed fist.

RECOMMENDATION

After making the above findings, I requested and reviewed a summary of respondent's personnel abstract. Respondent has worked for the Department since January 2016 and has a significant history of prior discipline. He received a penalty of 15 vacation days and five suspension days to resolve a March 10, 2020 excessive use of force charge and an August 5, 2021 inefficient performance of duty charge. He received a penalty of 18 vacation days to resolve a September 25, 2021 charge for leaving his post. He also received a penalty of 30 vacation days and 30 suspension days to resolve the following charges: inefficient performance of duty on December 30, 2022; excessive use of force on May 7, 2022; and conduct unbecoming an officer on February 26, 2023.

At trial, the Department requested termination of respondent's employment, relying on the Disciplinary Guidelines for Use of Force Incidents (the "Guidelines") (eff. Oct. 27, 2017), established pursuant to the consent judgment and remedial order entered in *Nunez v. City of New York*, 11 Civ. 5845 (LTS)(JCF) (S.D.N.Y. Oct. 21, 2015) (Pet. Ex. 2). The Guidelines give "proposed progressive penalty ranges" for use of force cases, while also reinforcing the principle of progressive discipline that allows employees an opportunity to correct misconduct. "This tribunal has consistently applied the principle of progressive discipline which aims to achieve employee behavior modification through increasing penalties for repeated or similar misconduct." *Ash*, OATH 397/21 at 23 (Apr. 12, 2021).

Notwithstanding the principles of progressive discipline, the Guidelines specifically state that the Department shall seek termination in all cases where it can establish by a preponderance of the evidence that a correction officer has: 1) "[d]eliberately str[uck] . . . an inmate in restraints, in a manner that poses a risk of serious injury to the inmate, except in situations where the Staff Member's actions were objectively reasonable in light of the facts and circumstances confronting the Staff Member," or 2) "[d]eliberately str[uck] . . . an inmate in the head [or] face . . . , in a manner that is punitive, retaliatory, or designed to inflict pain on an inmate, and constitutes a needless risk of serious injury to an inmate" (Pet. Ex. 2 at § (1)(a) and (1)(b)).

Here, both of these categories of aggravated misconduct have been established. The Department proved by a preponderance of the evidence that respondent struck Vasquez-Rojas three times while he was in restraints, in a manner that was punitive and retaliatory. There was no justification for this excessive use of high-impact or deadly force against a person in custody.

Respondent was not in imminent danger of serious bodily harm or death. Rather, he was angry, lost control, and ignored his training. He engaged in exactly the type of misconduct the Guidelines seek to prevent. That there were multiple strikes is an additional aggravating factor. There is no compelling mitigation.

The egregiousness of respondent's misconduct, coupled with his extensive disciplinary record that includes two prior uses of force, demonstrate that his continued employment would be a threat to the good order of the Department.

Accordingly, I recommend that respondent be terminated from his position as a correction officer.

Tiffany Hamilton
Administrative Law Judge

July 30, 2024

SUBMITTED TO:

LYNELLE MAGINLEY-LIDDIE
Commissioner

APPEARANCES:

ANTHONY MOCERA, ESQ.
NICOLE TARTAK, ESQ.
Attorneys for Petitioner

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



NEW YORK CITY DEPARTMENT OF CORRECTION
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 Solange Grey, Deputy Commissioner
 Trials Division
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718-546-0301
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C.O. Vincilski Lovelace



RE: Final Determination

DR #: B0274/2024

Dear Officer Lovelace

After a complete review of the record and the report and recommendation of the Honorable Hamilton, Administrative Law Judge, duly designated to conduct a disciplinary hearing on the charges and specifications listed above, I find you guilty of B0274/2024 as reflected in the report and recommendation. A copy of the report and recommendation is enclosed.

The sanction imposed upon is:

Termination EFFECTIVE FORTHWITH.

Under the provision of Section 76 of the Civil Service Law, you are entitled to appeal from this determination by application either to the Civil Service Commission or to a court in accordance with the provisions of Article 78 of the Civil Practice Law and Rules. If you elect to appeal to the Commission such appeal must be filed in writing within twenty (20) days of receipt of this determination. A decision of the Commission is final and conclusive.

Sincerely,



Lynelle Maginley-Liddie, Commissioner

Date: 8/27/24

C: Office of Administrative Trials and Hearings

Employee's Signature: _____ Date: _____
 Print & Sign Name

Witness Signature: _____ Date: _____
 Print & Sign Name

THE CITY OF NEW YORK
DEPARTMENT OF CORRECTION

Findings and Recommendations of
Charges and Specifications

AGAINST

File No. OATH 24-3501

Case No. DR # B0274/2024

Book No. Page

Correction Officer

Vincilski Lovelace

7997

RESH

1/14/16

Rank or Title

NAME

Shield/I.D.

Facility/Unit

Date Appointed

-By-

Agency Attorney

Anthony Mocera

Office of Trials

Rank or Title

NAME

Facility/Unit

5/10/24

6/28/24

6/28/24

Date of Charges

Trial Commenced

Trial Concluded

ADJOURNMENTS

EXAMINED BY:

Judge Tiffany Hamilton

CHARGES

Directive: 5006R-D

Rules: 2.30.010, 3.05.010, 3.05.120, 3.20.010, 3.20.030, 3.20.300,

FINDINGS AND RECOMMENDATIONS

DATE: 7/30/2024

ON CHARGES

Dir 5006R-D

R2.30.010

R3.05.010

R 3.05.120

R 3.20.030

R 3.20.300

SPECIFICATIONS

1. Said Officer, on or about December 30, 2023, at approximately 1405 hours, within RESH Building 16, inefficiently performed his duties, engaged in conduct unbecoming an officer, and of a nature to bring discredit upon the Department and utilized unnecessary and excessive force, when he improperly struck Person in Custody ("PIC") Darlin Vasquez-Rojas' (B/C # 3492202260) head and facial area several times, despite the PIC being in restraints.

Directive 5006R-D

Rules: 3.05.010, 3.05.120, 3.20.010, 3.20.030, 3.20.300

ON SPECIFICATIONS

Guilty

DISPOSITION

Guilty at OATH: Respondent to be Terminated from Employment

DEPUTY COMMISSIONER

ACTION OF THE COMMISSIONER

DATE

8/21/2024

COMMISSIONER OF CORRECTION

**THE CITY OF NEW YORK
CIVIL SERVICE COMMISSION**

In the Matter of the Appeal of

VINCILSKI LOVELACE

Appellant

-against-

DEPARTMENT OF CORRECTION

Respondent

*Pursuant to Section 76 of the New York
State Civil Service Law*

CSC Index No: 2024-0573

DECISION

VINCILSKI LOVELACE (“Appellant”) appealed from a determination of the Department of Correction (“DOC”) finding Appellant guilty of incompetency and/or misconduct and imposing a penalty of termination following disciplinary proceedings conducted pursuant to Civil Service Law Section 75.

The Civil Service Commission (“Commission”) requested written arguments from the parties on October 18, 2024. Appellant’s brief was received on September 13, 2024, when he filed his appeal, and DOC’s brief was received on October 30, 2024.

The Commission has reviewed the record below, which we incorporate by reference into this decision, as well as arguments submitted on appeal, and finds that there is sufficient evidence to support the final determination and that the penalty imposed is appropriate.

Therefore, the final decision and penalty imposed are hereby affirmed.

SO ORDERED.

Dated: November 29, 2024