# *Fire Dep't v. Steed*

OATH Index No. 1609/25 (Jan. 14, 2026)

Petitioner established that respondent, a licensed EMT, violated the Department rules by engaging in off-duty conduct that led to his arrest and conviction for unlawful surveillance in the second degree. Termination recommended.

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**NEW YORK CITY OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS**

*In the Matter of*
**FIRE DEPARTMENT**
*Petitioner*
*- against -*
**RAWL STEED**
*Respondent*

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## REPORT AND RECOMMENDATION

**JULIA H. LEE,** *Administrative Law Judge*

This is a disciplinary proceeding referred by petitioner, the Fire Department (the "Department"), pursuant to section 75 of the Civil Service Law. Respondent, Rawl Steed, a licensed Emergency Medical Technician ("EMT"), is charged with violating Department regulations by engaging in criminal conduct off duty in that on May 10, 2023, he pleaded guilty to two counts of unlawful surveillance in the second degree, a class E felony (ALJ Ex. 1). Penal Law §§ 250.45(2), (5) (Lexis 2026).

At trial, the parties provided documentary evidence and witness testimonies. The parties also submitted written legal arguments and supporting caselaw. Upon reviewing the record, I find that petitioner has established by a preponderance of the evidence that respondent's conduct was a violation of Department regulations and recommend termination of his employment.

### PRELIMINARY MATTER

Respondent argues that the charges should be dismissed. He asserts that petitioner wrongfully brought charges against him under section 75 of the Civil Service Law and, instead, should have brought charges pursuant to section 72 as he is "permanently, partially disabled" from

performing his EMT duties (ALJ Ex. 2; Resp. Notice of Defense and Affirmative Defense). Respondent further contends that because the Department provided a reasonable accommodation position for him in 2022, instead of seeking his separation of service under section 72, this instant disciplinary proceeding to terminate his employment, three years after his arrest on the felony charges, is "cruel, unusual and unnecessary" (ALJ Ex. 3; Resp. Br. at 2).

Section 72 of the Civil Service Law provides that a public employer may place a civil service employee on involuntary leave up to one year when the employee is found, after a hearing, to be unfit to perform their work duties. Civ. Serv. Law § 72 (Lexis 2026). This tribunal has held that where an employee's conduct is caused by a disability, the employing agency should bring a disability action under section 72 rather than a disciplinary action under section 75. *See Human Resources Admin. v. Anonymous*, OATH Index No. 1781/12 at 2-3 (Aug. 9, 2012); *Human Resources Admin. v. Barnes*, OATH Index No. 228/08 at 6 (Nov. 15, 2007), *adopted* and *remanded*, Comm'r Dec. (Jan. 29, 2008) (dismissing section 75 charges and matter remanded for determination under section 72); *but cf. Brockman v. Skidmore*, 39 N.Y.2d 1045, 1046 (1976), *rev'g*, 43 A.D.2d 572 (2d Dep't 1973) (reversing a finding that a government agency must bring a disability case under section 72 rather than a misconduct case under section 75 when there is evidence that an employee suffers from a disability).

There is no such causal connection here. There is no evidence to support any claim that the off-duty conduct which led to respondent's arrest and conviction for unlawful surveillance was caused by a disability. Moreover, the reasonable accommodation granted in 2022 has no bearing on this instant action (ALJ Ex. 4; Pet. Br. at 2-3). Respondent's application is denied.

## BACKGROUND

Employment History

Respondent was hired as a licensed EMT by the Department in 2016 (Tr. 104; Pet. Ex. 1). He suffered a line of duty injury when he contracted COVID-19, resulting in long-term effects including high blood pressure and pulmonary issues which impede his ability to perform certain EMT functions such as going up stairs (Tr. 106-09). As a result, he was absent from his position for approximately 14 months from March 2020 to May 2021. Upon his return, he was assigned to work as a health assistant technician ("HAT") in the Bureau of Health Services ("BHS") (Tr. 112-13). Respondent worked at BHS for two months prior to "boarding," the process of undergoing

medical evaluations to qualify for a reasonable accommodation (Tr. 65-66, 107, 111, 194; Pet. Ex. 9). Respondent was found to have a disability and qualified for a reasonable accommodation. Employees who are found to qualify for a reasonable accommodation must find a position within 18 months of the determination (Tr. 195). Since he was already working in BHS, respondent continued his duties as a HAT until his arrest (*Id.*). In this new role, respondent undertook a variety of tasks evaluating employees' physical health conditions by taking vitals, conducting electrocardiograms, and performing hearing, eye, and pulmonary function tests and examinations (Tr. 112-13, 195-96).

