

1-2-04

PINELLAS COUNTY SHERIFF'S OFFICE CIVIL SERVICE BOARD

RICHARD REED,

Petitioner,

-vs-

PINELLAS COUNTY SHERIFF'S OFFICE

Respondent.

AP

PSCO Case No. 04-1
DOAH Case No. 03-3141

ON MAR 18 11:11 AM '04
ADMINISTRATIVE
HEARINGS
DIVISION
TALLAHASSEE

WFO-CWS

FINAL ORDER

THIS CAUSE having come before the PINELLAS COUNTY SHERIFF'S CIVIL SERVICE REVIEW BOARD (BOARD) upon timely filed exceptions by RICHARD REED and a timely filed response to exceptions by PINELLAS COUNTY SHERIFF'S OFFICE, a hearing having been duly noticed and held on February 25, 2004, argument having been received from counsel for both parties, and the BOARD having considered the Recommended Order of the State of Florida, Division of Administrative Hearings Administrative Law Judge in the matter, and having determined, by a vote of 5-0 as follows:

IT IS FOUND that the Administrative Law Judge's Conclusion of Law, numbered 33, was not supported by competent and substantial evidence in that the penalty assessed was not fair and consistent in accordance with General Order 10-2, based upon the evidence presented to the Administrative Law Judge in the form of PBA Exhibits 5, 6, 7, 8, and 9, and Respondent's Exhibits 31, 35, 36, 37, 39, 40, and 41. It is therefore

DECIDED that the Exceptions be granted and that paragraph 33 of the Recommended Order of the Administrative Law Judge be amended as follows:

The Petitioner asserts that the penalty assessed against him is excessive based upon the discipline imposed against other members of the Sheriff's Office for various infractions. Disciplinary records related to other deputies were admitted into evidence in this case. Review of those records fails to establish that the violations of regulations for which other employees were disciplined occurred within the course of a single workday. In this case and on a single day, the Petitioner failed to perform assigned Marcham unit duties,

was directly insubordinate to a superior officer, and refused to return to assist in locating a Marchman unit logbook. The evidence establishes that the penalty assessed in this case is within the permitted range of the disciplinary matrix set forth in the Respondent's rule, however it is not fair and consistent in accordance with General Order 10-2, based upon the competent and substantial evidence presented in PBA Exhibits 5, 6, 7, 8 and 9 and Respondent's Exhibits 31, 35, 36, 37, 38, 39, 40 and 41.

IT IS FURTHER DECIDED that the disciplinary action taken should be modified as follows:

Detention Deputy Richard Reed shall be suspended without pay from August 22, 2003 through February 29, 2004, and that pursuant to Detention Deputy Reed's stipulation, upon his return to work on March 1, 2004, he be placed on one year's probation.

ORDERED that the Recommended Order of the Administrative Law Judge is adopted with regard to the Findings of Fact and Conclusions of Law as amended herein, that only the portion of the Hearing Officer's order upholding Detention Deputy Reed's termination be reversed, and that Detention Deputy Reed shall be suspended without pay from August 22, 2003 through February 29, 2004 and upon his return to work on March 1, 2004 be placed on one year's probation as the Final Order in this cause, *nunc pro tunc*.

IT IS SO ORDERED dated this 25TH day of February, 2004.



Neal A. White, Chair,
Pinellas County Sheriff's Civil
Service Board

Copies to:

William F. Quattlebaum, Administrative Law Judge
Jean Kwall, Esquire
Keith C. Tischler, Esquire
William Laubach, Esquire
Members, Sheriff's Civil Service Board