

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

100 Cambridge Street, Suite 200
Boston, MA 02114

RANDOLPH S. BLAKE,
Appellant

v.

D-22-117

CITY OF SPRINGFIELD,
Respondent

Appearance for Appellant:

Randolph S. Blake, *Pro Se*

Appearance for Respondent:

Maurice M. Cahillane, Esq.
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Hearing Officers:

Angela C. McConney
Robert L. Quinan, Jr.

SUMMARY OF DECISION

The Civil Service Commission finds that the City of Springfield had just cause to discipline the Appellant where his conduct was violative of the Springfield Fire Department Rules and Regulations.

DECISION

On August 12, 2022, the Appellant, Lieutenant Randolph S. Blake (Lt. Blake or Appellant), filed a timely appeal with the Civil Service Commission (Commission) pursuant to G.L. c. 31, § 43.¹ The appeal challenged the August 1, 2022 City of Springfield (City) decision

¹ The Standard Adjudicatory Rules of Practice and Procedure, 801 C.M.R. §§ 1.01, *et seq.*, apply to adjudications before the Commission with G.L. c. 31, or any Commission rules, taking precedence.

to suspend the Appellant for four days. Lt. Blake failed to attend the June 28, 2022 local Section 41 hearing convened to hear any objection he might have had to the contemplated discipline.

The Commission held a remote pre-hearing conference on September 13, 2022. The hearing officers conducted two days of full hearing on January 20 and June 23, 2023 at the State Office Building located at 436 Dwight Street, Springfield, Massachusetts. The hearing was recorded digitally, and copies provided to the parties.² On October 13, 2023, the parties filed proposed decisions, whereupon the administrative record closed.

FINDINGS OF FACT

I admitted 13 exhibits from the City (R. Exhibits 1 – 13), and 28 exhibits from the Appellant (A. Exhibits 1 – 28) into evidence. I admitted the Appellant’s August 12, 2022 online appeal form and the August 17, 2022 mailing envelope into evidence as Appellant Exhibit 29 (A. Exhibit 29).

Based on the documents submitted and the testimony of the following witnesses:

Called by the Appellant:

- Lt. Randolph S. Blake, Appellant
- Former District Chief Marc Savage, Springfield Fire Department

Called by the Respondent:

- Lt. Kelly Jones, Springfield Fire Department
- Deputy Chief Michael Hess, Springfield Fire Department
- Talia Gee, City Solicitor, City of Springfield
- Chief Bernard Calvi, Springfield Fire Department

² Should there be a judicial appeal of this decision, the plaintiff in the judicial appeal would be obligated to supply the court with a transcript of this hearing to the extent that they wish to challenge the decision as unsupported by the substantial evidence, arbitrary and capricious, or an abuse of discretion. In such cases, the plaintiff in the judicial appeal must transcribe the transcript from the Commission’s official recording.

and taking administrative notice of all pleadings filed in the case, pertinent rules, statutes, regulations, case law, and policies, and drawing reasonable inferences from the credible evidence, I make the following findings of fact:

1. The Appellant, Lt. Randolph S. Blake (Lt. Blake), has been employed in the Springfield Fire Department (Department or SFD) since 1989,³ and has served as a Lieutenant since 2010. (Stipulations)

Prior Discipline

2. Lt. Blake has a previous history of discipline. He was elected as the Professional Fire Fighters of Massachusetts (PFFM) Local 648 union president in December 2013. In December 2014, pursuant to the collective bargaining agreement that allows for wages to be paid while attending monthly PFFM meetings, Lt. Blake was granted paid leave to attend a union meeting. When the Department later learned that the meeting did not take place, it suspended Lt. Blake for one day on February 19, 2015. *Blake v. Springfield Fire Dep't*, 28 MCSR 313 (2015). (R. Exhibit 7)

3. The Commission upheld the City's decision upon appeal. *Blake v. Springfield Fire Dep't*, 28 MCSR 313 (2015). (R. Exhibit 7)

4. On January 29, 2018, the Department suspended Lt. Blake for two days for harassment, conduct unbecoming a firefighter and witness intimidation of a fellow lieutenant, Lt. Kelly Jones. (R. Exhibit 8; Testimony of Jones)

5. Lt. Jones, employed by the Department for 29 years (20 years as a firefighter and 9 years as a lieutenant), was scheduled to testify in a Section 41 hearing against former District Chief Marc Savage. Lt. Blake sought to discourage Lt. Jones from appearing at the hearing. He

