



STATE OF NEW JERSEY

In the Matter of Tameka Jefferson  
Mercer County  
Department of Public Safety

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC DKT. NOS. 2014-1747 &  
2014-3083  
OAL DKT. NOS. CSV 782-14 &  
CSR 7383-14

*Consolidated*

ISSUED: December 3, 2014 PM

The appeal of Tameka Jefferson, a County Correction Officer with Mercer County, Department of Public Safety, 10 and 30 working day suspensions and removal effective May 27, 2014, on charges, was heard by Administrative Law Judge Jeff S. Masin, who rendered his initial decision on November 6, 2014. No exceptions were filed.

Subsequent to presenting the initial decision to the Civil Service Commission, the parties reached a settlement agreement indicating that they had settled to a general resignation, as clarified.

Having considered the record and the Administrative Law Judge's initial decision, and having made an independent evaluation of the record, the Civil Service Commission, at its meeting on December 3, 2014, did not adopt the Findings of Fact and Conclusion as contained in the attached Administrative Law Judge's initial decision. Rather it acknowledged the settlement.

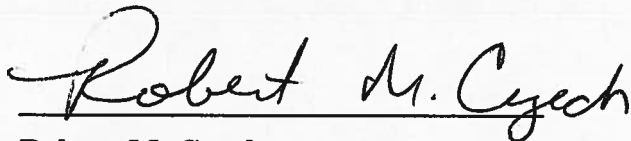
ORDER

The Civil Service Commission acknowledges the attached settlement.

Re: Tameka Jefferson

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
DECEMBER 3, 2014

A handwritten signature in black ink that reads "Robert M. Czech". The signature is written in a cursive style with a horizontal line underneath the name.

Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Henry Maurer  
Director  
Division of Appeals  
and Regulatory Affairs  
Civil Service Commission  
Unit H  
P. O. Box 312  
Trenton, New Jersey 08625-0312

attachment

---

**IN THE MATTER OF  
TAMEKA JEFFERSON,  
COUNTY CORRECTIONS OFFICER,  
Appellant**

:

**SETTLEMENT AGREEMENT  
AND GENERAL RELEASE**

:

**And**

OAL DKT. NO. CSV 782-14 and CSR 7383-14

**MERCER COUNTY DEPARTMENT:  
OF PUBLIC SAFETY,  
Respondent**

AGENCY REF. NO. (CSC) 2014-1747

**(CONSOLIDATED APPEALS)**

:

:

:

---

This Settlement Agreement and General Release ("Agreement") is entered into and agreed upon by and between the Mercer County Department of Public Safety, Corrections Center, (hereinafter referred to as the "County", or "Employer" or "Respondent") and Tameka Jefferson ("Jefferson", or "Employee" or "Appellant") (collectively "parties") to settle and resolve the above-referenced charges and matters in dispute between the parties for good cause shown upon the following terms and conditions:

1. The parties specifically recognize and agree that this Agreement by Jefferson to resign from employment, which is described herein shall be in lieu of and shall replace the Initial Decision issued by the Hon. Jeff S. Masin, A.L.J. in the above-referenced actions.

2. The parties jointly request that the Commission recognize this agreement by Jefferson to resign and to waive any rights to appeal from the Initial Decision, including any rights to payment under the 180 day rules as well as any rights to file

Exceptions to the Findings of Fact and Conclusions of Law set forth in the Initial Decision issued on or about November 6, 2014 in the above referenced matters. The County agrees to accept the resignation of Jefferson in lieu of the approval of any disciplinary termination of employment and or any suspension as set forth in the Initial Decision based upon the agreement of Jefferson to forgo any appeal and to waive any right to back pay, damages, or any other form of compensation related to such charges.

3. In consideration for the agreement by the Employee to resign, to waive any right to appeal or to any further employment with the County, and to execute this agreement with its full and complete release of claims, the County accepts the Employee's resignation and Jefferson's personnel records shall be amended or conformed to reflect this agreement with her resignation recorded as being approved as of the date of approval of this agreement by the Civil Service Commission. Respondent shall amend personnel records to conform to the terms of this settlement.

4. This Settlement Agreement and General Release is not, and shall not in any way be construed, as an admission by any party to this agreement of any violation of any federal or state constitutional prohibition or any federal or state or local law or ordinance or regulation, or any express or implied contract of employment, or in violation of any other legal duty owed to employee, but instead this resignation constitutes the good faith settlement of a disputed disciplinary action claim between the Employee and the County. Each party to this agreement specifically disclaims any liability to any other person.

