POLICE DEPARTMENT

August 18, 2025

In the Matter of the Charges and Specifications	:	Case No.
- against -	:	C-031394
Police Officer Franco Quayle	:	
Tax Registry No. 942388	:	
108 Precinct	:	

At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Paul M. Gamble, Sr.
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: David Green, Esq.
Department Advocate's Office
One Police Plaza, Room 402
New York, NY 10038

For the Respondent: Michael Martinez, Esq.
Worth, London & Martinez, LLP
111 John Street, Suite 640
New York, NY 10038

To:

HONORABLE JESSICA S. TISCH
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

CHARGES AND SPECIFICATIONS

1. Said Police Officer Franco Quayle, while assigned to the 107 Precinct, on or about January 28, 2023, at about 1130 hours, wrongfully was unfit for duty due to his consumption of alcohol.

   A.G. 304-04, Page 1, Paragraphs 1 & 2 — FITNESS FOR DUTY

2. Said Police Officer Franco Quayle, while assigned to the 107 Precinct, on or about January 28, 2023, while scheduled to perform a tour from 0705 hours to 1540 hours, improperly and without authorization failed to report to work, as scheduled, and was found sleeping at his Queens County residence by members of the 111 Precinct at about 0930 hours.

   A.G. 304-05, Page 1, Paragraphs 1 & 2 — PERFORMANCE ON DUTY

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on July 31, 2025. Respondent, through his counsel, entered a plea of Guilty to the charged misconduct and testified in mitigation of the penalty. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having evaluated all the evidence in this matter, I recommend that Respondent forfeit 35 vacation days, be placed on a period of dismissal probation, be subject to random breath testing and directed to cooperate with counseling.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent testified that on January 27, 2023, he drove to a restaurant near his home to meet several friends. While at the restaurant, he admitted to drinking three "White Claw" beverages[1]. According to Respondent, he accepted a ride home from a friend near midnight,

[1] I take judicial notice that "White Claw" is a brand of hard seltzer alcoholic beverages. While these beverages come in different strengths, the beverage Respondent admitted to consuming has an alcoholic content of 5% by volume (https://www.foodrepublic.com/1711348/what-type-alcohol-white-claw/).

leaving his car at the restaurant, because he believed he had consumed too much alcohol to operate a motor vehicle legally. When he arrived at his home, he entered and sat on the couch in his living room to watch a rerun of the movie "Cast Away." He acknowledged that the movie ran for several hours[2] and that he fell asleep at some point while watching it. (Tr. 20-22, 32-33)

Respondent testified that he was scheduled to work on January 28, 2023, and that his tour began at 0705 hours. He stated that he typically sets an alarm on his mobile phone for 0545 hours; his morning ablutions would take approximately 30 minutes, before he would leave his home at 0615 hours. Respondent testified that his usual morning commute was approximately 20 minutes long. He explained that on this date, his phone's battery died overnight because he had plugged it in to its charger but had not plugged the charger into the wall. (Tr. 22-23, 33)

On January 28, 2023, at approximately 0930 hours, Respondent was awakened by Sergeant Andrew Bedell and other police officers from his resident precinct who entered his home to conduct a wellness check because he had not appeared for work and had not called in. The officers had been dispatched to Respondent's home at the request of the 107 Precinct Desk Officer, Sergeant Melinda Calhoun. (Tr. 6, 8, 23-25, 46) Respondent's Exhibit A is a video recording from Sergeant Bedell's Body-Worn Camera, which captured his interaction with Respondent; Department's Exhibit 1 is a transcript of the recording. After a short interaction, Sergeant Bedell placed a telephone call to Sergeant Calhoun at the 107 Precinct. Respondent spoke to her on Sergeant Bedell's phone, apologized for not reporting on time and stated that he would report within an hour.

Respondent testified that he felt groggy when the police officers awakened him but that he did not feel hungover. (Tr. 22-23)

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[2] I take judicial notice that the run time for "Cast Away" is two hours, 23 minutes (https://www.imdb.com/title/tt0162222/?ref_=nm_knf_c_1).

Sergeant Bedell decided to contact the Duty Captain, Captain Henry Yeager, and request his presence to assess Respondent's fitness for duty. Captain Yeager did respond and concluded that Respondent was unfit, noting that Respondent appeared "disheveled" and there was "a moderate odor of alcohol on his breath" (Dept. Ex. 2, Supervisor's Fitness for Duty Report; Tr. 25-26, 40)

PENALTY

In order to determine an appropriate penalty, this Tribunal, guided by the Department's Disciplinary System Penalty Guidelines, considered all relevant facts and circumstances, including potential aggravating and mitigating factors established in the record. Respondent's employment history was also examined (*See* 38 RCNY § 15-07). Information from his personnel record that was considered in making this penalty recommendation is contained in an attached memorandum.

Respondent, who was appointed to the Department on July 10, 2006, in accordance with his plea, has been found guilty of being unfit for duty due to consumption of alcohol and improperly failing to report to work as scheduled.

The presumptive penalty for being unfit for duty is 30 penalty days, dismissal probation, ordered breath testing, and cooperation with counseling. The aggravated penalty is termination, and the mitigated penalty is 10 penalty days.

