POLICE DEPARTMENT

September 13, 2024

In the Matter of the Charges and Specifications	:	
- against -	:	
Lieutenant Joel Ramirez Tax Registry No. 942402 Manhattan Court Section	: : :	Case Nos. 2023-28702 2022-27359
Sergeant Jose Dume Tax Registry No. 951699 Police Service Area 4	: : :	Case No. 2023-28471

At:	Police Headquarters One Police Plaza New York, NY 10038
Before:	Honorable Jeff S. Adler Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department:	Emily Collins, Esq. Department Advocate's Office One Police Plaza, Room 402 New York, NY 10038
For Respondent Ramirez:	Eric Sanders, Esq. The Sanders Firm, P.C. 30 Wall Street, 8th Floor New York, NY 10005
For Respondent Dume:	Peter Brill, Esq. Brill Legal Group, P.C. 176 Lexington Avenue, Suite O New York, NY 10016

To:

HONORABLE THOMAS G. DONLON
INTERIM POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

CHARGES AND SPECIFICATIONS

Disciplinary Case No. 2023-28702

1. Said Lieutenant Joel Ramirez, while on duty and assigned to Narcotics Borough Manhattan North, on or about September 2, 2022, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Lieutenant Ramirez did fail to supervise members' performance of duty and closely evaluate members' activity.

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

2. Said Lieutenant Joel Ramirez, while on duty and assigned to Narcotics Borough Manhattan North, on or about September 2, 2022, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Lieutenant Ramirez did observe several members of the service consume alcoholic beverages while on duty and did then fail to notify the Internal Affairs Bureau, as required.

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

3. Said Lieutenant Joel Ramirez, while on duty and assigned to Manhattan Court Section, on or about October 11, 2023, did make misleading or inaccurate statements during an official Department interview, in that said Lieutenant Ramirez denied having knowledge of any member of the service consuming alcoholic beverages while on duty at the Electric Zoo Music Festival on or about and between September 2, 2022 through September 3, 2022.

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

4. Said Lieutenant Joel Ramirez, while on duty and assigned to Narcotics Borough Manhattan North, on or about September 2, 2022 through September 3, 2022, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Lieutenant Ramirez failed to properly maintain his digital Activity Log. (*As amended*)

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

Disciplinary Case No. 2022-27359

1. Said Lieutenant Joel Ramirez, while assigned to Narcotics Borough Manhattan North, on or about and between September 6, 2022 through about September 20, 2022, failed to supervise and manage properly [redacted] and Sergeant [redacted] resulting in said [redacted] being absent from work without authorization, and said both

Lieutenant Ramirez and Sergeant [redacted] being unaware of said [redacted] whereabouts or leave status. (*As amended*)

P.G. 202-13, Pages 1-3	LIEUTENANT/ PLATOON COMMANDER– DUTIES AND RESPONSIBILITIES
D.G. 501-01, Pages 1-3	RESPONSIBILITIES OF DETECTIVE BUREAU SUPERVISORS

2. Said Lieutenant Joel Ramirez, while assigned to Narcotics Borough Manhattan North, on or about and between September 6, 2022 through about September 20, 2022, improperly failed to notify his supervisors and take appropriate action while [redacted] was absent from work without authorization. (*As amended*)

P.G. 202-13, Pages 1-3	LIEUTENANT/ PLATOON COMMANDER– DUTIES AND RESPONSIBILITIES
D.G. 501-01, Pages 1-3	RESPONSIBILITIES OF DETECTIVE BUREAU SUPERVISORS
A.G. 324-17, Page 1	ABSENT WITHOUT LEAVE

Disciplinary Case No. 2023-28471

1. Said Probationary Sergeant Jose Dume, while assigned to Narcotics Borough Manhattan North as [redacted] on or about and between September 6, 2022 through September 24, 2022 and assigned to perform his regular scheduled tours of duty, was absent without permission or leave for more than five (5) consecutive tours.

A.G. 304-05, Page 1, Paragraphs 1-2	PERFORMANCE ON DUTY
A.G. 324-17, Pages 1-2	ABSENT WITHOUT LEAVE

2. Said Probationary Sergeant Jose Dume, while assigned to Narcotics Borough Manhattan North as [redacted], on or about and between October 2019 and October 5, 2022, wrongfully failed to provide accurate and current personal information to the Department regarding his residential address, as required.

P.G. 203-24, Page 1, Paragraphs 1-4 A.G. 304-16, Page 1, Paragraphs 1-4	PERSONAL INFORMATION VIA DEPARTMENT INTRANET

REPORT AND RECOMMENDATION

The above-named members of the Department appeared before me on July 25 and 26, 2024. Respondents, through their counsel, entered pleas of Not Guilty to the subject charges. The Department called Lieutenants [redacted] and [redacted] Sergeant [redacted], Detective [redacted] Police Officer [redacted] and SPAA [redacted] as witnesses, and introduced into evidence video surveillance footage from the Electric Zoo festival. Respondents testified on their own behalves. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having evaluated all of the evidence in this matter, I find as follows:

Respondent Ramirez:

Case No. 2023-28702: Guilty all charges

Case No. 2022-27359: Not Guilty

Respondent Dume:

Case No. 2023-28471: Guilty all charges

Recommended penalty:

Respondent Ramirez: 60 vacation days and one-year dismissal probation

Respondent Dume: 10 vacation days

ANALYSIS

Respondent Lieutenant Joel Ramirez faces charges for two separate matters, each of which occurred in September 2022. In the first case, he is charged with failing to supervise members of his team assigned to the Electric Zoo music festival, and with making misleading statements regarding that supervision at his official Department interview. In the second matter, Ramirez again is charged with failure to supervise, this time in connection with Respondent

Sergeant Jose Dume, whose whereabouts were allegedly unknown for a two-week period. Dume [redacted], also faces charges alleging that he was absent without permission during the time in question. The two matters will be considered separately.

