

Officer Michael D. Aguilar, #1090
San Antonio Police Department
San Antonio, Texas

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

RECEIVED
CITY OF SAN ANTONIO
HUMAN RESOURCES DEPT
2015 AUG 31 AM 10:43

LEGAL ADVISORY CFC
AUG 28 2015
CITY OF SAN ANTONIO
SAN ANTONIO, TEXAS

AGREED SUSPENSION

Commissioners and Officer Michael D. Aguilar:

WHEREAS, Officer Michael D. Aguilar, 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 July 21, 2015, with a contemplated indefinite suspension; and

WHEREAS, pursuant to said contract, Officer Aguilar was given an opportunity to rebut those charges being brought against him to Police Chief Anthony L. Treviño, Jr.; and

WHEREAS, said opportunity was exercised by Officer Aguilar; and

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

The undersigned parties hereby enter into this suspension agreement wherein it is provided that Officer Aguilar shall be suspended without pay from the San Antonio Police Department for a period of five days, commencing on September 1, 2015, and ending on September 5, 2015. Officer Aguilar 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 Aguilar 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 Aguilar 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 Aguilar has violated are as follows:

RULE 4.03 - REQUIREMENT TO TAKE ACTION: On-duty members are required to take prompt and effective police action conforming to departmental policies with respect to violations of laws and ordinances and matters affecting public safety coming to their attention, or of which they have knowledge.

PROCEDURE 313 - USE OF CITY VEHICLES (.04)
AUTHORIZED USE (B) Members transport only authorized persons in a city vehicle. (2) Approval to transport off-duty members or non-members must be received from the unit supervisor.

PROCEDURE 409 - MOBILE VIDEO RECORDING (.06)
RECORDING (A) All officers shall begin recording the following events upon receipt of call and continue recording until it is concluded; any deviations will require a supervisor's approval and must be documented in the officer's report or CFS comment entry field. (1) DWI stops; (2) Code 1 Calls; (3) Code 2 Calls; (4) Code 3 Calls; (5) Self initiated stops: (a) Arrest (b) Field contacts (c) Traffic stops (6) Vehicle pursuits; and (7) Vehicle crashes.

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

On or about February 7, 2015, at about 2:30 a.m., Ms. Korina Salinas called the San Antonio Police Department to report that a person drove into a tree at 13839 Chittim Woods, and stated the driver was possibly "DWI." Officer Michael D. Aguilar and another officer were dispatched to the location and contacted Ms. Salinas and the driver of the vehicle, Mr. Benjamin Pedraza. According to Ms. Salinas, COBAN videos and the circumstances of the crash, there were reasons to believe Mr. Pedraza was intoxicated, and Officer Aguilar did not take the appropriate actions to investigate the offense of Driving While Intoxicated and possibly arrest Mr. Pedraza.

On or about February 7, 2015, at about 2:30 a.m., Ms. Korina Salinas called the San Antonio Police Department to report that a person drove into a tree at 13839 Chittim Woods, and stated the driver was possibly "DWI." Officer Michael D. Aguilar and another officer were dispatched to the location and contacted Ms. Salinas and the driver of the vehicle, Mr. Benjamin Pedraza. According to Ms. Salinas, she asked Officer Aguilar if the driver was going to be given a sobriety test and Officer Aguilar told her he had already performed one. Ms. Salinas alleged Officer Aguilar was not truthful when he told her a sobriety test had been performed on the driver.

On or about February 7, 2015, at about 2:30 a.m., Ms. Korina Salinas called the San Antonio Police Department to report that a person drove into a tree at 13839 Chittim Woods, and stated the driver was possibly "DWI." Officer Michael D. Aguilar and another officer were dispatched to the location and contacted Ms. Salinas and the driver of the vehicle, Mr. Benjamin Pedraza. Officer Aguilar did not utilize his COBAN unit's audio during his contact with and transport of Mr. Pedraza to another location.

RECEIVED
CITY OF SAN ANTONIO
HUMAN RESOURCES DEPT.
2015 AUG 31 AM 10:43

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

AGREED TO BY:

A. Treviño
ANTHONY L. TREVIÑO, JR.
CHIEF OF POLICE
SAN ANTONIO POLICE DEPARTMENT

DATE

8/18/15

M. D. Aguilar #1090
OFFICER MICHAEL D. AGUILAR, #1090
SAN ANTONIO POLICE DEPARTMENT

DATE

TIME

8-24-15, 2015 2334

On this 24th day of August, 2015, 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.

M. D. Aguilar #1090
OFFICER MICHAEL D. AGUILAR, #1090
SAN ANTONIO POLICE DEPARTMENT

WITNESSED BY:

M. D. Aguilar #1090 TIME: 2334 DATE: 8-24-15
C. R. D. #1080 TIME: 2334 DATE: 08-24-15

FILED on this the 31 day of August, 2015, with the Fire Fighters' and Police Officers' Civil Service Commission.

Alice P. Ramirez for
DIRECTOR, FIRE FIGHTERS' AND POLICE
OFFICERS' CIVIL SERVICE COMMISSION

2015 AUG 31 AM 10:43

RECEIVED
CITY OF SAN ANTONIO
HUMAN RESOURCES DEPT.