

**NOT DESIGNATED FOR PUBLICATION**

**LACONNDA ERNEST** \* **NO. 2007-CA-1256**  
**VERSUS** \* **COURT OF APPEAL**  
**DEPARTMENT OF POLICE** \* **FOURTH CIRCUIT**  
\* **STATE OF LOUISIANA**

\* \* \* \* \*

APPEAL FROM  
CITY CIVIL SERVICE COMMISSION ORLEANS  
NO. 7132

\* \* \* \* \*

**JAMES F. MCKAY III**  
**JUDGE**

\* \* \* \* \*

(Court composed of Judge Patricia Rivet Murray, Judge James F. McKay III,  
Judge Max N. Tobias, Jr.)

**MURRAY, J., DISSENTS AND ASSIGNS REASONS**

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**AFFIRMED**

In this appeal, the plaintiff/appellant, Officer LaConda Ernest, seeks review of a decision of the Civil Service Commission of the City of New Orleans upholding a thirty (30) day suspension imposed by the Superintendent of the New Orleans Police Department. We affirm.

#### **FACTS AND PROCEDURAL HISTORY**

On August 27, 2005, due to the approach of Hurricane Katrina, Superintendent Eddie Compass placed the New Orleans Police Department on “Activation Status” in order to mobilize departmental personnel for emergency operations upon the hurricane’s making landfall. Pursuant to this status, all essential personnel were required to report for duty and remain on duty until relieved. It was made clear that only the Superintendent himself could grant furlough to an officer who sought to be relieved of duty after the storm. Officer Ernest was considered essential personnel and was assigned to the Fifth Police District.

Officer Ernest reported for duty as ordered on August 28, 2005 and endured the storm. On August 31, 2005, she left her assigned post without permission for a period of two days. Officer Ernest returned to her post on September 2, 2005.

Officer Ernest left her post in order to secure her young son and transport him from Monroe, Louisiana to her step-father's residence in Bessemer, Alabama. Officer Ernest received a thirty (30) day suspension for leaving her post without permission. Officer Ernest appealed her suspension to the Civil Service Commission. A hearing was held on March 16, 2006 and the Commission issued its decision upholding Officer Ernest's suspension on August 14, 2007. It is from this judgment that she now appeals.

## **DISCUSSION**

On appeal, the appellant raises two assignments of error: 1) the Civil Service Commission committed manifest error in dismissing the appellant's appeal since, under the conditions created by Hurricane Katrina, no discipline was warranted in this case; 2) the Civil Service Commission committed manifest error in denying the appellant's appeal under circumstances where the discipline by the appointing authority was excessive.

In a civil service matter, the standard of review is whether the decision by the Commission is arbitrary, capricious or characterized by an abuse of discretion. Alongi v. Dept. of Police, 452 So.2d 798 (La.App. 4 Cir. 1984). It should also be noted that the Civil Service Commission has an obligation to uphold the disciplinary action of the appointing authority when there is sufficient cause shown

to sustain such action. Joseph v. Dept. of Health, 389 So.2d 739 (La.App. 4 Cir. 1980).

In the instant case, the appellant left her post for two days after Hurricane Katrina. The appellant was aware that only the Superintendent himself could grant furlough to an officer who sought to be relieved of duty after the storm, but left anyway. Although the appellant's actions were understandable, that does not change the fact that she violated the rule laid down by the Superintendent. The purpose of this rule was to centralize control of the police force under the Superintendent and avoid chaos in organizing and administering rescue efforts following the hurricane. See McElrath v. Dept. of Police, 2006-1288 (La.App. 4 Cir. 5/23/07), 2007 WL 1575212. As such, the appointing authority disciplined Officer Ernest in accordance with its uniform standards. Under the circumstances of this case, the decision by the Civil Service Commission was not arbitrary, capricious or characterized by an abuse of discretion, nor was it excessive.

## **CONCLUSION**

For the foregoing reasons, the judgment of the Civil Service Commission is affirmed.

**AFFIRMED**