

**CAREER SERVICE BOARD,
CITY AND COUNTY OF DENVER, COLORADO**

Appeal No. 52-16A

In the Matter of the Appeal of:

DANIEL WILLIAMS,

Petitioner-Appellant,

v.

DEPARTMENT OF SAFETY, DENVER SHERIFF'S DEPARTMENT,
and the City and County of Denver, a municipal corporation,

Cross Petitioner-Agency.

DECISION AND ORDER

Denver Deputy Sheriff Daniel Williams (Appellant) made an incorrect entry into the record of a prisoner. This incorrect record entry was eventually caught and corrected, but not before the prisoner was forced to serve an extra 18 days in jail more than was required by his sentence. The Department of Safety (Agency) through its Civilian Review Administrator (CRA) for the Sheriff Department determined that Appellant's incorrect record entry violated the Career Service Rule prohibiting carelessness in performance of one's job (CSR 16-60) and also amounted to a violation of the Sheriff Department's internal regulation requiring a deputy to give his full attention to his duties (RR-200.9). The CRA, utilizing the Agency's disciplinary Matrix, determined Appellant's misconduct to be a Matrix Category D violation, but rather than assessing the presumptive penalty of a ten-day suspension; the CRA issued a Matrix Category D mitigated penalty of a five-day suspension.

Appellant appealed his discipline to a Hearing Officer. The Hearing Officer found that Appellant had indeed committed rules infractions by making an incorrect record entry. The Hearing Officer also upheld the imposition of the five-day suspension.

Alas, neither side was happy with the Hearing Officer's decision. Appellant has appealed the decision claiming that he should not be held responsible for his error because it should have been caught by other personnel. He further argues that if he did commit rules violation, the

five-day suspension is too severe of a punishment. Appellant urges us to reduce the discipline to a written reprimand.

The Agency, on the other hand, appeals the Hearing Officer's decision in order to seek an increase in the punishment imposed on the Appellant. The Agency claims that the Appellant made a false plea of contrition and acceptance of responsibility prior to the imposition of discipline for the purpose of obtaining a mitigated penalty and, having received that mitigated penalty, did an about-face at the hearing, showing no contrition and refusing to accept responsibility. Because both appeals border on the frivolous, we reject them and AFFIRM the Hearing Officer's decision.

Appellant first claims that the Hearing Officer's decision is not supported by evidence and involves an erroneous rules interpretation.¹ We disagree on both counts.

First, it is both undisputed and indisputable that Appellant committed the misconduct which resulted in the rules violations, that is, there is simply no question that Appellant entered the wrong information into the prisoner's record causing him to be jailed for 18 days after he was to be released. Appellant has admitted that he made the error.² The Hearing Officer's determination that Appellant engaged in an act of misconduct in violation of rules is clearly supported by the record.

The crux of Appellant's argument to this Board is that numerous other people had an opportunity to catch Appellant's error and correct the situation but failed to do so. Whether this is true or not is immaterial. The fact that someone could have corrected Appellant's mistake is not proof that Appellant did not make the mistake and does not absolve Appellant from the consequences of his misconduct.

And while Appellant also claims that the Hearing Officer's decision involves an erroneous rules interpretation, nowhere in the roughly 21 pages of his brief devoted to this issue does Appellant mention a single rule which he claims the Hearing Officer misinterpreted. Further, to the extent that the Hearing Officer, in the course of hearing the appeal and making a decision, needed to refer to Career Service Rules or Agency rules and regulations, Appellant utterly fails to explain how the Hearing Officer's application or interpretation of any rule was erroneous. In any event, regardless of the insufficiency of Appellant's argument, we find no misinterpretation of any rules by the Hearing Officer.

Finally, Appellant urges, that should we continue to find him guilty of rules violations, we nevertheless reduce his penalty to a written reprimand as a matter policy. We will not do this. We believe a five-day suspension is within the range of alternatives available to a prudent administrator. It is not excessive. In fact, we believe it would be poor policy indeed to reduce the penalty further, as any reduction would tend to deprecate the seriousness of the offense

¹ Appellant's brief, p. 9.

² See, for example, Appellant's brief, pages 1 and 3

committed by Appellant. While Appellant may have simply committed an unwitting, innocent mistake, we cannot lose sight of the fact that said simple mistake cost an individual 18 days of freedom.

So, while we decline to reduce the penalty imposed by the CRA and upheld by the Hearing Officer, we also will not increase the penalty assessed by the CRA. The Agency has appealed the Hearing Officer's decision hoping to convince this Board to increase the penalty assessed against the Appellant, as this Board indicated it might do should it encounter a situation where the Board was convinced that a deputy had gamed the system by falsely accepting responsibility or claiming contrition for his misconduct to obtain a mitigated penalty – only to disavow it all at hearing.³ This is plainly not such a situation.

The record reveals that Appellant's claims concerning his actions have been consistent, both before discipline was imposed and after discipline was imposed. Appellant's position, before discipline was imposed was that he made the error, but that other people should have caught it. He made the same claims at his pre-disciplinary hearing and he again made the same claims before the Hearing Officer. (See Exhibits 1, 9, and 30). It is plain, therefore, that the CRA, when imposing the mitigated penalty, was aware of Appellant's claim that while he made the error, he should not be held responsible for it because others should have caught it (see Exhibit 1-2 through 1-4). We see no evidence that the CRA was duped or otherwise misled by Appellant into issuing him a mitigated penalty.⁴

We reject both parties' appeals and AFFIRM the Hearing Officer's decision in its entirety.

SO ORDERED by the Board on April 6, 2017, and documented this 15th day of June, 2017.

BY THE BOARD:



Co-Chair

³ *In Re Espinoza*, no. 42-15A.

⁴ We could not help but note that even if the CRA had been misled or misinformed about Appellant's alleged actual lack of contrition or acceptance of responsibility, she still could not say that she would have imposed a presumptive or harsher penalty rather than the mitigated penalty. (Transcript, p. 53 (R. 666))

Board Members Concurring:

Neil Peck

Patricia Barela Rivera