

AMERICAN ARBITRATION ASSOCIATION

In the Matter of Arbitration Between:

**FRATERNAL ORDER OF POLICE,
LODGE #5**

**AAA Case #01-18-0004-7319
(Gr: Bryan Turner Discharge)**

and

Walt De Treux, Esq., Arbitrator

CITY OF PHILADELPHIA

*Hearing Dates: 11/22/19; 12/6/19
Decision Date: 1/10/20*

Appearances: For the FOP – Ralph J. Teti, Esq., *WILLIG WILLIAMS & DAVIDSON*
For the City – Kia Ghee, Esq., *ASST. CITY SOLICITOR*

Introduction and Statement of Relevant Facts

The City of Philadelphia Police Department uses the electronic Preliminary Arraignment System (PARS) to track a defendant from arrest through referral to the District Attorney's Office for prosecution. An officer or detective electronically enters into the PARS report data such as the facts of an arrest and information on the arrestee, complainants, witnesses, and arresting officers. The PARS report also includes a section for identifying the police officers that will be needed in court. The charging unit of the District Attorney's Office first looks at the PARS report to get an overview of the case and determine the witnesses to be subpoenaed.

On [REDACTED], 24th District Officer Bryan Turner was assigned to a stationary beat on the 100 block of E. Somerset Street in the Kensington section of Philadelphia. Late that afternoon, Officer Turner phoned Sgt. D [REDACTED] A [REDACTED] to report that he was leaving his post to get lunch and that the post was being covered by Officers M [REDACTED] B [REDACTED] and K [REDACTED] Y [REDACTED]. On

his way to lunch, a pedestrian flagged him down to report an accident in the 3400 block of Gaul Street. Officer Turner investigated and found a car that had struck a pole and a driver who was under the influence of narcotics. He handcuffed the operator and placed her in his patrol vehicle. Sgt. A [REDACTED] arrived and called for a female officer to report to the scene to conduct a search of the female driver. Prior to Officer E [REDACTED] P [REDACTED]' arrival, the suspect removed 9 bags of heroin from her bra and surrendered them to Officer Turner. Officer P [REDACTED] conducted a search of the operator. Finding no additional drugs, she transported the suspect to police headquarters.

Officer Turner left the arrest scene to return to the 24th District and file reports of the arrest. He had to complete an incident report, a transport report, a property receipt, and a PARS report. On the first three reports, he identified himself as the arresting officer. On the PARS report, he listed Officer M [REDACTED] B [REDACTED] as the arresting officer and indicated that she was needed at the court hearing. In his narrative of the arrest, he indicated that the defendant turned over the narcotics after Officer P [REDACTED] arrived on the scene. Sgt. A [REDACTED] noted the discrepancies in the report and communicated his concerns to his Lieutenant.

The matter was referred to the Internal Affairs Unit, and Sgt. Quiana Richardson was assigned to investigate. Sgt. Richardson confirmed that Officer B [REDACTED] was not present for the arrest. She audited Officer Turner's arrest reports for 2017 and found that he had filed only one other PARS report for a DUI arrest. In that report dated [REDACTED], Officer Turner listed Officer B [REDACTED] as the arresting officer needed for court. Sgt. Richardson confirmed that Officer B [REDACTED] was not working with Officer Turner that day and did not participate in the arrest.

Sgt. Richardson found that Officer Turner had intentionally falsified the PARS reports for the arrests on [REDACTED] and [REDACTED]. The IA investigation was referred to the District Attorney's Office, which presented the case to a Grand Jury. The Grand Jury returned several criminal charges related to the alleged falsification. On August 30, 2018, Officer Turner was arrested. After a jury trial, he was found not guilty.

The same day of the arrest, the Department served on Officer Turner notice of a 30-day suspension with intent to dismiss. On September 10, 2018, Commissioner Richard Ross took direct action to terminate Officer Turner for two violations of the Department's disciplinary code – 1-§010-10 (knowingly and willfully making a false entry in any Department record or report) and 1-§026-10 (engaging in any action that constitutes the commission of a felony or misdemeanor which carries a potential sentence of more than (1) year). On September 27, 2018, Officer Turner's employment was terminated.

Officer Turner timely grieved his termination. The parties were unable to resolve the grievance through the contractual steps, and the matter was referred to arbitration. On November 22 and December 6, 2019, hearings were held at the Philadelphia offices of the American Arbitration Association, during which time both parties had a full and fair opportunity to present documentary and other evidence, examine and cross-examine witnesses, and offer argument in support of their respective positions. The parties closed their presentations with oral argument, and the matter was submitted to the Arbitrator for a decision.