³ The Appellant was "laid off" at one point for an undisclosed amount of time and rejoined the SFD in April of 1997. (Testimony of Lt. Blake)

sent Lt. Jones numerous text messages. While off-duty, Lt. Blake visited Lt. Jones at work and harassed him for over two hours, in a further attempt to discourage him from testifying. (R. Exhibit 8; Testimony of Jones)

6. Lt. Blake did not appeal this second discipline to the Commission.

(Administrative notice)

7. Lt. Blake also received a written warning in July 2021 for violation of Department Policy and Procedures 102.06; Rules of Conduct Article 16, §§21C, 21E, 24B,⁴ after sending Commissioner Bernard Calvi a memo with the subject line *Unfit Environment/Improper Investigations*. The commissioner found that the memo was “disrespectful, patently false and offensive”, and advised Lt. Blake that every member of the Department was expected “to operate in a highly self-disciplined manner and is responsible to regulate their own conduct in a positive, productive and mature way.” Commissioner Calvi further advised Lt. Blake that continuing to exhibit disrespectful and offensive behavior would lead to additional disciplinary action, up to and including termination. (R. Exhibit 6, A. Exhibit 14)

Facts Related to Instant Appeal

8. On April 14, 2021, Lt. Jones was off-duty and at his home in Springfield when he saw his neighbor burning parts of a cut down tree in a metal trash can in his own yard at the

⁴ Policy and Procedures 102.06. Purpose: This policy is intended to ensure that all employees of the Springfield Fire Department will enjoy a safe work environment free from unreasonable interference, intimidation, hostility, hazing or offensive behavior on the part of officers, supervisors, coworkers or visitors.
Rules of Conduct Article 16 §21C. Be courteous and respectful at all times.
Rules of Conduct Article 16 §21E. Be polite and civil to each other.
Rules of Conduct Article 16 §24B. All members shall be held accountable for conduct unbecoming a firefighter whether on or off duty.

corner. The neighbor's backyard was across from Lt. Jones front door. (R. Exhibit 1; Testimony of Jones)

9. When Lt. Jones called 911 at 7:57 p.m. to report the burning of the yard waste, a dispatcher answered the call. Dispatchers are civilian employees of the Department. They have a separate labor union, separate budget and separate payroll. (Testimony of Commissioner Calvi, Testimony of Hess)

10. The neighbor had previously approached Lt. Jones' young daughter. The neighbor's address is also known for drug activity, is frequented by suspicious and dangerous individuals, and been under surveillance by the Springfield Police Department. Because of this negative history, Lt. Jones wanted to remain anonymous. (Testimony of Lt. Jones)

11. Lt. Jones stated to the dispatcher that there was an illegal burning taking place and gave the address of his neighbor's house. Lt. Jones also gave his own address upon request from the dispatcher, but hung up when the dispatcher asked for his name. (R Exhibit 9; Testimony of Lt. Jones)

12. The dispatcher called Lt. Jones back and asked for his name. Lt. Jones demurred because he feared retribution from his neighbor, but continued to answer questions related to the fire. He reported that no one was trapped because the burning was taking place outdoors, and attempted to relay information about the smoke but was unable to do so over the dispatcher's insistence that she "understand[s]". (R. Exhibit 9)

13. When the dispatcher began reviewing the rules and procedures of the SFD, Lt. Jones said, "Just disregard it. Let them burn in the backyard." The dispatcher said, "Okay, thank you," and ended the call. (R. Exhibit 9; Testimony of Jones)

14. Engine 6, manned by Lt. Blake and firefighters Private Donald Coleman and Private Miguel Toledo, was dispatched to the call. En route, Lt. Blake was able to confirm from the fire truck Mobile Data Terminal that the 911 caller was Lt. Jones. (R. Exhibits 1, 2 and 11; Testimony of Savage)

15. Engine 6 did not activate its sirens during the trip to the site of the reported illegal outdoor burning, and Lt. Blake was not wearing his fire apparatus. (R. Exhibits 4 and 10; Testimony of Blake)

16. En route, Lt. Blake called the dispatcher to ascertain whether the address was that of the burn location or that of the caller. The dispatcher confirmed that the address was that of the caller, and noted that the caller was uncooperative. (R. Exhibit 1; Testimony of Blake)

17. Engine 6 arrived approximately ten minutes after the 911 call, parking on the street near Lt. Jones' neighbor's property. (R. Exhibits 9 and 10)

