



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

August 14, 2023

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Ceasar Munoz**
Tax Registry No. 949378
Police Service Area 7
Disciplinary Case No. 2022-24731

The above named member of the service appeared before Deputy Commissioner, Trials Jeff S. Adler on May 17, 2023 and was charged with the following:

DISCIPLINARY CASE NO. 2022-24731

1. Said Police Officer Ceasar Munoz, while on duty and assigned to Highway District No.1, on or about October 5, 2020, failed to operate a Department vehicle in a manner to avoid injury to person or property damage, thereby causing injury or death to a pedestrian.

P.G. 202-22, Page 2, Paragraph 22

**RMP OPERATOR
DUTIES AND
RESPONSIBILITIES**


P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT –
PROHIBITED CONDUCT**

In a Memorandum dated June 15, 2023, Deputy Commissioner, Trials Jeff S. Adler found Police Officer Munoz guilty of the sole Specification in Disciplinary Case No. 2022-24731. Having read the Memorandum and analyzed the facts of this matter, I approve of the findings, and the penalty recommendation that Police Officer Munoz be separated from the Department by way of vested interest retirement.

Thus, an *immediate* post-trial settlement agreement will be implemented with Police Officer Munoz in which he shall forfeit thirty (30) suspension days to be served, forfeit all time and leave balances, be placed on one (1) year dismissal probation, and immediately file for vested interest retirement.

Such vested interest retirement shall also include Police Officer Munoz's written agreement to not initiate administrative applications or judicial proceedings against the New York City Police Department to seek reinstatement or return to the Department. If Police Officer Munoz does not agree to the terms of this vested interest retirement agreement as noted, this Office is to be notified without delay. This agreement is to be implemented *IMMEDIATELY*.


Edward A. Caban
Police Commissioner



POLICE DEPARTMENT

June 15, 2023

-----X

In the Matter of the Charges and Specifications	:	Case No.
- against -	:	2022-24731
Police Officer Ceasar Munoz	:	
Tax Registry No. 949378	:	
Police Service Area 7	:	

-----X

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

Before: Honorable Jeff S. Adler
Assistant Deputy Commissioner Trials

APPEARANCES:

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

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

To:

HONORABLE KEECHANT L. SEWELL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

CHARGES AND SPECIFICATIONS

1. Said Police Officer Ceasar Munoz, while on duty and assigned to Highway District No. 1, on or about October 5, 2020, failed to operate a Department Vehicle in a manner to avoid injury to person or property damage, thereby causing injury or death to a pedestrian.

P.G. 202-22, Page 2, Paragraph 22

RMP OPERATOR
DUTIES AND RESPONSIBILITIES

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT-
PROHIBITED CONDUCT

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on May 17, 2023. Respondent, through his counsel, entered a plea of Not Guilty to the charged misconduct. The Department called Detectives Carlos Santos and Karl Zarek as witnesses, and introduced video footage from Respondent's RMP's dashboard camera ("dashcam"), and from an apartment building camera. Respondent testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, I find Respondent Guilty, and recommend a penalty of Forced Separation from the Department, as discussed below.

ANALYSIS

On the afternoon of October 5, 2020, Respondent, assigned to Highway 1, was in his RMP, about to go out on patrol, when he heard a radio transmission from a Highway 3 officer in need of assistance in connection with a vehicle stop on the Throgs Neck Bridge. Respondent immediately started driving toward the bridge in order to assist his colleague. It is undisputed that while en route, Respondent, who was driving in the bus lane, sped through a red light at the

intersection of Pelham Parkway and Wallace Avenue, striking a female pedestrian in the crosswalk with his vehicle. Several days later the pedestrian died from the blunt force trauma she sustained from the collision.

