



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

December 22, 2023

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Andrew Nguyen**
Tax Registry No. 946057
Police Service Area 7
Disciplinary Case No. 2023-28291

The above named member of the service appeared before Assistant Deputy Commissioner, Trials Anne E. Stone on October 17, 2023, and was charged with the following:

DISCIPLINARY CASE NO. 2023-28291

1. Said Police Officer Andrew Nguyen while on duty and assigned to Transit District 12, on or about March 19, 2023, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department in that said Police Officer Nguyen did remove property from the Transit District 12 property room that did not belong to him.

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

2. Said Police Officer Andrew Nguyen while on duty and assigned to Transit District 12, on or about March 19, 2023, engaged in conduct prejudicial to the good order, efficiency, and discipline of the Department in that said Police Officer Nguyen was in possession of stolen property.

A.G. 304-06, Page 1, Paragraph 1

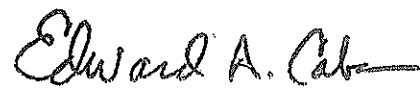
PROHIBITED CONDUCT

In a Memorandum dated November 17, 2023, Assistant Deputy Commissioner Stone found Police Officer Andrew Nguyen Guilty of both Specifications, after Police Officer Nguyen entered a plea of guilty to both Specifications in Disciplinary Case No. 2023-28291. Having read the Memorandum, I approve of the findings but disapprove of the penalty.

After reviewing the Report and Recommendation of Assistant Deputy Commissioner, Trials Stone, including the evidence presented at trial, and having considered the totality of the circumstances surrounding the charges against Police Officer Nguyen, I have determined that a penalty of dismissal from the Department is warranted. While all theft crimes show a lack of integrity, the facts and circumstances

presented here are more egregious since Police Officer Nguyen chose to exercise poor judgement when he removed property from the secured property room within a Department facility in order to benefit himself. He did this while on duty and in uniform. Such conduct warrants the aggravated penalty as described in the Department's Disciplinary System Penalty Guidelines.

Therefore, based on the foregoing, I direct that Police Officer Andrew Nguyen be immediately dismissed from the Department.



Edward A. Caban
Police Commissioner



POLICE DEPARTMENT

-----X
 In the Matter of the Disciplinary Proceedings :
 - against - : FINAL
 Police Officer Andrew Nguyen : ORDER
 Tax Registry No. 946057 : OF
 Police Service Area 7 : DISMISSAL
 -----X

Police Officer Andrew Nguyen, Tax Registry No. 946057, having been served with written notice, has been tried on written Charges and Specifications numbered 2023-28291, as set forth on form P.D. 468-121, dated May 10, 2023, and after a review of the entire record, Respondent is found Guilty.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Police Officer Andrew Nguyen from the Police Service of the City of New York.

Edward A. Caban
 EDWARD A. CABAN
 POLICE COMMISSIONER

EFFECTIVE 12/22/23



POLICE DEPARTMENT

November 17, 2023

-----X

In the Matter of the Charges and Specifications	:	Case No.
- against -	:	2023-28291
Police Officer Andrew Nguyen	:	
Tax Registry No. 946057	:	
Police Service Area 7	:	

-----X

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

Before: Honorable Anne E. Stone
 Assistant Deputy Commissioner Trials

APPEARANCES:

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

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

To:

HONORABLE EDWARD A. CABAN
 POLICE COMMISSIONER
 ONE POLICE PLAZA
 NEW YORK, NY 10038

COURTESY • PROFESSIONALISM • RESPECT
 Website: <http://nyc.gov/nypd>

CHARGES AND SPECIFICATIONS

1. Police Officer Andrew Nguyen, while on duty and assigned to Transit District 12, on or about March 19, 2023, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department in that said Police Officer Nguyen did remove property from the Transit District 12 property room that did not belong to him.

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT-
GENERAL REGULATIONS

2. Police Officer Andrew Nguyen, while on duty and assigned to Transit District 12, on or about March 19, 2023, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department in that said Police Officer Nguyen was in possession of stolen property.

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT-
GENERAL REGULATIONS

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on October 17, 2023. Respondent, through his counsel, entered a plea of Guilty to the subject charges 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 examined all of the evidence in this matter, and in accordance with his pleas, I find Respondent Guilty of both specifications, and recommend a penalty of forced separation from the Department.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent testified that on March 19, 2023, he was assigned as the third platoon telephone switchboard operator ("TS"). One of his duties that day was to account for the contents of the property room. While doing so he observed a sealed box which had been delivered to the command with a "Nike" label on it. Respondent stated that since there was no name on the address label, he opened the box, which contained two pairs of children's sneakers. He explained

that he wanted to see if there was identifying information inside the package, and that he did not find any. At some point towards the end of his tour, Respondent returned to the property room with an empty backpack, opened the Nike delivery box, removed the shoes, and placed them in his backpack. (Tr. 14-17; *see* Dept. Ex. 1)

The next day, on March 20, 2023, Complainant, a civilian member of service, asked several people, including Respondent, about a package containing children's Nike sneakers, which she had shipped to TD-12. Respondent admitted that he lied to Complainant when she initially inquired about the package and he told her that he didn't know anything about the delivery. (Tr. 26)

