

STATE OF CONNECTICUT  
DEPARTMENT OF LABOR  
STATE BOARD OF MEDIATION AND ARBITRATION

**ARBITRATION AWARD**

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In the Matter of:	:	Case No. 2021-A-0090
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City of Danbury	:	Date of Award: September 9, 2022
	:	
And	:	Hearing Date: July 6, 2022
	:	
Danbury Police Union Local Lodge 028	:	
	:	
Thomas Geanuracos, Grievant	:	Zoom Hearing

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APPEARANCES:           Michael C. Harrington, Attorney at Law (For the City)  
                                  Eugene J. Zingaro, Attorney at Law (For the Union)

**I.     ISSUE: (Agreed to by the Parties)**

Whether the City of Danbury had just cause to suspend Police Officer Thomas Geanuracos for five (5) days?

If not, what shall the remedy be?

**II.    PROCEDURAL BACKGROUND:**

The Hat City Local C.A.C.P. a/k/a Danbury Police Union Local Lodge 028 (hereinafter referred to as the “Union”) filed a grievance asserting that the City of Danbury (hereinafter referred to as the “City”) did not have just cause when it suspended Police Officer Thomas Geanuracos for five (5) days (hereinafter referred to as “Officer Geanuracos” or the “Grievant”).

The grievance was not resolved during the Grievance Procedure and was appealed to Arbitration. An Arbitration hearing was held via Zoom on July 6. Exhibits were provided to the Panel in advance of the hearing which were admitted into evidence over the course of the hearing. Additional exhibits were provided to the Panel following the hearing without objection of the parties. Both parties were provided an opportunity to offer testimony and cross-examine witnesses. The City and the Union both filed post hearing briefs by the due date of August 12, 2022. The Panel held an Executive Session on August 25, 2022.

The parties have complied with the grievance and arbitration provisions of the collective bargaining agreement. This grievance is properly before the Connecticut State Board of Mediation and Arbitration.

### **III. STATEMENT OF FACTS:**

There are few disputed facts in this case. On July 11, 2020, the Danbury Police Department received a telephone call from Mall Security at the Danbury Mall. Mall Security had detained an individual whom they determined was openly carrying a firearm in the Mall. The individual was named Michael Lipinski (hereinafter referred to as “Mr. Lipinski”). Police Officer Peter Elste (hereinafter “PO Elste”) was dispatched to handle the call. As the Grievant was in the area, he decided to go to the Mall and attend to the situation. The Grievant arrived before PO Elste. The Grievant went to the Mall Security office and was informed that the Danbury Mall was a “gun-free” zone.

Sergeant Krupinsky was the Shift Commander on July 11, 2020 and dispatched the call. Apparently, the Sergeant was unaware the Mall was a “gun-free” zone. The Sergeant

stated over the radio when dispatching the call: “Be advised, that it’s perfectly legal.” (City Exhibits 1, 2 and the City’s Brief). There were signs at least at some of the entrances to the Mall which were posted indicating that it was a “gun-free” zone. The size of the signs may not have made it clear to Mr. Lipinski that the Mall was a “gun-free” zone. The Grievant was likewise unaware that the Mall was a “gun-free” zone.

The Grievant interacted with Mr. Lipinski who was always cooperative. The Grievant examined the magazine and determined that it appeared to be loaded with blanks. According to the Grievant’s statement: “The firearm appeared to be similar to a Walther PPK and dark gray in color” and this was the “extent of my examination of the firearm.” (City Exhibit 1, p. 3-4). At some point during the interaction with Mr. Lipinski, PO Elste arrived on the scene. PO Elste had very little involvement in the situation with Mr. Lipinski at the Mall.

Mr. Lipinski told the Grievant that he had a valid permit but that he did not have his pistol permit on his person. Mr. Lipinski stated the permit was in his car. The Grievant did not run Mr. Lipinski’s information to determine if he had a valid pistol permit or if his address was current. It was later determined Mr. Lipinski’s pistol permit had been revoked in 2019 and the address on his license he had provided was invalid. Mr. Lipinski was banned from the Mall property by Mall Security for a period of five (5) years.

