



MEMORANDUM

Austin Police Department *Office of the Chief of Police*

Received
City of Austin
2015 DEC -1 PM 4: 09
Human Resources Dept

TO: Joya Hayes, Acting Director of Civil Service

FROM: Art Acevedo, Chief of Police

DATE: December 1, 2015

SUBJECT: Agreed Temporary Suspension and Voluntary Demotion of
Police Sergeant Nathaniel Roberts #4270
Internal Affairs Control Number 2015-0887

Pursuant to the provisions of Chapter 143 of the Texas Local Government Code, Section 143.052, Article 18 of the Meet and Confer Agreement between the City of Austin and the Austin Police Association, and Rule 10, Rules of Procedure for the Firefighters', Police Officers' and Emergency Medical Service Personnel's Civil Service Commission, I have agreed to temporarily suspend Police Sergeant Nathaniel Roberts # 4270 from duty as a City of Austin, Texas police officer for a period 60 days. The agreed temporary suspension is effective beginning on December 2, 2015 and continuing through January 31, 2016. In addition, Sergeant Roberts has agreed to accept a voluntary demotion to Corporal effective December 2, 2015.

I took this action because Sergeant Roberts violated Civil Service Commission Rule 10.03, which sets forth the grounds for disciplinary suspensions of employees in the classified service, and states:

No employee of the classified service of the City of Austin shall engage in, or be involved in, any of the following acts or conduct, and the same shall constitute cause for suspension of an employee from the classified service of the City:

- L. Violation of any of the rules and regulations of the Fire Department or Police Department or of special orders, as applicable.

The following are the specific acts committed by Sergeant Roberts in violation of Rule 10:

On Saturday June 6, 2015, Roberts worked (wearing his APD uniform) a law enforcement related secondary employment job for Capital Metro Rail. As part of his duties and responsibilities, Roberts was assigned to supervise a five-man shift whose duty hours were from 2:30 p.m. on June 6, 2015 till 1:30 a.m. on June 7, 2015. Roberts arrived for work at 11:00 a.m. on June 6th and clocked in over three hours early (without the knowledge or approval of Capital Metro management), which he attributed to his inaccurate watch. Roberts conducted the scheduled show-up at the Capital Metro Security Rail Building located at 9315-A McNeil Road for the five-man shift at the scheduled 2:30 p.m. time.

Subsequently, Roberts left the Capital Metro Security Building location at 3:00 p.m. and conducted his normal Capital Metro responsibilities until he went to his residence at approximately 8:00 p.m. Roberts stated he went home (his residence is located outside his area of responsibility for Capital Metro) to eat dinner rather than having to pay for the cost of eating out. While at his residence Roberts decided to do some work on the residence because he was selling it. Roberts claims he lost track of time and didn't realize he missed the 1:30 am end of shift meeting until he was called by APD Lieutenant Kenneth Murphy, the administrative supervisor over the Capital Metro rail operations, at 2:20 a.m. Roberts told Lieutenant Murphy he was on his way but did not inform him that he had been at his residence for approximately 6 hours performing home repairs. Roberts returned to the Capital Metro Security Building at approximately 3:00a.m. Roberts clocked out at 3:00 am (he did not have permission from Capital Metro management to work an extra 1 ½ hours). When confronted by Capital Metro personnel and APD supervisors regarding his actions, Roberts did not provide an accurate and detailed account of his true culpability.

By these actions, Roberts violated Rule 10.03(L) of the Civil Service Rules by violating the following rules and regulations of the Austin Police Department:

➤ **Austin Police Department Policy 900.3.2(a): General Conduct and Responsibilities: Acts Bringing Discredit Upon the Department**

900.3.2 Acts Bringing Discredit Upon the Department

Since the conduct of personnel both on-duty or off-duty may reflect directly upon the Department, employees must conduct themselves at all times in a manner which does not bring reproach, discredit, or embarrassment to the Department or to the City.

