



POLICE DEPARTMENT

May 18, 2022

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In the Matter of the Charges and Specifications	:	Case No.
- against -	:	2021-23203
Sergeant Dana Martillo	:	
Tax Registry No. 945954	:	
69 Precinct	:	

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At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Paul M. Gamble
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Ayisha Amjad, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: Joseph W. Murray, Esq.
Law Office of Joseph W. Murray, Esq.
185 Great Neck Road, Suite 461
Great Neck, NY 11021

To:

HONORABLE KEECHANT L. SEWELL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

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POLICE COMMISSIONER
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NEW YORK, NY 10038

CHARGES AND SPECIFICATIONS

1. Said Sergeant Dana Martillo, while on-duty and assigned to the 69th Precinct, on or about February 5, 2021, did wear her duty jacket unzipped, exposing her ballistic vest with unauthorized patches affixed to it in violation of Improper Uniform or Equipment.

P.G. 206-03, Page 1, Paragraph 4

DISCIPLINARY MATTERS –
VIOLATIONS SUBJECT TO
COMMAND DISCIPLINE

2. Said Sergeant Dana Martillo, while on-duty and assigned to the 69th Precinct, on or about February 5, 2021, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department in that said Sergeant, while on-duty and in uniform, publicly expressed personal views and opinions concerning the merits of a candidate for public office by wearing two political patches on her ballistic vest.

P.G. 203-10, Page 1, Paragraph 10

GENERAL REGULATIONS –
PUBLIC CONTACT –
PROHIBITED CONDUCT

3. Said Sergeant Dana Martillo, while on-duty and assigned to the 69th Precinct, on or about February 5, 2021, did engage in unnecessary conversation with and was discourteous to protestors in that said Sergeant stated, “I have to read up on my First Amendment rights,” and “I didn’t know I was so photogenic,” and pulled down her face mask and blew a kiss in the direction of protestors in violation of Disciplinary Matters, Violations Subject to Command Discipline.

P.G. 206-03, Page 1, Paragraph 11

DISCIPLINARY MATTERS –
VIOLATIONS SUBJECT TO
COMMAND DISCIPLINE

P.G. 203-10

4. Said Sergeant Dana Martillo, while on-duty and assigned to the 69th Precinct, on or about February 5, 2021, failed to comply with a lawful order or direction by her supervising Inspector in that, after having been directed to zip up her duty jacket, said Sergeant failed to comply with said order or direction.

P.G. 203-05, Page 1, Paragraph 1

GENERAL REGULATIONS –
PUBLIC CONTACT –
PROHIBITED CONDUCT

P.G. 203-03, Page 1, Paragraph 2

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on February 18 and March 16, 2022. Respondent, through her counsel, entered a plea of Not Guilty to the subject charges. The Department called Inspector Matthew Galvin and Lieutenant Michael Howery as witnesses. Respondent called Sergeant Leonardo DeOliveira as a witness and testified on her own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, I find Respondent Guilty of the charged misconduct and recommend that she be suspended without pay for ten days and forfeit 30 additional vacation days.

ANALYSIS

The following is a summary of the facts that are not in dispute.

On February 5, 2021, Respondent was directed to appear at Prospect Park West and 16th Street as part of a Level 3 exercise. Inspector Matthew Galvin was the overall mobilization commander. At approximately 1600 hours, Respondent, in uniform, approached Inspector Galvin. As Respondent came within two to three feet from him, Inspector Galvin noticed that she had an unzipped jacket, revealing two patches affixed to her bullet-resistant vest. Inspector Galvin had a brief discussion with Respondent, the details of which are in issue, at the end of which she zipped up her jacket, apparently obscuring the patches from public view; before Respondent zipping up her jacket completely, Inspector Galvin took a photograph of one of the patches with his Department phone. Inspector Galvin had no further interactions with Respondent that evening (T. 165-67, 171-73, 175-77, 184-86, 191-92, 197, 199, 269).

At approximately 1909 hours, Respondent was near the 84th Precinct, in the company of other police officers, performing crowd control duties as part of the mobilization (Dept. Ex. 2; T.

