

Officer Abel Garcia, #0198
San Antonio Police Department
San Antonio, Texas

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

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CITY OF SAN ANTONIO
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APR 20 AM 9:30

LEGAL ADVISOR'S OFFICE

APR 19 2017

SAN ANTONIO POLICE DEPARTMENT

AGREED SUSPENSION

Commissioners and Officer Abel Garcia:

WHEREAS, Officer Abel Garcia, 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 April 1, 2017, with a three-day contemplated suspension; and

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

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

The undersigned parties hereby enter into this suspension agreement wherein it is provided that Officer Garcia shall be suspended without pay from the San Antonio Police Department for a period of three days, commencing on May 2, 2017, and ending on May 4, 2017. Upon successful completion of one year, from the date this suspension is signed, without an allegation of similar misconduct which is subsequently sustained, and upon application by Officer Garcia within two weeks of such date, and approval by the Chief of Police, this suspension shall be reduced to a two-day suspension, and one day's pay and benefits will be returned to Officer Garcia. Officer Garcia 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 Garcia 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 Garcia 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 Garcia has violated are as follows:

RULE 3.06 - RELATIONSHIPS WITH CO-WORKERS:
Members shall conduct themselves in such a manner so as to bring

about the greatest courtesy or understanding and cooperation among the various units of the Department. (C) RESPECT TO SUPERVISORY OFFICERS: Members shall exhibit respect for supervisory officers at all times.

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RULE 4.04 - REPORTING FOR DUTY: Members, unless otherwise directed, shall report for duty or present themselves at the time and place specified by proper authority. They shall be properly uniformed, or dressed, and equipped.

PROCEDURE 403 - COMMUNICATIONS (.09) RESPONSIBILITIES (B) Uniform Personnel (2) Continuously monitors assigned frequencies and promptly responds when called by the dispatcher throughout the tour of duty.

PROCEDURE 902 - LEAVE AND ABSENCE POLICIES (.07) ABSENCES (A) Sworn members not on authorized leave and who fail to report for duty within one (1) hour of the commencement of their assigned duty hours are carried absent for that day. (B) Any absence is considered unauthorized when the sworn member is carried absent without pay on the pay sheet for that day.

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

Officer Abel Garcia had been on injured leave from December 14, 2016 through December 21, 2016 and was scheduled to return to regular duty on December 22, 2016.

For accounting purposes, Office Garcia was carried as Leave without Pay (LWOP) for the date of December 22, 2016.

On December 24, 2016, Officer Abel Garcia was requested via police radio to return to the substation and contact supervisors. Officer Garcia failed to acknowledge this assignment from the dispatcher despite being called twice by his unit number and once by his name.

On December 24, 2016, a meeting was held between Officer Abel Garcia and his supervisors, including Lieutenant Karen Falks, to discuss why Officer Garcia had failed to report for duty on December 22, 2016.

During this meeting, Officer Garcia presented as defiant, defensive, argumentative, disrespectful, confrontational, and antagonistic, and Officer Garcia raised his voice. At one point during this meeting, Officer Garcia allegedly walked around Lieutenant Falks' desk and shoved his cellphone in Lieutenant Falks' face and ordered her to read the text messages between him and his doctor. Officer Garcia had to be repeatedly told to leave at the conclusion of the meeting and was escorted from Lieutenant Falks' office by other supervisors who were present.

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

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AGREED TO BY: [Signature] 04/17/17
WILLIAM P. MCMANUS
CHIEF OF POLICE
SAN ANTONIO POLICE DEPARTMENT
DATE

[Signature] 4-19-17, 2017 1008
OFFICER ABEL GARCIA, #0198
SAN ANTONIO POLICE DEPARTMENT
DATE TIME

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 the instant 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] #198
OFFICER ABEL GARCIA, #0198
SAN ANTONIO POLICE DEPARTMENT

WITNESSED BY:
[Signature] 3150 TIME: 1008 DATE: 4-19-17
Karen M. Falke TIME: 1008 DATE: 4/19/17

FILED on this the 20~~th~~ day of April, 2017, with the Fire Fighters' and Police Officers' Civil Service Commission.

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