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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:	)	
	)	
EMPLOYEE,	)	OEA Matter No. 1601-0036-24
Employee	)	
	)	
v.	)	Date of Issuance: September 15, 2026
	)	
METROPOLITAN POLICE DEPARTMENT,	)	JOSEPH E. LIM, Esq.
Agency	)	Senior Administrative Judge
	)	
Dan McCartin, Esq., Employee Representative		
Jacob Thole, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On March 5, 2024, Employee filed a Petition for Appeal with the D.C. Office of Employee Appeals (“OEA” or “Office”) contesting the District of Columbia Metropolitan Police Department’s (“MPD” or “Agency”) February 6, 2024 Final Decision to place him on Indefinite leave without Pay.¹ According to Agency’s Final Notice of Indefinite Suspension without Pay, Employee was disciplined in accordance with the Agency’s General Order (“GO”) 120.21 Attachment A Number 6.² At the time of his suspension, Employee was a Police Officer at Agency. In response to OEA’s March 5, 2024, letter, Agency submitted its Answer to Employee’s Petition for Appeal on March 18, 2024.

This matter was initially assigned to Administrative Judge (“AJ”) Lois Hochhauser on or about March 5, 2024. Agency filed a Motion to Dismiss and alternatively, a Motion for Summary Disposition on June 28, 2024. Although responses were filed, the motions remained

¹ Neither the December 1, 2023, Notice of Proposed Indefinite Suspension nor the January 2, 2024, Final Notice of Proposed Indefinite Suspension references an effective date of the suspension. Agency Answer to Employee's Petition, Tab 1 and Tab 5 (March 18, 2024).

² Violation of General Order Series 120.21, Number 21, Attachment "A," Number 6: Conviction of any member of the force in any court of competent jurisdiction of any criminal or quasi-criminal offense, or of any offense in which the member either pleads guilty, receives a verdict of guilty or a conviction following a plea of *nolo contendere*, or is deemed to have been involved in the commission of any act which would constitute a crime whether or not a court record reflects a conviction. This misconduct is further defined as cause in the District Personnel Manual, Chapter 16, § 1605.4(a)(3)(4) and 1617.4.

outstanding. This matter was reassigned to the undersigned on June 11, 2025. Thereafter, I issued an Order scheduling a Status Conference in this matter for June 30, 2025. Both parties were in attendance. During the Status Conference, the parties agreed that Agency would file its consolidated Motion for Summary Disposition with all responses due by August 29, 2025. Both parties submitted their respective briefs.

On December 11, 2025, I issued an Order for Briefs wherein I denied Agency's Motion to Dismiss Appeal for Mootness as I found that Agency never rescinded Employee's suspension but instead ended Employee's suspension and terminated his employment. I further found that if I find that his suspension to be unwarranted or justified, then Employee would be entitled to any lost back pay and benefits during his suspension period. I therefore concluded that Employee's appeal of his indefinite suspension was not moot.³ In the same Order, I ordered the parties to submit briefs on the legality of the suspension that Agency had imposed on Employee. As the parties have submitted their briefs, I have determined that an Evidentiary Hearing is not warranted. The record is closed.

JURISDICTION

The Office has jurisdiction in this matter pursuant to D.C. Official Code § 1-606.03 (2001).

ISSUE

Whether Agency's indefinite suspension of Employee from February 8, 2024, to May 1, 2025, the date of his termination, was done for cause and in accordance with all applicable laws, rules and regulations.

FINDINGS OF FACT⁴, ANALYSIS AND CONCLUSIONS OF LAW

Employee was a Police Officer with Agency and began his tenure with MPD on March 29, 2020. On November 29, 2023, Employee was charged with Reckless Endangerment for violating Maryland Code § 3-204(a)(1) and Loaded Handgun on Person in violation of Maryland Code § 4-203(a)(1)(v).⁵ Further, on January 26, 2024, Employee was indicted in the state of Maryland for Assault-First Degree (Felony) and Firearms Use/Felony-Violent Crime (Misdemeanor). On November 30, 2023, Agency issued a Proposed Indefinite Suspension without Pay notice to Employee, informing him that he would be placed on indefinite suspension without pay, pending the resolution of the criminal and administrative charges against him.⁶ The notice also provided Employee with the reasons for the proposed action, as well as his appeal rights.