42). Respondent, while in view of members of the public, had her jacket unzipped, displaying the same two patches on her bullet-resistant vest Inspector Galvin had noticed earlier in the evening (Dept. Ex. 1¹; T. 48, 51, 87). Respondent, in the same recording, lowers her facemask and appears to blow a kiss at a member of the public (Dept. Ex. 1; T. 48). Video from Respondent's Body Worn camera shows members of the public addressing Respondent and asking her about the patches (Dept. Ex. 2, 19:17:27-19:22:19). In that video, Respondent says, "I have to brush up on my First Amendment rights" (Dept. Ex. 2, 19:18:56-19:18:58; T. 56-57). Later in the video, Respondent says, "I didn't know I was so photogenic" (Dept. Ex. 2, 19:21:51-19:21:56; T. 59-60).

The following is a summary of the relevant trial testimony.

Inspector Matthew Galvin testified that when he first saw Respondent at about 1600 hours, she was approaching him in uniform, holding a detail roster in her hand (T. 172). As she got closer to him, he noticed that she had a "Velcro" patch on her bullet-resistant vest (*Id.*). Inspector Galvin pointed toward the patch and asked, "What is that?" Respondent replied, "Am I going to get in trouble for it?" (T. 174). Inspector Galvin testified that he responded, "You're not going to be in trouble. Just zip the jacket up"² (*Id.*). He testified further that he considered his directive an order and that Respondent complied with it by immediately zippering her jacket. Inspector Galvin testified that before Respondent could completely zip her jacket, he interrupted her and told her that he wanted to take a picture of the patches; he then did so using his Department mobile phone (T. 174-77, 180, 184-85). He identified Department Exhibit 3 as a photograph of the patch he observed on Respondent's bullet-resistant vest on February 5, 2021

¹ Department Exhibit 1 is a TikTok video published on the YouTube social media platform and provided to the Internal Affairs Bureau.

² During his testimony, Inspector Galvin apparently paraphrased his direction to Respondent on this point as "Zip it up" (T. 213).

(T. 178). The patch contains the words: “TRUMP,” “make enforcement great again,” and the number “2020” (Dept. Ex. 3). The center of the patch has a blonde head of hair superimposed on a skull, on top of a blue line (*Id.*).

Inspector Galvin testified that when he spoke to Respondent, his voice was loud enough to be heard and understood; he testified further that Respondent acknowledged the order by zippering her jacket (T. 186-87). He acknowledged that when he noticed the patches on Respondent's bullet-resistant vest, he was concerned because they were unauthorized and appeared to him to carry a political message. Inspector Galvin testified that on-duty police officers are expected to remain politically neutral (T. 190-191). He testified further that his interpretation of the patch depicted in Department Exhibit 3 was that it alluded to the Trump campaign slogan, “Make America Great Again” (T. 191). Inspector Galvin conceded that he never explicitly used the word “order” when he told Respondent to zipper her jacket to cover the unauthorized patches while on duty. He felt that his order was clear enough that she should have understood that he intended for her jacket to remain zippered (T. 202). He testified further that he believed his order was lawful because he intended to compel Respondent to conform to Patrol Guide uniform requirements by covering the patches on her bullet-resistant vest from public view (T. 206).

Inspector Galvin testified that he issued the order to Respondent as he did because it was the most practical way to address the issue: the unauthorized display of politically themed patches. Since being given command of the Emergency Operations Division in September 2020, the division has conducted approximately 40 Level 3 mobilization exercises; once mobilized, Department leaders often put police officers into the field at demonstrations. Inspector Galvin observed that police officers whose appearance differed from the standard uniform appearance

(e.g., height, colored handcuffs) often became the focus of protesters' attention. This focus often resulted in gratuitous comments being directed toward the police. He testified that he was aware that on February 5, 2021, police officers were going to be deployed from the mobilization to the site of a demonstration near Fort Greene Park. Inspector Galvin believed that one group which was expected to participate in the protest had expressed the intention to become physical with police officers. He testified that his corrective action with Respondent was motivated by his desire for mission effectiveness and the safety of the police officers under Respondent's authority (T. 244-49, 250).