Issue

The parties stipulated to the following issue,

Did the City of Philadelphia have just cause to discharge Officer Bryan Turner? If not, what shall be the remedy?

Analysis and Decision

According to Sgt. A [REDACTED], Officer Turner, a 6-year veteran of the Department, was a good police officer. For reasons that he did not adequately explain at hearing, Grievant listed on two PARS reports that Officer M [REDACTED] B [REDACTED] was the arresting officer needed in court for arrests in which she was not involved or on scene. Grievant attributes his false entry to “an honest mistake” likely due to his frequent work with Officer B [REDACTED]. The City charges that the falsification was intentional and warranted termination.

Acting Commissioner Christine Coulter explained at hearing that if it was simply an honest mistake, Grievant would have been sent for further training to ensure he was more accurate on future reports. She testified that an intentional falsification was considerably more serious and required termination because Grievant’s entry of Officer B [REDACTED]’s name conveyed false information to the DA’s office and would have resulted in a subpoena to Officer B [REDACTED] for court. She concluded that Grievant’s integrity and his ability to testify in future cases was irreparably damaged by the false entries on the only two PARS reports he had filed in 2017.

I find that the City has established that Grievant knowingly and willfully falsified the PARS reports by listing Officer B [REDACTED] as the arresting officer needed for court.¹ Grievant testified that he did not recall completing the reports, but reasoned that he added Officer B [REDACTED] to the reports out of habit or routine since they often work together. But he only filed two PARS reports for DUI arrests in 2017. For the [REDACTED] arrest, he completed three other documents – the incident report, the transport report, and the property receipt – without listing Officer B [REDACTED]. For the [REDACTED] arrest, he completed an incident report that did not mention Officer B [REDACTED]. It was only on the PARS forms – the document used by the DA to subpoena officers to court – that he listed Officer B [REDACTED] and indicated that she was needed at court. If Grievant was acting out of habit or routine, it would be expected that Officer B [REDACTED] would be listed on all the reports related to the arrests. Instead, he only listed her on the forms that would trigger her attendance at court. Grievant had to make a conscious decision to list Officer B [REDACTED] on the PARS reports and not on the other arrest forms.

Moreover, on [REDACTED], he completed the arrest forms immediately following the arrest. There was no significant lapse of time between the arrest and the paperwork. He left the arrest scene and proceeded directly back to the District to complete the paperwork. He offered no reason why his memory would be so clouded immediately after the arrest that he

¹ The City did not establish that his statement on the [REDACTED] report regarding the surrender of the drugs upon Officer P [REDACTED]' arrival was intentionally false. First, there was no real motive for Officer Turner to falsely report the timeline of the incident. Second, the narrative is poorly worded. It is not clear from the narrative whether the drugs were turned over to Grievant or to Officer P [REDACTED]. It only notes that the drugs were surrendered once Officer P [REDACTED] arrived on scene. Sgt. A [REDACTED] recalled that the drugs were turned over before Officer P [REDACTED]' arrival. Officer Turner recalled that the defendant turned over the drugs as Officer P [REDACTED] pulled up to the scene. The discrepancy is not significant enough to change the basic facts that led to the defendant's arrest and may be attributable to the lack of clarity in Grievant's writing or imprecise recall of Grievant or Sgt. A [REDACTED]. In either event, I do not find the statement to be a knowing and willful falsification.

would list an officer who was not on scene. Again, the facts and circumstances surrounding his completion of the reports strongly indicate that he added Officer B [REDACTED] to the PARS report knowing she was not present at the arrest.

Acting Commissioner Coulter testified that termination was warranted because Grievant's misconduct was intentional and damaged his integrity with the Department and for future cases that require his testimony. The Department's Disciplinary Code, which is appended to the collective bargaining agreement, provides a penalty range of a 5 day suspension to dismissal for a first offense violation of 1-§010-10 (knowingly and willfully making a false entry in any Department record or report). Under the Disciplinary Code, therefore, dismissal is within the acceptable range of penalties for Grievant's violation. The disciplinary decision is further justified by Grievant's failure to acknowledge any wrongdoing and his insistence that his actions were "an honest mistake" when the evidence clearly indicates that his inclusion of Officer B [REDACTED] on the PARS reports was willful and intentional.

For these reasons, I find that the City had just cause to discharge Officer Bryan Turner.²

Award

The grievance is denied.

WALT DE TREUX

WALT De TREUX

² Having determined that the Section 1-§010-10 violation warrants dismissal, it is unnecessary to address the Section 1-§026-10 violation.