

DECISION AND ORDER

IN THE MATTER OF THE APPEAL OF:

BRIDGET ANDREWS, Appellant-Petitioner,

v.

DENVER DEPARTMENT OF SAFETY, DENVER SHERIFF DEPARTMENT,
And the City and County of Denver, a municipal corporation, Agency –
Respondent.

On August 17, 2016, Denver Deputy Sheriff Bridget Andrews (Appellant) accepted an overtime assignment watching over a prisoner who was shackled to a bed at Denver Health. Her assignment ran from 2:00 A.M. to 6:00 A.M. Towards the end of her shift, Deputies Curry and Luna (along with Curry’s contraband-sniffing dog, Kuko) entered the room to relieve her. Appellant made no movement. Indeed, Deputy Curry stood over Appellant for 90 seconds, watching her sleep. Curry kicked the chair in which Appellant was sleeping, rousing her back to the world of the woken. Her return to consciousness did not go unnoticed. As she opened her eyes, looking at Curry, she let out a scream, and another scream and another scream, and yet another scream; which brought medical staff into the room to see what was going on. Also, after the fourth scream, Appellant realized she was at Denver Health.¹ Deputy Curry asked her what she was doing and then told her that “we do not sleep on post and we do not sleep with a firearm on.” Appellant responded with two “yes sir[s]” and a double “I’m sorry.”

Appellant’s excursion to dreamland while armed and on duty cost her a 14-day suspension. Appellant appealed that suspension to a Hearing Officer. The Hearing Officer found that Appellant had violated internal rules prohibiting sleeping on the job and that she had also violated Career Service Rules prohibiting poor performance of one’s duties. Finally, the Hearing Officer determined that the imposition of a 14-day suspension by the Denver Sheriff Department and Department of Safety (Agency) was a penalty within the range of alternatives

¹ Deputy Andrews stated, “oh, oops, I’m at Denver Health.”

available to a reasonable administrator.² Appellant then appealed the Hearing Officer's decision to this Board. We AFFIRM the Hearing Officer's decision.

Appellant first argues there is insufficient evidence in the record to support the Hearing Officer's conclusion that Appellant had been sleeping on the job. We disagree. The testimony of Deputy Curry was sufficient to support the Hearing Officer's finding. Deputy Curry testified that when he walked into the hospital room with his dog and another Deputy, he observed Appellant from a distance of two feet for 90 seconds. He testified that she was asleep for that entire period. He specifically described what he saw, noting Appellant's appearance as being relaxed in a fetal position, with her eyes closed and her breathing even. He testified that he made a loud comment to Deputy Luna that apparently did not get Appellant to move. He testified that when he woke Appellant, she was startled, unaware of her surroundings, and then apologetic for having fallen asleep. Deputy Curry's testimony was bolstered by Deputy Luna's who stated that Appellant appeared to have been asleep. Finally, we note that Appellant, during the investigation of this matter, admitted her eyes might have been closed, that she did not notice the two deputies and the dog enter the room, and that she could not recall if she had fallen asleep. We believe all of these facts strongly support the Hearing Officer's conclusion that Appellant was sleeping on the job.

Appellant claimed at hearing, however, that she was not asleep. In her brief, she argues that Deputy Curry's testimony is unreliable because he had never seen Appellant in a "nocturnal state"³ and because he was not trained in the recognition or determinations of peoples' nocturnal states or whether someone is sleeping. We do not believe that the Agency needed to present testimony from a Board-Certified sleep specialist to prove that Appellant was, in fact, sleeping on the job. And we further do not believe that Deputy Curry, or anyone else, needed special training or experience to be able to recognize and describe someone who was in a somnolent condition. The record plainly shows that Appellant was caught sleeping on the job.

Appellant next argues that the Hearing Officer erred in upholding the Agency's imposition of a 14-day suspension; a Matrix Category D aggravated range punishment. But we see no error in the Hearing Officer's findings or conclusions regarding the appropriateness of the penalty imposed.

A Matrix Category D violation is one which is substantially contrary to the guiding principles of the Department or that substantially interferes with its mission, operations or

² The Agency employs a disciplinary Matrix. The Agency determined Appellant's misconduct to be a Matrix Category D infraction. While a first-time Category D infraction typically carries a presumptive penalty of ten suspended days, the Agency's Civilian Review Administrator determined that the circumstances of this misconduct warranted a penalty within the aggravated range; hence the imposition of the 14-day suspension. We believe the Hearing Officer's findings justifying the imposition of a penalty within the aggravated range is supported by record evidence .

³ If he had, additional and different questions might also be at issue.

professional image or that involves a demonstrable serious risk to deputy, employee, or public safety. We agree with the Agency and the Hearing Officer that Appellant's sleeping on the job while guarding a prisoner substantially interferes with the Agency's image, and the fact that Appellant was virtually unconscious, while armed also presented a demonstrable serious risk of injury. The Agency's penalty determination was reasonable, and the Hearing Officer's acceptance of that determination was both reasonable and supported by record evidence and common sense.

For all of these reasons, the Hearing Officer's decision is AFFIRMED.

SO ORDERED by the Board on November 16, 2017, and documented this 21st day of June, 2018.

BY THE BOARD:



Patti Klinge, Co-Chair

Board Members Concurring:

Neil Peck

Karen DuWaldt

Patricia Barela Rivera

Tracy Winchester