

Officer Harold W. Thomaston, Jr., #0577
San Antonio Police Department
San Antonio, Texas

RECEIVED
CITY OF SAN ANTONIO
OFFICE OF THE CHIEF OF POLICE

RECEIVED
FEB 05 2016
CITY OF SAN ANTONIO

Fire Fighters' and Police Officers' Civil Service Commission
111 Soledad, Suite 123
San Antonio, Texas 78205

2016 FEB -5 AM 11:47

AGREED SUSPENSION

Commissioners and Officer Harold W. Thomaston, Jr.:

WHEREAS, Officer Harold W. Thomaston, Jr., pursuant to Article XXVIII, Section 2 of the Collective Bargaining Agreement by and between the City of San Antonio and the San Antonio Police Officers' Association, was served on January 11, 2016, with a contemplated indefinite suspension; and

WHEREAS, pursuant to said contract, Officer Thomaston was given an opportunity to rebut those charges being brought against him to Police Chief William P. McManus; and

WHEREAS, said opportunity was exercised by Officer Thomaston; and

WHEREAS, Officer Thomaston and Chief McManus have agreed to reduce the discipline in this matter to a twenty-five-day suspension without pay; **NOW THEREFORE**;

The undersigned parties hereby enter into this suspension agreement wherein it is provided that Officer Thomaston shall be suspended without pay from the San Antonio Police Department for a period of twenty-five days, commencing on February 22, 2016, and ending on March 17, 2016. Officer Thomaston waives any rights to appeal this Agreed Suspension and agrees no administrative or judicial body shall have power to review this Agreed Suspension or alter the terms of this agreement.

Officer Thomaston has violated Subsection C of Rule XIII of the City of San Antonio Fire Fighters' and Police Officers' Civil Service Commission Rules, said rules having been adopted on February 23, 1998, and thereafter from time to time amended, by the Fire Fighters' and Police Officers' Civil Service Commission as the Civil Service Rules for the Fire and Police Departments of the City of San Antonio. The particular civil service rules violated by Officer Thomaston and grounds for suspension are as follows:

- (12) Violation of an applicable fire or police department rule or special order.

The Rules and Regulations and Procedures of the San Antonio Police Department which Officer Thomaston has violated are as follows:

RULE 3.36 - SEXUAL MISCONDUCT PROHIBITED (A)
Members (sworn and civilian) are prohibited from engaging in sexual conduct while: (1) On-duty; (2) In uniform; (3) Working off-duty (extension of police services); (4) Officially representing the San Antonio Police Department; (5) In a mentoring capacity

(Including, but is not limited to: direct supervision, F.T.O., Academy Instructor or Explorer Advisor, etc.); or (6) Using their position with the San Antonio Police Department in any capacity; (B) Sexual Conduct is defined in accordance with Texas Penal Code Section 21.01 (1) (2) (3), 21.07 (a) (1) (2) (3) (4) and 21.08 (a).

RULE 4.06 - ON-DUTY ACTIVITIES: Members shall not devote any of their on-duty time to any activity other than that which relates to their duty assignment. Members shall not enter places of amusement while on-duty, except for police purposes. Members shall not remain at any one place longer than is necessary to accomplish a police objective.

The factual basis for the instant disciplinary suspension is as follows:

On or about October 06, 2015, the San Antonio Police Department first learned of an alleged criminal violation by one of its officers. On or about October 03, 2015, Officer Harold W. Thomaston, Jr. agreed to meet a woman he knew, [REDACTED] at the intersection of Bandera Road and Poss Road. Officer Thomaston had met [REDACTED] online through a social website called "Match.com." When Officer Thomaston told [REDACTED] to meet him in the area of Bandera Road and Poss Road, he informed her he would be in full uniform and inside a marked patrol vehicle.

[REDACTED] then met Officer Thomaston in the parking lot of a strip mall, which was actually located at Poss Road and Criss Cross Drive, in Leon Valley, Texas. [REDACTED] subsequently provided a statement to Detective Duane Vargas of SAPD's Special Victims Unit and alleged that Officer Thomaston exposed himself to her inside his patrol car while he was in full SAPD uniform. She also stated Officer Thomaston touched her breast and legs without her consent. The criminal investigation of this incident was handled by the SAPD Special Victims Unit and has since been forwarded to Leon Valley Police Department due to the jurisdiction of the offense.

The administrative investigation of this incident shows that Officer Thomaston was on duty when he met with [REDACTED]. The AVL (GPS) in his assigned patrol vehicle confirms Officer Thomaston was in Leon Valley at the agreed meeting place from 7:18 p.m. to 7:48 p.m., establishing that Officer Thomaston devoted his on-duty time to non police activity.

On October 26, 2015, Officer Thomaston wrote a detailed account of the events that took place between he and [REDACTED] and provided it to Detective Cuevas. In his statement, Officer Thomaston admits to touching [REDACTED] leg.

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A copy of the instant disciplinary suspension order is being filed with the Fire Fighters' and Police Officers' Civil Service Commission.

AGREED TO BY: WILLIAMS FEB 2 2016
WILLIAM P. MCMANUS DATE
CHIEF OF POLICE
SAN ANTONIO POLICE DEPARTMENT

[Signature] 3 Feb, 2016 0806
OFFICER HAROLD W. THOMASTON, JR., DATE TIME
#0577
SAN ANTONIO POLICE DEPARTMENT

On this 3 day of FEBRUARY, 2016, I hereby acknowledge receipt of the original of the foregoing Agreed Suspension. I acknowledge having received notification that I have fifteen days from the date of receipt of this suspension during which to file a written appeal of this suspension with the Personnel Director of the City of San Antonio requesting either arbitration or the hearing of my appeal by the Fire Fighters' and Police Officers' Civil Service Commission. I acknowledge that I have been informed that if I appeal to a hearing examiner/arbitrator, I waive all rights to appeal to a district court except as provided by subsection 143.057(j) of the Texas Local Government Code. I also acknowledge that I have been informed that my right to appeal the decision of a hearing examiner/arbitrator to district court pursuant to section 143.057 of the Texas Local Government Code may have been modified by the provisions of article 28 of the current Collective Bargaining Agreement by and between the City of San Antonio and the San Antonio Police Officers' Association. I further acknowledge that in light of my entry into this Agreed Suspension, I shall have no right to appeal said suspension nor will any administrative or judicial body have power to review same or alter its terms. I do hereby waive any and all rights to appeal said suspension and no administrative or judicial body shall have power to review same or alter its terms.

[Signature]
OFFICER HAROLD W. THOMASTON, JR., #0577
SAN ANTONIO POLICE DEPARTMENT

WITNESSED BY:

[Signature] 3210 TIME: 0806 DATE: 020316
[Signature] 3210 TIME: 0806 DATE: 020316

FILED on this the 05 day of February, 2016, with the Fire Fighters' and Police Officers' Civil Service Commission.

[Signature]
DIRECTOR, FIRE FIGHTERS' AND POLICE OFFICERS' CIVIL SERVICE COMMISSION

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CIVIL SERVICE COMMISSION