



In the Matter of Betty Ramos
Irvington Township, Department of
Public Safety

CSC DKT. NO. 2017-2816
OAL DKT. NO. CSV 04239-17

STATE OF NEW JERSEY
DECISION OF THE
CIVIL SERVICE COMMISSION

ISSUED: JULY 20, 2018 BW

The appeal of Betty Ramos, Police Officer, Irvington Township, Department of Public Safety, 40 working day suspension, on charges, was heard by Administrative Law Judge Jeffrey A. Gerson, who rendered his initial decision on June 7, 2018 reversing the 40 working day (20 days held in abeyance) suspension. No exceptions were filed.

Having considered the record and the Administrative Law Judge's initial decision, and having made an independent evaluation of the record, the Civil Service Commission, at its meeting on July 18, 2018, accepted and adopted the Findings of Fact and Conclusion as contained in the attached Administrative Law Judge's initial decision.

Since the penalty has been reversed, the appellant is entitled to back pay, benefits, and seniority, for the actual number of days she was suspended pursuant to *N.J.A.C. 4A:2-2.10*. Further, since the appellant has prevailed, she is entitled to counsel fees pursuant to *N.J.A.C. 4A:2-2.12*.

This decision resolves the merits of the dispute between the parties concerning the disciplinary charges and the penalty imposed by the appointing authority. However, in light of the Appellate Division's decision, *Dolores Phillips v. Department of Corrections*, Docket No. A-5581-01T2F (App. Div. Feb. 26, 2003), the Commission's decision will not become final until any outstanding issues concerning back pay and counsel fees are finally resolved.

ORDER

The Civil Service Commission finds that the action of the appointing authority in suspending the appellant was not justified. The Commission therefore reverses that action and grants the appeal of Betty Ramos. The Commission further orders that appellant be granted back pay, benefits, and seniority for the actual number of days she was suspended. The amount of back pay awarded is to be reduced and mitigated as provided for in *N.J.A.C. 4A:2-2.10*. Proof of income earned shall be submitted by or on behalf of the appellant to the appointing authority within 30 days of issuance of this decision.

The Commission further orders that counsel fees be awarded to the attorney for appellant pursuant to *N.J.A.C. 4A:2-2.12*. An affidavit of services in support of reasonable counsel fees shall be submitted by or on behalf of the appellant to the appointing authority within 30 days of issuance of this decision. Pursuant to *N.J.A.C. 4A:2-2.10* and *N.J.A.C. 4A:2.12*, the parties shall make a good faith effort to resolve any dispute as to the amount of back pay or counsel fees.

The parties must inform the Commission, in writing, if there is any dispute as to back pay or counsel fees within 60 days of issuance of this decision. In the absence of such notice, the Commission will assume that all outstanding issues have been amicably resolved by the parties and this decision shall become a final administrative determination pursuant to *R. 2:2-3(a)(2)*. After such time, any further review of this matter shall be pursued in the Superior Court of New Jersey, Appellate Division.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 18TH DAY OF JULY, 2018



Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher S. Myers
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Unit H
P. O. Box 312
Trenton, Northern Jersey 08625-0312

attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSV 04239-17

AGENCY DKT NO. 2017-2816

**IN THE MATTER OF BETTY RAMOS,
IRVINGTON TOWNSHIP, DEPARTMENT
OF PUBLIC SAFETY.**

Peter B. Paris, Esq., for petitioner Betty Ramos (Law Office of David Beckett,
attorney)

Lindal Scott-Foster, Esq., for respondent, Township of Irvington, attorney)

Record Closed: November 13, 2017

Decided: June 7, 2018

BEFORE: **JEFFREY A. GERSON**, ALJ t/a:

STATEMENT OF THE CASE

Betty Ramos, a Police Officer in Irvington Township was suspended for 40 working days, 20 of which were held in abeyance, on February 21, 2017.