After his arrest in October 2022, respondent was suspended for thirty days. Respondent was restricted from having any patient contact and was reassigned to the Bureau of Technology Development and Systems in November 2022, where he continues to work as a telecommunications associate maintaining cell phones issued to EMTs (Tr. 114-15, 254, 257). According to his supervisor, respondent does not access any data on the phones, and he has no direct contact with patients (Tr. 254-55).

Arrest and Conviction

Respondent was arrested on October 27, 2022, for an incident that occurred on August 6, 2022, and charged with one count of unlawful surveillance in the second degree (Pet. Exs. 4A, 4B). Under the Penal Law,

> A person is guilty of unlawful surveillance in the second degree when: . . . (5) For his or her own, or another individual's amusement, entertainment, profit, sexual arousal or gratification, or for the purpose of degrading or abusing a person, the actor intentionally uses or installs or permits the utilization or installation of an imaging device to surreptitiously view, broadcast, or record such person in an identifiable manner: (a) engaging in sexual conduct [citation omitted]; (b) in the same image with the sexual or intimate part of any other person; and (c) at a place and time when such person has a reasonable expectation of privacy, without such person's knowledge or consent.

Penal Law § 250.45(5).

After his arrest and arraignment, an additional count of unlawful surveillance involving a second complainant was added (Tr. 183-85). On May 10, 2023, respondent pleaded guilty to one count of unlawful surveillance in the second degree, Penal Law section 250.45(5), a class E felony,

and was sentenced on June 14, 2024, to three years conditional discharge (Pet. Ex. 5A; Tr. 69-70, 188).

The New York Police Department arrest and complaint reports relating to the incident state that on August 6, 2022, the complaining victim ("Complainant 1") had consensual sexual intercourse with respondent. When she told respondent that she did not want to "hang out again," respondent "got upset and began sending screen shots of a video of the two (2) having sex" (Pet. Exs. 4A, 4B). The reports further note that Complainant 1 was unaware that respondent was recording them having sex and did not give consent to be recorded (*Id*.).

Respondent testified about the events that led to his arrest. In 2022, respondent was mainly residing with his then girlfriend and current fiancée while also maintaining a residence at 60 East 104th Street in Manhattan, his childhood apartment (Tr. 116-17, 178). Prior to the incident, he had installed four ring cameras in the apartment: one on the front door and one each inside the living room, bedroom, and pool room (Resp. Exs. A, C-H, L1, L2, L3, L4). He installed the cameras located inside the apartment after he noticed that items were missing after parties and get-togethers that he had hosted (Tr. 118-20). The motion-activated ring cameras had a blue LED light that would turn on to indicate it was recording in 15 second increments. Because the cameras were set to factory settings, the recordings were retained for thirty days (Tr. 127-30; Resp. Ex. A).

Respondent testified that he met Complainant 1 on the street in front of her building (Tr. 148-49). He recounted that they proceeded to go to his apartment where they had sex in the pool room in two different locations which he claimed was in full view of the ring camera located a few feet away on the game stand under the mounted television (Tr. 149-52). The photographs of the pool room depict a recreational room with a pool table, a flat-screen television mounted to the wall, a video game stand, and framed sport jerseys adorning the walls (Tr. 150; Resp. Exs. L1-L4).

The following day, respondent texted Complainant 1 and she responded by calling him to say that she felt pressured to have sex (Tr. 153-54). Respondent denied pressuring her and hung up the phone. They continued to text each other about her feeling pressured and he told her that he had proof that he "did not force [him]self upon her" (Tr. 154). Respondent then went to the ring camera application on his phone and found the video footage of the two having sex in the pool room. He then took a screenshot of himself performing a sexual act on her and sent it to Complainant 1 as proof that they had engaged in consensual sex (Tr. 154-55). Complainant 1 then

told respondent that she did not give permission to be recorded and that his acts were illegal (Tr. 156).