³ In *Settemire v. District of Columbia Office of Employee Appeals*, 898 A.2d 902 (D.C. 2006), the D.C. Court of Appeals held that, while an appeal is pending, an event that renders relief impossible or unnecessary also renders that appeal moot.

⁴ Based on Joint Stipulated Facts and Documents of Record.

⁵ Agency's Answer to Employee Petition (March 18, 2024).

⁶ Employee's Appeal at Tab 1 (March 5, 2024).

On December 1, 2023, Commander Kimberly Dickerson, then-Director of the Department's Human Resources Management Division ("HRMD") issued Employee a Proposed Indefinite Suspension Without Pay based on the following:

CAUSE #1: Violation of General Order Series 120.21, Number 21, Attachment "A," Number 6: Conviction of any member of the force in any court of competent jurisdiction of any criminal or quasi-criminal offense, or of any offense in which the member either pleads guilty, receives a verdict of guilty or a conviction following a plea of *nolo contendere*, or is deemed to have been involved in the commission of any act which would constitute a crime whether or not a court record reflects a conviction. This misconduct is further defined as cause in the District Personnel Manual, Chapter 16, § 1605.4(a)(3)(4) and 1617.4.

Specification No. 1. On November 29, 2023, you were charged with Reckless Endangerment in violation of the state of Maryland Code 3-204(a)(1) for the discharge of a weapon which struck a person and Loaded Handgun in Vehicle in violation of the state of Maryland Code 4-203(a)(1)(v) for possession of a handgun inside of a vehicle and Loaded Handgun on Person in violation of the state of Maryland Code 4-203(a)(1)(v) for possessing a weapon while inside of a business located in Calvert County, Maryland on November 25, 2023.

On December 21, 2023, Employee submitted an appeal of the November 30, 2023, notice with Agency's Director of Human Resource Management Division.⁷ Thereafter, on January 2, 2024, Agency issued a Final Notice of Indefinite Suspension without Pay to Employee placing him on indefinite suspension without pay, pending the resolution of the criminal and administrative action against Employee.⁸ The penalty of indefinite suspension without pay was effective fifteen (15) business days from the date of the issuance of the Final Notice of Indefinite Suspension. On January 16, 2024, Employee appealed his suspension to the Chief of Police.

On January 26, 2024, Employee was indicted in Maryland on the following:

- Count One: Assault First Degree, Criminal Law Article § 3-202;
- Count Two: Firearm Use – Felony/Violent Crime, Criminal Law Article § 4-204(b);
- Count Three: Reckless Endangerment, Criminal Law Article § 3-204(a)(1);
- Count Four: Reckless Endangerment, Criminal Law Article § 3-204(a)(1);
- Count Five: Reckless Endangerment, Criminal Law Article § 3-204(a)(1);
- Count Six: Loaded Handgun in Vehicle, Criminal Law Article § 4-203(a)(1)(v);
- Count Seven: Loaded Handgun on Person, Criminal Law Article § 4-203(a)(1)(v);
- Count Eight: Driving Under the Influence of Alcohol, Transportation Article § 21-902(a)(1)(i); and
- Count Nine: Driving While Impaired by Alcohol, Transportation Article § 21-902(b)(1)(i).

⁷ Agency's Answer to Employee Petition at Tab 2.

⁸ *Id.* at Tab 3.

On February 6, 2024, the Chief of Police denied Employee's appeal and upheld the Indefinite Suspension.⁹ This was the final agency action in this matter. Employee went into leave without pay status beginning on February 8, 2024. On March 5, 2024, Employee filed the instant appeal with OEA.

