**CITY OF ATLANTA**
**CIVIL SERVICE BOARD**
**ORDER APPEAL NO. CSB-2023-042**

APPEAL No. CSB-2023-042

Effective Date: April 7, 2025

Hearing Date: March 13, 2025

APPELLANT:
Kiran Kimbrough

CITY OF ATLANTA DEPARTMENT:
Atlanta Police Department

ADVERSE ACTION:
Dismissal

HEARING OFFICER(S):
R. Wofford (Chair)
T. Robinson
W. Phipps

**Appearances**

City of Atlanta:
T. Hackett

City Witnesses:
D. Schierbaum
C. Tyus

Appellant Representative:
K. Davis
L. LoRusso

Appellant's Witnesses:
D. Smith
C. Peek
W. Dean
G. Corbitt
A. Hartley

Exhibits: See attached Exhibit Lists submitted by the Parties

Stipulations: None

**CITY OF ATLANTA**
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## STATEMENT OF AUTHORITY

Under the authority and provisions of Chapter 114, Article VI, Division 3, Sections 114-546 through 556 of the Atlanta City Code ("the Code"), a hearing in the above-referenced case was held before the above-named hearing officer of the Atlanta Civil Service Board on the date set forth above, via a Zoom Webinar, facilitated by the City, pursuant to Mayor Andre Dickens' Executive Order regarding the Covid-19 Pandemic.

## BASIS FOR ADVERSE ACTION

APD.SOP.2010.4.2.33

Specific Charges:
Failure to Comply with APD.SOP.4010.4.3.7(5)

**Disposition**

The Board denies Mr. Kimbrough's appeal.

**Summary Findings**

The Board finds that:

- Mr. Kimbrough[1] violated ATL.SOP.4010.4.3.7(5) by attempting a physical arrest of Mr. Hollman before approval by an on-scene supervisor.
- Based on the totality of the evidence, the Board declines to modify the discipline previously imposed on Mr. Kimbrough.

**Discussion of Findings**

A. Introduction

We have considered:

1) the 12 exhibits originally submitted by the City;
2) the 30 exhibits originally submitted by Mr. Kimbrough;
3) the testimony of the witnesses listed above; and

[1] Because he is not currently employed by the Atlanta Police Department, this report refers to Kiran Kimbrough as "Mr. Kimbrough."

4) the additional material requested by the board relevant to Mr. Hollman's cause of death.

We have also reviewed the transcript of the approximately five-hour hearing conducted on March 13. We appreciate, as counsel for the City has pointed out, that material submitted after the hearing did not permit cross-examination. But the Board's proceedings are not governed by formal rules of evidence and in the interest of achieving a just result, we have chosen to consider the widest possible range of information that could inform its deliberations. Further, given the gravity of this case, pursuant to City Code §114.551(10) we have requested and received additional time to provide these findings. We hope that they provide complete transparency into our reasoning.

B. Standard of Decision

The Atlanta City Code does not prescribe a standard of decision for Board's review of this evidence. Absent that guidance, we initially determined to use two standards in this case, depending on the issue. First, in determining whether Mr. Kimbrough violated the Police Department's Traffic SOP, we started out, and ended up, reviewing the evidence with no deference to earlier decisions within the Police Department on that point. As explained in further detail below, this issue requires no special knowledge or appreciation of the exigencies of field situations; the question instead just involves the determination, by a preponderance of the evidence, of whether Mr. Kimbrough attempted to arrest or merely to detain Mr. Hollman. Second, in determining whether Mr. Kimbrough should have been dismissed for a violation of the Traffic SOP, we initially sought to determine whether substantial evidence supported the decision of the Chief of Police. Because Mr. Kimbrough's termination represented one option among many along a disciplinary spectrum, we were prepared to defer *to a degree* to a judgment call made by experienced law enforcement professionals.[2] For the reasons explained below, however, we were unable to extend that deference, and decided the issue of Mr. Kimbrough's appropriate discipline entirely on our own judgment, by a preponderance of the evidence.

