

CITY OF ATLANTA  
CIVIL SERVICE BOARD  
FINDING OF FACT AND ORDER

**APPEAL NO.:** 2008-078 AP

**HEARING OFFICER(S):** Charles Taylor,  
Cassandra Lawson, James T. Middlebrooks  
**EFFECTIVE DATE:** July 2, 2008

**APPELLANT:** Ms. Cerelyn Davis

**DISMISSAL**

APPEARANCES

City of Atlanta:  
Chief Richard Pennington  
Sheena Robertson  
Mr. Welcome Harris  
Bobby Render  
James Guyton

City of Atlanta Representative:  
Tamara Baines, Assistant City Attorney  
Marissa Key, Associate City Attorney

Appellant:  
Ms. Cerelyn Davis

Appellant Representative:  
Mary Huber, Esquire

Under the authority and provisions of Chapter 114, Article VI, Division 3, Sections 114-546 through 556, Atlanta City Code, a hearing of the above referenced appeal was held before the above named Hearing Officers of the Atlanta Civil Service Board on August 26, 2008 in Conference Room 2174, City Hall Tower, 68 Mitchell Street, Atlanta, Georgia.<sup>1</sup>

EXHIBITS

Joint Exhibits:

1. Notice of Proposed Adverse Action
2. Notice of Final Adverse Action
3. Investigative Report
4. Jeffrey Norman Letter to Chief Richard Pennington
5. APD.SOP.2020 Disciplinary Process

City's Exhibits:

1. Bobby Render Performance Appraisal
2. James Guyton Performance Appraisal

Appellant's Exhibits:

1. Organizational Chart 2004
3. Transcription Render

<sup>1</sup> The record was officially closed on September 5, 2008, when the parties submitted their written closing statements. Appellant filed two motions for consideration by the Board, which Appellant has agreed are now moot.

4. Transcription Guyton
5. Transcription Harris
6. Transcription Render 2
11. Cerelyn Davis Resume
14. Custody of Crane Photos
16. Investigation File #00-19

VIOLATION(S)

Employee Work Rule 4.1.03, Truthfulness.

CHARGE(S)

[See Notice of Final Adverse Action at Joint Exhibit 2]

FINDINGS OF FACT

1. The parties agreed to the following stipulations:
  - (1) The Appellant, Cerelyn [sic] J. Davis, was employed by the City of Atlanta Police Department from February 28, 1986 until July 2, 2008.
  - (2) The Appellant was discharged from employment effective July 2, 2008 for violation of Work Rule 4.1.03, Truthfulness.
  - (3) At the time of her discharge, Appellant held the rank of Police Lieutenant.
  - (4) From May 2007 through June 2008, Appellant was the Major over the Office of Professional Standards.
  - (5) APD Work Rules require that a sworn officer speak truthfully.
  - (6) Violation of the truthfulness rule warrants dismissal.
  - (7) The City's untruthfulness charge against Appellant was not based upon Appellant's claim that she did not receive a directive from someone in her chain of command concerning the Terrell Crane case.
  - (8) The City of Atlanta did not base its dismissal of Appellant on the results of a Computer Voice Stress Analysis test.
  - (9) The Appellant was aware that a violation of the Truthfulness rule would result in dismissal.
2. Various APD staff informed Investigator James Guyton and Investigator Bobby Render to stop investigating this matter.
3. Various APD staff have not been disciplined or recommended for appropriate action for stopping the investigation.
4. Appellant is the only APD staff, still employed, that held a supervisory position that was disciplined.
5. The City's Law Department investigated the following allegations: failure to investigate, inappropriate use of confidential information, and destruction of evidence. The findings implicated several City employees for some, if not all, of these violations, which no discipline was issued and/or appropriate action taken against them.

DISCUSSION AND OPINION

The testimony from Investigator James Guyton is inconsistent with the investigation report and at times inconsistent with his earlier statements during direct/cross examination before the Board. The Board finds that Investigator Guyton and Investigator Bobby Render, whenever presented with the question about how and/or why the photographs were in their possession/custody, pointed the finger to other supervisory staff as having knowledge of the photographs and providing them with direction, in an attempt to give themselves clean hands. Additionally, the Board is left guessing as to when interviews took place, by piecing together a timeline, because the investigation report does not identify interview dates.

The Board finds that Appellant's explanation that there could have been two sets of photographs at any given time, plausible in light of the testimony of Investigator Guyton. Appellant testified that there were earlier rumors about such photographs. As such, the investigation report references anywhere between thirty (30) to fifty (50) photographs that was in the possession of APD. The City failed to present support as to which photographs Appellant may have seen, was referencing, and/or was allegedly shown by the Investigators. Moreover, Appellant provides more convincing testimony about the meticulous set-up of the Unit that she supervised; thereby if she had seen the photographs, it is likely that they would not have been lying dormant in a file cabinet.

ORDER

Based upon the foregoing, the termination is REVERSED and Appellant's appeal is **GRANTED**.

Charles Taylor/Adm  
Charles Taylor

October 9, 2008

Cassandra Lawson/Adm  
Cassandra Lawson

October 9, 2008

James T. Middlebrooks/Adm  
James T. Middlebrooks

October 9, 2008