

NOTICE OF INDEFINITE SUSPENSION WITHOUT PAY

Firefighter David Mireles
San Antonio Fire Department
315 S. Santa Rosa
San Antonio, Texas 78207

SEP21 '18 4:09PM

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

CITY OF

SAN ANTONIO HR

Commissioners and Firefighter David Mireles:

Under and by the virtue of the authority vested in me by Chapter 143, Municipal Civil Service, Subtitle A, Title 5, V.T.C.A. Local Government Code, I do hereby suspend Firefighter David Mireles from the San Antonio Fire Department without pay for an indefinite period, beginning on the 21 day of September, 2018.

Firefighter David Mireles has violated Subsection C of Rule XIII of the City of San Antonio Fire Fighters and Police Officers Civil Service Commission Rules which were adopted on February 23, 1998, by the Fire and Police 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 Firefighter Mireles and which are grounds for suspension are as follows:

Rule XIII, Subsection C(12): Violation of an applicable fire or police department rule, or special order.

The Rules and Regulations of the San Antonio Fire Department which Firefighter Mireles has violated were those approved by the Firemen's and Policemen's Civil Service Commission on February 10, 2003, to be effective March 7, 2003. The particular rules thereof which Firefighter Mireles has violated are as follows:

2.02 ABIDE BY LAWS AND DEPARTMENTAL ORDERS:

- A. LAWS: Members shall abide by the laws of the United States and the State of Texas, and ordinances of the City of San Antonio.
- B. ORDERS, RULES, REGULATIONS, DIRECTIVES, POLICIES, AND PROCEDURES: Members shall abide by the Rules and Regulations, Departmental roles and responsibilities, administrative orders, directives, policies and procedures of the San Antonio Fire Department.

3.01 CONDUCT AND BEHAVIOR: Members, whether on-duty 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.

4.07 NEGATIVE PUBLIC IMAGE: Members shall not engage in any activity tending to create a negative public perception of the Fire Department.

4.09 USE OF INTOXICANTS:

B. INTOXICATION: Members shall not at any time be intoxicated while on-duty. No Member shall report for duty exhibiting the odor of intoxicants, or any of the elements, effects, behavior or appearance of intoxication. Members shall not, under any circumstances, be intoxicated while in public to the extent that may damage the reputation of the Department.

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The acts committed by Firefighter David Mireles which violated the aforementioned Civil Service Rules and Fire Department Rules are as follows:

On or about May 26, 2018 at approximately 10:35 p.m., while off duty and driving on Northwest Military near Wurzbach parkway, Firefighter David Mireles was involved in a motor vehicle collision when he rear ended another vehicle waiting for a signal light. Field sobriety testing was administered to Firefighter Mireles, which he failed. The arresting officer noted that Firefighter Mireles had glassy, bloodshot eyes, a strong odor of alcohol on his breath, was exhibiting slurred speech, and was unsteady on his feet. Firefighter Mireles admitted to having two 20 ounce beers, then another beer and two mixed drinks that evening. At the scene of this accident, he was arrested for driving while intoxicated. Subsequent testing revealed Firefighter Mireles had a blood alcohol content of 0.131 and .139, which exceeds the legal limit of .08. His actions bring reproach upon himself and the San Antonio Fire Department.

Firefighter Mireles' violation of the cited rules is the basis for these charges and the reason for his indefinite suspension without pay.

An original of this disciplinary suspension order is being filed with the Fire Fighters' and Police Officers' Civil Service Commission.



Fire Chief Charles N. Hood

9/21/18
Date

1020
Time

NOTICE OF RIGHT OF APPEAL

I hereby acknowledge receipt of a copy of the foregoing indefinite suspension without pay and further acknowledge that I have been notified that I have ten days to file a written appeal of this suspension with the Fire Fighters' and Police Officers' Civil Service Commission for hearing before the Commission or an independent third party hearing examiner. I also understand that if I appeal to the hearing examiner, I waive all rights of appeal to a District Court, except as provided by subsection (j) of Section 143.057 of Title 5, V.T.C.A. Local Government Code.