[2] Had this appeal required the Board to determine whether Mr. Kimbrough violated SOP.4.2.50, Maltreatment or Excessive Force, this deference could have worked in Mr. Kimbrough's favor. Here, however, SOP.4010.4.3.7(5) permits no discretion by the police officer.

C. First Issue: Did Mr. Kimbrough Violate the Traffic SOP?

The evidence conclusively establishes that Mr. Kimbrough did not wait for a supervisor to arrive before dealing with Mr. Hollman.[3] This issue therefore boils down to one question: when he initiated physical contact with Mr. Hollman, did Mr. Kimbrough intend to detain him, or to arrest him?

This question is critical because if Mr. Kimbrough attempted merely to detain Mr. Hollman, no SOP required him to wait for a supervisor to arrive and approve that action. We can appreciate that, where the situation suggests that a suspect may flee or harm someone, requiring a police officer to wait for a supervisor would handicap that officer and imperil public safety. We can also appreciate that, in not requiring on-site supervisor approval for a detention and thereby providing for a "cooling down" period, the Police Department has accepted a greater risk of harm to the suspect from the police officer's use of force during a detention than during an arrest following a traffic violation. Emergencies demand rapid and decisive responses.

If, on the other hand, Mr. Kimbrough was attempting to arrest Mr. Hollman, SOP.4010.4.3.7(5) applies, and required Mr. Kimbrough to wait for on-site supervisor approval. That SOP obviously assumes a scenario under control, with little or no risk of flight or threat to public safety, and the opportunity to allow tempers to cool before taking a suspect into custody. Non-emergencies allow a more deliberate response.

For the following reasons, the Board finds that Mr. Kimbrough was attempting to arrest, not detain, Mr. Hollman at the critical juncture.

*First, no evidence suggests that Mr. Hollman was attempting to flee, or that Mr. Kimbrough believed Mr. Hollman was attempting to flee.* Before Mr. Kimbrough arrived, Mr. Hollman had called 911 to report the accident. He then surrendered his driver's license to Mr. Kimbrough. Mr. Kimbrough expressed no concern about Mr. Hollman's possible flight on the Body Worn Camera ("BWC") footage, and did not cite that possibility during his Office of Professional Standards (OPS) interview as a reason to detain Mr. Hollman. Most important, nothing in our review of the BWC footage even remotely suggests that Mr. Hollman intended to leave the scene.

*The preponderance of evidence suggests no imminent threat of harm to Mr. Kimbrough or the public*. During the first few seconds of their encounter, Mr. Hollman complied with Mr.

[3] Although counsel for Mr. Kimbrough raised this theoretical possibility, no evidence suggests that a request by Mr. Kimbrough for a supervisor would have been futile – or, more to the point, that Mr. Kimbrough knew such a request would have been futile.

Kimbrough's requests: he surrendered his driver's license, and he separated himself from the other person involved in the traffic accident. He made no threats, verbally or physically, to either Mr. Kimbrough or the bystanders.[4] Mr. Kimbrough seemed to concede as much during his OPS interview, stating that Mr. Hollman was "completely avoiding any contact with me." City Exh. 4b, OPS Tr. at 403. Mr. Hollman did grow agitated upon being told that he would be cited for the accident, and he – initially, at least – refused to sign the citation, but neither of these elements seemed to pose an imminent threat to anyone's safety.[5] The investigative report of the incident, in fact, agrees that Mr. Kimbrough "did not seem to be in danger at any point," and that "no safety concerns … necessitated the immediate handcuffing of the arrestee." City Exh. 4c, August 18, 2023 Memo at 1.

Against all of this evidence we have only Mr. Kimbrough's statements during his OPS interview that he attempted to detain, not arrest, Mr. Hollman because "I didn't know who [Mr. Hollman] was texting, what he was texting him for … so, to make the scene safer and not allow him to create any sort of dangerous situation for me or anyone else …." City Exh. 4b, OPS Tr. 403-05.

