

STATE OF NEW YORK
CITY OF NEW ROCHELLE

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In the Matter of the Disciplinary Charges Preferred By:

COSMO COSTA,
DEPUTY POLICE COMMISSIONER
- against -

**CHARGES AND
SPECIFICATIONS**

MICHAEL VACCARO,
POLICE OFFICER ON ASSIGNMENT

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Pursuant to §75 of the New York State Civil Service Law and the Rules and Regulations of the City of New Rochelle Police Department, disciplinary charges are hereby preferred against you, as follows:

CHARGE I – MISCONDUCT

Misconduct for failing to conduct yourself at all times, in such a manner as to reflect most favorably on the Department.

SPECIFICATION I

On or about February 15, 2021 at approximately 12:43 PM, you were off-duty at 635 Main Street, New Rochelle, New York. While there, you interfered with the arrest of Malik Fogg by on-duty New Rochelle police officers. Your actions and interference with the arrest of Mr. Fogg reflects unfavorably on the Department and, constitutes misconduct in violation of Chapter 2, Section 2.1 of the New Rochelle Police Department Rules and Regulations.

CHARGE II – MISCONDUCT

Conduct which brings the Department into disrepute, reflects discredit upon you as a member of the Department and that which impairs the operation or efficiency of the Department and yourself.

SPECIFICATION I

On or about February 15, 2021 at approximately 12:43 PM, you were off-duty at 635 Main Street, New Rochelle, New York. While there, you interfered with the arrest of Mr. Malik Fogg by on-duty New Rochelle police officers. Your actions and interference with the arrest of Mr. Fogg, brings the Department into disrepute, reflects discredit upon you as a member of the Department, impairs the operation and efficiency of the Department, impairs the operation and efficiency of yourself, and constitutes misconduct in violation of Chapter 2, Section 2.1 of the New Rochelle Police Department Rules and Regulations.

CHARGE III – MISCONDUCT

Conduct detrimental to the good order, efficiency, or discipline of the Department, though not specifically provided for in the Rules and Regulations.

SPECIFICATION I

On or about February 15, 2021 at approximately 12:43 PM, you were off-duty at 635 Main Street, New Rochelle, New York. While there, you interfered with the arrest of Mr. Malik Fogg by on-duty New Rochelle police officers. Your actions and interference with the arrest of Mr. Fogg, constitutes conduct detrimental to the good order, efficiency, or discipline of the Department, though not specifically provided for in the Rules and Regulations in violation of Chapter 2, Section 2.8 of the New Rochelle Police Department Rules and Regulations.

CHARGE IV – MISCONDUCT

For failing to obey all laws of the United States, the State of New York, and the City of New Rochelle. (as required by Chapter 2, Section 2.3 of the New Rochelle Police Department Rules and Regulations).

SPECIFICATION I

On or about February 15, 2021 at approximately 12:43 PM, you were off-duty at 635 Main Street, New Rochelle, New York. While there, you punched and kicked Malik Fogg, and pushed his head into the ground. Your actions violated New York State Penal Code §240.26(1) – Harassment in the Second Degree, and New York State Penal Code § 120.00 Attempted Assault in the third degree.. Failing to obey all laws of the United States, the State of New York, and the City of New Rochelle, constitutes misconduct in violation of Chapter 2, Section 2.3 of the New Rochelle Police Department Rules and Regulations.

CHARGE V – MISCONDUCT

For the use of Physical force other than when conditioned upon the premise that it is reasonable, necessary, and legally justifiable (as required by Chapter 4, Section 4.2 of the New Rochelle Police Department Rules and Regulations).

SPECIFICATION I

On or about February 15, 2021 at approximately 12:43 PM, you were off-duty at 635 Main Street, New Rochelle, New York. While there, you punched and kicked Malik Fogg, and pushed his head into the ground all without justification. The use of Physical force other than when conditioned upon the premise that it is reasonable, necessary, and legally justifiable constitutes misconduct in violation of Chapter 4, Section 4.1 of the New Rochelle Police Department Rules and Regulations.

CHARGE VI – MISCONDUCT

All members of the Department will adhere to all established departmental policies and procedures.

SPECIFICATION I

On or about February 15, 2021 at approximately 12:43 PM, you were off-duty at 635 Main Street, New Rochelle, New York. While there, you failed to adhere to all established departmental policies and procedures as specified in Charges I – V herein. Not adhering to all established departmental policies and procedures, constitutes misconduct in violation of Chapter 1, Section 1.1 of the New Rochelle Police Department Rules and Regulations.

You are entitled to answer the above charges. The answer is due eight (8) days after the charges are served upon you, not counting the day when you receive the charges. The answer should be served upon me, Deputy Commissioner Cosmo Costa, at my office at the City of New Rochelle Police Department no later than 4:30 P.M. on said date. 5/13/22 (C)

You are entitled to a hearing on the charges and to be represented by an attorney or a representative of your Union. A transcript will be made of the proceedings and you should be prepared at hearing to present such witnesses and other proof as you may have in your defense against the charges.

You will be advised of the time and place of the hearing. If you are found guilty of the above charges, the penalty or punishment imposed upon you may consist of dismissal from the Department, demotion in grade, or title, suspension without pay, a fine or a reprimand.

All future correspondence regarding this matter will be served upon you at your last address on file with the Department unless you advise me otherwise.

DPC (C)

Cosmo Costa
Deputy Commissioner of Police
City of New Rochelle

Dated: 5/5, 2022