Electric Zoo case (2023-28702)

On September 2 and 3, 2022, the Electric Zoo music festival was held on Randall's Island. During the 2020 festival two years earlier, there had been multiple drug overdoses, and the Department wanted a significant police presence at the 2022 event. Toward that end, Lieutenant Ramirez was tasked, on September 2, with supervising two teams, including a group of eight detectives from Narcotics Borough Manhattan North ("NBMN"), working under Sergeant [redacted] The enforcement plan included having [redacted] group focus on making undercover buy-and-busts, while a second team was to conduct surveillance looking for illegal drug use among the attendees. Sergeant [redacted] team was assigned to the VIP area, where the MOS were wearing street clothes in order to blend in with the crowd. (Tr. 385-88, 463, 470-71)

Lieutenant [redacted] of IAB testified that on September 3, the second day of the festival, the Department was notified that several MOS assigned to the Electric Zoo duty had been stopped by security and arrested for allegedly stealing liquor from the festival that day. Respondent Ramirez was not in any way implicated in the alleged theft; indeed, he was not even working at the festival that day. However, as part of IAB's investigation, [redacted] also reviewed video footage from the first day of the festival, September 2. In connection with the events of September 2, he interviewed six of the NBMN detectives (Detectives [redacted]) assigned to the duty that day who were working under the supervision of Ramirez, as well as Sergeant [redacted] who was not assigned to Ramirez. According to [redacted]

in those interviews all of the MOS admitted that they were drinking alcohol while on duty in the VIP area. [redacted] admitted to being intoxicated. None of them stated that Ramirez was drinking. (Tr. 41-46, 77)

[redacted] also testified about his review of the September 2 video footage, with an emphasis on the half-hour period beginning at 1930 hours. (Dept. Ex. 1) In that footage, starting about 7:33 p.m. on the screen, multiple members of Ramirez's team can be seen in the VIP area: Detectives [redacted] and [redacted] are in close proximity to each other, most of them holding cups, as is Sergeant [redacted]

At approximately 7:34, Ramirez, wearing white pants, a light shirt, and a blue cap, enters the VIP area and walks over to [redacted] and [redacted] to the left of the aisle on the screen. [redacted] is wearing a white Adidas shirt and sunglasses, and is holding a cup, while [redacted] is wearing what appears to be a brown shirt and orange sunglasses. [redacted] who has a beard, is wearing a black T-shirt, and has his cap backward, is sitting on a couch directly in front of them. Ramirez remains with them until about 7:37, when he walks across the aisle to the right on the screen and stands with Sergeant [redacted] wearing a beige shirt and a white cap, and holding a cup in his hand. [redacted] and [redacted] appear to talk with each other for a few minutes until about 7:40, when [redacted] and other members of the team walk over to them, several of them still holding cups.

Meanwhile, back in the sofa area to the left of the aisle, [redacted] is still sitting on the sofa with [redacted] wearing a cut-off shirt and a black cap, there as well. [redacted] stands up, and at 7:44 he stumbles forward before regaining his balance by holding onto the sofa in front of him. [redacted] who appears unsteady on his feet, then walks across the aisle to the area where [redacted] is standing, and they place their arms around each other. [redacted] again briefly loses his balance, then sits down. At 7:47 he stands back up and promptly falls forward to the ground, before being

helped up by [redacted] and [redacted] who has a beard; Ramirez, standing just a few feet away, appears to have his back to [redacted] at the moment he falls. Ramirez briefly turns and looks over in [redacted] direction, and a minute later, with [redacted] again sitting, Ramirez leans over [redacted] and appears to be talking with him. [redacted] is leaning in as well, and Ramirez can be seen addressing him too. At 7:49, [redacted] and [redacted] steer [redacted] who is unsteady on his feet, out of the VIP area. (Dept. Ex. 1; Tr. 47-70, 74, 76, 80, 83)

Police Officer Victor [redacted] who was a detective working the Electric Zoo duty on September 2, testified that his team's assignment was to arrest individuals observed dealing or consuming drugs at the festival. He drove Ramirez to the location at approximately 1530-1600 hours, and parked at the SRG lot. While Ramirez went to get wristbands for entry into the festival, [redacted] met up with other NBMN team members in the lot, including [redacted] [redacted] [redacted] [redacted] [redacted] and [redacted] all of whom were under the supervision of Ramirez. Inside a police van, they fixed each other alcoholic drinks containing vodka from a bottle brought by [redacted] which they drank from clear plastic cups. With drinks in hand, the team members then met Ramirez at the entrance and received their wristbands. Before entering the festival, they assembled in front of the Temporary Headquarters Vehicle ("THV"), where executives were present; none of the executives questioned them regarding what was inside their cups. (Tr. 89-95, 111-16, 124-25)

At approximately 1720 hours, [redacted] and his colleagues entered the VIP area of the festival. [redacted] testified that he and [redacted] purchased alcoholic drinks at the bar prior to Ramirez's arrival to the VIP section. [redacted] conceded he was consuming alcohol and not performing any law enforcement duties.[1] Ramirez entered the area at about 1934 hours. At that

[1] [redacted] forfeited 30 days and was placed on dismissal probation pursuant to a guilty plea for his misconduct that day, and he also was demoted. (Tr. 88-89)

time, [redacted] was drinking alcohol in a cup, which had been poured from a vodka bottle that was brought inside by [redacted] The bottle was inside a backpack under a table, and several of the team members were holding drinks poured from the bottle. Although he and his colleagues did not attempt to conceal from Ramirez that they were holding drinks, they did not discuss with him that they were drinking alcohol. (Tr. 91, 95-103, 106, 117-24, 126-27)

