

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

Appeal No. 22-14A

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In the Matter of the Appeal of:

**STEVEN VALERIO,**

Petitioner/Appellant.

v.

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

Respondent/Agency.

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**DECISION AND ORDER**

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Appellant, Denver Deputy Sheriff Steven Valerio, was discharged for using excessive force on a prisoner and then lying about the incident<sup>1</sup>. After reviewing a silent video of the incident and taking testimony, our Hearing Officer concurred with the Manager of Safety and upheld the dismissal of Appellant. Appellant filed a timely Petition for Review to this Board. We affirm the Hearing Officer's decision.

Appellant first argues that he was denied a fair hearing when the Hearing Officer permitted Deputy Manager of Safety Jess Vigil to offer expert opinion without having been designated as an expert witness. For the reasons expressed in our decision in *the Matter of Darrell Jordan*, No. 30-14A, the failure to designate Deputy Manager Vigil as an expert witness did not work any unfairness or prejudice upon Appellant.

Appellant next argues that the Hearing Officer abused his discretion by allowing Deputy

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<sup>1</sup> As the Hearing Officer noted, Valerio was actually assessed a 42-day suspension for the use of excessive force against the inmate but received a concurrent penalty of dismissal for his commission of a deceptive act under Departmental Regulation RR-200.4.2.

Manager Vigil to be qualified as an expert. Again, for the reasons stated in the *Darrell Jordan* matter, *supra*, the only error committed by the Hearing Officer was in requiring the Agency to qualify Deputy Manager Vigil as an expert. The Deputy Manager could properly testify by virtue of his position as the appointing authority.

Finally, Appellant claims that the Hearing Officer abused his discretion when he found that Appellant intentionally lied in his use of force report and in his IAB report. Taking this argument literally, we do not see how this action taken by the Hearing Officer could be an abuse of discretion when it is the Hearing Officer's duty to determine whether he believed the Appellant lied.

More likely, what Appellant is trying to argue is that the Hearing Officer's determination that Appellant lied in his IAB and use of force reports is not supported by sufficient evidence in the record. And while Appellant, at pages 7-9 of his brief, argues that the Hearing Officer could have, and should have decided differently, that is not the test for determining whether the Hearing Officer erred in his findings and conclusions.

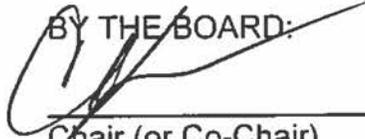
As we have stated on numerous occasions, we do not determine credibility; we do not reweigh evidence. The Hearing Officer determined that Appellant's recountings of the incident did not match up, in numerous critical respects, with the undisputed evidence presented by the video. The Hearing Officer also determined that Appellant's explanations for his reports' inability to capture the reality of the situation were not credible. There is ample evidenced in the record supporting the Hearing Officer's determination that Appellant committed a deceptive act as defined in Departmental Regulation RR-200.4.2.<sup>2</sup> The Hearing Officer's decision is well reasoned and supported by record evidence.

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<sup>2</sup> There is also ample evidence in the record supporting the Hearing Officer's determination that Appellant violated RR-200.3 which requires deputies to submit accurate and complete oral and written reports.

Consequently, the Hearing Officer's decision is AFFIRMED.

SO ORDERED by the Board on January 15, 2015, and documented this day of February, 2015.

BY THE BOARD:  
  
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Chair (or Co-Chair)

Board Members Concurring:

**Patti Klinge**

**Derrick Fuller**

**Neil Peck, Esq.**

**Gina Casias, Esq.**