

Officer Daniel F. Gonzales, #0344
San Antonio Police Department
San Antonio, Texas

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

LEGAL ADVISOR'S OFFICE

JUL 20 2017

SAN ANTONIO POLICE DEPARTMENT

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POLICE DEPARTMENT

AGREED SUSPENSION

Commissioners and Officer Daniel F. Gonzales:

WHEREAS, Officer Daniel F. Gonzales, 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 June 27, 2017, with a ten-day contemplated suspension; and

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

WHEREAS, Officer Gonzalez and Chief McManus have agreed that the discipline in this matter shall be a two-day suspension held in abeyance for a period of one (1) year; **NOW THEREFORE**:

The undersigned parties hereby enter into this suspension agreement wherein it is provided that Officer Gonzalez shall be suspended without pay from the San Antonio Police Department for a period of two days. The two-day suspension of Officer Gonzalez shall be held in abeyance for a period of one year, after which time the suspension will be vacated. Officer Gonzales shall serve the suspension if he is found to have committed any violations of similar misconduct which are subsequently sustained within twelve months of July 6, 2017. Officer Gonzalez ^{vs} 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 Gonzales 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 Gonzales 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 Gonzales has violated are as follows:

PROCEDURE 410 - BODY WORN CAMERAS (.06)
RECORDING (B) Officers shall create a Call for Service (CFS)

and/or Case number for any self-initiated video at the time of recording. Officers shall stop recording at the end of each CFS/Case number and start a separate recording for each new CFS/Case number assigned or initiated.

PROCEDURE 502 – WARRANTLESS ARRESTS, SEARCHES, AND SEIZURES (.03) POLICY (E) Officers make warrantless searches and seizures only by the authorities listed in Section .09 of this procedure.

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

On or about March 24, 2017, Officer Daniel F. Gonzales went to 925 Merida Street for the purpose of searching for a wanted person believed to be at the location. Desiree Alderete, a resident of the location, gave Officer Gonzales consent to enter the location for the sole purpose of searching for the wanted person.

While at the location, Officer Gonzales searched the upstairs bedroom of Ms. Alderete's residence and picked up Ms. Alderete's cell phone, without her knowledge or consent, and searched its contents.

The wanted person was not found at 925 Merida Street and Officer Gonzales left the location.

Ms. Alderete alleged the search of her cell phone exceeded the limited scope of the consent she had given to search for the wanted person, and was thus an unlawful and unauthorized search.

While at the location, Officer Gonzales recorded the relevant incident on his Body Worn Camera (BWC), but failed to create a case number and write an AFR report or create a Call for Service number (CFS#) about this self-initiated incident.

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

AGREED TO BY: W P M C M A N U S 07/12/17
WILLIAM P. MCMANUS DATE
CHIEF OF POLICE
SAN ANTONIO POLICE DEPARTMENT

D F G #344 7.18.17 1710
OFFICER DANIEL F. GONZALES, #0344 DATE TIME
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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.

 #344
OFFICER DANIEL F. GONZALES, #0344
SAN ANTONIO POLICE DEPARTMENT

WITNESSED BY:

 3145 TIME: 1711 DATE: 7/18/17
 3179 TIME: 1713 DATE: 7/18/17

FILED on this the 25 day of July, 2017, with the Fire Fighters' and Police Officers' Civil Service Commission.


DIRECTOR, FIRE FIGHTERS' AND POLICE
OFFICERS' CIVIL SERVICE COMMISSION

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