The Grievant subsequently applied for search and seizure warrant and an arrest warrant for Mr. Lipinski. The Police seized a “starter pistol with its barrel fully plugged from the factory with no ability to fire a projectile” from Mr. Lipinski’s home. (Union Ex. 3, p. 3). The arrest warrant was denied by the Office of the State’s Attorney finding that

the “starter pistol” did not constitute a “firearm” under Connecticut General Statutes.  
(Union Ex. 3, p. 3)

**IV. PERTINENT LANGUAGE FROM THE COLLECTIVE BARGAINING AGREEMENT (Joint Exhibit 1 – submitted to the Panel with the City’s Brief), GENERAL ORDER 1075 (City Exhibit 4), and CONNECTICUT GENERAL STATUTES §§ 29-35(b), 29-28(e) and 29-37(a)**

**ARTICLE 25**

**DISCIPLINARY ACTIONS AND DISCHARGE**

Section 25.1 No employee shall be suspended, discharged, reduced in rank, or grade, or be subject to any other disciplinary action, except for just cause.

Section 25.6 Any employee who may be found guilty of any charges and subjected to punitive measures and/or discharge, shall have the right, as provided in Article 9, to appeal such decision to the Connecticut State Board of Mediation and Arbitration.

**GENERAL ORDER 1075 (City Exhibit 4)**

**Category B:** Violations and/or disregard of policy that involve a misuse of authority, or ethical offense, and/or that create or pose the potential for clear serious adverse impact on public safety or the professional image of the Department. Some examples include but are not limited to:

- Failure to take necessary police action while on duty (Appendix A)

[This is the specific infraction the Grievant was charged with - City Exhibit 3]

Discipline levels for Category B Offenses: (Appendix B)

Mitigating Penalty	Presumptive Penalty	Aggravated Penalty
Written Reprimand to 5 Day Suspension	1 to 10 day Suspension	5 day Suspension to anything less than termination

## CONNECTICUT GENERAL STATUTES

### **§29-35(b)**

The holder of a [pistol] permit issued pursuant to section 29-28 shall carry such permit upon one's person while carrying such pistol or revolver. Such holder shall present his or her permit upon the request of a law enforcement officer who has reasonable suspicion of a crime for purposes of verification of the validity of the permit or the identification of the holder, provided such holder is carrying a pistol or revolver that is observed by such law enforcement officer.

### **§ 29-28(e)**

The issuance of any permit to carry a pistol or revolver does not thereby authorize the possession or carrying of a pistol or revolver in any premises where the possession or carrying of a pistol or revolver is otherwise prohibited by law or is prohibited by the person who owns or exercises control over such premises.

In accordance with §29-37(a), a violation of §29-28 is a class E felony. Owners of quasi-public private premises, like eateries and retail establishments, may avail themselves of the above by posting "No Guns Allowed" signs in prominent places. (Joint Exhibit 2)

### **§ 29-37(a)**

Penalties. (a) Any person violating any provision of section 29-28 or 29-31 shall be guilty of a class E felony, and any pistol or revolver found in the possession of any person in violation of any of said provisions shall be forfeited.

## V. DISCUSSION

As in most disciplinary matters, the Panel must decide whether the City had just cause to discipline the Grievant. Not unlike most collective bargaining agreements, Joint Exhibit 1 does not define “just cause”. While parties and arbitrators may use different words to define “just cause”, at its core “just cause” boils down to: “A reason that is legally acceptable or sufficient” and whether the employer was guided by reasonableness and fairness.

In its simplest form, there must be satisfactory proof that the employee engaged in the act upon which the discipline is based. If the proof is insufficient that the employee committed a violation, discipline cannot stand. If the evidence is sufficient to demonstrate that the employee is “guilty” of the conduct alleged, then the next question the Panel must consider is whether the penalty is for just cause.

As a preliminary matter, the Panel notes that Connecticut allows residents and nonresidents to openly carry pistols and revolvers if they possess and carry with them the appropriate permit(s). As outlined under CGS § 29-28(e) above, certain quasi-public may prohibit individuals with their pistols and revolvers from entering their property.

The Grievant in this case is charged with **Failure to take necessary police action while on duty**. The Grievant was unaware that the Mall was a “gun free” zone at the time he first arrived at the scene. He was informed by Mall Security that the Mall was “gun free” and therefore, individuals were not permitted to carry guns on the premises. Mr. Lipinski indicated that he was likewise unaware.

Mr. Lipinski was always cooperative with both Mall Security and the Grievant. He was not charged with Disorderly Conduct (CGS § 53a-182), Creating a Public Disturbance [CGS § 53a-181a(a)(2) or Breach of Peace (CGS § 53a-181]. As the Panel does not have the application for the Arrest Warrant (which was denied by the State's Attorney's office) it is unknown what crime Mr. Lipinski was alleged to have committed.

The Grievant did not notice the signs indicating that the Mall was "gun free" when he entered and only saw one upon exiting. He stated that they were small.