Sergeant DeOliveira testified that on February 5, 2021, he was present at the Prospect Park West and 16th Street mobilization site, standing with Inspector Galvin, when he saw Respondent approach them. DeOliveira testified that he observed Respondent wearing patches on her vest as she drew closer; he identified the patches Respondent was wearing on video in Department Exhibits 1 and 2 (T. 269-73, 293). DeOliveira recalled Inspector Galvin taking a picture of the patch and commenting that it was an interesting patch; he surmised that Inspector Galvin liked the patches. He did not recall any conversation between Inspector Galvin and Respondent while taking a photograph but did recall Inspector Galvin providing them assignments after taking the picture (T. 273-76). DeOliveira testified that he did not recall seeing Respondent zipping her jacket up at that point or hearing anyone telling her to do so (T. 283-84).

DeOliveira conceded that while he thought the patches were "nice," they were unauthorized (T. 293-94). He recalled making a previous statement in which he said that he did not hear the specific words Inspector Galvin used but acknowledged that he did say something to Respondent about the patches (T. 300). He explained that, given the friendly nature of the

conversation, he did not think Inspector Galvin gave Respondent an order, although he could not recall what words were spoken. DeOliveira eventually conceded that Inspector Galvin might have given Respondent an order, whether or not he heard it (T. 308, 310-12).

Respondent testified that she commenced her tour on February 5, 2021, at 1450 hours. She conducted roll call, then prepared to travel to Prospect Park West and 16th Street with eight officers for mobilization at 1540 hours. When she arrived at the mobilization site, she got out of the police van. She walked over to the mobilization supervisor (Inspector Galvin), standing next to Sergeant DeOliveira (T. 360-62).

As Respondent approached Inspector Galvin, he appeared to take a picture of her; she asked him, “Am I in some kind of trouble?” (T. 362, 365, 367). According to Respondent, Inspector Galvin responded, “No, I like your patches” (*Id.*, 368). Respondent testified that she replied that they were a gift, then Inspector Galvin walked away, leaving her with Sergeant DeOliveira (*Id.*, 365). She testified further that she looked for Inspector Galvin's nameplate on his uniform, but he was not wearing one (T. 366). Respondent claimed that she had no discussion with Inspector Galvin regarding the mobilization before he walked away. She then supposedly asked DeOliveira whether he thought Inspector Galvin was serious about liking her patches; DeOliveira answered that he seemed to be (T. 369-70).

Respondent denied that Inspector Galvin or any other supervisors ever told her to zip up her jacket or told her the patches were unauthorized.³ (T. 371-72, 375, 398, 434). Respondent testified that she zipped up her jacket at the mobilization point. At the same time, she waited for Inspector Galvin to address the assembled police officers, but only to the point where it would not obscure her body-worn camera, and only because she became cold (T. 372-75, 437, 451).

³ Respondent later admitted that she was aware that the patches were unauthorized (T. 400).

Respondent testified that when she later reported to the demonstration site, there were 50-100 protesters, some of whom were wearing helmets and shields. Most protesters were dressed in black clothing and chanted, “All cops are bastards,” as they walked from Fort Greene Park to Flatbush Avenue. According to Respondent, the protesters turned down Flatbush Avenue and stopped in front of the 84th Precinct (T. 378-79). She claimed that she and her officers then took up defensive positions behind police barricades, with her in the front, because “I want to be in front of them to protect them. They're my kids, and that's what I do” (T. 382). Respondent testified further that her responsibilities included split-second decision-making based on the circumstances she faced (*Id.*). She claimed that in her role as a supervisor, she would “just kind of lead from the front” and “try and draw fire . . . away from them” (T. 383). She explained, “Standing in front is me just trying to protect them from whatever is going to come their way” (T. 386).