18. Lt. Blake then sent Pvt. Coleman to Lt. Jones' residence. Pvt. Coleman crossed the street, walked down Lt. Jones' driveway and looked around but did not approach the front door. (R. Exhibits 1 and 10)

19. At the same time, Lt. Blake and Pvt. Toledo got out of the firetruck and were crossing the street towards Lt. Jones' residence when they noticed the burning on the adjacent property. (R. Exhibit 10)

20. Lt. Blake and Pvt. Toledo then walked over to the scene of the fire at the neighbor's house and observed that the illegal burning in a metal barrel was "pretty tame." The three firemen extinguished the fire quickly, returned to the firetruck, and left. (R. Exhibit 1; Testimony of Blake)

21. Lt. Jones' Ring doorbell recorded the burning and the Department response. (R. Exhibit 10; Testimony of Lt. Blake)

22. Upon his return to the fire station, Lt. Blake called District Chief Marc Savage, his supervisor, and informed him that Lt. Jones had been uncooperative in reporting the fire at his neighbor's property. (See Finding of Fact 4; R. Exhibit 2; Testimony of Blake, Testimony of Savage)

23. Lt. Blake then called the dispatcher about the 911 call. She said that the caller "did not want to provide anything," including his name, cell phone number, or whether anyone was trapped, injured, or if there were hazardous materials in the area. (R. Exhibit 11; Testimony of Lt. Blake)

24. According to the actual 911 recording, the dispatcher did not ask for the caller's phone number, whether there were injuries or hazardous material present, or whether anyone was trapped. (R. Exhibit 9)

25. The dispatcher told Lt. Blake that the caller said, "Don't send them. Let the place burn," and reiterated that to Lt. Blake later in the conversation. Lt. Blake responded, "... that's a problem." (R. Exhibit 9; Testimony of Lt. Blake)

26. In that same conversation, Lt. Blake informed the dispatcher that the caller was a lieutenant in the Department. (R. Exhibit 11)

27. Lt. Blake called District Chief Savage back and relayed the conversation with the dispatcher. Lt. Blake then preferred charges against Lt. Jones. (See Finding of Fact 4; R. Exhibit 1; Testimony of Lt. Blake)

28. On April 20, 2021, Lt. Blake wrote Deputy Chief Michael Hess, copying Fire Commissioner Bernard Calvi and Deputy Chief David Wells, a narrative of the events of April

14, 2021. Lt. Blake incorrectly wrote that Pvt. Coleman went to Lt. Jones' door and no one answered, and that the 911 caller had told the dispatcher, "something to the effect of 'Never mind. Forget it. Let the Place Burn.'" (R. Exhibit 2)

29. On April 21, 2021, Lt. Blake wrote again to Deputy Chief Hess, copying Commissioner Calvi and Deputy Chief Wells, writing:

Lt. Jones's actions and behavior greatly hindered Dispatcher []'s and Engine 6's members' efficiency and ability to properly do our job. This is a violation of Article 17 sec. 1 of the Rules and Regulations. ...

Lt. Jones by his actions and behavior was unprofessional and discourteous to Dispatcher []. This failure to be polite and courteous is a violation of Article 16 sec. 21B.

(R. Exhibit 3)

30. Lt. Blake did not listen to the 911 recording. Only the Commissioner or the Deputy Chiefs had access to the emergency recordings. District Chiefs do not have access.

(Testimony of Hess)

31. Article 17 §1 of the Department Rules and Regulations provides that "Failure to promptly and properly report violations of the rules and regulations of the fire department, or of the city ordinances, or to cooperate in the maintenance of efficiency, discipline, and good order, shall be sufficient cause for the reprimand or removal." (A. Exhibit 5, R. Exhibit 13)

32. Article 16 §21B of the Department Rules and Regulations provides that "Members shall: Be polite and civil to each other." (A. Exhibit 5, R. Exhibit 12)

33. Lt. Blake maintained that Lt. Jones' conduct was in violation of Article 16 §24B:

Lt. Jones's recorded actions and statement about letting the house burn down is beyond unacceptable. Unacceptable for any firefighter, never mind one that is an officer. Life safety is our highest priority and Lt. Jones's refusal to adhere to that and vocalize that goes beyond shocking for a firefighter." Lt. Blake asserted that "[t]he lack of professionalism respect, and loyalty to his co-workers and our citizens is a violation of public trust and must be addressed.