The penalty for failing to report present for duty before the start of tour without supervisory authorization is a Schedule "A" Command Discipline, with a maximum penalty of five (5) penalty days.

Counsel for Respondent has argued that the Tribunal should recommend the imposition of the mitigated penalty for unfitness for duty on the basis that Respondent's unfitness was due

primarily to fatigue rather than the consumption of alcohol. Based upon the totality of the evidence in the record, I find that the presumptive penalty is warranted.

I have reviewed the body-worn camera video in Respondent's Exhibit 1. In that video, I observed police officers knocking loudly on Respondent's outside front door, then the inner door, for several minutes before ringing the doorbell, all with no response from Respondent. (Resp. Ex. A at 01:10-04:30) The police officers then enter through a basement door, walk upstairs while calling out, "police," before discovering Respondent, still asleep, on his couch in the living room. Despite the police officers' attempts to gain entry by repeated knocking and ringing the doorbell, as well as announcing their presence once they had entered Respondent's home, it is only when they speak to him from just feet away that he is awakened. (*Id.* at 07:50-09:10)

As Respondent awakens, he does not seem to be alarmed at the presence of armed police officers in his living room. There appears to be no realization that they are present because he has not reported for his scheduled tour, which should have commenced two and a half hours earlier. When he is asked whether he was supposed to work that day, his initial response is, "No." When he was told that he was AWOL, he stated he had already spoken to Sergeant Calhoun, which he had not.[3] He also asserted that his girlfriend was upstairs, but this was also untrue. (*Id.* at 09:17-11:45)

Based on the above-described observations of Respondent's behavior, it is more likely that they were caused by Respondent's consumption of alcohol the previous evening, rather than by simple fatigue. There is no credible evidence to support Respondent's assertion. If

[3] Sergeant Bedell's body-worn camera recording shows him placing a telephone call to Sergeant Calhoun, putting her on speaker, then handing the phone to Respondent, who apologizes to her for not reporting in a timely manner. If Respondent had indeed spoken to Sergeant Calhoun, there would have been no need to apologize during the call Sergeant Bedell initiated. (Resp. Ex. A at 11:47-12:44)

Respondent was accustomed to awakening at 0545 hours every day during the workweek, as he testified, it would not be unreasonable for him to have overslept for a few minutes; to have "overslept" for two and a half hours suggests that some independent factor might have interrupted his circadian rhythms. Since Respondent admitted that he had consumed alcohol, and failed to convince this Tribunal that it was solely fatigue, alcohol consumption would be the most likely cause of his delayed awakening. I therefore find no evidence that warrants the imposition of the mitigated penalty for unfitness for duty.

I further find that Respondent's disciplinary history supports a recommendation for a period of monitoring. In 2020, as part of a negotiated settlement, Respondent forfeited 60 vacation days and was placed on dismissal probation for sending inappropriate text messages to a confidential informant, computer misuse, and illegal gambling activity. In that case, Respondent encountered a confidential informant who was investigating illegal gambling at a bar where Respondent was a patron and a friend of the owner. Respondent then sent harassing messages to the confidential informant to dissuade her from continuing any further investigation of the bar. Respondent also searched Department databases for information regarding a search warrant which was subsequently executed at the bar. *Disciplinary Case No. 2018-19756* (Sept. 21, 2020)

Based upon the foregoing, with respect to Respondent's being unfit for duty, I recommend that Respondent forfeit 30 vacation days and that he be DISMISSED from the New York City Police Department, but that his dismissal be held in abeyance for a period of one (1) year pursuant to Section 14-115(d) of the Administrative Code, during which time he remains on the force at the Police Commissioner's discretion and may be terminated at any time without further proceedings. While Respondent asserted that he had already undergone counseling, I recommend that further counseling be directed at the discretion of the Police Commissioner and

that Respondent be ordered to undergo breath testing. Finally, I recommend the forfeiture of five (5) vacation days for the failure to report to work for his scheduled tour, to run consecutively to the 30 vacation day forfeiture, for a total of 35 vacation days.

Respectfully submitted,

Paul M. Gamble, Sr.
Assistant Deputy Commissioner Trials

APPROVED
SEP 09 2025
JESSICA S. TISCH
POLICE COMMISSIONER

POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER FRANCO QUAYLE
TAX REGISTRY NO. 942388
DISCIPLINARY CASE NO. C-031394

Respondent was appointed to the Department on July 10, 2006. On his three most recent annual performance evaluations, he was twice rated "Exceeds Expectations" for 2022 and 2024, and was rated "Meets Standards" for 2023. He has been awarded two medals for Excellent Police Duty.

In 2020, Respondent forfeited 60 vacation days and was placed on dismissal probation after pleading guilty to (i) sending inappropriate text messages to a confidential informant, (ii) making computer inquiries unrelated to official Department business and (iii) engaging in illegal gambling activity. Prior to the imposition of dismissal imposition in that matter, Respondent was placed on Level 2 Discipline Monitoring from February 13, 2019, through September 20, 2020.

In connection with the instant matter, Respondent was placed on Level 1 Discipline Monitoring on February 21, 2023; monitoring remains ongoing.

For your consideration.

Paul M. Gamble, Sr.
Assistant Deputy Commissioner Trials