We do not find Mr. Kimbrough's statements to be credible, in light of the BWC footage. Approximately 30 seconds passed after Mr. Hollman appeared to text on his phone, and Mr. Kimbrough initiated physical contact with him. BWC footage at 29:45 – 30:12. At no point did Mr. Kimbrough ask Mr. Hollman any questions about his texting, request to see the phone, tell Mr. Hollman to stop texting, or express any concern about his or the public's safety. Instead, Mr. Kimbrough just requested or instructed Mr. Hollman to "sign the ticket" 11 times, six times before Mr. Hollman began texting, and five times thereafter. BWC footage at 28:52 – 30:10. Then, after initiating physical contact with Mr. Hollman (and after Mr. Hollman twice said that he *will* "sign the ticket"), Mr. Kimbrough said six more times, "Sign the ticket" -- a strange thing to focus on, if he was worried about his own or the public's safety. BWC footage at 30:10 – 30:33.

A physical struggle with Mr. Hollman ensued. Although after viewing the BWC footage the investigator twice questioned whether Mr. Kimbrough "was in danger at any point," we do not

[4] At the hearing of this matter, Mr. Kimbrough's counsel suggested that one bystander was "scared" by the turn of events, but we give this hearsay evidence little probative weight, especially because no evidence suggests that Mr. Kimbrough knew anything about this at the time.

[5] Although not directly applicable here, the Police Department's policy on use of force encourages us in our belief that Mr. Hollman's raised voice did not, by itself, support a reasonable fear for Mr. Kimbrough's safety. See APD.SOP.3010.4.1.14(12) ("strictly" prohibiting use of force in situations involving just "verbal confrontation").

disregard the possibility that Mr. Kimbrough may have felt threatened at some point thereafter. City Exh. 4c, August 18, 2023 Memo, at 1.

But the pertinent question is not whether Mr. Kimbrough eventually felt threatened, after initiating contact with Mr. Hollman. The question is what Mr. Kimbrough intended to do when he grabbed Mr. Hollman by his right arm. Mr. Kimbrough stated in his OPS interview that he never intended to force Mr. Hollman to sign the ticket – an understandable denial, as it was Mr. Hollman's right to refuse and suffer the consequences of arrest. OPS Tr. at 377, 384-85; OCGA §40-13-2.1. Mr. Kimbrough also said that, after multiple unsuccessful requests, he understood Mr. Hollman to refuse to sign the citation before initiating contact with him. BWC footage at 29:45-30:12, OPS Tr. at 353-55. Further, Mr. Kimbrough said at least twice, before initiating contact with Mr. Hollman, "You're going to sign this ticket *or I'm going to take you to jail*." BWC footage at 29:08, 29:39. Taking Mr. Kimbrough at his word, therefore, we find that Mr. Kimbrough intended, when he grabbed Mr. Hollman by the right arm, to exercise the only option remaining open to him under the traffic code: to arrest him, as the statute permits and department policy requires. OCGA §40-13-2.1(a) ("if the person refuses to sign the citation … the officer ***may*** bring the person before a judicial officer"); SOP.4010.4.3.7(5) (upon refusal to sign, "the officer ***will*** write 'Refuse to Sign' in the space provided ***and charge the violator accordingly***.").[6]

D. Second Issue: Does Substantial Evidence Support the Discipline Imposed on Mr. Kimbrough?

As we note above, we initially intended to assess the evidence with some deference to the decision of the Chief of Police. We understand that, although police officers can only be dismissed for cause, the Chief of Police may exercise wide authority in creating rules and disciplinary procedures, and in deciding whether and how to discipline officers who violate those rules. Atl. City Code §§98.26, 114.526(b), 114.528; APD.SOP.2020.5.13. We had hoped that the record before us would include evidence that, as we understand is normally required of terminations of city employees with civil service rights, the Police Chief had 1) "promptly