Lt. Blake further asserted that “[t]he lack of professionalism respect, and loyalty to his co-workers and our citizens is a violation of public trust and must be addressed.” (R. Exhibit 3)

34. Article 16 §24B of the SFD Rules and Regulations provides that “All members shall be held accountable for conduct unbecoming a fireman whether on or off duty.” (A. Exhibit 5, R. Exhibit 12)

35. Lt. Blake concluded:

Based on these unacceptable actions and in accordance with Article 17 sec. 1 I hereby charge, Lt. Kelly Jones, with violating Article 17 sec. 1, Article 16 sec. 21E and 24B, as well as his oath as a firefighter to protect the citizens of Springfield.

(R. Exhibit 3)

36. After Lt. Jones responded on May 12, 2021 with a complaint against Lt. Blake for harassment, retaliation, embellishment, misleading statements, and not following the chain of command, the Department opened an investigation. (R. Exhibit 4)

37. Because of the history among Deputy Chief Savage, Lt. Jones and Lt. Blake, Deputy Chief Hess asked the City’s Human Resources Department to take the lead regarding this matter. Assistant City Solicitor Talia Gee, who also serves as the City’s Chief Diversity and Inclusion Officer, conducted the investigation. Ms. Gee reviewed the correspondence, including the documents written by Lt. Blake in April 2021, and listened to the 911 call between the dispatcher and Lt. Kelly, and the 911 call between the dispatcher and Lt. Blake. (Testimony of Gee)

38. When Ms. Gee interviewed Deputy Chief Savage, he denied that he had ordered Lt. Blake to call the dispatcher or initiate an investigation. (Testimony of Gee)

39. Ms. Gee issued an investigative report on January 28, 2022, which read in relevant part:

After finding out that Lt. Jones allegedly made a statement, Lt. Blake brought the matter to the attention of District Chief Savage and subsequently investigated the matter to determine the truth. In light of their history, when District Chief Savage learned about the alleged misconduct by Lt. Jones, he should have informed Deputy Hess about it and let Deputy Hess, or his designee, investigate the issue. Doing so would have eliminated any involvement and possible allegation of wrongdoing by District Chief Savage or Lt. Blake. Similarly, when Lt. Blake learned about the wrongdoing, he should have informed District Chief Savage, as his supervisor, but brought the information to Deputy Hess as he has done in the past. Lt. Blake did not need to conduct his own investigation of his coworker. Lt. Blake's misstep is with his investigation into the matter.

Lt. Blake alleges Lt. Jones's actions impacted the ability of the Department to properly respond to the call. The allegations are simply not true. With the information provided by Lt. Jones, the firefighters were able to locate the fire immediately upon arrival at the scene.

It is one thing to call Dispatcher [] and gather more facts. However, it should be made clear that Lt. Blake should not have conducted his own investigation. If he thought there was a problem and wanted to do something about it, he already had all of the facts that he needed from the first time he spoke with Dispatcher []. The pertinent facts were (1) Lt. Jones called 911 and (2) Lt. Jones was allegedly uncooperative.

Lt. Blake's actions in preferring charges against Lt. Jones for this incident are overly harsh and signal harassing and retaliatory behavior. It is my recommendation that the Commissioner's Office work with the Department of Labor Relations to consider appropriate discipline for Lt. Blake's unprofessional conduct in gossiping with Dispatcher [], lacking emotional intelligence to not investigate his coworker who he has already been disciplined for harassing, bringing such frivolous charges against Lt. Jones, and any other missteps made by Lt. Blake.

(R. Exhibit 1)

40. Upon receipt of the January 28, 2022 investigative report, the Department served Lt. Blake with a June 14, 2022 Notice of Contemplated Action, charging him with violations of Rules and Regulations under Article 16 §22I, Article 16 §24B, Article 16 §28B, Article 16 §28C, and Article 17 §2. Within the June 14, 2022 letter, Commissioner Calvi notified Lt. Blake of a Section 41 hearing scheduled for June 28, 2022. (R. Exhibit 5; Testimony of Commissioner Calvi)

41. Article 16 §22(1) of the Department Rules and Regulations provides that “Members shall not: Give any information relative to the business or affairs of the department to any person not connected therewith, except as authorized by the Board of Fire Commissioners or the Chief of the Department. This shall not prohibit explaining the operation of the department to visitors.” (A. Exhibit 5, R. Exhibit 12)

42. Article 16 §24B of the Department Rules and Regulations provides that “All members shall be held accountable for conduct unbecoming a fireman whether on or off duty.” (A. Exhibit 5, R. Exhibit 12)

43. Article 16 §28B of the Department Rules and Regulations provides that “All department business, whether written or oral, shall be processed through proper channels.” (A. Exhibit 5, R. Exhibit 12)