5. The parties have entered into the Stipulation of Settlement and General Release with the resignation of employment to resolve Employee's appeal and to ensure

that a resignation is recorded as the end of Jefferson's employment and that the Initial Decision is not the basis for the end of Jefferson's employment with the County.

6. The parties agree that there is good and valuable consideration for the promises and rights being waived by the Employee. The consideration includes the Employee's agreement to waive any rights to appeal or to back pay, as well as to any amount that would be paid under the 180-day statutory requirements and the County's agreement to waive any right to seek to enforce the Initial Decision and have it deemed final. Further, the parties agree to these terms in order to avoid the burden, expense, delay and uncertainties of litigation associated with any Exceptions to the Initial Decision and any appeal therefrom. This Agreement shall operate as a complete and final disposition of this matter.

7. The parties agree that the Settlement Agreement and General Release ("Agreement") shall mean that the Employee is no longer employed as a County Corrections Officer for Mercer County and that by executing this agreement she is agreeing to not seek any such further employment with the County.

8. A party may use this Agreement to enforce its provisions only, but it shall not be used as a precedent by either party in an future matter not involving the enforcement of these terms.

9. In consideration for resolving the disciplinary offenses that are the subject of this appeal and for agreeing that this resolution shall substitute for the Initial Decision and supersede it, the Employee agrees to release and forever discharge the County, the County's officers, agents, officials, employees, attorneys, administrators, representatives, elected officials, departments, boards, officers and all persons acting by, through, under

or in concert with, both in their official and individual capacities, from any and all claims, arising from initial date of employment up to the date of execution of the Agreement, to any relief of any kind from the County, whether or not she now knows about those rights, arising out of the events leading up to the issuing of the above-referenced disciplinary actions, including, but not limited to, claims for breach of contract; fraud or misrepresentation; violation of Title VII of the Civil Rights Acts of 1964, or other federal, state or local civil rights law based on age or other protected class status including sex, race, color, national origin; the Americans with Disabilities Act; defamation; slander; libel; invasion of privacy; intentional or negligent infliction of emotional distress; breach of covenant of good faith and fair dealings; promissory estoppel; negligence; violation of public policy; Conscientious Employment Protection Act; New Jersey Law Against Discrimination; Equal Pay Act; New Jersey Employer-Employee Relation Act; New Jersey Family Leave Act and any other claims for unlawful employment practices, excepting any pending workers compensation matters. Appellant waives all other claims against Respondent with regard to this matter, including any award of back pay, counsel fees, or other monetary relief, except as may otherwise be provided herein.

10. Employee represents and certifies that she has carefully read and fully understands all of the provisions and effects of this Agreement and further, certifies that she is voluntarily entering into this Agreement, that she has been ably advised by her attorney and/or her union representative that she is satisfied with the representation by counsel and by the Union, that neither her attorney nor her union representative, nor the County have made any representations concerning the terms of effects of this Agreement

other than those contained herein and that she understands she is giving up her right to file Exceptions, to any monies that could be obtained from any appeal of the Initial Decision in this matter.

11. This Agreement is not an agreement by either party to these terms for other employees and shall neither set a precedent nor constitute a past practice.

12. This Agreement is made and entered into in the State of New Jersey and shall in all respects be interpreted, enforced and governed under laws of the State of New Jersey. The language of all parts of this Agreement shall, in all cases, be constructed as a whole, according to its fair meaning and not strictly for or against any of the parties.

13. Should any provision of this Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining part(s)/term(s) or provision(s) shall not be affected thereby and said illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement.

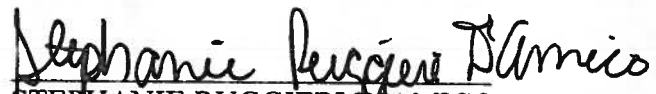
14. This Agreement shall not be considered a binding and/or final agreement between the parties until approved and executed by the County Administrator and/or Chief of Staff. Upon the execution of the agreement by all signatories it shall be transmitted to the Division of Appeals and Regulatory Affairs at the Civil Service Commission in lieu of any Exceptions to the Initial Decision, which shall review same and shall upon approval and or acknowledgment of such agreement transmit it to the Civil Service Commission for its review. This agreement shall not be final until finally accepted and or approved by the Civil Service Commission.

15. The foregoing constitutes a full and final disposition of this matter and shall constitute a full resolution of the appeal to the Civil Service Commission in this


matter and the Appellant shall withdraw any request to file Exceptions to the Initial Decision as part of this resolution.