[6] The investigator appears to have shared this view, at least initially. His August 18 memo: 1) notes that Mr. Kimbrough had "probable cause to make the arrest" once Mr. Hollman refused to sign the citation and 2) refers to Mr. Hollman consistently as "the arrestee." Although the investigator later found the proposed action against Mr. Kimbrough "not sustained," he did so for two reasons that do not persuade us. First, the investigator noted that APD SOP 3089 does not require supervisor notification. But Mr. Kimbrough was disciplined for not following directives in SOP 4010, not 3089, and SOP 4010 *does* mandate supervisor notice. 4010.4.3.7(5). Second, and perhaps because the arrest/detention distinction does not matter under SOP 3089, the investigator appeared to assume as true Mr. Kimbrough's statement that he was attempting to detain Mr. Hollman. City Exh. 4, Investigative Summary Report at 3. Because that distinction is critical to our decision, we cannot assume the truth of *anyone's* testimony on that point, and must assess the credibility of Mr. Kimbrough's statements in light of all the other evidence.

investigate[d] the facts and circumstances of the incident before deciding on the disciplinary action to be taken" and 2) "determine[d]" the "appropriate disciplinary action … by considering relevant factors, including but not limited to the seriousness of the offense, whether the offense was willful and deliberate, unintentional or the result of gross negligence and the employee's record of performance and conduct." City Code §114.527.

Unfortunately, the record here does not allow us to extend any deference to the Chief of Police's decision. It appears that the Chief of Police simply concurred with the Assistant Chief's statement that he "disagree[d] with OPS's findings," and terminated Mr. Kimbrough, citing his violation of the traffic SOP. City Exh. 5, 9/29/23 Memo. If by this the Chief and Assistant Chief meant that they "disagreed" with *all* of OPS's findings, then it appears they based Mr. Kimbrough's dismissal on no investigation at all, since the record contains no evidence of any investigation other than the one they apparently disagreed with. If by this the Chief and Assistant Chief instead meant that they "disagreed" with *some* of OPS's findings, we are left with no way to know which "findings" they based Mr. Kimbrough's dismissal on. Without any basis for understanding the Chief of Police's rationale, we cannot defer to it to any degree.[7]

We are therefore left to evaluate the evidence entirely for ourselves, with no deference accorded the earlier determinations. Lacking any other guidance, we have therefore considered the same "relevant factors" specified by the City Code. City Code §114.527. We discuss these factors below in the order they are identified there.

*Relevant Factor 1: The Seriousness of the Offense*

The Police Department normally regards the rule violation implicated in Mr. Kimbrough's termination as "minor." APD.SOP.2010.4.4.1 ("Category A infractions represent the least egregious form of misconduct"). Although the Chief of Police may exercise wider discretion, first-time violations normally result in oral admonitions or written reprimands. APD.SOP.2010.4.4.2(3) ("Failure to Notify Supervisor" deemed a Category A infraction).

Our conclusion here is in no way meant to minimize Mr. Hollman's death. No outcome could have been worse. But we deal with the implications of that outcome elsewhere.

*Relevant Factor 2: Whether the Offense was Willful and Deliberate, Unintentional or the Result of Gross Negligence*

[7] We do not imply here that the Chief of Police was wrong not to leave a more detailed record of his decision; that assessment lies beyond our purview. We note the paucity of the disciplinary record only to explain how we have decided this case.

Mr. Kimbrough appears to concede that he understood Mr. Hollman to refuse to sign the citation before he initiated physical contact with Mr. Hollman. By that time, he was compelled to arrest Mr. Hollman. Mr. Kimbrough could have waited for supervisor approval before doing so: as discussed above, the evidence overwhelmingly demonstrates that Mr. Hollman posed no threat of flight or danger to Mr. Kimbrough or anyone else. Mr. Kimbrough had no reason to detain Mr. Hollman before contacting his supervisor and waiting for his arrival. His violation of the rule was willful and deliberate.

*Relevant Factor 3: Employee's Record of Performance and Conduct*

We assume that Mr. Kimbrough's record of performance and conduct was, at worst, mixed. Disciplinary actions were sustained against him on three occasions, all seemingly minor and involving written reprimands, oral admonishments, and a single 1-day suspension. City Exh. 7, Officer Disciplinary History. His counsel stated that he had been selected for special training, an assertion that we accept as true. We have no other evidence of exemplary or poor behavior.