Firefighter David Mireles

9-21-18
Date

10:20
Time

WITNESSED BY:

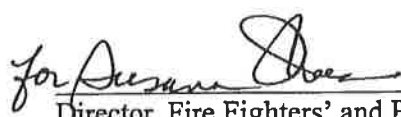


Signature

9-21-18
Date

10:20
Time

FILED on this the 21 day of September, 2018, with the Fire Fighters' and Police Officers' Civil Service Commission.



Director, Fire Fighters' and Police Officers' Civil Service Commission

RELEASE AND SETTLEMENT AGREEMENT

WHEREAS, Firefighter David Mireles was issued an indefinite suspension on 9/21/18, 2018, by Fire Chief Charles N. Hood for violations of civil service rules and regulations of the San Antonio Fire Department as stated in the notice of suspension; and

WHEREAS, Firefighter David Mireles has the right to appeal, but has not yet appealed, said suspension to the San Antonio Firefighters and Police Officers Civil Service Commission or a third-party arbitrator; and

WHEREAS, Chief Hood and Firefighter David Mireles have agreed to settle this disciplinary matter; NOW THEREFORE:

FOR AND IN CONSIDERATION OF THE AGREEMENTS CONTAINED HEREIN:

SECTION 1. Firefighter David Mireles admits that he violated the rules of the Fire Fighters' and Police Officers' Civil Service Commission and of the San Antonio Fire Department set out in the Notice of Indefinite Suspension issued on 21 September, 2018, and admits to the truth of the facts stated in the factual basis in said notice of indefinite suspension.

SECTION 2. The aforementioned indefinite suspension without pay of Firefighter David Mireles is hereby reduced to a seventy five day suspension without pay beginning September 24, 2018.

SECTION 3. Firefighter David Mireles agrees that within fourteen days of the beginning of the aforementioned seventy five day suspension, he will begin an appropriate rehabilitation program. Firefighter Mireles shall provide verification, authored by the program administrator, of his successful completion of said program to the Fire Chief within fourteen days of completion of the program. The failure of Firefighter Mireles to begin said program within the required time, to successfully complete said program, or to provide verification of his successful completion of said program to the Fire Chief within the required time shall constitute the resignation of Firefighter Mireles from the San Antonio Fire Department and employment with the City of San Antonio. The requirements of this section shall be considered satisfied if Firefighter Mireles has begun an appropriate rehabilitation program, as determined by a drug and/or alcohol abuse evaluation expert, prior to the execution of this agreement, successfully completes said program, and provides verification, authored by the program administrator, of his successful completion of said program to the Fire Chief within fourteen days of the execution of this agreement or of the completion of the program, whichever occurs later.

SECTION 4. Firefighter Mireles agrees that, following completion of the rehabilitation program provided for in Section 3 of this agreement, he will submit to counseling with a mental health professional, at his own expense, as frequently as deemed necessary by said professional and until such time as that professional agrees that counseling is no longer needed. Said counseling shall begin within thirty days of the execution of this agreement or of the completion of the rehabilitation program, whichever occurs later. Firefighter Mireles agrees to authorize, in

writing, said professional to report to the Fire Chief whether he has complied with the aforementioned requirements. Firefighter Mireles shall provide a copy of said authorization to the Fire Chief within forty-five days of the execution of this agreement or of the completion of the rehabilitation program, whichever occurs later. The failure of Firefighter Mireles to submit to counseling as frequently and for as long as deemed necessary, to begin counseling within the required time, or to provide the aforementioned authorization within the required time shall constitute the resignation of Firefighter Mireles from the San Antonio Fire Department and employment with the City of San Antonio.

SECTION 5. Any arrest in any jurisdiction of Firefighter Mireles for driving while intoxicated after the execution of this agreement shall constitute the resignation of Firefighter Mireles from the San Antonio Fire Department and employment with the City of San Antonio.

SECTION 6. In addition to the reporting requirements of Sections 3 and 4 of this agreement, Firefighter Mireles shall, on the tenth day of each month following the execution of this agreement, notify the Fire Chief, in writing, of the status of his efforts to comply with the requirements of Sections 3 and 4. This requirement shall remain in effect until such time as Firefighter Mireles has fully complied with the requirements of Sections 3 and 4. Firefighter Mireles agrees to the imposition of a five-day suspension without pay for any instance in which he fails to comply with this section. Firefighter Mireles waives his right to appeal the imposition of discipline issued pursuant to this section and agrees that he will not file an appeal of any disciplinary action so taken.

