**CAREER SERVICE BOARD, CITY AND COUNTY OF DENVER, STATE OF COLORADO**
Appeal No. 53-16A

---

**ORDER ON REMAND**

---

IN THE MATTER OF THE APPEAL OF:

**RYAN BOSVELD,** Respondent-Appellant,

vs.

**DEPARTMENT OF SAFETY, DENVER SHERIFF'S DEPARTMENT,**
and the City and County of Denver, a municipal corporation, Petitioner-Agency.

---

The Department of Safety, Denver Sheriff Department, (Agency) issued Ryan Bosveld (Appellant) a ten-day disciplinary suspension for making an inappropriate, unprofessional comment to an at-risk suicidal inmate. Appellant appealed his suspension to a hearing officer. The Hearing Officer vacated the discipline in its entirety, finding that the Agency failed to carry its burden of proof. The Agency appealed the Hearing Officer's decision to the Board. The Board reversed the Hearing Officer, finding, essentially, that as a matter of law, given the record of this case, the Agency had, indeed met its burden of proof. Because the Hearing Officer, in vacating the discipline, did not make any findings regarding any appropriate discipline, we remanded the matter for a hearing officer to conduct further proceedings to determine the appropriateness of the discipline imposed.

After conducting those further proceedings, the Hearing Officer determined that the Agency's original imposition of a ten-day suspension was appropriate. Appellant has appealed that decision to the Board. We AFFIRM the Hearing Officer's decision upholding the ten-day suspension.

The gist of Appellant's first argument, found at pages 3-7 of his brief to the Board, is that the Hearing Officer erred in his penalty determination because the record does not reflect that Appellant committed the misconduct underpinning the discipline.[1] For example, at page 3 of his brief, Appellant argues that the Agency did not prove that Appellant failed to treat the suicidal inmate with respect because the original Hearing

[1] The Hearing Officer, in his decision on remand, also noted that during the remand proceedings, the thrust of Appellant's arguments against the imposition of the ten-day suspension was that Appellant had not committed rules violations. The Hearing Officer properly determined that the Board had already decided this issue against Appellant and that he (the Hearing Officer) lacked authority to reconsider and reverse the Board's decision.

Officer determined that the Agency failed to prove that Appellant told the suicidal inmate to "just die." But this Board has already determined that the Agency had met its burden of proof and that, as a result, Appellant did make the comment to the inmate and that he did commit violations of Career Service Rules and Agency internal rules.

Appellant next argues at page 7 of his brief, that the Hearing Officer erred in his determination of the appropriateness of the imposed discipline because he failed to consider "all the facts." In support of this argument, Appellant cites to an explanatory portion of the Agency's disciplinary Matrix. But under Career Service Rules existing both at the time the discipline was originally imposed and the time the appeal hearing took place, the Hearing Officer was not bound by the Matrix. Rather, the Hearing Officer was bound to determine whether the discipline imposed by the Agency was consistent with Career Service Rules. The Hearing Officer did, in fact, conduct a thorough analysis of Career Service Rules and appropriately applied those rules to the case in deciding the appropriateness of the ten-day suspension.

In any event, the portion of the Matrix cited by Appellant is plainly intended to apply only to the Agency's disciplinarian when determining what penalty the Agency will impose in the first instance for the alleged acts of misconduct. The Matrix provision cited by the Appellant is not directed to the Hearing Officer and does not bind or constrict the Hearing Officer's decision-making process.[2]

At page 10 of his brief, Appellant claims that the Hearing Officer erred in finding that the Appellant's misconduct exposed the City to potential legal or financial liability. Appellant, crouched this argument in terms aggravation under the Matrix.[3] But the Agency did not impose an aggravated penalty, rather, the Agency imposed a presumptive Matrix Category D penalty. Regardless, we believe the record supports the Hearing Officer's conclusion that the Agency had presented sufficient evidence to support a finding that Appellant's misconduct amounted to conduct which exposed the city to potential liability. The Agency was not required to prove that a lawsuit was actually filed or threatened to prove that misconduct could have potentially resulted in legal or financial liability.

In sum, we find that the Hearing Officer's conclusions are well supported by record evidence and consistent with Career Service Rules. We also find that the Appellant has failed to articulate any valid reason for overturning or modifying the Hearing Officer's decision.

For these reasons, the Hearing Officer's decision to re-instate the ten-day suspension against Appellant is AFFIRMED.

---

[2] This section of Appellant's argument goes on to claim that the video evidence in the record does not prove that Appellant made the "just die" comment to the inmate. As has been noted above, however, we have already ruled against Appellant on this point and neither the remand proceeding nor this appeal are appropriate vehicles for contesting this Board's prior decision.

[3] Appellant's brief, page 10, 4th and 6th lines from the bottom.

SO ORDERED by the Board on July 19, 2018, and documented this 16th day of August 2018.

BY THE BOARD:

Neil Peck, Co-Chair

Board Members Concurring:

Karen DuWaldt

Tracy Winchester