*Relevant Factor 4: The Cause and Foreseeability of Mr. Hollman's Death*[8]

We understand that Mr. Kimbrough was not fired for violating the Police Department's SOP on use of force, and we do not decide here whether Mr. Kimbrough's use of force throughout the incident was justified or reasonable. But we do believe that the manner of Mr. Hollman's arrest – up to the point at which Mr. Hollman began resisting Mr. Kimbrough's lawful commands to "put your hands behind your back" – constitutes an additional relevant factor in determining the appropriate discipline. The OPS investigator appears to have distinguished, as we do, between the *initial decision* to use force and the *amount of force* that ultimately proved necessary to subdue Mr. Hollman after he panicked, and refused to put his hands behind his back. See City Exh. 4c at 25 ("Given these factors, the use of force may be reasonable, but it does not seem necessary."). If, for example, Mr. Hollman had simply died of a heart attack in the first few relatively calm moments of his conversation with Mr. Kimbrough, we can imagine concluding that Mr. Kimbrough's discipline need not reflect the seriousness of Mr. Hollman's death – in fact, we doubt whether Mr. Kimbrough would have been terminated in the first place. But that did not happen here.

Instead, what happened was this. When Mr. Hollman hesitated to sign the ticket as requested, Mr. Kimbrough: 1) grabbed Mr. Hollman by the right arm; 2) pulled Mr. Hollman toward him; 3)

[8] Although the City Code does not specifically list the consequences of the employee's actions as a relevant factor, the Code's list is not exhaustive. City Code §114.527 ("including but not limited to" the listed factors). For the reasons stated above, we have considered the cause and foreseeability of Mr. Hollman's death as an additional relevant factor.

ignored Mr. Hollman's twice-stated intention to sign the citation; 4) instructed Mr. Hollman to "get your [unintelligible] on the ground;" 5) wrestled him to the ground; 6) mounted him; and 7) during this physical struggle alone, instructed Mr. Hollman to "sign the ticket" six times. BWC footage at 30:03-30:50. *Only then* did Mr. Kimbrough issue, for the first time, a lawful command: "put your hands behind your back." BWC footage at 30:55.[9] If by that time Mr. Hollman had panicked, we can understand why.

The Medical Examiner attributed Mr. Hollman's death directly to "cardiac dysrhythmia due to the use of conducted energy device in association with hypertension and atherosclerotic cardiovascular disease." Examiner's Report. An affidavit submitted on Mr. Kimbrough's behalf by Dr. Daniel L. Schultz identified the cause as Mr. Hollman's pre-existing conditions, which rendered him especially vulnerable to "the stress of the events," which in turn "could have caused Mr. Hollman's death in the absence of the application of the conducted energy weapon." Affidavit, 9D.

We do not need to decide who is right here. The close correlation of Mr. Hollman's death and being tased by Mr. Kimbrough – and the Medical Examiner's report – certainly suggest causation. But even if Dr. Schultz is correct, the *manner* in which Mr. Kimbrough arrested Mr. Hollman without question increased "the stress of the events." Mr. Kimbrough, upon recognizing that Mr. Hollman refused to sign the citation, could have stood a normal distance away, instructed Mr. Hollman not to leave the scene or risk being detained, and told him a supervisor was on the way. Instead, Mr. Kimbrough grabbed Mr. Hollman by the arm, pulled Mr. Hollman toward him, told him to "get your [unintelligible] on the ground," wrestled Mr. Hollman to the ground, and only then – 40 seconds after initiating a physical struggle with him –instructed him to put his arms behind his back. BWC Footage at 30:11 – 30:54. Even if the physical struggle had ended right there, with Mr. Hollman's immediate compliance, Mr. Kimbrough's actions up to that point without question raised "the stress of the events." Under Dr. Schultz's theory, Mr. Kimbrough's decision to employ force – even ultimately justifiable force – therefore "could have caused" Mr. Hollman's death.

