

**State of Connecticut
State Board of Mediation and Arbitration**

In the Matter of	:	Case No. 2021-A-0241
	:	
City of Ansonia	:	
	:	Date of Award: August 8, 2022
	:	
-and-	:	Date of Hearing: June 3, 2022
	:	
Ansonia Police Union	:	Location of Hearing:
	:	38 Wolcott Hill Road, Wethersfield, CT
	:	

AWARD

PANEL MEMBERS:

Dennis C. Murphy, Esq., Chair and Public Member
Jeffrey L. Scanlon, Labor Member
Kenneth Baldyga, Management Member

E. Gregory Cerritelli, representing the Union
John P. Marini, representing the City

Procedural History and Issue

This is a dispute between the City of Ansonia (City) and the Ansonia Police Union (Union), concerning a written warning issued to Sgt. Vincent Orlando (grievant). After due notice, a hearing was held on June 3, 2022, wherein both parties had opportunity to present evidence and witnesses and cross-examine same. Both parties filed post hearing briefs.

The parties jointly agreed to the issue presented as follows:

Was the discipline of a written warning awarded to Sgt. Vincent Orlando in relation to an incident alleged to have occurred on 5/29/20 for just cause consistent with the operative Collective Bargaining Agreement?

If not, what shall the remedy be? (Joint Exhibit 1).

Relevant Collective Bargaining Provisions

ARTICLE 14 - DISCIPLINE AND DISCHARGE

Section A.

No employee shall be discharged, terminated, demoted, suspended, or disciplined in any other manner except for just cause.

Section B.

As used herein, the term "demoted" shall include the transfer of an employee, laterally or otherwise, resulting in a reduction of the employee's base wages.

Section C.

The Chief may award discipline for just cause to a maximum penalty of eight (8) days suspension without pay.

Such discipline may also include lesser suspension and/or warnings or reprimands. Such discipline may be awarded without a formal hearing, provided that an employee subject to such discipline shall have the right notice of the charges, a general explanation of the evidence, and an opportunity to present his/her side of the story to the Chief, together with a Union Representative of his or her choice (Union lawyer, Union business agent or Union steward), prior to the imposition of the discipline. The employee may appoint his or her own attorney provided a waiver is sought and granted by the union. The representative chosen by the employee must be available so that the conference with the Chief takes place not later than ten (10) working days from the date that the Chief notifies the employee of the intention to impose discipline.

Findings of Fact

1. On May 29, 2020, the grievant was supervisor on the midnight shift of the City's Police Department. Officer Alan Luna (Luna) was one of his subordinates. Lieutenant Patrick Lynch (Lynch) instructed the grievant to review body camera footage of his officers to ensure Covid protocol compliance.

On such review of Luna's camera, the grievant discerned that Officer Luna miscategorized a domestic violence with two assault victims as a criminal mischief matter with no report or follow-up taken.

2. The grievant met with Luna in the sergeant's office and closed the door. The grievant asked Luna in a loud manner "What were you thinking?". Luna responded at some point "I fucked up." The grievant responded "Yes Allen, you fucked up!" The grievant testified "I was loud for sure, correct". The grievant yelled at Luna for a sustained period of time. He testified that his yelling "could very well may be more than several minutes." During the investigation into the matter, the grievant admitted he "probably raised his voice" and that "yelling was normal" for him. (City Exhibit A at 8).

3. On June 11, 2020, Luna filed a complaint against the grievant for making derogatory and disparaging comments about him, and further complaining that the grievant yelled at him for a continuous period and in a manner that made him feel embarrassed and subject to a hostile work environment. As a result, the Chief began an internal affairs investigation. (Report, City Exhibit A).

4. Lynch's investigation of the incident included interviews with the grievant, Luna and three witnesses: Officer Mark Clifford, Officer Jacqueline Troesser, and Dispatcher Patricia Rowley.

