

PUBLIC SAFETY CIVIL SERVICE COMMISSION

Seattle

April 11, 1991

The Public Safety Civil Service Commission met on Thursday, April 11, 1991 in Room 340 Arctic Building. The meeting was called to order at 1:41 p.m. by Chairperson Maura O'Neill with Commissioner Barbara Laners present. Chairperson O'Neill announced that Commissioner Pro Tem Byron Braden was unable to attend.

Item No. 1 - Approval of Minutes from the January 17 and February 27, and March 22, 1991 meetings. Commissioner Laners moved to approve the Minutes. The motion was seconded and carried.

Item No. 2 - Decisions regarding the appeals of Officer Leland Gayles from his two disciplinary actions by the Seattle Police Department. The following Findings of Fact, Conclusions and Order were read into the record:

Case 89-23

BEFORE THE PUBLIC SAFETY CIVIL SERVICE COMMISSION
OF THE CITY OF SEATTLE

In the matter of the Appeal of)

LELAND GAYLES)

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

I. INTRODUCTION

This matter came before the Public Safety Civil Service Commission (Commission) in the appeal of Leland Gayles (Appellant) from his suspension by the Seattle Police Department (Department).

1.1 Appearances

1.1.1 Appellant. The Appellant was represented by David Estes and by himself.

1.1.2 Department. The Department was represented by Fred Treadwell, Associate Legal Advisor.

1.1.3 Commission. Maura O'Neill, Chair; Barbara Laners; Byron Braden, acting as pro tem for Daniel Oliver; and Dallas Shockley, Secretary and Chief Examiner.

1.1.4 Witnesses. Witnesses for the Department were Capt. Donald Marquart; Major Joe Tolliver; Steven Hassett, Assistant State Attorney General; Barbara Stone, Terry Walker and Diane Chesterfield from the State Child Protection Service; Jeff Baird, Assistant King County Prosecuting Attorney; Sgt. Pat Hayes; Sgt. Robert Vallor; Chief Patrick Fitzsimons; and Detective Mike Chamness. Witnesses for the Appellant were Sandra King, Sgt. Nick Metz, Capt. Billy Wright, and the Appellant.

1.2 Proceedings.

By notice dated July 19, 1990 and effective July 20, 1990, Officer Leland Gayles was suspended for thirty days from his employment with the Department for violation of Seattle Police

Department Manual Section 1.08.040 (Obedience of Orders of Superiors), Section 1.08.010 (Misuse of Authority), and Section 1.09.030 (Failure to Cooperate in a Departmental Investigation).

1.3 Summary of Positions

1.3.1 Appellant. Officer Gayles contends that his suspension was inappropriate and that he was acting within his authority and consistent with Departmental rules and procedures.

1.3.2 Department. The Department asserts that the Chief of Police, Patrick Fitzsimons, acted in good faith in suspending the appellant for the reasons stated.

1.3.3 Commission. Having considered the hearing record in this matter, including the credibility of witnesses and exhibits presented to us, and the arguments of the parties, and pursuant to our authority under Article XVI of the City Charter and Chapter 4.08 SMC, we enter the following:

II. FINDINGS OF FACT

2.1 On November 29, 1988, Capt. Donald Marquart advised Officer Leland Gayles that an incident report should be made regarding the John Babcock matter and that Officer Gayles should contact the Special Assault Unit. Approximately one hour later, Officer Gayles arrested Mr. Babcock.

2.2 On December 16, 1988, Maj. Joe Tolliver wrote a memorandum directing that Officer Gayles cease his investigation concerning John Babcock and his family. Officer Gayles continued investigating the Babcock family. Officer Gayles had contact with Babcock's daughter and the State Child Protective Services regarding John Babcock.

2.3 In November 1989, Officer Gayles represented himself as the primary investigator of the Babcock case to the State Child Protective Services. He was thus allowed access to confidential CPS records on John Babcock's daughter and was allowed to accompany the CPS to interview her at school.

2.4 On June 19, 1989, Officer Gayles was sent an officer notification form from IIS directing him to write a statement concerning the Babcock investigation. He did not comply.

On July 24, 1989, Lt. John Carson of IIS sent Officer Gayles a memo directing him to submit an IIS statement. He again failed to comply.

On October 10, 1989, Capt. Billy Wright of IIS sent Officer Gayles a memo directing him to submit an IIS statement. He failed to write a response statement to IIS.

III. CONCLUSION OF LAW

3.1 Leland Gayles is a civil service employee with the rank of police officer. The Commission has jurisdiction on the subject matter of and the parties to this action.

3.2 The notice and appeal to this Commission have been brought by the respective parties in a timely fashion.

3.3 Pursuant to the City Charter and Ordinance (SMC 4.08.100) the tenure of every person holding civil service employment shall be only during good behavior and acceptable performance. Police Officers may be suspended, demoted or discharged only for cause.

3.4 Officer Gayles failed to obey the orders of his superiors between November 11, 1988 and November 1989.

3.5 Officer Gayles misused his authority in misrepresenting himself to the State Child Protective Services in November of 1989.

3.6 Officer Gayles failed to cooperate in a Departmental investigation on June 6, 1989, on July 24, 1989, and October 11, 1989 as required by the Collective Bargaining Agreement between the City and the Seattle Police Officers Guild and Seattle Police Manual Section 1.09.030.

3.7 The decision of the Chief to suspend Officer Gayles was made in good faith.

3.8 Based on the independent determination of the Commission, there was good cause for the imposition of discipline against Officer Gayles and the thirty days suspension was appropriate.