[redacted] testified that he observed [redacted] who was drinking and appeared intoxicated, stumble and fall as he was attempting to stand up; [redacted] helped him back to his feet. [redacted] and [redacted] spoke regarding [redacted] having had too much to drink. Ramirez approached [redacted] and told him to drive [redacted] back to the command. According to [redacted] Ramirez did not say anything about calling an ambulance for [redacted] [redacted] testified that he did not believe [redacted] needed medical attention, because "he was just drunk." [redacted] and [redacted] then escorted [redacted] out of the VIP area to a van, and [redacted] drove him back to the base. Once there, [redacted] remained inside the van, where he "slept it off." [redacted] testified that he did not receive any follow-up communication from Ramirez checking on [redacted] condition or asking whether an ambulance had been called for him. (Tr. 103-09, 121-22)

Detective [redacted] testified that at about 1530-1600 hours, he drove to the festival in a police minivan along with several colleagues. On the way there, they stopped at a deli and purchased cranberry juice and seltzer water to mix with a bottle of liquor brought by [redacted] When they arrived at the festival parking lot, they and other members of the team started drinking vodka out of clear plastic cups, which he acknowledged was against Department rules.[2] Ramirez arrived 10-15 minutes later, went to get bracelets for the team, then returned and handed

[2] [redacted] forfeited 60 days, and was placed on dismissal probation, pursuant to a guilty plea for his misconduct that day. (Tr. 206-07)

them out. After drinking in the lot for approximately 30-45 minutes, the team went inside to the VIP area. (Tr. 206-11, 222, 226)

Once inside, the members of the NBMN team did not perform the law enforcement duties with which they were tasked. Instead, they continued to drink alcohol, including mixed drinks poured from a bottle of liquor brought in by [redacted] [redacted] testified that they all were openly drinking alcohol from clear plastic cups, including Sergeants [redacted] and [redacted] when Ramirez came to the VIP area shortly after 1930 hours. They did not try to hide the fact that they were drinking from Ramirez, though they did not specifically tell him that there was alcohol in their cups because he was their overall supervisor. [redacted] described how at one point [redacted] fell backward, and was held steady by [redacted] and Ramirez. About two minutes later, [redacted] fell face down. [redacted] also was "mumbling" during this timeframe. [redacted] and [redacted] discussed that [redacted] was drunk, and [redacted] heard Ramirez tell [redacted] to take [redacted] back to the base. According to [redacted] Ramirez did not say anything about getting an ambulance or medical attention for [redacted] [redacted] helped [redacted] walk [redacted] to the van, but he did not accompany them back to the base. (Tr. 212-21, 224-25, 230-34)

Sergeant [redacted] of IAB testified that as part of his investigation, he conducted several interviews of MOS involved in the Electric Zoo matter, including [redacted] [redacted] [redacted] and [redacted] Each of them admitted that they were drinking alcohol in the presence of Ramirez at the festival. However, none of them stated that Ramirez knew they were drinking. [redacted] also conducted an official interview of Ramirez on October 11, 2023. A recording of that interview, and the accompanying transcript, were admitted into evidence as Dept. Exs. 2 & 2A. In the interview, Ramirez repeatedly stated that he did not realize his team members were drinking alcohol at the festival. Specifically, he stated that he did not see his officers openly

drinking alcohol in the parking lot, and did not smell alcohol on anyone. Similarly, he did not see any MOS drinking alcohol inside the VIP area, they did not have the odor of alcohol on their breath, and none of them, including [redacted] appeared intoxicated. Indeed, Ramirez initially stated during the interview that he could not even recall if the officers were holding cups, until he was shown video footage that showed that they were. He also stated that he told [redacted] and [redacted] to get a bus for [redacted] when they got back to the base. (Dept. Ex. 2A at 24, 28-30, 32, 37, 41, 47, 49, 51) [redacted] also testified that Ramirez's memo book entries for September 2 and 3 (Dept. Exs. 3 & 4) lacked detail as to his activity those days, which Ramirez admitted to in his official Department interview. (Tr. 243-49, 252-54)

Respondent Ramirez testified that part of the directive he received regarding the Electric Zoo assignment was that his inspector "wanted bodies;" two police vans were sent to the festival, with the expectation that they would be filled with prisoners. Ramirez spent a good portion of his time on September 2 attending to the vans, to make sure there were no problems with the treatment of prisoners, as there had been at a previous festival. Before heading to the festival, he met with his team at their office to review their enforcement assignments for the day. When he arrived at the festival at about 1600 hours, his team was already present outside. He acknowledged seeing cups in their hands, but noted that it was a hot day, and there were supplies of water and juices to drink. Ramirez insisted he did not know that any of his officers were drinking alcohol, and was trained not to make assumptions that someone was drinking.[3] He also pointed out that before entering the festival, they were drinking from their cups in the presence of a chief, an inspector, and captains, and nothing was said about it. (Tr. 388-95, 465-68)

[3] Ramirez submitted for the Court's consideration *Disciplinary Case No. 2005-80602* (Oct. 6, 2005), in support of the proposition that one should not assume that an individual is intoxicated.

Ramirez testified that he cannot constantly keep an eye on his officers and detectives, and so he relies on his sergeants to supervise them at times, and expects them to follow the proper procedures of the Department. Shortly after arriving at Randall's Island, Ramirez had to go back to the base for about an hour to deal with another matter. When he returned to the festival, he went to the prisoner vans to check on the status of the prisoners. At approximately 1930 hours, as seen in the video footage, Ramirez went to the VIP area, unannounced, to check on his team. (Tr. 396-404, 462, 469-72, 486-87)

Upon his arrival in the VIP area, Ramirez spoke with Sergeants [redacted] and [redacted] as well as some of his detectives, including [redacted] Part of his time there was spent on the phone, texting with the inspector and getting updates from the prisoner vans. Ramirez testified that he believed that [redacted] and his team were doing their jobs, and that "nothing odd was happening, nothing unusual. I didn't see anything that kind of sparked my awareness in any way." He did not look closely to see the contents of their cups, and did not smell alcohol. Regarding [redacted] Ramirez insisted he did not smell of alcohol. He did not think that [redacted] was drinking alcohol or was intoxicated. Ramirez did, however, ask [redacted] what was going on with [redacted] since he was "acting weird," and the sergeant told him he had vertigo and a stomach virus. Ramirez claimed that he then told [redacted] and [redacted] to take [redacted] back to the base, and to get a bus for him. He observed [redacted] and [redacted] walk [redacted] out of the VIP area. Ramirez did not follow up that day to ask if [redacted] was okay, or whether an ambulance had been called for him. (Tr. 405-16, 474-83)

Ramirez did not work the festival the next day. He testified that on the evening of September 3, he was informed by Inspector [redacted] that three of his team members had been observed stealing liquor from the festival earlier that day. A couple of days later, on September

6, Ramirez learned that his team members had been consuming alcohol while on duty at the festival. He then addressed his teams, telling them that what they did was an "embarrassment." Ramirez testified that his "mind was blown" that this all happened. (Tr. 421, 425-26, 428-29, 483-87)

Respondent Ramirez faces several charges in connection with the events of the Electric Zoo festival on September 2, 2022. The credible evidence has established that multiple members of the NBMN team, who were under Ramirez's supervision, were consuming alcohol while they were supposed to be performing law enforcement duties at the festival: the MOS involved, including two who testified credibly at trial, admitted as much. It is the position of the Department Advocate that it was readily apparent to Ramirez that they were drinking alcohol, yet he allowed it to continue without taking any action, and made misleading statements about his awareness in his official Department interview. The defense disputes that conclusion, arguing that Ramirez relied upon his team to perform their enforcement duties, and there was no failure to supervise. Additionally, the defense contends that Ramirez was unaware that any of them were consuming alcohol, and his statements during his Department interview to that effect were not misleading.

On the one hand, I credit Ramirez's testimony that none of the team members specifically informed him that they were consuming alcohol. Also, there was no indication that while in Ramirez's presence, any of them were drinking from cans or bottles labelled as containing alcohol; rather, they were drinking from clear plastic cups. Ramirez also noted that it was a hot day, and it made sense for his MOS to be drinking fluids. Also, in order for them to blend in with the crowd it was useful for them to have cups like the other festival attendees.

However, after carefully reviewing the video footage, in conjunction with the testimony at trial, I reject Ramirez's claim that he did not know the members of his team were drinking alcohol. From the moment they arrived at the parking lot at approximately 1600 hours, the team was openly drinking alcohol from clear plastic cups in Ramirez's presence. They continued to drink inside the festival, so by the time Ramirez arrived at the VIP area shortly after 1930 hours, they had been consuming alcohol for several hours, which is consistent with how they appear in the video footage. Even allowing for the suggestion that they needed to blend into the crowd, it is incredible that when he came to the VIP area, Ramirez could have reasonably believed that his team was performing law enforcement work. Rather, they were hanging out, dancing, and openly sipping alcoholic drinks from clear plastic cups.

One MOS, in particular, was visibly intoxicated: Detective [redacted] who admitted as much in his Department interview. Both Detectives [redacted] and [redacted] testified that [redacted] was intoxicated, to the point where they were concerned for him. In the video footage, [redacted] can be seen stumbling and falling more than once, and appears unsteady on his feet. Even if Ramirez did not actually witness [redacted] each time he fell, the detective did stumble once in his presence (Dept. Ex. 1 at 7:44) Moreover, Ramirez was in close proximity to the detective, and was able to observe him and speak with him. The only reasonable view of the evidence is that Ramirez was aware that [redacted] was intoxicated, which is why he instructed [redacted] to get him away from the festival and back to the base. I reject Ramirez's claim that he merely believed [redacted] was sick, and that he directed [redacted] to call an ambulance for him when they got back to the base. Not only was that claim uncorroborated, it was specifically refuted by [redacted] and [redacted] both of whom credibly testified that Ramirez did not say anything about getting an ambulance for [redacted] nor did he follow up with them about any medical treatment afterward. Indeed, if

Ramirez really had a genuine concern that [redacted] needed medical attention, there were options, with emergency medical personnel available at the festival.

As such, based on the credible evidence, I find that it is inconceivable that Ramirez, an experienced lieutenant with 16 years on the job at the time of the incident, was unaware that members of his team were consuming alcohol while on duty. Even though no one specifically told Ramirez they were drinking alcohol, the indicia that they were doing so was impossible to ignore: they had been consuming alcohol for hours, and for a portion of that time they were doing so openly in Ramirez's presence, at times standing right next to him. [redacted] in particular, was showing visible effects from doing so, which should have been more than enough to alert Ramirez to what was going on with his team. And despite all these signs, Ramirez did nothing about it, other than having [redacted] the most visibly intoxicated member of his team, removed from the location. With that in mind, we turn to the specific charges in this matter.

Specification 1 charges Respondent Ramirez with failure to supervise members of his NBMN team at the Electric Zoo festival on September 2, 2022. As discussed above, even though they were not drinking from cans or bottles that were labeled, it was readily apparent that members of the NBMN team, under Ramirez's supervision, were consuming alcohol while on duty. They began drinking in the parking lot and continued their drinking inside, to the point where one of the team members was so visibly intoxicated that he had to be escorted from the venue back to the base. Even then, Ramirez did not follow up with the other team members about their consumption of alcohol. There was no indication that his team was performing the law enforcement duties with which it was tasked. Indeed, two witnesses, [redacted] and [redacted] credibly testified that the team members were drinking, and not doing the work assigned to them,

and the video footage confirms their description of what was transpiring in the VIP area, even while Ramirez, himself, was present.

Ramirez argued that he had delegated responsibility to Sergeant [redacted] and he expected his sergeant and detectives to follow the Department's procedures. Even so, that does not absolve Ramirez from his responsibility to properly supervise the members of his team while they were on duty under his supervision at the Electric Zoo. It was incumbent upon him to oversee the actions of his team, rather than deliberately turning a blind eye to what was occurring in plain sight in front of him. It was Ramirez's responsibility, as a supervisor, to monitor the performance of his team members, to ensure that they were doing their jobs properly. This he failed to do, and I find Ramirez Guilty of Specification 1.

Specification 2 charges Respondent Ramirez with failure to notify IAB that he observed members of his team drinking alcohol while on duty. Section 207-21 of the Patrol Guide states that all MOS have an absolute duty to report any corruption or other misconduct of which they become aware. Ramirez denied knowing that members of his team were drinking alcohol. However, for the reasons discussed above, I reject that argument. The credible evidence did establish that Ramirez was aware that they were drinking alcohol, and he had a duty to inform IAB of what transpired. Since he did not do so, I find Ramirez Guilty of Specification 2.

Specification 3 charges Respondent Ramirez with making misleading statements in his official Department interview on October 11, 2023. Section 304-10 of the Administrative Guide prohibits an MOS from deliberately making a misleading official statement. A "misleading statement" is defined as a statement that is intended to misdirect the fact finder and materially alter the narrative, either by intentionally omitting a material fact, or by making repeated claims

of, "I do not know," when a reasonable person under similar circumstances would have been aware of such material facts.

Throughout the course of his interview, Ramirez repeatedly stated that he did not know that his team members were drinking alcohol while working at the festival. He claimed he did not realize they were drinking outside in the parking lot, or inside the VIP area. Ramirez insisted he did not detect the odor of alcohol, and that none of his team members, including [redacted] appeared to be intoxicated. (Dept. Ex. 2) At trial, Respondent testified that his answers at his Department interview were truthful, and that on the day of the festival he was not aware that members of his team were consuming alcohol.

However, as discussed above, this claim by Ramirez was contradicted by credible evidence to the contrary. Multiple team members were drinking alcohol right in front of him, and [redacted] in particular, was visibly intoxicated, to the point where Ramirez had one of his detectives take him out of the festival and back to the base.

Additionally, during the interview, Ramirez stated that he thought [redacted] was merely sick, which is why he told [redacted] to get him a bus, a claim he repeated at trial. However, [redacted] testified that Ramirez never said anything to him about getting a bus for [redacted] which was corroborated by [redacted] and I credit their testimony. Based on the credible evidence, Ramirez never requested a bus because he had no reason to request one. He did not follow up with [redacted] to see if he had called an ambulance for Katehis because he had never asked [redacted] to get an ambulance in the first place. Ramirez knew that [redacted] was intoxicated, not sick, which is why he had him taken back to the base.

As such, multiple statements by Ramirez during his official Department interview were materially misleading. Accordingly, I find him Guilty of Specification 3.

Specification 4 charges Respondent Ramirez with making incomplete entries in his Activity Log for September 2 and 3. Ramirez conceded that there was "a lack of information" in his memo book. (Tr. 449-450) In his Activity Log for September 2 (Dept. Ex 3), Ramirez noted, "1200 to 2045 enforcement, CI buys and Case review," but did not provide and relevant details of what occurred during his shift, including any information about what transpired at the Electric Zoo festival. Similarly, his entry for September 3 (Dept. Ex. 4) notes only, "1200 to 2045 enforcement, CI buys and Case review," with no additional information. The credible evidence has established that Ramirez did not properly maintain his Activity Log, and I find him Guilty of Specification 4.

Absent Without Permission case (2022-27359 & 2023-28471)

Respondent Dume faces charges for being absent without permission from September 6 through September 24, 2022. Respondent Ramirez also faces charges for failing to supervise Dume during that time. Additionally, Dume faces a second charge for failing to update his residential address information with the Department beginning in October 2019.

It is the Department Advocate's position that on July 5, 2022, Dume submitted six "Leave of Absence" requests ("28's") for the six-week period from July 26 through September 3. (Dept. Ex. 5) The 28's indicated that Dume would be on vacation in Europe, and each had what appeared to be the signature of his supervisor, Ramirez, approving the requests. However, Dume did not return to work on September 6 as required. Instead, he did not report to work until September 27, which means he was absent without permission for the period between September 6 through September 24. The Department Advocate also maintains that Ramirez failed to

supervise Dume for the initial two weeks beginning September 6, when Dume's whereabouts were unknown, until he was located on September 20.

Dume disputes this accusation, claiming that on July 5 he received permission to be on vacation for the full period in question. He insists that he filed the appropriate 28's for the entire time period, and that the last three must have been lost or misplaced. Ramirez denies the allegation that he failed to supervise Dume.

Lieutenant [redacted] the Integrity Control Officer for NBMN, testified that she investigated the circumstances as to why Dume was unaccounted for during a two-week period in September 2022. The possibility that Dume was Absent Without Leave ("AWOL") did not come to light until September 20, when Sergeant [redacted] the administrative sergeant, informed Deputy Inspector [redacted] that Dume was supposed to have returned from vacation, but had not reported to work on September 6. The Deputy Inspector spoke with Dume's supervisors, Ramirez and Sergeant [redacted] who promptly attempted to locate Dume. According to [redacted] a supervisor was sent to the residential address listed on Dume's "ten card," a basic information card which it is the duty of an MOS to keep updated; they learned that Dume had not lived there for approximately four years. They were, however, able to communicate with Dume through Snapchat. Deputy Inspector [redacted] then spoke with Dume, who stated he was still in Europe and planning to return to work on September 27, which he did. (Tr. 136, 143-46, 170-71, 180-84)

According to [redacted] the first step for Dume to have followed when seeking leave was to fill out a 28 and bring it to his supervisor, Ramirez or [redacted] for approval. Once the supervisor approved the request, it was Dume's responsibility to take the signed 28 down to roll call. As part of her investigation, [redacted] reviewed the records on file and found 28's submitted by Dume on July 2 for the six-week period from July 26 through September 3. (Dept. Ex. 5) [redacted]

testified that the 28's indicated that Dume would be on vacation in Europe, and each had what appeared to be the signature of his supervisor, Ramirez, approving the requests. [redacted] searched for additional 28's for the three weeks after September 3, but no such requests were found, meaning Dume should have been back at work on September 6. [redacted] also noted that both Ramirez and [redacted] as Dume's supervisors, were equally responsible for accounting for their personnel, and making sure that Dume appeared for work as scheduled. (Tr. 136-43, 149-50, 161, 165-66, 189-90, 194, 199)

SPAA [redacted] testified that she was the payroll supervisor at NBMN during the time in question. She confirmed that there were only six 28's from Dume, covering the period from July 24 through September 3, and no 28's for the following three weeks. She explained the process regarding 28's: after the supervisor signs off on the request, the MOS or supervisor brings the 28 to the payroll office, where it sometimes is placed inside a box outside the office, next to vending machines. A person handling the roll call then takes the 28's from the box and enters the information onto the appropriate roll call sheet; [redacted] was unaware of 28's ever having gone missing from that box. The roll call sheets are sent back upstairs each day so people can sign in the morning. The following day, someone from payroll retrieves the roll call sheets and enters the information into CityTime. (Tr. 265-68, 272, 297-99)

[redacted] testified specifically regarding the roll call entries for September 2022. (Dept. Ex. 6) Whereas the entries for September 1-3 all have "VACATION" typed into the box for Dume's tour, the entries for the next several work days, beginning September 6, list Dume with a scheduled tour of 1200x2033. However, there are hand-written notations of "Vac" or "Vacation" written in the boxes next to the scheduled work tours for those days. [redacted] stated that she made the "Vac" notation for September 6 on September 7, when she reviewed the roll

call sheet and realized Dume had not appeared for work the day before; she did the same for the September 7 roll call sheet on September 8. [redacted] explained that when it was discovered that Dume had not appeared for work, she and the clerical staff had "assumed" he had extended his six-week vacation by a day or two, which is why she made the notations. [redacted] did not check with Dume's supervisors, or reach out to Dume himself, in order to verify why he was not at work. Beginning September 13, the word "VACATION" was again typed in the box for Dume's tour, because roll call continued to assume he had extended his vacation, even though there was no confirmation of that. [redacted] noted that Dume did have sufficient time on the books to cover the extra vacation days in September. (Tr. 268-73, 276-79, 284-87, 292-96, 305)

Respondent Dume testified that on July 5, 2022, he submitted 28's for the entire period in question, July 26 through September 24, and planned to return to work on September 27. The mother of his son had family trying to relocate from Ukraine, and Dume requested the time off so he could go to Europe and help out. He had more than one year of time on the books, and "no one had a problem" with him taking off the weeks requested. After Ramirez signed the 28's, Dume brought them to the administrative supervisor for final approval. From there, the next step was for someone from the administrative office to bring the approved 28's down to the first floor payroll office, where they are placed in a box as described by [redacted] According to Dume, he had been told that in the past, 28's have gone missing from that box. (Tr. 314-19, 350-52, 361)

On or about September 21 (European time), Dume received texts and emails from colleagues asking where he was. Dume testified that Sergeant [redacted] directed him to call Inspector [redacted] since there was talk of Dume being AWOL for 17 days. Dume spoke with Inspector [redacted] who told Dume to come see him when he returned because there were some 28's missing; Inspector [redacted] did not directly accuse Dume of being AWOL. (Tr. 320-25, 356)

Dume testified that while in Europe, he had filed an IAB log on September 6 regarding some of the MOS involved in the Electric Zoo incident, based on information he had seen in a group chat about inappropriate behavior involving several of his team members. When he returned to the United States, he reported to work a day early, on September 26, and went to Headquarters to speak with higher ranking officials because he was concerned he would face retaliation for filing the log. Dume subsequently filed a lawsuit against the Department as well. (Tr. 310-12, 327-30, 352-53)

With respect to the allegation that he failed to update his address with the Department, Dume acknowledged that his address changed in 2017. He testified that he did notify his undercover coordinator at the time that his address changed, and also filled out a form with the updated address when a new undercover coordinator was assigned in 2022. (Resp. Ex. C) As for the ten card (Resp. Ex. D), Dume testified that he did submit a form with his updated address, but someone from the administrative office neglected to fill out the ten card with the correct address. However, when asked at his official Department interview on October 5, 2022 (Dept. Ex. 7 at 11:24) whether it could have been an oversight that he did not change the address, Dume responded, "Yeah, I mean, I had no reason to hide that." (Tr. 330-42, 344-49)

Respondent Ramirez testified that as a lieutenant, it was his responsibility to oversee and manage roll call, including verifying that all personnel were present. According to Ramirez, there often were errors with the roll call printouts: there were, for example, personnel who were on vacation or in court on a particular day, but that was not reflected in the printout. He offered into evidence copies of other roll call sheets from August-September 2022 showing multiple MOS unaccounted for. (Resp. Ex. B) Ramirez also noted there were times where another

supervisor would authorize vacation for an MOS, and the 28's might be submitted later on. In his experience, it was not unheard of for 28's to go missing. (Tr. 368, 372-74, 378-79, 435, 488)

As for the matter involving Dume, Ramirez recounted how he was in a meeting with an inspector in July when Dume came in and requested leave to deal with his family's situation. Ramirez had suggested getting EAU involved to help with the family members, but the inspector said no, and that Dume should just take as much time as he needed. Ramirez testified that he recalled signing only five 28's for Dume, which he handed back to him.[4] He also stated that there may have been more 28's, though it was Ramirez's expectation that Dume would be back at work on August 30. When Ramirez saw that Dume had not returned on August 30 and was still listed by Roll Call as on vacation, he assumed that Dume was, in fact, still on vacation, and that it had been authorized by another supervisor. Ramirez did not believe it was because he was AWOL, nor did anyone suggest that was the case. He asked his two sergeants whether they had signed additional 28's for Dume; they said no, and Ramirez did not follow up with anyone else. The following week, Ramirez was called into multiple meetings regarding the Electric Zoo situation, and he was too busy to check on the roll call, which he relied on his sergeant to do. (Tr. 382-84, 435-36, 443-49)

Specification 1 against Respondent Dume charges him with being absent without permission from September 6 through September 24, 2022. It is undisputed that Dume did not appear for work on those days. At issue is whether he had permission to be on vacation during the time period beyond September 3.

[4] Although there is a sixth 28, for the period spanning August 30 through September 3, that appears to have his approval signature as well, Ramirez testified that he did not actually sign that one. He noted that the signature resembled his, but he did not sign it, and did not know who did. (Tr. 436-43; Dept. Ex. 5F)

The witnesses described the process whereby an MOS obtains permission to take leave. The MOS fills out one or more 28's for the time requested, then confers with a supervisor in order to obtain the necessary approval. Once the supervisor signs off on the request, the 28 is brought to the payroll office and the information is entered into the appropriate Roll Call sheets. At NBMN, the 28's are placed in a box outside the payroll office. According to both [redacted] and [redacted] their investigation revealed that there were no 28's from Dume for the three weeks after September 3.

Dume testified that he did receive approval for the entire period, but that claim is contradicted by the credible evidence adduced at trial. Dume's supervisor, Ramirez, testified that he met with Dume when the vacation request was made, and it was Ramirez's expectation that Dume would be back August 30:

Q. The five 28's that you signed would have him back on August 30th; is that correct?

A. That's correct.

Q. So, that's when you expected him back, right?

A. Yes. (Tr. 436)

Moreover, when Ramirez saw that Dume was not back at work on August 30, he asked his two sergeants whether they had extended Dume's vacation. The only reason for Ramirez to make such an inquiry was because he expected Dume back on August 30, and the reason he expected him back was because that was, indeed, the time period requested by Dume. Neither Sergeant stated that they had extended Dume's vacation, nor was there any evidence presented that anyone else had granted such an extension.

Despite this persuasive evidence, Dume maintained that he did submit 28's for the entire period, and suggested that the 28's for the last three weeks must have been lost, possibly from

the box outside the payroll office. However, such a claim is purely speculative, and not supported by the credible evidence. Moreover, it is not realistic that just the last three 28's happen to be the ones that went missing, while the 28's for the initial portion of the period all remained on file. I also reject the suggestion that evidence was manufactured against Dume in retaliation for filing a complaint with IAB about the Electric Zoo MOS on September 6: the Electric Zoo investigation was already underway by the time he filed his log, and there was nothing in the record to support the claim that the charge against Dume was retaliatory. Rather, the credible evidence established that there was a concern as to Dume's whereabouts when it was discovered that he had not returned on the expected date, which led to the investigation that ensued and the ultimate filing of these charges. Even though the AWOL investigation did not begin until September 20, the investigation established that Dume had been absent without permission since September 6, and he is accountable for his unauthorized absence from that time forward.

The record has proven, by a preponderance of the credible evidence, that Dume was absent without permission for multiple tours between September 6 and September 24, 2022. Accordingly, I find him Guilty of Specification 1.

Specification 2 charges Dume with failing to provide the Department with accurate information regarding his residence beginning in October 2019. Specifically, it is alleged that he failed to have his ten card updated with his new address after he moved to a new residence.

Lieutenant [redacted] the ICO, testified credibly that when a supervisor attempted to locate Dume based on the address listed on his ten card, they discovered that he had not lived there for years. Dume, himself, confirmed at trial that he had moved around 2017. He claimed, however, that he had completed the paperwork to update the ten card, and an administrative employee

must have filled out the card incorrectly. Dume also noted that he had properly updated his residence information with his undercover coordinator.

Although I credit that Dume did provide his correct address to the undercover coordinator, that does not absolve him of the responsibility for updating the address with his command on his official ten card as well. I am not persuaded by Dume's self-serving testimony that the inaccurate ten card was the result of someone else's error. At his Department interview on October 5, 2022, Dume acknowledged that the failure to update his ten card may have been an oversight on his part. He did not, at that time, state that he had completed the paperwork, nor did he suggest that the error rested with someone in the administrative office. The credible evidence has established that Dume neglected to update his residence information with the Department, which complicated the command's efforts to locate him when he did not appear at work. Accordingly, I find him Guilty of Specification 2.

Respondent Ramirez also faces two charges in connection with Dume's absence. Specification 1 charges him with failure to supervise, while Specification 2 alleges that he failed to notify his supervisors when Dume was AWOL. The Department Advocate argues that as Dume's supervisor, it was Ramirez's responsibility to know Dume's whereabouts, and he should have done more to investigate and clarify Dume's status when he did not appear for work between September 6 and September 20.

On the one hand, Ramirez did acknowledge that as a lieutenant, it was his responsibility to oversee and manage roll call, including verifying that all personnel were present. He testified that it was his expectation that Dume would return to work on August 30. However, Ramirez also credibly explained that there were times when another supervisor would authorize vacation for an MOS in the command. Although the two sergeants he checked with stated they did not

authorize the additional vacation, Ramirez concluded that someone else must have done so. He reasonably relied upon the roll call, which still had Dume listed as on vacation on August 30, and continued to believe that Dume was on vacation the following weeks. Ramirez also noted that during the week of September 6, he was busy attending meetings related to the Electric Zoo matter, and did not do any follow up with respect to Dume.

Under the specific circumstances presented here, I am not persuaded that Ramirez committed misconduct with respect to Dume's absence. The record has failed to establish, by a preponderance of the credible evidence, that Ramirez failed to supervise. Additionally, since he was unaware that Dume was AWOL, he did not wrongfully fail to notify his supervisors of Dume's absence. Accordingly, I find Ramirez Not Guilty of both specifications.

PENALTY

In order to determine appropriate penalties, 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. Respondents' employment histories also were examined. *See* 38 RCNY § 15-07. Information from their personnel records that was considered in making these penalty recommendations are contained in attached memoranda.

Respondent Ramirez, who was appointed to the Department on July 10, 2006, has been found Guilty of all four charges in connection with the Electric Zoo matter. The most serious charges are for failing to supervise his team, and then making misleading statements about what occurred during his official Department interview. For this case, the Department Advocate

recommends the forfeiture of 60 days, and dismissal probation, based on the presumptive penalties for each offense.

Although Ramirez has no formal disciplinary record and has been awarded numerous medals, it remains extremely troubling that multiple members of his team were consuming alcohol, while on duty, at a public event, rather than performing their law enforcement duties. Ramirez, himself, was not drinking, but detectives and sergeants were drinking alcohol in his presence. One of them, Detective [redacted] was so visibly intoxicated that Ramirez had team members escort him from the festival and back to the command. Even after observing [redacted] Ramirez did not follow up with the other team members regarding their consumption of alcohol. As discussed above, Ramirez's failure to oversee and supervise his team members in any meaningful way was inexcusable, and there needs to be appropriate accountability.

Ramirez then compounded matters by making several misleading statements at his official Department interview. The aim of any internal investigation is to get to the truth. By repeatedly providing misleading statements in response to the questions he was asked, Ramirez flouted that goal, and sought to escape accountability for his own failure to supervise.

Based on the severity of the misconduct here, there is no basis for imposing less than the presumptive penalties. Taking into account the totality of the facts and circumstances in this matter, I recommend that Respondent Ramirez forfeit a total of sixty (60) 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.

Respondent Dume, who was appointed to the Department on January 9, 2012, has been found Guilty of being absent without permission, and failing to properly update his residential address with the Department. The Department Advocate recommends a total of 20 days to cover the two counts. Counsel for Dume notes that he has no formal disciplinary record, has been awarded several medals for Excellent Police Duty, and has received consistently strong work evaluations.

On the one hand, this Tribunal is mindful that Dume, who has a strong record with the Department, was in Europe under stressful circumstances at the time he extended his vacation without permission. The mother of his child was from Ukraine, and Dume was helping out as her family was trying to relocate in Europe in the middle of the war crisis. Nevertheless, his conduct here, particularly extending his vacation without obtaining permission, is of great concern, and there needs to be appropriate accountability. Additionally, Dume's failure to update his address on his ten card compromised the command's efforts to locate him when his whereabouts were unknown. On balance, the forfeiture of 10 vacation days is appropriate to address his misconduct in this case, with the hope that this significant loss of days acts as a deterrent to future misconduct. Taking into account the totality of the facts and circumstances in this matter, I recommend that Respondent Dume forfeit ten (10) vacation days.

Respectfully submitted,

Jeff S. Adler JSA

Jeff S. Adler
Assistant Deputy Commissioner Trials

APPROVED

OCT 04 2024

THOMAS G. DONLON
POLICE COMMISSIONER

POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
LIEUTENANT JOEL RAMIREZ
TAX REGISTRY NO. 942402
DISCIPLINARY CASE NOS. 2023-28702 & 2022-27359

Respondent was appointed to the Department on July 10, 2006. On his three most recent annual performance evaluations, he received 4.0 ratings of "Highly Competent" for 2021, 2022 and 2023. He has been awarded one medal for Exceptional Merit, six medals for Meritorious Police Duty and 17 medals for Excellent Police Duty.

Respondent has no formal disciplinary history. He was placed on Level 1 Discipline Monitoring in December 2022; monitoring remains ongoing.

For your consideration.

Jeff S. Adler

Jeff S. Adler
Assistant Deputy Commissioner Trials

POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
SERGEANT JOSE DUME
TAX REGISTRY NO. 951699
DISCIPLINARY CASE NO. 2023-28471

Respondent was appointed to the Department on January 9, 2012. On his most recent annual performance evaluation, he received a 4.5 rating of "Highly Competent/Extremely Competent" for 2023. He has been awarded six medals for Excellent Police Duty.

Respondent has no formal disciplinary history.

For your consideration.

Jeff S. Adler RM

Jeff S. Adler
Assistant Deputy Commissioner Trials