5. Luna stated:

"He was belittling me. He said things like 'How stupid can you be?', 'you're going to have to bend down and take it up this ass in this one when it gets upstairs', 'you were clearly not thinking' and calling me names like 'Are you an idiot', and 'unfit for duty', and I'm sure I'm

forgetting things with all the cursing and screaming that he was doing. Whenever I tried to answer his question or get a work in, he was screaming and when he took a brief pause, he would yell 'what can you possibly say?' at one point he said, "Tell me I fucked up", but I felt anything I could say would be dismissed. Even with all the screaming I endured in the police academy, I was never attacked personally in this manner."

6. Officers Clifford and Troesser, and Dispatcher Rowley, confirmed that they heard the grievant yelling and screaming for several minutes. They could not discern what the grievant was saying, just the significant volume of his voice.

7. The Chief issued a written warning to the grievant, not for the words he used but the volume of his voice, which he found violative of the following:

Ansonia Police Duty Manual 2.1.10 Respect – Extend the proper courtesy and respect toward all members of the Department at all times.

2.1.11 Civility – Be civil, orderly, diligent, discreet, courteous, and patient as a reasonable person is expected to be in any situation and shall not engage in any altercation physical or otherwise whether on duty or not, with any other member of the Department.

Arguments of the City

The City argues that all credible evidence concludes that the written warning was for just cause. The grievant's behavior was unacceptable for a supervisor and clearly in violation of the Duty Manual's requirement for respect and civility. The grievant, the City argues, never challenged the nature of his interaction with Luna, only argued that his yelling was a matter of perception. The grievant's argument that loud behavior was normal for him, does not relieve him of the unusually loud and caustic nature of his interaction.

Arguments of the Union

The Union argues that the City carries the burden of proof that the written warning was for just cause and that it failed to meet that burden. It argues that it does not follow that loud talking is somehow in violation of departmental policy.

Further, the Union argues that the discipline of the grievant was not based on any alleged demeaning or belittling words the grievant allegedly used. It was simply the volume of his words that caused the offense.

Discussion

The City has met its burden of proof by a preponderance of the evidence that it had just cause to issue a written warning to the grievant.

The evidence presented clearly demonstrates that the grievant's screaming and yelling at Officer Luna on the morning of May 29, 2020 was extreme and beyond any measure of what any reasonable person would consider appropriate treatment of not only a subordinate, but any human being. His behavior clearly violated the Department's requirements of respect and civility towards other officers. The officers and dispatcher who witnessed the tirade fully support a finding that the grievant's rant was startlingly beyond any reasonably acceptable human interaction.

The grievant's only defense or explanation was that he acknowledges that he was perhaps very loud, but that is his nature and, as he testified, "my perception is my perception."

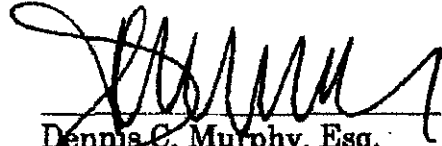
No. The grievant does not get to decide that his behavior is acceptable because that's just the way he is. Civilized society doesn't work that way. No organization works that way, the least of them being a public safety organization entrusted with such powers.

While we find the written warning was issued for just cause, we also recommend that the City enroll the grievant in appropriate supervisory training sessions where he has an opportunity to improve upon his emotional intelligence to understand how meaningful and effective coaching and training is conducted.

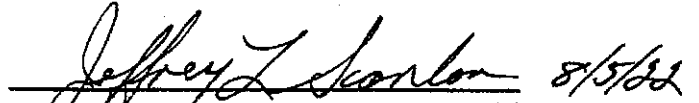
AWARD

The discipline of a written warning awarded to Sgt Vincent Orlando in relation to the incident which occurred on 5/29/20 was for just cause.

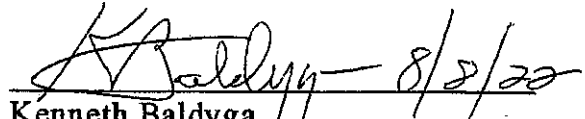
By the Panel



Dennis C. Murphy, Esq.
Chair and Public Member



Jeffrey L. Scanlon
Labor Member



Kenneth Baldyga
Management Member