Detective Carlos Santos of the Force Investigation Division testified that he responded to the scene on the day of the incident. He described the intersection where the collision occurred: Pelham Parkway, the street on which Respondent was traveling, has two lanes going east bound, with a third bus lane to the right. To the left of the roadway is a small park. The intersection has a traffic light with crosswalk markings. Conditions at the time of the incident were sunny and dry. Detective Santos obtained video footage from an apartment building that captured the moment of impact. In that footage (Dept. Ex. 1), the pedestrian can be seen walking in the crosswalk, then desperately trying to dodge the RMP, which strikes her and launches her body forward. (Tr. 18-19, 21-22)

A map generated from the Automatic Vehicle Locating system ("AVL") shows the route taken by Respondent leading up to the collision, as well as the rate of speed which the vehicle was traveling at various points. (Dept. Ex. 3) Additional video footage from the dashcam inside Respondent's RMP (Dept. Ex. 4) shows Respondent operating his vehicle, from the point he leaves the parking lot up through the collision. In that video, Respondent can be seen maneuvering his vehicle around traffic at a high rate of speed with his lights and sirens activated. When he passes the intersection of Pelham Parkway and White Plains Road, he moves into the bus lane on Pelham Parkway. As he approaches the intersection of Wallace Avenue, the traffic light is red against him, and there are several cars stopped at the light in the two lanes to Respondent's left, obscuring his view of the left portion of the intersection. (Dept. Ex. 4 at 15:24:27) Still in the bus lane, Respondent proceeds through the red light and into the

intersection, traveling at approximately 58 m.p.h. He quickly attempts to swerve to the left to avoid the pedestrian, but strikes her with his vehicle. The video does not depict the aftermath, but the pedestrian passed a few days later from the blunt force injuries she sustained. (Dept. Ex. 4 at 15:24:29; Tr. 26-28, 35-39)

Detective Santos testified that since the call for assistance on the Throgs Neck Bridge was in a remote area, it was not unusual for police officers from many locations to respond. Where, as here, there appears to be an urgent need for assistance, responding officers may be permitted to speed and drive in the bus lane. (Tr. 41-49)

Detective Karl Zarek of the Highway District Collision Investigation Squad testified that at the time of the incident, Respondent was responding to a police emergency and operating his RMP as a police emergency vehicle. From a review of the video evidence, it was determined that Respondent's RMP was traveling at a rate of approximately 62.3 m.p.h. at the point of impact. Detective Zarek determined that given the high rate of speed, and the limited sight lines, the cause of the collision was operator error. (Tr. 57, 60-61)

Respondent testified that the "85" call for assistance seemed to be a "high stress" and "urgent" request from his fellow officer, with whom he used to work at Highway 1. Respondent was concerned for the safety of the officer, who was by himself in a secluded area, and the thought went through Respondent's head that he "did not want to line up at another officer's funeral." He immediately started driving toward the Throgs Neck Bridge, with his lights and sirens on. Respondent acknowledged that he did cross yellow lines, drive against traffic, proceed through traffic devices, and exceed the speed limit, but he relied on his training and experience to do so as safely and efficiently as he could. (Tr. 65-67)

On Pelham Parkway, Respondent saw that traffic was backed up in the two regular lanes, so he moved into the bus lane and was traveling at approximately 50-55 m.p.h., more than twice the posted speed limit of 25 m.p.h. Respondent testified that as he was headed toward Wallace Avenue, he heard a radio transmission for “shots fired.” Although he later learned that the call had nothing to do with the car stop on the Throgs Neck Bridge, at the moment he heard the transmission Respondent was concerned that the officer he was racing to assist was in a “fight for his life.” After two individuals and a bicycle passed through the crosswalk on Wallace Avenue, the road ahead appeared clear. Respondent testified that he accelerated through the intersection, even though his view to the left was obstructed by an SUV and other vehicles stopped at the light. At the last second, he noticed the pedestrian crossing from the left, and Respondent attempted a “brake and escape” maneuver to avoid the pedestrian, but it was too late and he struck her with his vehicle. (Tr. 70-73, 78-81)

After the impact, Respondent immediately pulled over, called for an ambulance, and rendered CPR to the pedestrian. An ambulance arrived and removed the pedestrian to the hospital. Respondent informed his supervisor what had occurred, and cooperated fully with the investigations conducted by the Department and the Attorney General’s Office. With tears in his eyes, Respondent testified that he thinks about this incident every day. (Tr. 73-76)

