

Officer Hector Gallardo, #1551
San Antonio Police Department
San Antonio, Texas

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LEGAL ADVISOR'S OFFICE
NOV 28 2016
SAN ANTONIO POLICE DEPARTMENT

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

AGREED SUSPENSION

Commissioners and Officer Hector Gallardo:

WHEREAS, Officer Hector Gallardo, 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 October 4, 2016, with a ten-day contemplated suspension; and

WHEREAS, pursuant to said contract, Officer Gallardo 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 Gallardo; and

WHEREAS, Officer Gallardo and Chief McManus have agreed that the discipline in this matter shall be a ten-day suspension without pay; **NOW THEREFORE**:

The undersigned parties hereby enter into this suspension agreement wherein it is provided that Officer Gallardo shall be suspended without pay from the San Antonio Police Department for a period of ten days, commencing on December 6, 2016, and ending on December 15, 2016. Officer Gallardo 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 Gallardo 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 Gallardo 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 Gallardo has violated are as follows:

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RULE 3.04 - RESPONSIBILITY TO SERVE THE PUBLIC:

Members shall serve the public through direction, counseling, assistance, and protection of life and property. Members shall also respect the rights of individuals and perform their services with honesty, sincerity, courage, and sound judgment. (C) CONDUCT AND BEHAVIOR: Members, on-or off-duty, shall be governed by the ordinary and reasonable rules of good conduct and behavior, and shall not commit any act tending to bring reproach or discredit on themselves or the department.

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RULE 3.28 - RESPONSIBILITY TO KNOW LAWS AND PROCEDURES (A) LAWS AND ORDINANCES: Members shall learn and thoroughly understand the laws and ordinances which they are charged with enforcing.

RULE 4.12 - OFFICIAL REPORTS (B) SUBMISSION OF REPORTS: Members shall complete and submit all reports prior to going off-duty.

PROCEDURE 701 – CRIME SCENE DUTIES (.03) PHYSICAL EVIDENCE (B) In order for physical evidence to be effectively used by the Investigator and the prosecutor, its presence must be recognized by the officers at or near the crime scene. (C) Physical evidence must be properly preserved, recorded, and collected for it to be of use in discovering the facts of a crime.

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

On or about July 17, 2016, Officer Hector Gallardo was dispatched to 7935 Pipers Creek [REDACTED] for an Assault in Progress. Upon arrival, Body Cam video shows Officer Gallardo contacting the female who was involved in the incident. The female explained to Officer Gallardo that she was in a 5 to 6 month intimate dating relationship with the male involved in the incident. During Officer Gallardo's investigation of the incident, the male offered to show Officer Gallardo a video claiming there was proof that he was assaulted by the female but Gallardo did not view the evidence. Gallardo then incorrectly issued the male a misdemeanor citation for Fighting and asked another officer to issue the female a misdemeanor citation, as well.

Officer Gallardo failed to serve and assist the male complainant. Officer Gallardo should have thoroughly investigated the male complainant's claim of having been assaulted:

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1. Officer Gallardo failed to recognize the video on the male's cell phone as evidence, have photographs taken of the male's face to show injuries or lack of injury, and further failed to properly preserve, record, and collect the cell phone for further investigation and possible prosecution of the case.
2. Officer Gallardo failed to submit his report prior to going off duty.
3. Officer Gallardo can be seen on video not paying attention to the male's video.
4. When Officer Gallardo issued the male a citation for fighting and asked another officer to issue the female one as well, he failed to know the Laws of The State of Texas by writing the incident up as "Fighting" and issuing citations for a misdemeanor that did not occur within his presence or view.
5. After the completion of the call, Officer Gallardo contacted another officer to discuss the case and brought discredit to himself and the department when he made racially insensitive and derogatory statements about the individuals involved in the incident:
 - a. On Officer Gallardo's Body Cam, he is overheard asking the other officer what the female complainant's name was by asking, "What's this girl's name? Laquanda?"
 - b. He further made negative comments about the male complainant stating, "I figured we'd fuck him over so he doesn't talk shit or call and complain on us."

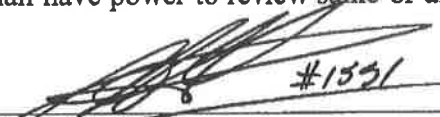
A copy of the instant disciplinary suspension order is being filed with the Fire Fighters' and Police Officers' Civil Service Commission.

AGREED TO BY: WILLIAM P. MCMANUS 11/16/16
 WILLIAM P. MCMANUS DATE
 CHIEF OF POLICE
 SAN ANTONIO POLICE DEPARTMENT

HECTOR GALLARDO #1551 11/18, 2016 11:38
 OFFICER HECTOR GALLARDO, #1551 DATE TIME
 SAN ANTONIO POLICE DEPARTMENT

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.

 #1551
OFFICER HECTOR GALLARDO, #1551
SAN ANTONIO POLICE DEPARTMENT

WITNESSED BY:

M.K. #4016 TIME: 2238 hrs. DATE: 11-18-16
L. O. #3320 TIME: 2238 DATE: 11-18-16

FILED on this the 29th day of NOV., 2016, with the Fire Fighters' and Police Officers' Civil Service Commission.

Yvette Ramirez for
DIRECTOR, FIRE FIGHTERS' AND POLICE OFFICERS' CIVIL SERVICE COMMISSION

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