Respondent testified that she employed tactics that proved very effective at previous demonstrations, including engaging the crowd. She testified that as she attempted to entertain the group in front of the 84th Precinct, some of the protesters began focusing on her with commentary (T. 387-88). Respondent admitted making the statements, “I have to read up on my First Amendment rights,” and “I didn't realize I was so photogenic,” in response to comments made by protesters. She could not recall what prompted her to comment on the First Amendment. Still, she asserted that she commented on being photogenic after observing protesters taking photographs of her (T. 389-390). She denied making these comments out of anger or personal angst against any protesters (*Id.*). Respondent also admitted pulling down her facemask and blowing a kiss in the direction of the protesters; she claimed that her gesture was calculated to “diffuse tension within the group” (T. 391-92). She argued further that she had

engaged in similar tactics in the past, which, in her view, had been successful (T. 392).

Respondent testified that one of the protesters asked her to do it again and said, "That was hot" (T. 393-94).

Respondent testified that she wore her patches because she believed they were pro-law enforcement; she denied wearing them to support any political candidate or political party. She testified that the patch with "Trump 2020" was not political because Donald Trump was not a candidate for political office on February 5, 2021 (T. 395-97, 449). Respondent explained that she wore the patch because she believed it was supportive of law enforcement (*Id.*).

On cross-examination, Respondent conceded that the patches were unauthorized but took issue with whether the protesters were agitated by them, suggesting that the protesters were already agitated (T. 400, 414). She later conceded that the protesters did focus on the patches (T. 415). Respondent denied that when she asked Inspector Galvin whether she would get into trouble, he answered, "Not if you cover them up; not if you zip up the jacket" (T. 416). She did not acknowledge that the actions she characterized as engaging the protesters were in poor judgment, claiming she "literally had seconds to react" (T. 430). Respondent conceded that she was prohibited from making political statements while on duty (T. 432). She also conceded that some people might construe the "Punisher" patch with the blonde hair to be a caricature of Donald Trump (T. 433). When asked by the Tribunal whether, in retrospect, she would reconsider her decision to wear the patches to a mobilization, Respondent answered, "I honestly don't think about it, sir. If it was [sic] an American flag, a Dominican flag, or an LGBT patch, nobody would have bothered me. We have patches, and this was the first time I had ever gotten into trouble for wearing them" (T. 456).

I credit the testimony of Inspector Matthew Galvin as forthright and credible. The observations he made on February 5, 2021, and his actions on that date were consistent with the high expectations of leadership in this Department. Even though Counsel for Respondent argued that Inspector Galvin's trial testimony was not credible, his demeanor, the consistency of his testimony on direct examination and cross-examination, and the content of his testimony led me to the opposite conclusion. There is no evidence in the record that might support an inference that either bias or animus against Respondent tainted his testimony. Furthermore, as a senior executive in a paramilitary organization, Inspector Galvin's unwavering assertion that he gave Respondent an order to zip her jacket up is more plausible than Respondent's argument that he merely suggested that she do so.

In contrast, Respondent's testimony was self-serving and illogical. As discussed below, her insistence that a political patch was not political would require this Tribunal to engage in logical contortions, which are inconsistent with acting as a neutral fact-finder.

I find Sergeant DeOliveira's testimony colored by an apparent desire to support a fellow supervisor, evidenced by his vague yet earnestly stated beliefs about whether Inspector Galvin gave Respondent an order in his presence. I find that the qualifications in his description of events reduced the probative value of his testimony to *de minimis*.

Specification 1: Unauthorized Patches

Patrol Guide procedure 206-03(4), in effect on the day of the incident, prohibits Members of Service from wearing an "improper uniform or equipment" (P.G. 206-03[4]).

It is undisputed that attaching patches to a police officer's uniform is prohibited by the Patrol Guide and that Respondent violated that rule.

Accordingly, I find that the Department Advocate has met her burden of proof by a preponderance of the credible, relevant evidence that on February 5, 2021, Respondent wore two unauthorized patches on her bullet-resistant vest while on duty.

Department Exhibit 1 established that Respondent wore a “Trump Make Law Enforcement Great Again 2020” patch and a “Punisher” patch on her ballistic vest while she stood in front of a detail of police officers at a demonstration. On cross-examination, she admitted that the patches were unauthorized (T. 400).⁴

Accordingly, I find Respondent Guilty of Specification 1.