The criminal matter was resolved on June 18, 2024, when Employee pled guilty in Maryland to Reckless Endangerment (Count 3), Loaded Handgun on Person (Count 7), and Driving While Impaired (Count 9). On December 19, 2024, Employee was sentenced to two (2) years of incarceration, all suspended except 141 days, for which Employee received credit for all 141 days, which had been served on home confinement. Employee was also sentenced to three (3) years of unsupervised probation.

The administrative action against Employee was resolved when Employee was terminated by Agency on May 1, 2025. A separate appeal on Employee's termination was assigned to a different Senior Administrative Judge under OEA Matter No. 1601-0042-25.

Agency argues that Employee's suspension from February 8, 2024, to May 1, 2025, was proper and should be upheld. It avers that it suspended Employee after his criminal indictment while his criminal charges were pending. Agency adds that the underlying facts supporting its suspension are not only undisputed but eventually affirmed with a conviction by a Maryland criminal court. Agency adds that a criminal indictment was not necessary to justify its prior indefinite suspension.¹⁰ Agency asserts that Employee's arrest for criminal conduct, the statements provided by the Charles County Sheriff's Detective as well as the two victims of his inadvertent discharge of his firearm, all provided reasonable cause for Employee's suspension.¹¹ Agency asserts that it followed all applicable Statutes, Regulations, and Laws in indefinitely suspending Employee and its adverse action did not violate their Collective Bargaining Agreement ("CBA").

Employee counters by stating that Agency improperly relied on a July 23, 2024, MPD Investigative Report,¹² citing that this was more than five (5) months after he was suspended without pay. Employee also contended that Agency's referencing Chapter 16 of the District Personnel Manual ("DPM") as a basis for its adverse action is improper as DPM Chapter 16 does not apply to sworn members of the MPD. Employees also alleged that MPD violated their Collective Bargaining Agreement ("CBA") for its indefinite suspension of an officer who had not been criminally indicted or criminally convicted. Third, Employee asserts that MPD violated General Order 120.21, Part II(C)(2) since there is no contention that his actions compromised the department's public safety mission. Lastly, Employee contends that Agency had denied his request to work outside employment during his suspension, thereby violating his constitutional rights to liberty, property, and due process.

⁹ *Id.* at Tab 5.

¹⁰ The suspension was an indefinite suspension until it ended in Employee's job termination on May 1, 2025.

¹¹ In *District of Columbia v. Green*, the D.C. Court of Appeals held that the Department established "reasonable cause" for an officer's indefinite suspension "based on his arrest pursuant to a warrant, together with consideration by police officials of the investigative documents underlying the warrant." *D.C. v. Green*, 687 A.2d 220, 221 (D.C. 1996), attached as Agency Brief, Exhibit 10.

¹² Employee Brief, Exhibit 1.

Whether Agency's indefinite suspension of Employee from February 8, 2024, to May 1, 2025, the date of his termination, was done for cause and in accordance with all applicable laws, rules and regulations.

In this matter, Employee does not deny the underlying facts that underlie his suspension. After driving intoxicated on November 29, 2023, he unlawfully and drunkenly discharged his handgun in Maryland, thereby injuring a fellow officer. This led to his arrest that same night. On January 26, 2024, the State of Maryland indicted him on nine criminal counts. On June 18, 2024, Employee pled guilty to three criminal charges involving gun violations and drunk driving.

Employee's first argument is that MPD improperly relied on its July 23, 2024, MPD Investigative Report¹³ to propose his indefinite suspension. However, neither the November 30, 2023, Proposed Indefinite Suspension Without Pay¹⁴ nor the January 2, 2023, Final Notice of Suspension Without Pay reference the July 23, 2024, MPD Investigative Report as a basis for the suspension.¹⁵ Instead, they properly referenced the November 29, 2023, events that triggered Employee's arrest by Maryland police on criminal charges. As noted above, Agency cited the State of Maryland's charges of First-Degree Reckless Endangerment, Loaded Handgun in Vehicle and in Person against Employee. I find that Agency properly relied on these criminal charges to propose Employee's indefinite suspension on December 1, 2023.