Specification 1 alleges that Respondent failed to operate his RMP in a manner to avoid injury, thereby causing the death of a pedestrian. Counsel for Respondent notes that section 1104 of the NYS Vehicle & Traffic Law states that a police officer involved in an emergency operation may be authorized to disobey certain traffic safety rules. However, that authorization is *not* absolute, and the VTL section explicitly states that its provisions “shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety

of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.” For instance, a driver may proceed past a steady red signal, *only after slowing down as may be necessary for safe operation*. A driver may exceed the maximum speed limits, *so long as he does not endanger life or property*. Moreover, section 202-22 (22) of the Patrol Guide requires the operator of an RMP to operate their vehicle in a manner to avoid injury to a person.

Here, it is undisputed that Respondent, operating his RMP at more than double the posted speed limit, drove through a steady red light and struck a pedestrian in the crosswalk, causing her death. On the one hand, I credit Respondent’s explanation that he was genuinely concerned for the life of a fellow officer involved in a car stop on the Throgs Neck Bridge, and was rushing there to provide assistance; his concern was further elevated when he heard the transmission for shots fired just seconds before reaching the intersection. However, even with his good intentions, Respondent failed to exercise reasonable care to avoid causing injury with his vehicle. Despite not having a clear view of the left side of the intersection, Respondent, while in the bus lane, sped through a red light at approximately 62 m.p.h. In so doing, he failed to exercise due regard for the safety of the people in the vicinity, tragically resulting in the death of a pedestrian. Accordingly, I find Respondent Guilty.

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 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. In more than 12 years of service, Respondent has no formal disciplinary history, has received consistently strong performance evaluations, and has been awarded one medal for Meritorious Police Duty and two medals for Excellent Police Duty.

Respondent, who was appointed to the Department on July 6, 2010, has been found guilty of failing to operate his RMP in a manner to avoid injury, thereby causing death to a pedestrian. The Department Advocate asks for a penalty of Forced Separation, where Respondent is permitted to file for retirement, in lieu of termination. Under the circumstances presented here, I agree with that recommendation.

To be sure, Respondent's operation of his vehicle was reckless and unsafe. With his view to the left obstructed, he nevertheless sped through a red light at approximately 62 m.p.h., more than double the posted speed limit. As a result of Respondent's actions, a pedestrian tragically lost her life. Respondent's dangerous failure to exercise due care, by slowing down and visually scanning whether it was actually safe to proceed, was unacceptable, and his separation from the Department is warranted.

However, it also is important to take into account the context in which this accident occurred. Respondent was not speeding without police necessity through the streets of the Bronx. Rather, as discussed above, Respondent was genuinely concerned for the life of his fellow officer, and was trying to get to the Throgs Neck Bridge as quickly as possible in order to provide assistance, particularly after he believed gunfire was involved. Again, that urgency does not, in any way, justify operating a vehicle in this reckless manner, but it does provide relevant background information regarding Respondent's actions. More than once while on the witness stand, Respondent became visibly emotional when asked to recount the details of this horrible

accident. He came across as sincere and remorseful, and his anguish was evident, when he stated that he thinks about this incident every day.

On balance, a penalty that provides for Respondent's immediate separation from the Department, while allowing him to retire, is reasonable and appropriate under the totality of the facts and circumstances presented here. 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 she deems appropriate.

Respectfully submitted,



Jeff S. Adler
Assistant Deputy Commissioner Trials

APPROVED

AUG 16 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 CEASAR MUNOZ
TAX REGISTRY NO. 949378
DISCIPLINARY CASE NO. 2022-24731

Respondent was appointed to the Department on July 6, 2010. On his three most recent annual performance evaluations, he was twice rated “Exceeds Expectations for 2020, and 2022, and was rated “Exceptional” for 2021. He has been awarded one medal for Meritorious Police Duty, and two medals for Excellent Police Duty.

Respondent has no formal disciplinary history.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials