



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

May 10, 2024

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Kimberly Lucas**
Tax Registry No. 958844
70 Precinct
Disciplinary Case No. 2022-27279

The above named member of the service appeared before Assistant Deputy Commissioner Anne E. Stone on September 21, 2023, and was charged with the following:

DISCIPLINARY CASE NO. 2022-27279

1. Police Officer Kimberly Lucas, on or about and between October 28, 2021, and October 6, 2022, while assigned to the 70th Precinct, engaged in conduct prejudicial to the good order, efficiency, and discipline of the Department in that, said Police Officer possessed a fraudulent COVID-19 vaccination card.

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

PROHIBITED CONDUCT

2. Police Officer Kimberly Lucas, on or about and between October 28, 2021, and October 6, 2022, while assigned to the 70th Precinct, engaged in conduct prejudicial to the good order, efficiency, and discipline of the Department by submitted a fraudulent COVID-19 vaccination card to the Department.

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

PROHIBITED CONDUCT

3. Police Officer Kimberly Lucas, on or about December 7, 2021, while assigned to the 70th Precinct, intentionally provided a false statement during an official Department interview and impeded a Department investigation. (*As amended*)

A.G. 304-10

**FALSE OR MISLEADING
STATEMENTS**

In a Memorandum dated October 19, 2023, Assistant Deputy Commissioner Stone found Police Officer Kimberly Lucas guilty of all Specifications after Police Lucas entered a plea of guilty to all Specifications in Disciplinary Case No. 2022-27279. Having read the Memorandum and analyzed the facts of this matter, I approve of the findings, but disapprove the penalty.

The facts and circumstances presented in the Report and Recommendation from Assistant Deputy Commissioner of Trials, Stone, have been carefully considered. In this matter, while I agree with the findings, I do not agree with the proposed penalty recommendation of separation from the Department.

Police Officer Kimberly Lucas pled guilty to possessing and submitting fraudulent COVID vaccine cards to the Department, and providing a false statement regarding her vaccine status during an official department investigation, thereby impeding an investigation.

I measured several factors against the proposed penalty recommendation. At the time of the incident, Police Officer Lucas had fulfilled nine years of exemplary service in the rank of police officer, with favorable performance evaluations and no formal disciplinary history. In addition, I considered Police Officer Lucas' accomplishments, which consisted of receiving several medals for meritorious police duty and for excellent police duty.

While I am aware that Police Officer Lucas' length of service and excellent career history does not excuse the above misconduct, it may be utilized to mitigate the penalty. As part of the mitigated penalty, I will impose a period of dismissal probation, in addition to penalty days, to ensure that Police Officer Lucas is properly monitored and evaluated. In summary, under these circumstances, a significant loss of penalty days, as well as a period of monitoring, would appropriately penalize Police Officer Lucas for her misconduct while recognizing the mitigating information presented at the hearing.

Therefore, a penalty to consist of the forfeiture of eight-five (85) vacation days and one (1) year dismissal probation will be imposed in this matter.



Edward A. Caban
Police Commissioner



POLICE DEPARTMENT

October 19, 2023

-----X

In the Matter of the Charges and Specifications :
 - against - :
 Police Officer Kimberly Lucas :
 Tax Registry No. 958844 :
 70 Precinct :

-----X

Case No.
2022-27279

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

Before: Honorable Anne E. Stone
Assistant Deputy Commissioner Trials

APPEARANCES:

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

For the Respondent: Stuart London, 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

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CHARGES AND SPECIFICATIONS

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

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

PROHIBITED CONDUCT

3. Police Officer Kimberly Lucas, on or about December 7, 2021, while assigned to the 70 Precinct, intentionally provided a false statement during an official Department interview and impeded a Department investigation. (*As amended*).

A.G. 304-10

FALSE AND MISLEADING
STATEMENTS

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on September 21, 2023. Respondent, through her 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 reviewed all of the evidence in this matter, and in accordance with her pleas, I find Respondent Guilty of all three specifications, and recommend a penalty of forced separation from the Department, as discussed below.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent was appointed to the NYPD in July 2015 and has been assigned to the 70 Precinct in various roles since graduating from the Academy. She testified that sometime in autumn of 2021, the Executive Officer of her command, Captain Suarez, summoned Respondent to her office. The topic of the conversation was whether Respondent intended to comply with the Mayor's directive that all New York City employees be vaccinated against the COVID-19 virus. Captain Suarez instructed Respondent that she needed to be vaccinated by a certain date or she would have to take a leave without pay. (Tr. 15)

Respondent stated that after this conversation she went to "Asisa Community," an urgent care facility in Brooklyn, with the intention of having the COVID-19 vaccine administered. Respondent chose that location because she had been there "multiple times" to be tested for COVID-19. When she arrived, she waited outside in line and then approached the receptionist. Respondent recalled the woman behind the desk asking her if she wanted the vaccine, then asking her a second time if she wanted the vaccine while "smirking" at her. Respondent explained that she understood the "smirk" to mean that she was going to be given a vaccine card without receiving the COVID-19 vaccine. (Tr. 17-18) She responded to the woman with a smirk of her own, which indicated her preference to receive a vaccination record without being vaccinated. Respondent testified that the receptionist handed her a piece of paper with a phone number on it, and was instructed to send a text containing her name, date of birth, and zip code, which Respondent did. (Tr. 18) After receiving a response that the vaccine card was ready, Respondent went to a location in Staten Island and picked it up. Sometime after the eligibility date for the \$500 incentive for NYC employees to receive the vaccination had passed, she

uploaded the fraudulent card to the Department's Centralized Personnel Resource ("CPR") system. (Tr. 19)