Respondent testified that he was charged with an additional count of unlawful surveillance for using his ring camera to record a sexual encounter involving his next-door neighbor ("Complainant 2') in his bedroom (Tr. 159-60). According to respondent, the incident with Complainant 2 occurred a few weeks after the incident with Complainant 1 but was not their first sexual encounter (Tr. 157-58). He denied any unlawful surveillance, explaining that Complainant 2 was aware of the ring cameras in his apartment having assisted him in installing them (Tr. 160). He further stated that she had even spoken to his attorney as a potential defense witness in his criminal case (Tr. 164, 185). However, Complainant 2 wanted money in exchange for her testimony and his failure to "buy [her] lunch" led her to accuse him of videotaping them having sex without her consent (Tr. 163-64). Other than respondent's testimony, there was no other probative evidence regarding the underlying events that led to his guilty plea, including the testimony of respondent's fiancée (Tr. 75-86).

## ANALYSIS

An employee may be sanctioned for misconduct if the off-duty conduct sought to be penalized has some nexus to the officer's employment or otherwise involves moral turpitude. *Fire Dep't v Rozenblyum*, OATH Index No. 1738/03 at 3 (Jan. 21, 2004), *modified on penalty*, Comm'r Dec. (Dec. 21, 2004), *aff'd*, NYC Civ. Serv. Comm'n Item No. CD05-53-SA (Aug. 26, 2005); *Dep't of Correction v. Chalmers*, OATH Index No. 1426/95 at 12 (Feb. 14, 1996), *modified on penalty*, Comm'r Dec. (Apr. 22, 1996) (violation of an order of protection issued by the Family Court sufficient to establish the nexus to the employee's job as a correction officer).

As an EMT, respondent must comply with the regulations of the Department, including the Emergency Medical Services Operating Guide Procedures ("OGP") (Pet. Ex. 6). OGP 101-01 sections 4.1.3, 4.2.47, and 4.2.48 require EMTs to comply with all Department rules, regulations, policies, procedures, and protocols, including not engaging in any criminal activity while on or off duty, or engaging in conduct prejudicial to the good order, efficiency, or the discipline of the Department. Fire Dep't Emergency Medical Services Operating Guide Procedures 101-01 §§ 4.1.3, 4.2.47, 4.2.48 (July 8, 2013). EMTs are also prohibited from engaging in fraud or other acts

that call into question the employee's honesty or integrity (Pet. Ex. 7). Fire Dep't Civilian Code of Conduct § 11.10 (Dec. 2013).

Petitioner argues that pursuant to the doctrine of collateral estoppel, respondent's guilty plea conclusively establishes the underlying facts of his arrest and criminal charge of unlawful surveillance and therefore, respondent has committed misconduct in violation of Department regulations. "A criminal conviction, whether by plea or after trial, is conclusive proof of its underlying facts in a subsequent civil action and collaterally estops a party from relitigating the issue. All that is required to give collateral estoppel effect to a criminal conviction is that there be an identity of issues in the criminal and subsequent civil actions and that the defendant have had a full and fair opportunity to contest the issues raised in the criminal proceedings." *Grayes v. DiStasio*, 166 A.D.2d 261, 262-63 (1st Dep't 1990).

While respondent does not dispute his guilty plea and conviction, he argues that his conviction has no nexus to his current duties as a technician maintaining cell phones because he has no contact with people in his position and has no access to private information. Respondent's argument is unavailing.

The crime that respondent pleaded guilty to involves the surreptitious recording of a woman during sexual activity. The crime itself is a violation of the Department's regulations and code of conduct in that it is undisputably conduct that is criminal, prejudicial to good order, fraudulent, and calls into question the employee's honesty or integrity. The crime is also an act evidencing moral turpitude because it gravely violates the moral sentiment or accepted moral standards of the community and involves deceit. This tribunal has found moral turpitude in acts such as manslaughter, sexual assault, child sexual abuse, welfare fraud, and theft. *See Human Resources Admin. v. Battle-Black*, OATH Index No. 2272/13 at 3-4 (Sept. 10, 2013) (finding that intentional fraud and theft of government benefits are crimes of moral turpitude); *Dep't of Education v. Negron*, OATH Index No. 806/07 at 2 (Nov. 30, 2006) (custodian engineer found to have committed acts of moral turpitude after being convicted of attempted murder, reckless endangerment, criminal possession of a weapon, and assault); *Fire Dep't v. Catucci*, OATH Index No. 1832/06 at 2 (Aug. 8, 2006) (EMT terminated after pleading guilty to attempted dissemination of indecent materials to minors and attempted obscenity which constitute crimes of moral turpitude).