44. Article 16 §28C of the Department Rules and Regulations provides that “Proper channels shall mean the forwarding or transmitting of official communications through intermediate officers in ascending or descending order of rank.” (A. Exhibit 5, R. Exhibit 12)

45. Article 17 §2 of the Department Rules and Regulations states: “All charges, preferred by any member of the fire department, shall be transmitted to the Chief of the Department, through proper department channels, before presentation in any form to the Board of Fire Commissioners, and any such member failing, in the presentation of charges against another member of the department, to observe this procedure shall be deemed guilty of insubordination.” (A. Exhibit 5, R. Exhibit 13)

46. On June 28, 2022, Deputy City Solicitor Kathleen Breck presided over the Section 41 hearing. Deputy Fire Chief Hess and Lt. Jones attended. Neither Lt. Blake nor counsel on his behalf appeared. (A. Exhibits 4 and 23, R. Exhibit 6; Testimony of Lt. Blake)

47. On July 22, 2022, Ms. Breck issued the Hearing Officer Report and Findings. In regard to the violation of Article 22(I) of the Department Rules and Regulations, the hearing officer found that:

1) Lt. Blake's claim that Lt. Jones' refusal to give his name to the dispatcher 'greatly hindered' the SFD's response to the April 14, 2021 call is not supported by the evidence. ... The evidence shows that Lt. Jones refusal to give his name did not impact the SFD's response to the call in any way. Lt. Jones provided the necessary information for SFD to respond to the illegal burning. There is no legal requirement that a 911 caller must give their name to report a fire. In fact, Lt. Jones had valid reasons for not giving his name under the circumstances involving his neighbor.

(A. Exhibit 4, R. Exhibit 6)

48. In regard to the violations of Article 17 §2 and Article 16 §§ 24B, 28B, 28C of the Department Rules and Regulations, the hearing officer found:

2) Lt. Blake violated SFD Rules by conducting his own investigation of, and presenting charges against, Lt. Jones. He was not directed to do so by DC Savage or any other SFD supervisor. Lt. Blake and Lt. Jones are peers, and per SFD Rules, investigations are not to be conducted by peers, but through "intermediate officers in ascending...order of rank". ... Lt. Blake's actions against Lt. Jones in this matter are of particular concern in light of Lt. Jones' 2018 complaint against him for harassment, witness intimidation, and conduct unbecoming a firefighter, which resulted in Lt. Blake being suspended without pay for 2 days.

(A. Exhibit 4, R. Exhibit 6)

49. In regard to the violation of Article 22(1)I of the Department Rules and Regulations, the hearing officer found:

3) The information that Lt. Blake shared about Lt. Kelly Jones with the 911 Dispatcher violated SFD Rules, Article 16, sec.22(I), which states that 'information relative to the business or affairs of the department', shall not be given to 'any person not connected therewith, except as authorized by the... Chief of the Department.' ... the Dispatcher is not a member of the SFD. The Emergency Communications Department is separate from the SFD. It was also noted that the dispatcher was spoken to about her actions and appropriate discipline followed.

50. The hearing officer found just cause for progressive discipline, given that this was

Lt. Blake's third discipline:

4) ... I find that there is 'just cause' for progressive discipline of Lt. Blake. Just cause, as used in the Civil Service context, requires a determination whether the employee's misconduct 'adversely affects the public interest by impairing the efficiency of public service.' *City of Cambridge v. Baldasaro*, 50 Mass. App. Ct 1, at p.3 (1983). That standard is met here. I find by both the preponderance of the evidence, and clear and convincing evidence, that the Employee violated the Rules of the Springfield Fire Department enumerated in the Notice of Contemplated Action issued to Lt. Randolph Blake on June 14, 2022. ...

51. The hearing officer found that the penalty imposed was justified based on Lt.

Blake's three previous disciplines:

5) I further find there is just cause for progressive discipline of Lt. Blake, up to and including a multiple day suspension without pay, in the judgment of the appointing authority. Considering Lt. Blake's prior disciplinary history of a 1-day suspension in 2015, a 2-day suspension in 2018 (for actions against Lt. Jones), and a Written Warning in 2021, the Employer would be justified in imposing a 4-day suspension without pay, as recommended by counsel for the Employer.