Later that day, Respondent approached Complainant and asked her if she had found out anything more about the package. She replied that she had not, and that she had spoken to the command Integrity Control Officer. (Tr. 26) Respondent and Complainant had a third conversation in which he told her that he believed he knew who had the sneakers, and would arrange getting them back. (Tr. 27) On March 22, 2023, Respondent returned the shoes, which were unworn and still in their boxes, to Complainant. (Tr. 18, 27) At some point thereafter, Respondent was questioned regarding this incident at an official Department interview, where he admitted taking, and subsequently returning Complainant's property. (Tr. 19)

PENALTY

In order to determine an appropriate penalty, this Tribunal, guided by the Department's Disciplinary System Penalty Guidelines ("Disciplinary Matrix), considered all relevant facts and circumstances, including potential aggravating and mitigating factors established in the record. Respondent's employment history also was 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 January 7, 2008, has pleaded guilty to engaging in conduct prejudicial to the good order and efficiency of the Department by intentionally removing and possessing two pairs of children's sneakers belonging to another member of service from the property room at TD-12. (A.G. 304-06)

The Department Advocate requests that the Respondent be terminated from his employment with the NYPD. The Advocate cited the Disciplinary Matrix when recommending the presumptive penalty for engaging in conduct classified by New York State law as Petit Larceny; the mitigated penalty is forced separation. The Advocate, in making this recommendation, argued that Respondent's continued dishonesty when confronted by Complainant about the package, is incompatible with employment as a police officer.

Respondent, through his attorney, has argued for a mitigated penalty of either forfeiture of thirty vacation days and placement on Dismissal Probation for one (1) year, or forced separation from the Department. He has asked the tribunal to take into consideration his fifteen and a half year career which has included well over one hundred arrests, as well as recognitions for Meritorious and Excellent Police Duty. Respondent's counsel highlighted that he returned the property in question within a couple of days, in perfect condition. He was forthcoming during his official interview regarding this matter and insists that this type of behavior is out of character. Without providing specifics, he stated that stressors from his work and personal life influenced his behavior.

The facts of this case are straightforward, and Respondent has admitted to the misconduct described in both charges. He took steps to reverse his poor decision-making, by returning the

sneakers to their owner in a relatively short time period. Respondent's testimony was straightforward, and he was honest during his official interview. It was clear when he appeared before this Tribunal that he is remorseful and seemed to understand that his poor decisions will have consequences.

While these factors argue in favor of some mitigation of penalty, police officers, by nature of their position, must be trustworthy. Taking property which belongs to a co-worker, even if that property is eventually returned, is galling behavior that is incompatible with the principles of the NYPD and renders his continued employment with the Department untenable.

A penalty which provides for separation from the Department, while allowing Respondent to retire, strikes the appropriate balance between the facts presented to this Tribunal, and the mitigating circumstances outlined above. *See Disciplinary Case No. 2019-21194* (Feb. 17, 2022) (Eighteen-year police officer permitted to separate from the Department via vested retirement after pleading guilty to stealing a patch and a knife from a naval base store while on military leave and providing misleading statements to IAB regarding his arrest. In opting for a mitigated penalty of forced separation rather than termination, the Trial Commissioner emphasized that Respondent, who had served the Department and the US Navy for many years, self-reported his arrest to the Department; appeared sincerely remorseful at trial; and was undergoing significant financial and personal hardship at the time of the incident); *see also Disciplinary Case No. 2016-16428* (May 8, 2019) (Police Commissioner allowed nineteen-year police officer found guilty of shoplifting from Costco while working as a security guard to separate via vested retirement rather than outright dismissal. The Trial Commissioner had emphasized, "Some Department penalties for shoplifting have involved outright termination. [There is] precedent, however, [that] seems to lean toward vested-interest retirement and

separation from the Department.”); *Disciplinary Case No. 2016-15629* (Dec. 6, 2017) (Police Commissioner allowed ten-year police officer found guilty of shoplifting a lock from Home Depot to separate via vested retirement rather than outright dismissal). Accordingly, I recommend that the Police Commissioner direct an immediate post-trial settlement negotiation, allowing Respondent to file for vested-interest retirement, along with whatever additional conditions he deems appropriate.

Respectfully submitted,



Anne E. Stone
Assistant Deputy Commissioner Trials

DISAPPROVED

DEC 22 2023



EDWARD A. CABAN
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER ANDREW NGUYEN
TAX REGISTRY NO. 946057
DISCIPLINARY CASE NO. 2023-28291

Respondent was appointed to the Department on January 7, 2008. On his three most recent performance evaluations, he was rated “Meets Standards” for 2020, 2021, and 2022. Respondent has been awarded one medal for Meritorious Police Duty and three medals for Excellent Police Duty.

In 2017, Respondent forfeited five (5) vacation days after being found guilty of wrongfully using force when he slapped a youth who had just committed fare evasion in the face with an open hand.

In connection with the instant case, Respondent was suspended without pay from April 20, 2023 through May 21, 2023. He was also placed on Level 1 Discipline monitoring in April 2023, and subsequently on Level 2 Discipline monitoring in June 2023 following the filing of charges in this matter; that monitoring remains going.

For your consideration.

Anne E. Stone
Assistant Deputy Commissioner Trials