Employee's second argument, that MPD's citation of Chapter 16 of the District Personnel Manual in its January 2, 2024, Final Notice of Suspension without Pay to justify his suspension should be thrown out as Chapter 16 regulations do not apply to MPD uniformed personnel. Agency concedes this point but asserts that it relied on Employee's violation of General Order Series 120.21 Number 6 to support its then indefinite suspension of Employee. A violation of MPD General Orders provides proper cause for disciplinary action.

Employee's third argument is that MPD violated the CBA by placing him on indefinite suspension when he had not been criminally indicted or criminally convicted. However, I note that the CBA does not prohibit indefinite suspension while an employee has been arrested on criminal charges and while these criminal charges had not been dropped or resolved. Notably, the CBA allows for a D.C. Police Union member to be suspended without pay during the resolution of a criminal indictment or after the officer has been convicted of any criminal charges. CBA Article 15, Section 7 states:

“If the Employer suspends an officer without pay during the resolution of a criminal indictment and the criminal indictment is dropped or in any way resolved, then the Employer agrees to return the officer to a pay status or issue notification of the charges and proposed action within thirty (30) business days of the date the indictment was either dropped or resolved. Likewise, if the Employer suspends an officer without pay after the officer has been convicted of criminal charges, the Employer agrees

¹³ Agency Exhibit 1 from list of 10 exhibits.

¹⁴ Agency Answer to Employee's Petition for Appeal, tab 1.

¹⁵ Agency Answer to Employee's Petition for Appeal, tab 3.

to either return the officer to a pay status or issue notification of the charges and proposed action within thirty (30) business days of the date it removed the officer from the pay status.”¹⁶

Agency points out that General Order 120.21 states: “Conviction of any member of the force in any court of competent jurisdiction of any criminal or quasi-criminal offense, or of any offense in which the member either pleads guilty, receives a verdict of guilty, or a conviction following a plea of nolo contendere, or is deemed to have been involved in the commission of any act which would constitute a crime *whether or not a court record reflects a conviction.*” (Emphasis added.) As of February 6, 2024, Employee’s January 26, 2024, Indictment was not “Resolved”. I find that on February 6, 2024, Agency had ample cause for Employee’s suspension.

Employee’s next argument that MPD violated General Order 120.21, Part II(C)(2) because he contends that his actions did not compromise the department’s public safety mission is implausible on its face. Not only did Employee plead guilty to driving while intoxicated, he also pled guilty to negligently discharging his firearm and injuring a fellow officer. Regardless of Employee’s contention to the contrary, I find that such actions compromised Agency’s public safety mission.

Lastly, Agency correctly characterizes Employee’s complaint that he was not permitted to work “non-security related outside employment” as beyond OEA’s jurisdiction. D.C. Code § 1-606.03(a) limits OEA’s jurisdiction to appeals by D.C. government employees concerning final agency decisions regarding performance ratings, adverse actions, grade reductions, suspensions of 10 days or more, reductions-in-force, and enforced leave.¹⁷ Complaints about being able to do outside work are grievances, which are not within OEA’s jurisdiction.

In summary, I find that the uncontroverted facts established that Agency had cause to place Employee on indefinite suspension beginning on February 8, 2024, until his termination on May 1, 2025. I also find that Agency’s adverse action was in accordance with all applicable laws, rules and regulations.

ORDER

It is hereby ORDERED that Agency’s action of placing Employee on Indefinite Suspension without Pay is hereby UPHELD.

FOR THE OFFICE:

/s/ Joseph Lim
JOSEPH E. LIM, ESQ.
Senior Administrative Judge

¹⁶ See Agency Exhibit 5.

¹⁷ Also 6-B DCMR § 604.1