(A. Exhibit 4, R. Exhibit 6)

52. In an August 1, 2022 notice enclosing his appeal rights, Commissioner Calvi notified Lt. Blake that in his absence, the hearing officer had recommended that his conduct had violated Article 17 §2 and Article 16 § 22(1) of the Department Rules and Regulations. The Commissioner adopted the hearing officer's recommendations, and suspended Lt. Blake for four days to be served on August 5, 6, 7 and 8, 2022.

53. Lt. Blake filed an appeal with the Commission on August 17, 2022.⁵ (A. Exhibit 29)

⁵ Lt. Blake originally filed his appeal online, but without the filing fee. He refiled his appeal by mail with the filing fee on August 17, 2022. (A. Exhibit 29)

APPLICABLE CIVIL SERVICE LAW

A tenured civil service employee may be disciplined for “just cause” after due notice and hearing upon written decision “which shall state fully and specifically the reasons therefore.” G.L. c. 31, § 41. An employee aggrieved by the decision may appeal to the Commission. G.L. c. 31, § 43. Under section 43, the appointing authority carries the burden to prove “just cause” for the action taken by a “preponderance of the evidence.” *Id. See, e.g., Falmouth v. Civ. Serv. Comm’n*, 447 Mass. 814, 823 (2006); *Police Dep’t of Boston v. Collins*, 48 Mass. App. Ct. 411, *rev. den.*, 726 N.E.2d 417 (2000).

In performing its review... the commission hears evidence and finds facts anew...[after] a hearing de novo upon all material evidence and...not merely for a review of the previous hearing held before the appointing officer. There is no limitation of the evidence to that which was before the appointing officer... For the commission, the question is... “whether, on the facts found by the commission, there was reasonable justification for the action taken by the appointing authority in the circumstances found by the commission to have existed when the appointing authority made its decision.”

Leominster v. Stratton, 58 Mass. App. Ct. 726, 727-28 (2003) (quoting *Watertown v. Arria*, 16 Mass. App. Ct. 331, 334 (1983)). *See also Falmouth v. Civil Serv. Comm’n*, 447 Mass. at 823; *Cambridge v. Civil Serv. Comm’n*, 43 Mass. App. Ct. 300, 303-05, *rev. den.*, 428 Mass. 1102 (1997).

An action is “justified” if it is “done upon adequate reasons sufficiently supported by credible evidence, when weighed by an unprejudiced mind, guided by common sense and by correct rules of law.” *See Commissioners of Civ. Serv. v. Municipal Ct. of Boston*, 359 Mass. 211, 214 (1971), citing *Selectmen of Wakefield v. Judge of First Dist. Ct.*, 262 Mass. 477, 482 (1928). The Commission must take into account all credible evidence in the administrative record, including anything that would fairly detract from the weight of any particular supporting evidence. *See, e.g., Massachusetts Ass’n of Minority Law Enforcement Officers v. Abban*, 434

Mass. 256, 264-65 (2001). It is the purview of the hearing officer to determine credibility of testimony presented to the Commission. “[T]he assessing of the credibility of witnesses is a preserve of the [commission] upon which a court conducting judicial review treads with great reluctance.” *Leominster v. Stratton*, 58 Mass. App. Ct. at 729. *See Embers of Salisbury, Inc. v. Alcoholic Beverages Control Comm’n*, 401 Mass. 526, 529 (1988); *Doherty v. Retirement Bd. of Medford*, 425 Mass. 130, 141 (1997).

Section 43 of G.L. c. 31 also vests the Commission with the authority to affirm, vacate, or modify a penalty imposed by the appointing authority. The Commission is delegated “considerable discretion” in this regard, albeit “not without bounds” so long as the Commission provides a rational explanation for how it has arrived at its decision to do so. *See, e.g., Police Comm’r v. Civil Service Comm’n*, 39 Mass. App. Ct. 594, 600 (1996) and cases cited; *Falmouth v. Civil Service Comm’n*, 61 Mass. App. Ct. 796, 800 (2004); *Faria v. Third Bristol Div.*, 14 Mass. App. Ct. 985, 987 (1982) (remanded for findings to support modification). The Commission’s role is relatively narrow, and it owes substantial deference to the appointing authority’s exercise of judgment. In the absence of “political considerations, favoritism, or bias,” the same penalty is warranted “unless the commission’s findings of fact differ significantly from those reported by the town or interpret the relevant law in a substantially different way.” *Falmouth*, 447 Mass. at 824.