- (a) Employees will not commit any act which tends to destroy public confidence in, and respect for, the Department or which is prejudicial to the good order, efficiency, or discipline of the Department.

➤ **Austin Police Department Policy 949.4: Secondary Employment: Secondary Employment Guidelines and Rules**

All employees shall abide by the following guidelines when working secondary employment:

- (a) An employee's first duty is to the City and the Department. An employee will respond to any order to return to duty when issued by a supervisor, even if the employee is working secondary employment when called.
- (b) A sworn employee's primary responsibility is the enforcement of state laws and city ordinances. Sworn employees are reminded of the Code of Ethics and Oath of Office which shall not be circumvented by any secondary employment agreement.
- (c) Employees performing secondary employment are subject to the same rules and regulations as if they were on-duty.
- (g) Employees will report any alleged act of misconduct by another employee engaged in secondary employment to that employee's chain-of-command or Internal Affairs.

➤ **Austin Police Department Policy 900.4.3: Code of Conduct: Neglect of Duty**

900.4.3 Neglect of Duty

Employees will satisfactorily perform their duties. Examples of unsatisfactory performance include, but are not limited to:

- (i) Employees are expected to be truthful at all times in the performance of their duties. However, there may be instances where, initially, the employee has not been truthful; but, before the investigation is complete, the employee provides an accurate and detailed accounting of their true culpability in a situation, and accepts full responsibility for their actions. In those cases, the Chief may consider each case on a fact-specific basis.

In addition to this agreed suspension, Roberts agrees to the following additional terms and conditions:

1. He will accept a voluntary demotion to the rank of Corporal effective December 2, 2015, and shall within 48 hours of signing this Agreement send written notification of that voluntary demotion to the Civil Service Interim Director.

2. He shall not be eligible to work secondary employment (except for department overtime) for a period of 12 months calculated from the date he returns from serving his suspension. This prohibition will be re-evaluated after 6 months.
3. He will not be allowed to sit for the Sergeant's promotional examination for 24 months calculated from the date he returns from serving this suspension.
4. No hardship time will be granted during any portion of this suspension.
5. He agrees to a one (1) year probationary period to begin on the day he returns to duty after serving this agreed suspension. Roberts agrees that if during that one year period the Chief of Police sustains another violation involving the same or similar conduct (Roberts agrees that the Chief of Police has the final decision whether the conduct is the same or similar), he will be indefinitely suspended without the right to appeal that suspension to the Civil Service Commission, to an Independent Third Party Hearing Examiner, to District Court, and he may not file a grievance under Article 20 of the Meet and Confer Agreement.
6. He agrees to waive any claims he may have against the City or its employees related to this investigation, suspension, and voluntary demotion, including but not limited to claims under Title VII, the ADA, or the FMLA.

By signing this Agreed Discipline, Roberts understands and agrees that I am forgoing my right to indefinitely suspend him for the conduct described above and that by agreeing to the suspension, Roberts waives all right to appeal to this agreed suspension, the voluntary demotion, as well as the other additional terms and conditions included herein, to the Civil Service Commission, to an Independent Third Party Hearing Examiner, to District Court, and he may not file a grievance under Article 20 of the Meet and Confer Agreement.


ART ACEVEDO, Chief of Police

DEC 1, 2015
Date

TO WHOM IT MAY CONCERN:

I acknowledge receipt of the above and foregoing memorandum of agreed temporary suspension and I understand that by entering into this disciplinary agreement the Chief forgoes his right to indefinitely suspend me for the conduct described above. I further understand and agree that by entering into this agreement, I have no right to appeal this suspension, the voluntary demotion, or the additional terms and conditions included herein to the Civil Service Commission, to an Independent Third Party Hearing Examiner, to the District Court, and I may not file a grievance under Article 20 of the Meet and Confer Agreement.

Nathaniel Roberts #4270

Police Sergeant Nathaniel Roberts #4270

12-01-2015

Date