IV. ORDER

4.1 The thirty days suspension of Officer Leland Gayles is hereby affirmed.

Signed at Seattle, Washington this 11th day of April, 1991.

PUBLIC SAFETY CIVIL SERVICE COMMISSION
OF THE CITY OF SEATTLE

/s/ Maura O'Neill
Maura O'Neill, Chairperson

/s/ Barbara Laners
Barbara Laners, Commissioner

/s/ Byron Braden
Byron Braden, Commissioner Pro Tem

BEFORE THE PUBLIC SAFETY CIVIL SERVICE COMMISSION
OF THE CITY OF SEATTLE

In the matter of the Appeal of))
LELAND GAYLES)) FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

I. INTRODUCTION

This matter came before the Public Safety Civil Service Commission (Commission) in the appeal of Leland Gayles (Appellant) from his suspension by the Seattle Police Department (Department).

1.1 Appearances.

1.1.1 Appellant. The Appellant was represented by David Estes.

1.1.2 Department. The Department was represented by Fred Treadwell, Associate Legal Advisor.

1.1.3 Commission. Maura O'Neill, Chair; Barbara Laners; Byron Braden, acting as pro tem for Daniel Oliver; and Dallas Shockley, Secretary and Chief Examiner.

1.1.4 Witnesses. Witnesses for the Department were Sgt. Tony Enders, Lt. Patrick Barker, Chief Patrick Fitzsimons, Maj. Ed Joiner, and Lt. Gerald Taylor. Witnesses for the Appellant were Sgt. Richard Duval, Marie Wilson, Officer Larry Umipig, Capt. Brent Wingstrand, Eli Rodosovich, and the Appellant.

1.2 Proceedings.

By notice dated July 19, 1990 and effective August 8, 1990 Officer Leland Gayles was suspended for thirty days from his employment with the Department for violation of Seattle Police Department Manual Section 1.08.040 (Obedience of Orders) and Section 1.07.060 (Unexcused Absence from Duty).

1.3 Summary of Positions.

1.3.1 Appellant. Officer Gayles contends that he was justified in his absences either from having received prior permission or because of illness.

1.3.2 Department. The Department asserts that Officer Gayles had not received permission to be absent and disobeyed the orders of superiors in not reporting to work as ordered and that Chief Patrick Fitzsimons acted in good faith in suspending Officer Gayles for the reasons listed.

1.3.3 Commission. Having considered the hearing record in this matter, including the credibility of witnesses and exhibits presented to us, and the arguments of the parties, and pursuant to our authority under Article XVI of the City Charter and Chapter 4.08 SMC, we enter the following:

II. FINDINGS OF FACT

2.1 Officer Gayles was absent from duty in violation of Seattle Police Department Manual Section 1.07.060 on October 30, 1989 for a full shift; on November 1, 1989 from 8:00 p.m. to 10:00 p.m.; and on November 6, 1989 from 3:30 p.m. to 9:00 p.m.

2.2 On October 30, 1989 he was in violation of Seattle Police Department Manual Section 1.08.40 by failing to report for duty as ordered by Sgt. Tony Enders.

2.3 On November 6, 1989 he failed to report for duty at 3:30 p.m. as ordered by Maj. Ed Joiner on November 4, 1989.

III. CONCLUSION OF LAW

3.1 Leland Gayles is a civil service employee with the rank of police officer. The Commission has jurisdiction on the subject matter of and the parties to this action.

3.2 The notice and appeal to this Commission have been brought by the respective parties in a timely fashion.

3.3 Pursuant to the City Charter and Ordinance (SMC 4.08.100) the tenure of every person holding civil service employment shall be only during good behavior and acceptable performance. Police officers may be suspended, demoted or discharged only for cause.

3.4 Officer Gayles failed to obey the orders of his superiors on October 30, 1989 and November 6, 1989.

3.5 Officer Gayles was absent from duty without one of the approved exceptions outlined in Manual Section 1.07.060 on October 30, 1989, November 1, 1989, and November 6, 1989.

3.6 The decision of the Chief to suspend Officer Gayles was made in good faith.

3.7 Based on the independent determination of the Commission, there was good cause for the imposition of discipline against Officer Gayles and the thirty days suspension was appropriate.

IV. ORDER

4.1 The thirty day suspension of Officer Leland Gayles is hereby affirmed.

Signed at Seattle, Washington this 11th day of April, 1991.

PUBLIC SAFETY CIVIL SERVICE COMMISSION
OF THE CITY OF SEATTLE

/s/ Maura O'Neill
Maura O'Neill, Chairperson

/s/ Barbara Laners
Barbara Laners, Commissioner

/s/ Byron Braden
Byron Braden, Commissioner Pro Tem

Item No. 3 - Consideration of revisions in class specification for all sworn positions in the Fire and Police Departments. Dallas Shockley, Secretary and Chief Examiner, explained the purpose and the process involved in revising class specifications. The following were present to give testimony: Police Lt. John Gray; Jon Gillis, Vice President of Local 27 Fire Fighters Union; Deputy Fire Chief Steve Bailey; and Asst. Police Chief Mike Brasfield.

After discussion and testimony, Chairperson O'Neill announced that comments and input from management and union members will be accepted until May 10th, and that the Commission will give further consideration to the revised class specification on May 22, 1991 at 1:30 p.m.

Item No. 4 - Designation of Special Examiners. There were no Special Examiners to be approved.

The meeting was adjourned at 2:15 p.m.

* * * * *

Dallas Shockley
Secretary and Chief Examiner

Maura L O'Neill
Commission Chairperson