I also find that respondent's misconduct has a nexus to his employment as an EMT. EMTs enter people's homes and are exposed to patients in their most vulnerable states. As attested to by Assistant Chief Cesar Escobar's testimony, the charge that respondent pleaded guilty to directly contradicts the inherent trust and integrity that EMTs must possess in that they are privy to people's "private emergencies and private health information" (Tr. 33-34). *See Fire Dep't v. Gallimore*, OATH Index No. 1782/14 at 5 (June 25, 2014) (finding nexus between reckless endangerment arrest and EMT duties).

Respondent does not dispute that his conviction has a nexus to his duties as an EMT, but argues that there is no nexus between his behavior and his current duties as a telecommunications associate, which he contends are controlling. This argument is misleading. Respondent was placed in his current position because his arrest prevented him from continuing to serve as a HAT. Respondent was not hired as a telecommunications associate; he was hired as a licensed EMT, and he was moved to a position as a HAT as a reasonable accommodation. Thus, for purposes of analyzing the nexus between the off-duty misconduct and respondent's job, the fact that he currently serves as a telecommunications associate is irrelevant. At issue is whether there is a nexus between his conviction for unlawful surveillance and his duties as an EMT and a HAT. Such a nexus exists. Like the duties of an EMT, the duties of a HAT implicate private medical procedures and confidential employee health information.[1]

While petitioner charges respondent with having pleaded guilty to both sections 250.45(2) and 250.45(5), the Department has only presented evidence, in the form of the certificate of disposition, that shows respondent pleaded guilty to one count of unlawful surveillance in the second degree, Penal Law section 250.45(5) (Pet. Ex. 5A). I note that respondent testified that he pleaded guilty to two counts of unlawful surveillance as stated in the superior court information, a charging document pursuant to Criminal Procedure Law section 200.50, and that a copy of the WebCriminal printout from the New York State Unified Court System indicates that respondent "pled guilty" to "PL 250.45 02 and PL 250.45 05" (Tr. 184; Pet. Ex. 5). Even so I find that the certificate of disposition to be the controlling and best evidence of respondent's conviction record

[1] As noted by petitioner, respondent affirmed in his EMT recertification dated April 29, 2024, that he had never been convicted of a crime despite his guilty plea on May 10, 2023. Respondent argued that he made the affirmation because the recertification occurred prior to his sentencing in June 2024. Since EMT license certification is determined by the New York State Department of Health, the validity of respondent's EMT recertification need not be determined here (Pet. Exs. 8, 10; Tr. 203-04, 246-47).

(Pet. Ex. 5A). Nevertheless, the evidence establishes that respondent violated Department regulations in that his criminal conviction for his off-duty conduct was in violation of Department regulations and the code of conduct. Respondent's arguments to the contrary are without merit.

## FINDINGS AND CONCLUSIONS

Petitioner has proven by a preponderance of the evidence that respondent violated Department regulations by pleading guilty to unlawful surveillance in the second degree, a class E felony.

## RECOMMENDATION

Petitioner requests that respondent be terminated from his position as an EMT. Petitioner has been employed as an EMT since 2016 and has no prior disciplinary history. Respondent also submitted a New York State Certificate of Relief from Disabilities issued to him on the date of sentencing (Resp. Ex. K). Nevertheless, the certificate has no precedential effect on this tribunal's reliance on respondent's conviction as the basis for a recommendation of termination. *See Barreto v. Gunn,* 134 A.D.2d 495, 496 (2d Dep't 1987); *see also Fire Dep't v. Halderman*, OATH Index. No. 569/19 at 7 (May 22, 2019), *adopted*, Comm'r Dec. (July 22, 2019) (termination recommended for criminal conduct of firefighter who had certificate of relief from disabilities issued).

While I am mindful of respondent's satisfactory employment history, the nature of the misconduct, unlawful surveillance of a sexual act without consent, is egregious and warrants an appropriate penalty. *See Dep't of Social Services v. Pena*, OATH Index No. 874/24 at 19 (Sept. 3, 2024) (termination warranted due to egregious misconduct by employee with no prior disciplinary history). The crime to which he pleaded guilty is in direct conflict with his duties as an EMT. Accordingly, termination is recommended.

Julia H. Lee
Administrative Law Judge

January 14, 2026

SUBMITTED TO:

**LILLIAN BONSIGNORE**
*Commissioner*

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