ANALYSIS

The City has established by a preponderance of the evidence that it had just cause to discipline Lt. Blake for his conduct on and after April 14, 2021. The undisputed evidence establishes a clear timeline of that evening’s events, which are sufficient for conduct violative of

the Department Rules and Regulations. Article 22(I), Article 17 §2, Article 16 §§ 24B, 28B, 28C of the Department Rules and Regulations as excerpted below:

Members shall not: Give any information relative to the business or affairs of the department to any person not connected therewith, except as authorized by the Board of Fire Commissioners or the Chief of the Department. This shall not prohibit explaining the operation of the department to visitors.

(Article 16 §22(1) of the Department Rules and Regulations)

All members shall be held accountable for conduct unbecoming a fireman whether on or off duty.

(Article 16 §24B of the Department Rules and Regulations)

All department business, whether written or oral, shall be processed through proper channels.

(Article 16 §28B of the Department Rules and Regulations)

Proper channels shall mean the forwarding or transmitting of official communications through intermediate officers in ascending or descending order of rank.

(Article 16 §28C of the Department Rules and Regulations)

All charges, preferred by any member of the fire department, shall be transmitted to the Chief of the Department, through proper department channels, before presentation in any form to the Board of Fire Commissioners, and any such member failing, in the presentation of charges against another member of the department, to observe this procedure shall be deemed guilty of insubordination.

(Article 17 §2 of the Department Rules and Regulations)

The events of April 14, 2022 was not the first Department disciplinary hearing involving Lt. Blake, Lt. Jones and District Chief Savage. On January 29, 2018, the Department suspended Lt. Blake for trying to prevent Lt. Jones from appearing as a witness in a disciplinary proceeding against District Chief Savage. Three years hence, Lt. Blake targeted Lt. Jones again, this time via the Department complaint process.

Even if there were an absence of this negative history, the matter remains that Lt. Blake preferred charges against Lt. Jones – a peer, not a subordinate – without knowing all the facts. Lt. Blake never listened to the 911 recording, and relied on the dispatcher’s memory of her conversation with Lt. Jones. This unreliable memory, Lt. Blake’s apparent retaliation against Lt. Jones, and Lt. Blake’s failure to follow the chain of command have brought us to this matter. Thus Lt. Blake never had the authorization, means or the seniority to conduct the investigation of Lt. Jones.

The Department charged Lt. Blake with violating Article 16 § 22(I) of the Department Rules and Regulations by sharing certain information concerning Lt. Jones with the dispatcher. Article 16 §22I states that such information is violative of the rules only when it is shared with someone not connected with the SFD. The dispatcher is a civilian employee of the Department and Lt. Jones was an officer of the Department. Dispatchers have a separate labor union, separate budget and separate payroll.

I find that Lt. Blake violated Article 16 § 22(I) when he gossiped about a fellow Department officer with a civilian. Any information that Lt. Blake wanted to know about the emergency call could have been discovered by listening to the 911 call. Not only did he lack access to the recording due to his rank, he did not pass the matter up the ranks to those who had the authority to conduct an investigation if one were deemed necessary.

The Department charged Lt. Blake with a violation of Article 16 §22(I) when he claimed that Lt. Jones’ refusal to give his name to the dispatcher ‘greatly hindered’ the Department’s response to the April 14, 2021 call. I find that Lt. Jones did not give his name, but provided the necessary information for the Department to respond to the burning of the cut down tree across

the street from his home. Further, I find that Lt. Jones had valid reasons for maintaining his anonymity in this situation.

The Department charged Lt. Blake with violations of Article 16 §24B of the Department Rules and Regulations for the accusations contained within his April 20, 2022 letter. These accusations and mistruths were based on the dispatcher's inaccurate description of Lt. Jones' call to 911. However, Lt. Blake never listened to the 911 recording; he did not have access to it because of his lower rank. Only the Commissioner and Deputy Chiefs have access to 911 recordings. District Chiefs, including District Chief Savage, lack access.

In the April 20, 2022 letter, Lt. Blake also stated that Lt. Jones did not answer his door – when Pvt. Coleman did not in fact approach the door.

Lt. Blake's subsequent April 21, 2022 letter was riddled with inaccuracies, apparently designed to malign Lt. Jones. The actual 911 recording proved that Lt. Jones never said, "Let it burn." Having responded to the illegal burning in person, Lt. Blake was well aware that Lt. Jones' handling of the call regarding this "pretty tame" event in no way "greatly hindered" the Department's response.