Specification 2: Expressing Personal Political Beliefs on Duty

Patrol Guide procedure 203-10(10)(a), in effect on the day of the incident, prohibits Members of Service, “while on duty or in uniform, endorsing political candidates or publicly expressing personal views and opinions concerning the merits of any political party or candidate for public office” (P.G. 203-10[10][a]).

I find that the Department Advocate has met her burden of proof by a preponderance of the credible, relevant evidence that on February 5, 2021, Respondent personally expressed views regarding the merits of a political party and/or a political candidate for public office by wearing an unauthorized patch on her ballistic vest.

While Respondent took the position that neither of the two patches she admitted to wearing on February 5, 2021, was political, the evidence and everyday common sense establish otherwise. Respondent did not dispute that the “Trump” referred to by one of the patches was the former President, Donald Trump. I take judicial notice that Donald Trump was the Republican candidate for the Presidency in 2020. I note that the patch bore the year “2020” at

⁴ While counsel for Respondent, during his summation, indicated that Respondent would be pleading guilty to this specification, the timing of that declaration does not entitle Respondent to the benefits of a guilty plea.

the bottom, with the words “Make Law Enforcement Great Again” and a blue line in the middle of the patch. I find that the patch carried a political message. Respondent’s display of the patch on her uniform constituted the expression of a view of a political party or candidate for political office, which violated the Patrol Guide's prohibition against such expression by Members of Service while on duty.

Respondent’s attempt to obscure the obvious import of the “Trump 2020” patch by arguing that it was only a “pro-law enforcement statement” would require suspension of disbelief. Any message in the middle of the patch cannot obscure the “Trump” and “2020” on the patch, referring to the Republican candidate for the United States presidency in 2020. Similarly, Respondent's argument that since the date of the incident was after the November 2020 election, which Donald Trump lost but contested long after that date, that the message on the patch could not, as a legal matter, be political, is a narrow, self-serving interpretation of the Patrol Guide which has no merit.

I further find that the “Punisher” patch, which bore a caricature of a blonde hairdo, was also a political patch calculated to resemble Donald Trump, the Republican nominee for the Presidency in 2016 and 2020. I take judicial notice that the above-described caricature has appeared so many times since Donald Trump first declared himself a candidate for the Presidency that the parody is ubiquitous and emblematic of Trump.

Finally, I find that Respondent’s wearing of the patches mentioned above was contrary to the good order, discipline, and efficiency of this Department. Although the United States Constitution generally protects the right of political speech, including the right to display a political patch, it is inconsistent with this Department's mission for a police officer to do so while on-duty. There is a compelling basis for this Patrol Guide requirement. Members of Service are

public servants who swear an oath to protect all people without regard to political affiliation, race, creed, or gender. It is impossible for this Department to maintain public trust if its members are perceived to be partisan while executing their official duties. History provides many instructive examples of the consequences of politicizing law enforcement. Police officers are required to be politically neutral. The public believes that police officers will administer the services provided by this Department based on necessity and legality, not the politics of the citizens requesting the services or the police officers who offer them.

As predicted by Inspector Galvin, and as evidenced by the protesters' comments captured on Respondent's Body-Worn Camera, Respondent's patches indeed attracted unnecessary attention that detracted from their law enforcement duties. For example, one protester asked, "Where were you on January 6?" obviously alluding to the assault on the United States Capitol, which occurred just over one month earlier. While Respondent testified that she saw it as her responsibility to ensure "the safety of 'her kids,' [her subordinates]," her actions jeopardized that responsibility. Her decision to wear political patches at the demonstration invited the public to question her neutrality and the neutrality of those police officers who were under her authority. Respondent's decision to wear the unauthorized patches jeopardized the mission for which she and other police officers were mobilized that evening: to permit the protesters to exercise their First Amendment rights while maintaining public order.

For all of the foregoing reasons, I find Respondent Guilty of Specification 2.