On February 24, 2017, Officer Ramos filed her Major Disciplinary Appeal form on August 8 and on August 24, 2017 the matter was heard at the Office of Administrative Law.

The record was closed on November 13, 2017 after receipt of the final submission of a letter brief.

FACTS

Despite some minor differences between the parties, the facts in this matter are not in significant dispute.

On March 22, 2016, Officer Betty Ramos was assigned to the "Call Taker" position in the Irvington Police Department Communication Center. As Call Taker, Ramos was responsible to receive 911 calls and relay the information to the dispatcher.

On the date in question, Ramos received a call from a civilian at approximately 10:40 p.m. reporting a motor vehicle accident involving damage to parked vehicles with the offending vehicle leaving the scene and, according to the citizen, endangering two pedestrians.

The citizen was in the process of following the offending vehicle and reported the location and provided Ramos with a license plate number. Ramos maintained communication with the citizen who remained at the scene where the offending vehicle was subsequently parked.

While in contact with the civilian, Ramos searched the license plate number of the vehicle which produced the name of the owner. Ramos recognized the name of the owner as an Irvington Police Officer.

At the time of the call, Ramos was already entering information in the CADE report (computer system) and notified the dispatcher, not only of the incident, but told her of the involvement of an Irvington Police Officer.

The first witness to testify on behalf of the Township was Detective Sergeant Gerard Malek. Malek conducted the investigation that subsequently led to the charges against Ramos among several others.

Malek testified that Ramos was required to notify the desk supervisor of an unusual incident after determining that the offending vehicle was registered to an Irvington Police Officer. Malek went on to indicate that R 3.1.7 "performance of duty" requires the officer to perform all the duties designated to them. From this general description, Malek determined that Ramos had violated this provision, though the basis of that violation was never clarified in his testimony. He went on to indicate that Ramos also violated R 3.1.26 which indicates that when an officer becomes aware that another officer is involved in a violation of law or ordinance or rule, they are required to report that in writing to their supervisor. The third charge filed by Malek against Ramos was that she violated a General Order which required all reports to be "concise and documented".

Malek confirmed that as a result of the original citizen call, a notification from Ramos to the Dispatcher occurred which resulted in the appearance at the scene of several officers. The officers at the scene interviewed the Irvington Police Officer who they subsequently determined was not only the owner but also the operator of the offending vehicle. It was the conduct of these officers at the scene which led to the notification to the Essex County Prosecutor's office reporting what was perceived to be the shortcomings of their conduct.

The next witness to testify on behalf of Irvington Township was Joseph J. Santiago, who formally was the Police Director for the Township of Irvington from 2008 to 2014. He presently does some consulting work for the Township of Irvington in addition to his employment privately with Santiago Associates.

Santiago's testimony was apparently offered to clarify some of the Orders and operating procedures governing the Irvington Township Police.

The last witness to testify on behalf of the Township was Lieutenant Clinton Franks, who on the date of the incident was working as a desk Lieutenant.

According to Lieutenant Franks, it was not until the following day when he reviewed the reports and upon that initial review did not see anything that would have triggered an unusual incident report, but subsequently learned that omissions by both the Dispatcher and the on scene officers distorted the actual facts surrounding the incident.

Officer Ramos testified that she received the call from a citizen complainant, took all of the information offered, prepared a CAD report and advised the Dispatcher verbally that the registered owner of the offending vehicle was "one of us" or actually relayed the name of the offending officer.

Officer Ramos testified that she did not believe that the incident could be categorized as an "unusual incident" and that the information that the incident involved an Irvington Police Officer was not only verbally given to the dispatcher, but also subsequently attached to the CAD report. She contended that her actions on the night in question were in complete comportment with all rules, regulations and orders governing the conduct of a "Call Taker".

DISCUSSION

Charge I against Officer Ramos was as follows:

R 3.1.7 Performance of Duties states:

All members and employees shall perform their duties as required or directed by law, police department rule, policy or Order, or by order of a superior officer. All lawful duties are required by competent authority shall be performed promptly

as directed, notwithstanding the general assignment of duties and responsibilities.