As Lt. Blake strolled over to the illegal burning in Lt. Jones' neighbor's yard, sans the safety gear that Pvts. Toledo and Coleman were wearing, only one of two scenarios is possible: Either Lt. Blake believed that the situation represented a genuine threat to the "life safety" of the Department and citizenry and failed in his duties to respond appropriately, or he correctly perceived that there was no genuine threat. In the first scenario, had Lt. Blake felt that the "pretty tame" event posed a great risk, he should have donned protective gear while on the fire truck and hastened his pace in order to mitigate or prevent injury to himself or others – for had he not, it would have been a gross dereliction of his duties. In the second scenario, which the evidence

supports, the “pretty tame” event was merely that and, consequently, Lt. Blake knew full well that Lt. Jones had not in fact “greatly hindered” the Department’s ability to carry out its work. As such, Lt. Blake’s subsequent allegations that Lt. Jones’ had endangered anyone cannot have been made in good faith.

Lt. Blake’s behavior caused Lt. Jones distress and constituted an abuse of the complaint process as a vehicle for doing so. Even as key allegations have been shown to be untrue – the substantial risk of tainting a firefighter’s reputation and career linger. Engaging the full complaint process – including the preferring of charges – based on inaccuracies, falsehoods, and embellishments is an abuse of the system, an imposition on the time and resources of everyone involved, and a waste of taxpayer money. A four (4) day suspension is more than justified under Article 16 §24B of the Department Rules and Regulations for conduct unbecoming a firefighter.

The City charged that Lt. Blake conducted an investigation of Lt. Jones in violation of Article 17 §2 and Article 16 §§ 28B and 28C. Lt. Blake testified that he placed subsequent calls to the dispatcher, with the support of District Chief Savage. When Ms. Gee interviewed him during her investigation, District Chief Savage denied that he granted permission for Lt. Blake to investigate Lt. Jones. Given that the three of them had been involved in the Department 2018 discipline, it makes no sense for Lt. Blake to seek permission to investigate Lt. Jones after being disciplined for witness intimidation against him three short years ago. It makes even less sense for the District Chief to grant permission to the person disciplined for witness intimidation in a Department Section 41 hearing against him (Savage), to investigate that former witness.

The City further alleges that Lt. Blake violated Article 16 §§ 28B and 28C of the Rules and Regulations by disregarding the chain of command. The City asserts that Lt. Blake should have consulted with Deputy Chief Hess in addition to District Chief Savage because of the prior

history among the three of them. This would have been advisable, and as an officer and a union president Lt. Blake should have known better. I find that Lt. Blake violated Article 16 §28B, Article 16 §28C and Article 17 §2 of the SFD Rules and Regulations.

Modification of Discipline

I next address the issue of whether the Commission should modify the four-day (4) suspension without pay. It is the Appellant's position that a suspension of four (4) days is overly harsh given the numerous mitigating circumstances present in this case.

However, I find that Lt. Blake's investigation of Lt. Jones was a deliberate and inadvisable attempt to conceal the truth and malign Lt. Jones. Lt. Blake was aware that the April 14, 2021 fire was "tame", and represented no great danger to the citizens of Springfield. He then attempted to besmirch the reputation of a fellow officer and expend Department and City resources in an apparently retaliatory manner against Lt. Jones.

I find that Lt. Blake's suspension was not based on political concerns, favoritism, or bias but for appropriate and legitimate reasons to maintain the decorum, respect, and integrity of the chain of command within the Springfield Fire Department.

CONCLUSION

The Appellant's appeal filed under Docket No. D-22-171 is hereby *denied*. I find that the Department has proven by a preponderance of the evidence that it had just cause to discipline Lt. Blake and suspend him for four (4) days.

Civil Service Commission

/s/ Angela C. McConney
Angela C. McConney, Commissioner

By vote of the Civil Service Commission (Bowman, Chair; Dooley, Markey, McConney and Stein, Commissioners) on May 30, 2024.

Either party may file a motion for reconsideration within ten days of the receipt of this Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 C.M.R. § 1.01(7)(l), the motion must identify a clerical or mechanical error in this order or decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration does not toll the statutorily prescribed thirty-day time limit for seeking judicial review of this Commission order or decision.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by this Commission order or decision may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of this order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of this Commission order or decision. After initiating proceedings for judicial review in Superior Court, the plaintiff, or his / her attorney, is required to serve a copy of the summons and complaint upon the Boston office of the Attorney General of the Commonwealth, with a copy to the Civil Service Commission, in the time and in the manner prescribed by Mass. R. Civ. P. 4(d).

Notice to:

Randolph S. Blake (Appellant)

Maurice M. Cahillane, Esq. (for Respondent)