Specification 3: Engaging in Unnecessary Conversation/Discourtesy

Patrol Guide procedure 206-03(11), in effect on the day of the incident, prohibits unnecessary conversation. Patrol Guide procedure 203-10(1), also in effect on the day of the incident, prohibits members of Service from "using discourteous or disrespectful remarks

regarding another person's ethnicity, race, religion, gender, gender identity/expression, sexual orientation, or disability" (P.G. 203-10[2]).

I find that the Department Advocate has met her burden of proof by a preponderance of the credible, relevant evidence that on February 5, 2021, Respondent engaged in unnecessary conversation with protesters. I further find that Respondent's act of blowing a kiss in the direction of a protester, while not an act of discourtesy, as outlined in the Patrol Guide, was nevertheless an unnecessary communication with protesters.

It is undisputed that Respondent made several remarks to protesters as she stood post at a demonstration. Even if these remarks are considered wisecracks, they are unprofessional within these circumstances and should not be uttered by police officers on duty to a member of the public. Even if Respondent made these comments to the police officers under her command, they could erode discipline, especially at the scene of a protest. Respondent's argument that she was using these remarks to "take the temperature" of the protesters and possibly "de-escalate" these encounters is absurd. What Respondent did was subject the police officers under her authority to greater risk by potentially mocking and antagonizing protesters rather than defusing the tense situation they faced here.

Based upon the foregoing, I find Respondent Guilty of Specification 3.

Specification 4: Failure to Comply with a Lawful Order

I find that the Department Advocate has met her burden of proof by a preponderance of the credible, relevant evidence that on February 5, 2021, Respondent was given a lawful order by Inspector Matthew Galvin to zip up her jacket and failed to comply with it. I reject Respondent's defense that Inspector Galvin: (1) never told her to zip up her jacket; (2) if he did tell her to zip up her jacket, such order was beyond his authority; or (3) if he had the authority to issue an order

for Respondent to zip up her jacket, the utterance he issued was, in actuality, a suggestion and not an order.

Patrol Guide procedure 203-05(1) requires Members of Service to “[p]erform all duties as directed by competent authority” (P.G. 203-05[1]).

To establish that Respondent failed to obey a lawful order, the Department must prove that: (1) the superior communicated an order to the Respondent which she heard; (2) the content of the order was clear and unambiguous; and (3) Respondent willfully refused to obey the order (*Disciplinary Case No. 2016-16421* [Oct. 23, 2017] citing *Dep’t of Corrections v. Hipp*, OATH Index No. 337/00 [Dec. 3, 1999]).

Inspector Galvin testified that upon seeing Respondent walk toward him at the mobilization site, he immediately observed the unauthorized patches she was wearing and questioned her about them by pointing his finger at her vest and asking, “What is that?” Respondent’s immediate reply, “Am I going to be in trouble for it?” strongly suggests that she was aware that she was wearing unauthorized patches and that she had been discovered in the act of doing so by a senior supervisor. Inspector Galvin’s answer to Respondent, “You’re not going to be in trouble. Just zip the jacket up”⁵ conveys: (1) his awareness that Respondent had violated the Patrol Guide; (2) his authority to initiate discipline against Respondent; (3) Respondent’s awareness that Inspector Galvin had the authority to initiate disciplinary proceedings against her; and (4) his willingness to forego disciplinary proceedings if Respondent complied with his order. Finally, Inspector Galvin testified credibly that Respondent immediately zipped her jacket up to cover the patches after permitting him to photograph her vest with his Department mobile phone. Her compliance with Inspector Galvin’s directive is compelling evidence that at the time she

⁵ During his testimony, Inspector Galvin paraphrased his direction to Respondent on this point as “Zip it up” (T. 213).

heard it, she understood that it was an order that she was obliged to obey in order to remedy her infraction. That her jacket was subsequently found to be unzipped to reveal the unauthorized patches establishes that she failed to obey a lawful order.

Based upon the foregoing, I find Respondent Guilty of Specification 4.

PENALTY

In order to determine an appropriate penalty, this Tribunal, guided by the Department's Disciplinary System Penalty Guidelines, considered all relevant facts and circumstances, including potential aggravating and mitigating factors established in the record. Respondent's employment history also was examined. *See* 38 RCNY § 15-07. Information from her personnel record considered in making this penalty recommendation is contained in an attached memorandum.

