



April 17, 2023

Zachary Lopez

Electronic mail addresses provided

VIA EMAIL ONLY

Re: Appeal of Zachary Lopez
IA #INV22-11-49

Dear Mr. Lopez:

I have reviewed the information presented in your appeal letter to me, which was delivered via email on March 15th, 2023. You also provided a copy via email to Noel Mink with Human Resources and Chief Adam Turk. I have thoroughly reviewed the information provided by you in the appeal letter, the contents of the investigation, and information provided by you and your attorney during the disciplinary appeal hearing held in my office on March 31, 2023. Present for the hearing included yourself, Mike Lowe and Ned Chapin. The following is a summary of your appeal:

The incidents which led to your termination began on September 29, 2022 when you placed a suspect in handcuffs and had the suspect sit in the rear area of your patrol vehicle while confirming a warrant. After confirming the warrant, you told the suspect that the warrant was valid and that the suspect was under arrest. At that time the suspect advised you that he had a gun on him at which time you searched the suspect. Officer Eberhard was present during the arrest and was standing next to the suspect while you confirmed the warrant. After the incident, Officer Eberhard spoke with Sgt. Baker. Sgt. Baker entered a complaint regarding the incident into the Benchmark system, and it was assigned to Sgt. Fischer as a supervisory review for further investigation. During his review, Sgt. Fisher noted that you had not charged the suspect with a concealed weapon violation. Sgt. Fisher asked you about this, to which you replied that you did not charge the suspect with a concealed weapon charge because you had found a concealed carry permit. Sgt. Fisher asked that you write a supplemental report to clarify the circumstances of the gun found on the suspect and the why you did not file a concealed weapon charge. You made a supplemental report and in it stated "To the best of my knowledge, at some point after arriving at NJC, I did see a concealed carry permit in **Investigato** wallet. The permit was valid to my view, however, I did not run it through dispatch." Sgt. Fisher contact Weld County Sheriff's Office and learned the suspect did not have a concealed carry permit. He also viewed the body work camera video and did not see where you had looked in the suspect's wallet. Sgt. Fisher concluded his supervisory review and an internal affairs investigation was initiated.

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As part of the disciplinary process, Sgt. Fisher, Commander Edwards, and Deputy Chief Zeller reviewed your actions outlined in this investigation and found that your statements to Sgt. Fisher regarding the concealed carry permit and your statement in the supplemental report to be untruthful. Throughout the investigation you countered this finding by claiming that you had not willfully, purposefully, or knowingly made untruthful statements to Sgt. Fisher or in the supplemental report. You admit that your statements regarding the existence of a concealed carry permit were mistaken, and that you were negligent with the details regarding the arrest and the existence of a permit.

In terminating your employment, Deputy Chief Zeller found that your statements to Sgt. Fisher and in the supplemental report were contrary to, and in direct violation of, the following directives.

1. **General Order 400.02, Chapter V, Section 5.19** - Employees shall submit all necessary reports on time and in accordance with established departmental procedures. Reports submitted by employees shall be truthful and complete, and no employee shall knowingly enter or cause to be entered any inaccurate, false, or improper information.
2. **General Order 400.02, Chapter VIII, Section 8.3** - Employees shall be truthful at all times, whether under oath or not, when conducting any official police business.
3. **City of Greeley Employee Handbook Article VII, Section A, #21** – Lying to supervisors or falsifying records with respect to official duties.
4. **City of Greeley Employee Handbook, Article III, Section B, #1** - City employees shall not violate any federal or state laws, City ordinances, City personnel policies, or departmental directives in the performance of their official duties.

This finding was upheld by Chief Adam Turk.

My role in this appeal is to consider all of the facts, including those presented by you, and determine whether Deputy Chief Zeller erred in applying discipline in this case. While the City's employee handbook does not specify the standard of review for the City Manager's appeal determination, the Police Department General Orders require a standard of "clear and convincing" evidence, and this is the standard I have employed in my review.

Based on my review, I sustain Deputy Chief Zeller's determination to terminate your employment, but for different reasons than he found. I sustain your termination for the following reasons:

1. **City of Greeley Employee Handbook, Article III, Section B, #1** - City employees shall not violate any federal or state laws, City ordinances, City personnel policies, or departmental directives in the performance of their official duties.
2. **City of Greeley Employee Handbook, Article VII, Section A, #2** – Demonstrated incompetence or inefficiency in the performance of job duties.

I find that your statements to Sgt. Fisher and in the supplemental report, while demonstrably inaccurate with regard to the existence of a concealed carry permit, were not knowingly untruthful. Your statements, however, demonstrated incompetence in your job as a police officer. You could have verified the existence of a concealed carry permit before providing a definitive answer to Sgt. Fisher or making the supplemental report. In many instances, "I don't know" is an acceptable answer, at least in the short term. This level of incompetence, in a position with as much responsibility as required of a police officer, requires termination.

City Manager's Office • 1000 10th Street, Greeley, CO 80631 • (970) 350-9770 Fax (970) 350-9828

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You may appeal my decision to the Civil Service Commission pursuant to section 4-96(a)(2) of the Greeley Municipal Code. The procedures for submitting an appeal to the Civil Service Commission are set forth in section 4-97(c) of the Greeley Municipal Code.

Sincerely,

DocuSigned by:



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Raymond C. Lee III

City Manager

CC: Chief Adam Turk via email to adam.turk@greeleypd.com

Mike Lowe Via Email to Electronic mail addresses provided

Zachary Lopez through attorney Mike Lowe Electronic mail addresses provided

Public Records Exemptions

Enclosed please find a copy of the response documents for your public records request. The following information is provided to explain the process employed to review and produce the response documents.

Reason	Description	Pages
Electronic mail addresses provided by a person to the City for the purposes of future electronic communications to the person from the City.	C.R.S. § 24-72-204 (2)(a)(VII) Electronic mail addresses provided by a person to an agency, institution, or political subdivision of the state for the purposes of future electronic communications to the person from the agency, institution, or political subdivision	1, 3
Investigatory files compiled for any law enforcement purpose.	C.R.S. § 24-72-204(2)(a)(I) Any records of the investigations conducted by any sheriff, prosecuting attorney, or police department, any records of the intelligence information or security procedures of any sheriff, prosecuting attorney, or police department, or any investigatory files compiled for any other law enforcement purpose	1