

**ROLAND MATHEWS**

\*

**NO. 2000-CA-1332**

**VERSUS**

\*

**COURT OF APPEAL**

**NEW ORLEANS POLICE  
DEPARTMENT**

\*

**FOURTH CIRCUIT**

\*

**STATE OF LOUISIANA**

\*

\*

\*\*\*\*\*

**APPEAL FROM  
CIVIL SERVICE COMMISSION  
OF THE CITY OF NEW ORLEANS  
NO. 5943**

\*\*\*\*\*

**Charles R. Jones  
Judge**

\*\*\*\*\*

(Court composed of Judge Charles R. Jones, Judge Patricia Rivet Murray,  
and Judge Dennis R. Bagneris, Sr.)

F. Gerald DeSalvo  
Harry J. Biyer, Jr.  
FRANK G. DESALVO, A P.L.C.  
201 South Galvez Street  
New Orleans, LA 70119

**COUNSEL FOR ROLAND MATHEWS**

Joseph V. DiRosa, Jr.  
DEPUTY CITY ATTORNEY  
Franz L. Zibilich  
CHIEF DEPUTY CITY ATTORNEY  
Mavis S. Early

CITY ATTORNEY  
City Hall-Room 5E03  
1300 Perdido Street  
New Orleans, LA 70112

**COUNSEL FOR DEPARTMENT OF POLICE**

**AFFIRMED**

Plaintiff/Appellant, Officer Roland Mathews, appeals the decision of the Civil Service Commission to uphold his three-day suspension by the Appointing Authority, the Superintendent of Police. We affirm.

**Facts and Procedural History**

Officer Mathews stopped a vehicle that was transporting the Mayor of the City of New Orleans for several alleged moving violations. After identifying the driver of the vehicle as a fellow police officer acting in an official capacity, Officer Mathews took no further action and allowed Officer Donald Haynes to drive away. Mayor Marc Morial testified that Officer Mathews continued to follow his vehicle, and conduct surveillance on his vehicle. Officer Mathews testified that he did not continuously observe the vehicle after the stop, but became curious about the identity of the passengers in the vehicle. Shortly thereafter, the passenger got out of the vehicle and stared at the police unit. Officer Mathews began to observe the vehicle and its passengers again. Thereafter, the Mayor approached the police unit to find out what Officer Mathews wanted. During the course of

this interaction, both parties testified that the other was irate. Officer Mathews called his superiors at that time, however, the Mayor elected not to wait for their arrival.

Following this incident, the Appointing Authority suspended Officer Mathews for three days for violating the Internal Code of Professional Conduct. Officer Mathews appealed the suspension to the Civil Service Commission which found the three-day suspension was warranted. It is from this decision that Officer Mathews appeals.

### **The Law**

Any action taken by the Appointing Authority has to be based on solid reasoning. An employee with permanent status in the classified civil service may be disciplined only for cause. La. Const. Art. X, Section 8(A); Walters v. Department of Police of the City of New Orleans, 454 So.2d 106, 113 (La. 1984).

On appeal to the Civil Service Commission, “[t]he Commission has a duty to decide independently from the facts presented whether the appointing authority had good or lawful cause for taking the disciplinary action ... Legal cause exists whenever an employee's conduct impairs the efficiency of the public service in which the employee is engaged.” Cittadino v. Department of Police, 558 So.2d 1311, 1315 (La. App. 4th Cir.

1990).

For this Court, “[t]he standard of review in Civil Service cases is whether the Civil Service Commission's finding is arbitrary, capricious or is manifestly wrong”. *Richard v. Department of Health*, 572 So.2d 692, 693 (La. App. 4 Cir. 1990); *Abadie v. Department of Streets*, 480 So.2d 425 (La. App. 4 Cir. 1985) writ denied 481 So.2d 1351 (La. 1986). Further, “[i]n judging the commission's exercise of its discretion in determining whether the disciplinary action is based on legal cause and the punishment is commensurate with the infraction, the court should not modify the commission's order unless it is arbitrary, capricious or characterized by abuse of discretion”. *Walters v. Department of Police of the City of New Orleans*, 454 So.2d 106, 114 (La. 1984).

### **Analysis**

In this case, the Appointing Authority, the Superintendent of Police, suspended Officer Mathews for three days based on information gathered through an internal investigation. Officer Mathews' conduct was found by the Appointing Authority to have been a continued surveillance of and insubordinate to Mayor Morial. This was the basis for the action taken by the Appointing Authority.

According to testimony given at the hearing on September 9, 1999,

the Civil Service Commission determined that the disciplinary action was warranted by the Officer's conduct and impaired the efficiency of public service.

Based on a review of the record, this Court agrees with the Civil Service Commission's decision. The Civil Service Commission weighed the conflicting testimony and found the Mayor and Officer Haynes' testimony to be more credible than that of Officer Mathews and his partner Officer Carolyn Dalton. This seems plausible since neither Officer Mathews nor Officer Dalton could explain why they chose to run a police check on the Mayor's license plate after the conclusion of the entire incident. Further, by his own testimony, Officer Mathews wanted to know who the passenger was inside the vehicle. This is an indication that Officer Mathews did continue surveillance of the vehicle. Officer Haynes had already identified himself as a fellow officer working in an official capacity. The situation should not have continued past the initial stop of the vehicle. Certainly, the verbal confrontation that ensued between the Mayor and Officer Mathews should not have occurred and was insubordinate on the part of Officer Mathews. Additionally, the three-day suspension did not seem to be excessive in light of the circumstances. Therefore, we do not find that the Civil Service Commission's decision was arbitrary, capricious, or manifestly wrong.

**Decree**

For the foregoing reasons, we affirm the decision of the Civil  
Service Commission.

**AFFIRMED**