We also conclude that Mr. Kimbrough was, or should have been, aware of an increased likelihood of serious consequences to Mr. Hollman from Mr. Kimbrough's decision to initiate an unnecessary physical struggle with him. Mr. Hollman was 62 and gray-haired. He stood 5'8" and

[9] Before the physical struggle began, Mr. Kimbrough had advised or told Mr. Hollman 11 times to "sign the ticket," then grabbed him by the right arm. BWC footage at 28:52-30:12. Between his 15th and 16th instructions to "sign the ticket," Mr. Kimbrough also told Mr. Hollman three times to "give me your arm." BWC footage at 30:23-25. Given the context, we can understand why Mr. Hollman would hear that instruction not as a lawful command to submit to a detention or arrest, but as part of an instruction to "sign the ticket" – an instruction that Mr. Kimbrough was not entitled to give. If by this instruction Mr. Kimbrough meant to tell Mr. Hollman that he was being detained or arrested, he could have said at that point.

weighed 244 pounds. Medical Examiner's Report at 5. Moreover, Mr. Kimbrough had been trained to consider a suspect's age in using force. APD SOP.3010.4.1.8(1). We believe that Mr. Hollman's appearance and Mr. Kimbrough's training increased the foreseeability to Mr. Kimbrough of Mr. Hollman's injury or death from the manner of his arrest.

*Relevant Factor 5: The Proportionality of the Police Chief's Decision*

We have also considered the proportionality of Mr. Kimbrough's discipline to similar cases. The problem is, we could not find any.

Mr. Kimbrough presented evidence of discipline imposed on traffic code SOPs in general. As counsel for City pointed out, that evidence says nothing about the typical discipline for the specific violation that we determine Mr. Kimbrough has committed. We do recognize, however, that this evidence does tend to suggest that termination has not followed from the violation of *any* traffic SOP. Similarly, we have reviewed BWC footage of another encounter involving another police officer that apparently resulted in no discipline. This evidence persuades us that Mr. Kimbrough's termination was an extraordinary measure, given the violation involved.

But other aspects of this incident match that extraordinary response: Mr. Kimbrough's willful violation of a traffic SOP designed to allow tempers to cool, his decision to initiate a physical struggle where the situation did not call for it, the relatively late point in that struggle at which Mr. Hollman first began to resist Mr. Kimbrough's lawful commands and – most important – Mr. Hollman's resulting death. We find that the other incidents in the record provide little guidance, given the highly unusual characteristics of this case.

*Weighing the Factors*

We are left then, with an intentional violation of a minor SOP that resulted first in an unnecessary physical struggle, and then in the death of someone obviously more at risk of that outcome than many. We are, however, more constrained than the Police Chief in reaching a final disposition based on weighing these factors. We have three choices: 1) affirm the dismissal; 2) reinstate Mr. Kimbrough with no sanction; or 3) modify the dismissal to no less than a 30-day suspension. City Code §114.553(b). We understand from the Board's legal counsel that the last option does not permit a modified suspension of more than 30 days.

On balance, we are most influenced by the intentional nature of Mr. Kimbrough's violation, the initial manner of his arrest of Mr. Hollman, and Mr. Hollman's increased susceptibility to injury or death. A 30-day suspension seems entirely too lenient a response to an outcome that almost certainly could have been avoided had Mr. Kimbrough chosen to follow the SOP. For this reason, we deny Mr. Kimbrough's appeal and forward this decision to the appointing authority pursuant to Code §114.553(b).

**CITY OF ATLANTA**
**CIVIL SERVICE BOARD**
**ORDER APPEAL NO. CSB-2023-042**

Signed:

This 7th Day of April, 2025.

/S/ Russell Wofford
Russell Wofford, Chair, Civil Service Board

/S/ Thomasenia Robinson
Thomasenia Robinson, Civil Service Board

/S/ Willetta Phipps
Willetta Phipps, Civil Service Board