On December 7, 2021, the Internal Affairs Bureau ("IAB") conducted an official interview of Respondent. The notification informed her that she was the subject of an investigation, and that she was to bring her proof of vaccination with her to the interview. (Tr. 20-21) Respondent recounted that after uploading the fraudulent vaccine card into CPR, she misplaced it. Upon realizing that she needed to produce the card to IAB, Respondent returned to the Asisa Community Urgent Care, where she was given another card. This one had the same date on it as the first, but different information regarding the location where the shot had been administered. (Tr. 21-22) Respondent presented the second fraudulent card to the IAB investigators during her interview. When they questioned her as to the location discrepancy, she explained that she lost the first card and didn't know why the replacement contained different information. When asked about getting the vaccine, Respondent told the investigators that she went to the urgent care, met with a doctor, was given the COVID-19 vaccine shot, and then waited in the lobby for fifteen minutes to ensure that there were no side effects. During her testimony, Respondent admitted that her statements to IAB describing the process of being vaccinated were false. (Tr. 28-30)

In a second official interview of Respondent, conducted on October 6, 2022, she admitted that she lied to investigators on December 7, 2021. (Tr. 31) Respondent testified that she did not get vaccinated because her mother suffered a stroke within two days of taking the vaccine and that she was fearful the same would happen to her. In the course of the second interview, and during her testimony before this tribunal, she explained that she obtained and presented to the Department the two falsified vaccine records, and then lied during her first IAB interview in

order to maintain employment with the Department. Respondent stated that she is the sole supporter of her child and could not afford to lose her job. (Tr. 15-16, 24) Respondent also admitted that at no time in the approximately ten months between her first and second IAB interviews did she attempt to retract her false statements, or admit to any of her superiors that the two vaccine cards she presented to the Department were fake. (Tr. 33-34)

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 her personnel record that was considered in making this penalty recommendation is contained in an attached memorandum.

Respondent, who was appointed on July 8, 2015, has pleaded guilty to possessing, and then presenting to the Department, two fraudulent COVID vaccine cards, and to intentionally making a false official statement in the course of an interview conducted under the provisions of Administrative Guide 318-11. The Department Advocate, citing the Disciplinary Matrix, has requested that the Respondent be terminated from her employment with the Department. Respondent, through her attorney, has argued for a mitigated penalty of suspension for a period of sixty (60) days and placement on Dismissal probation for one (1) year.

I am not unsympathetic to Respondent's testimony that she believes the stroke her mother suffered was caused by the COVID-19 vaccine, making her reluctant to get vaccinated. I also believe her testimony that she, as the sole financial support for her child, was scared to lose her job. However, these circumstances do not excuse the serious misconduct in this case.

Respondent acquired and presented to the Department not one, but two forged vaccine cards. She then intentionally gave false statements to IAB investigators in the course of her official interview. Respondent had multiple opportunities to tell the truth, but failed to do so until being interviewed by IAB a second time, almost a year after uploading the first forged card. Respondent essentially doubled down on her lie, until she realized that she had been caught. The facts of this case differ significantly from other cases where members of service were accused of presenting false vaccine records, and received lesser penalties. In those cases, the subject officers were candid about their misconduct when being interviewed. In contrast, Respondent confessed only when confronted with her falsehoods by IAB investigators. Respondent's failure to be truthful under circumstances when she was mandated to be argues against her continued employment with the Department.

However, Respondent's exemplary employment record has been noted by this tribunal. In addition to receiving "Exceeds Expectations" on her three most recent performance evaluations, three medals for meritorious police duty, and three medals for excellent police duty, Respondent has been named "Cop of the Month" twice in the 70 Precinct, in 2016 and 2022. She was awarded a "Certificate of Merit" by the New York State Assembly in 2016 for brave conduct. Respondent has received fourteen positive and zero negative CRAFT entries for the duration of her career. These accomplishments argue in favor of some mitigation of penalty. (Disciplinary Matrix p. 9)

A penalty which provides for separation from the Department, while allowing Respondent to retire, strikes the appropriate balance between the facts and circumstances presented to this tribunal, and Respondent's record of service. 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

MAY 10 2024

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 KIMBERLY LUCAS
TAX REGISTRY NO. 958844
DISCIPLINARY CASE NO. 2022-27279

Respondent was appointed to the Department on July 8, 2015. On her three most recent performance evaluations, she received “Exceeds Expectations” for 2020, 2021 and 2022. Respondent has been awarded three medals for Meritorious Police Duty and three medals for Excellent Police Duty.

Respondent has no formal disciplinary history. Respondent was placed on Level 1 Discipline monitoring in December 2022; this monitoring remains on going.

For your consideration.

Anne E. Stone
Assistant Deputy Commissioner Trials