Respondent, who was appointed to the Department on January 7, 2008, has been found guilty of wearing unauthorized patches on her uniform, wearing political patches on her uniform, failing to obey a lawful order, and engaging in unnecessary conversations. The Department has recommended that Respondent be suspended for ten (10) days and forfeit 15 vacation days. I believe that a more severe penalty is warranted based on the record before me.

The maximum penalty for wearing unauthorized patches and for wearing political patches, charged in Specifications 1 and 2, respectively, is five days. Because Specifications 1 and 2 describe misconduct involving the same patches, I find they address the same misconduct. For that reason, any penalties imposed for either of those counts should merge. If managed as a Schedule "A" command discipline, the maximum penalty for unnecessary conversations is five days.

The presumptive penalty for failure to comply with a lawful order is 20 penalty days; the mitigated penalty is 15 days, and the aggravated penalty is 30 days.

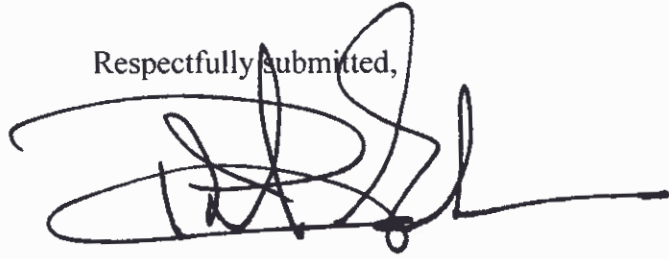
Respondent engaged in a knowing, deliberate display of disobedience when she chose to wear the two patches on her ballistic vest and then reveal them while on-duty after having been told to conceal them. She compounded this disobedience by wearing the patches when she supervised police officers at a demonstration. Respondent treated the protesters with the same contempt she showed for Department regulations when she engaged in snarky banter with them that was completely unrelated to, and not in furtherance of, her duties as a Member of Service, let alone as a supervisor. Even when allowed to express some regret for her poor decision-making, Respondent was defiant. Respondent's supervisor gave her an opportunity to remedy the violation; she complied temporarily and then defied the order by allowing the patches to be displayed.

Respondent, like any citizen, has the right to hold, or not hold, political beliefs. She is entitled to express those beliefs when she is off-duty; she is not permitted to express those beliefs while on-duty, in uniform and in a public setting, performing her duties. As a Member of Service, she is held to a standard of political neutrality. In a shocking display of arrogance, she abandoned any pretense of objectivity at a political demonstration.

As a supervisor, she placed her interests ahead of the welfare of those over whom she exercised authority; thus, her position as a sergeant is an aggravating factor. The brazen nature of her misconduct is a further aggravating factor. Even at trial, Respondent seemed unable or unwilling to perceive the harm her misconduct represents to the mission and values of this Department.

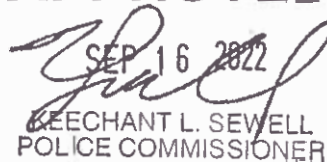
Accordingly, I recommend that Respondent be suspended for ten (10) days and forfeit an additional 30 vacation days.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'P. Gamble', written over the text 'Respectfully submitted,'.

Paul M. Gamble
Assistant Deputy Commissioner Trials

APPROVED

A handwritten signature in black ink, appearing to be 'K. Sewell', written over a date stamp.

SEP 16 2022
KEECHANT L. SEWELL
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: SUMMARY OF EMPLOYMENT RECORD
SERGEANT DANA MARTILLO
TAX REGISTRY NO. 945954
DISCIPLINARY CASE NO. 2021-23203

Respondent was appointed to the Department on January 7, 2008. On her three most recent annual performance evaluations, she received 4.0 overall ratings of “Highly Competent” for 2018 and 2020 and a 3.5 overall rating of “Highly Competent/Competent” for 2019. Respondent has been awarded one medal for Meritorious Police Duty.

Respondent has no disciplinary history.

For your consideration.

Paul M. Gamble
Assistant Deputy Commissioner Trials