No testimony offered by Irvington Township indicated with any specificity what conduct of Officer Ramos would lead to the conclusion that she did not do perform her duties as required. A review of Exhibit A-10, the duties of a Call Taker specifies nine procedures to be followed, none of which any of the witnesses pointed to as being violated by Ramos.

The second Charge is that Ramos failed to perform her duty when she did not notify the desk supervisor of an "unusual incident" when she became aware that the owner of the vehicle was an Irvington Police Officer.

General Order 2008-01 discusses "unusual incident" that require notifications to various officials. A review of what is categorized as unusual incidents reveals that most are serious crimes or citizen complaints against police officers. The incident of March 22, 2016 involving Officer Ramos as a Call Taker does not fall into any of the listed items in the Order and requires an extraordinary stretch of everyday language to consider this event as an extraordinary occurrence and thereby an "unusual incident.

The last charge against Officer Ramos was that she failed to immediately report in writing that an Irvington Police Officer was the owner of a motor vehicle which was reported to be driving erratically and involved in an accident.

Though there is simply no basis for this charge since it is quite clear that a CAD report was filed immediately and attached to the CAD report was the details of who the operator and registered owner was of the vehicle.

Over simplified, Officer Ramos took a call from a concerned citizen which eventually was determined to involve an Irvington Police Officer. Ramos documented the details and notified the Dispatcher, not only of the nature of the call, but of the

potential involvement of a fellow police officer. The subsequent involvement of several on duty police officer officers which may have involved some overprotective aspects of a fellow officer, create ripple effects which extended out to Ramos though her performance did not warrant the subsequent discipline. If Irvington would like to have the Call Taker notify superiors of any call that comes in involving a police officer, a General Order so requiring such notification would not be hard to author. The Rules, Regulations and Orders as presently constituted require notification under specific circumstances, most of which are serious offenses and none of which will require Officer Ramos to be disciplined.

ORDER

It is **ORDERED** that the disciplinary charges filed against Officer Betty Ramos are hereby dismissed and any loss of salary and/or seniority resulting in the already served suspension be reinstated immediately.

I hereby **FILE** my initial decision with the **CIVIL SERVICE COMMISSION** for consideration.

This recommended decision may be adopted, modified or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, MERIT SYSTEM PRACTICES AND LABOR RELATIONS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, PO Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

June 7, 2018

DATE

Date Received at Agency:

Date Mailed to Parties:
sej



JEFFREY A. GERSON, ALJ

6/7/18

6/7/18

APPENDIX

WITNESSES:

For Appellant

Betty Ramos, appellant
Ms. Scott-Foster
Clinton Franks

For Respondent

Detective Sergeant Gerard Malik
Joseph J. Santiago

EXHIBITS:

For Appellant

- A-1 Irvington Police Department Incident Summary (2 pgs)
- A-2 DVD
- A-3 Irvington Police Department Internal Affairs Bureau Summary Report dated 3/23/16 (9 pgs)
- A-4 Irvington Police Department Internal Affairs Bureau Investigation Report dated 10/31/16 (33 pgs)
- A-5 Chapter III General Rules and Regulations 3.1 through 3.1.7
- A-6 Chapter III General Rules and Regulations 3.1.25 through 3.1.27
- A-7 Irvington Police Department General Order 2010-10 dated 12/1/10
- A-8 Irvington Police Department General Order 2008-01 dated 5/1/14
- A-9 Irvington Police Department Highlight Report
- A-10 Irvington Police Department Standard Operating Procedures dated 11/15/96
- A-11 New Jersey Police Crash Investigation Report dated 3/22/16

For Respondent

- R-1 Letter dated 8/23/16
- R-2A Irvington Police Department General Order (Responsibilities of Command and Supervisory Personnel, 1:15 dated 10/20/98)
- R-2B General Order 2:00