SECTION 7. On or about May 26, 2018, Firefighter Mireles was arrested by the San Antonio Police Department for driving while intoxicated. Firefighter Mireles shall provide written notice to the Fire Chief of any hearing or proceeding, and the outcome of the hearing or proceeding, conducted in connection with the aforementioned criminal incident. Said notification must be provided within 10 business days after the hearing or proceeding. Additionally, Firefighter Mireles shall provide written notice to the Fire Chief of any resolution, and the nature of the resolution, of any criminal prosecution pursued against him in connection with the aforementioned incident. Said notification must be provided within 10 business days after the resolution of the criminal prosecution. Firefighter Mireles agrees to the imposition of a five-day suspension without pay for any instance in which he fails to comply with this section. Firefighter Mireles waives his right to appeal the imposition of discipline issued pursuant to this section and agrees that he will not file an appeal of any disciplinary action so taken.

SECTION 8. IT IS FURTHER AGREED AND UNDERSTOOD THAT BY EXECUTION OF THIS AGREEMENT, AND IN CONSIDERATION OF SAID REDUCTION OF DISCIPLINE, FIREFIGHTER MIRELES DOES HEREBY RELINQUISH AND WAIVE ANY RIGHT TO APPEAL SAID SUSPENSION TO THE FIREFIGHTERS' AND POLICE OFFICERS' CIVIL SERVICE COMMISSION, A THIRD-PARTY ARBITRATOR, THE DISTRICT COURT, OR ANY OTHER COURT HAVING COMPETENT JURISDICTION AND THAT THIS AGREEMENT IS INTENDED TO BE A FULL AND FINAL SETTLEMENT OF ANY AND ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION, WHETHER KNOWN OR UNKNOWN, WHETHER ASSERTED

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OR NOT HAVING YET BEEN ASSERTED, ARISING OUT OF THE AFORESAID SUSPENSION.

SECTION 9. FIREFIGHTER MIRELES, FOR HIMSELF, HIS HEIRS, EXECUTORS, AND ASSIGNS, DOES HEREBY RELEASE, DISCHARGE, AND ACQUIT THE CITY OF SAN ANTONIO, TEXAS, ITS SUCCESSORS, ASSIGNS, OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES, AND CHARLES N. HOOD, HIS HEIRS, EXECUTORS, ASSIGNS, AGENTS, SERVANTS, AND EMPLOYEES, FROM ANY AND ALL ACTIONS, CAUSES OF ACTION, INCLUDING THOSE ARISING OUT OF CHAPTER 554 OF THE TEXAS GOVERNMENT CODE, CLAIMS, OR DEMANDS FOR DAMAGES, COSTS, EXPENSES, COMPENSATION, OR CONSEQUENTIAL DAMAGES, KNOWN OR UNKNOWN, ASSERTED OR NOT, ARISING OUT OF THE AFORESAID SUSPENSION.

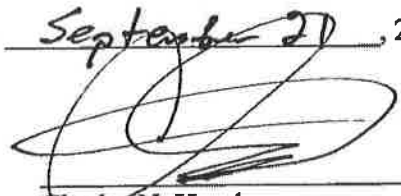
SECTION 10. Should there be any contention, now or in the future, that the terms of this agreement conflict with or are inconsistent with those of the Collective Bargaining Agreement between the City of San Antonio and Local 624 International Association of Fire Fighters, which was executed on June 27, 2011, Firefighter Mireles agrees that the provisions of this agreement prevail.

SECTION 11. Firefighter Mireles acknowledges that he has been given an opportunity to review this agreement with the International Association of Fire Fighters, Local 624, and his attorney or other representative. Firefighter Mireles acknowledges that he has carefully read this Release and Settlement Agreement, he knows and understands the contents of the agreement, and he is satisfied with the contents of the agreement.

EXECUTED IN DUPLICATE ORIGINALS on September 27, 2018.



David Mireles
Firefighter



Charles N. Hood
Fire Chief

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