CGS § 29-28(e) requires the posting of "No Guns Allowed" signs in prominent places". Det. Lt. Sturdevant who conducted the Internal Affairs investigation found signs indicating the Mall to be a "gun free" zone were "not readily readable as you walk by it. A customer of the mall would have to stop and specifically read the code of conduct to read that firearms are banned from their property." (City Ex. 2, p. 2).

The Panel would concur and specifically believes that the signs' placement would likely not meet the statutory requirement that they be posted in prominent places. Additionally, although the statute does not require that the signs be readable, reason and fairness would dictate that they needed to be.

Upon examining Mr. Lipinski's weapon on July 11, 2020, the Grievant described it as a firearm which "appeared to be similar to a Walther PPK and dark gray in color." The magazine had been removed and it was "loaded with what appeared to be blanks." The Grievant further stated that he "decided to make the firearm safe and did so." (City Ex. 1, p. 3-4).



In reliance on Mr. Lipinski's representation that he had a valid pistol permit, the Grievant made the following CAD entry remark: "party has a legal pistol permit to carry. . ." This was unverified by the Grievant and later determined to be untrue. The Grievant never requested nor saw Mr. Lipinski's gun permit. Mr. Lipinski told Mall Security that his pistol permit was in his car and not in his possession. This was a violation of CGS § 29-35(b), presuming it was a pistol or a revolver. At no time during the IA did the Grievant claim that the weapon in Mr. Lipinski's possession on July 11, 2020 was not a pistol or revolver.

Upon investigation by Sgt. Scocozza, it was determined that Mr. Lipinski's pistol permit was revoked as of June 28, 2019 and expired as of February 24, 2020. While during the search of Mr. Lipinski's home authorized by the search warrant, a starter pistol was discovered, it is unknown whether that was the same "weapon" that was in the possession of Mr. Lipinski on July 11, 2020. The seized weapon was a "starter pistol with its barrel fully plugged from the factory with no ability to fire a projectile." The arrest warrant was denied by the Office of the State's Attorney finding that this "starter pistol" did not constitute a "firearm" under Connecticut General Statutes (Union Ex. 3, p.3).

If the "weapon" Mr. Lipinski had in his possession on July 11, 2020 was the starter pistol, why would Mr. Lipinski have told Mall Security that he had a pistol permit for a "weapon" for which there was no requirement that he have a permit. If the firearm that was in Mr. Lipinski's possession on July 11, 2020 at the Mall was a "starter pistol with its barrel fully plugged from the factory with no ability to fire a projectile." (Union Ex. 3), it seems unlikely that the Grievant would have determined it necessary to make that firearm safe or that it had a separate magazine. Additionally, as a police officer with over eight

(8) years of experience, it also seems unlikely that the Grievant would have mistaken a “starter pistol with its barrel fully plugged from the factory with no ability to fire projectile” with a firearm similar in appearance to a Walther PPK.

The Grievant in this case determined it would have been a violation of CGS § 29-35 (b) to request Mr. Lipinski to present his pistol permit as he did not have a reasonable suspicion of a crime or that, more importantly, that a crime had been committed. Based upon the signage regarding the fact that the Mall was a “gun free” zone, there could not have been a knowing violation of the exception to Connecticut’s Open Carry law. This is especially true since no one; not Danbury Police Department personnel, the Grievant nor Mr. Lipinski was aware of this fact.

However, what the Grievant did know was that the Mr. Lipinski had a firearm on his person and his permit, by Mr. Lipinski’s own account was not in his possession. This was a violation of CGS § 29-28. As stated earlier, without seeing the permit, the Grievant entered into the CAD that Mr. Lipinski had a legal pistol permit to carry.

The Panel did not consider the State’s Attorney’s finding that Mr. Lipinski did not commit a crime and did not issue an arrest warrant in crafting its Award in this case based upon the reasons articulated herein.

**VI. AWARD**

For the reasons set forth herein, the Panel finds that the City did have just cause to discipline Mr. Geanuracos. However, for the reasons articulated herein, the Panel unanimously finds that the discipline of a five (5) day suspension is too severe. The suspension shall be reduced to a written reprimand.

BY THE ARBITRATION PANEL:

Linda J. Yelmini 9/2/2022  
Linda J. Yelmini (Public Arbitrator & Chairperson)

Lucian R. Perillo, Jr. 9-7-2022  
Lucian R. Perillo, Jr. (Labor Arbitrator)

Russell J. Melita 9-8-2022  
Russell J. Melita (Management Arbitrator)