16. This agreement will become effective only if approved by the Civil Service Commission. Any disapproval by the Civil Service Commission shall not interfere with the rights of either party to pursue the matter further as the parties agree that the appeal shall be reinstated as if there was not an agreement to these terms.


Date: 11/14/14

  
STEPHANIE RUGGIERI MAMICO  
ASSISTANT COUNTY COUNSEL  
ATTORNEY FOR RESPONDENT

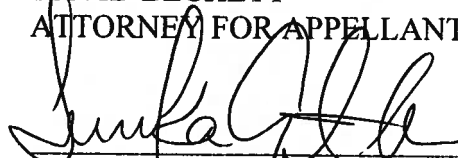
Date: 11/14/14

  
ANDREW MAIR, FOR RESPONDENT,  
COUNTY ADMINISTRATOR

Date: 11-14-14

  
DAVID BECKETT  
ATTORNEY FOR APPELLANT

Date: 11/14/14

  
TAMEKA JEFFERSON  
EMPLOYEE/APPELLANT



## Myers, Christopher

---

**From:** David Beckett <dbeckett@dbeckettlaw.com>  
**Sent:** Wednesday, November 26, 2014 9:58 AM  
**To:** Myers, Christopher  
**Subject:** Re: Tmeka Jerfferson Settlement  
  
**Importance:** High

Chris,

I hope you feel better and thanks for checking in. Unfortunately, I know that the County's agreement to this was based upon it being a General Resignation as it was connected to a disciplinary matter. While I would prefer that it be a Resignation in Good Standing, I have spoken with County Counsel and that is their position. As such, it should be recorded as a General Resignation. Have a good thanksgiving and I hope you regain your voice soon.

David

On Nov 26, 2014, at 9:04 AM, Myers, Christopher wrote:

Mr. Beckett:

Sorry I missed your call. I was out and have lost my voice. It's still out, or I would call on this I do apologize.

I received the addendum to the settlement and just have one quick question. Is the resignation to be recorded as a "Resignation in Good Standing" or a "General Resignation"?

Thanks!

Chris

---

**From:** David Beckett [<mailto:dbeckett@dbeckettlaw.com>]  
**Sent:** Wednesday, November 19, 2014 4:44 PM  
**To:** Myers, Christopher  
**Subject:** Re: Tmeka Jerfferson Settlement

I will address this. Thanks.

Sent from my iPhone

On Nov 19, 2014, at 2:40 PM, "Myers, Christopher" <[Christopher.Myers@csc.nj.gov](mailto:Christopher.Myers@csc.nj.gov)> wrote:

Mr. Beckett:

Prior to submitting the settlement you submitted to the Commission for review, it will need clarification. Specifically, Ms. Jefferson was removed effective May 27, 2014. However, the settlement indicates that her resignation will be effective the date the Commission acknowledges the settlement. Since she was removed May 27, 2014, and, at the earliest the Commission would review this would be December 3, 2014, there will be an unaccounted for time gap in her employment record between May 27, 2014 and December 3, 2014. Generally, the parties include language in their settlement if they desire a later resignation date to place the employee on an unpaid leave of absence

during that time frame. In the alternative, her resignation could be effective May 27, 2014. Either way, the Commission would be unable to act on the settlement until it knows how the parties intend to account for this gap of time.

If you could clarify this matter for me, I will attach the clarification to the file materials so the Commission can review this matter and it can become part of the record.

Thanks!

Chris Myers  
Civil Service Commission



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

**IN THE MATTER OF TAMEKA  
JEFFERSON, MERCER COUNTY  
DEPARTMENT OF PUBLIC SAFETY,  
AND**

OAL DKT. NO. CSV 782-14

AGENCY DKT. NO. ~~2011-1747~~

*2014-1747*

**IN THE MATTER OF TAMEKA  
JEFFERSON, MERCER COUNTY  
CORRECTIONS CENTER.**

OAL DKT. NO. CSR 7383-14

(CONSOLIDATED)

*2014-3083*

---

**David B. Beckett, Esq.,** for appellant Tameka Jefferson

**Stephanie Ruggieri D'Amico,** Assistant County Counsel, for respondent Mercer  
County Department of Public Safety and Mercer County Corrections Center  
(Arthur R. Sypek, Jr., County Counsel)

Record Closed: November 5, 2014

Decided: November 6, 2014

**BEFORE JEFF S. MASIN, ALJ:**

This Initial Decision resolves consolidated contested cases involving two suspensions, of ten and thirty days respectively, and a removal from the appellant's position as a county corrections officer.

## The Removal

The appointing authority, Mercer County Department of Public Safety, removed Corrections Officer Tameka Jefferson from her position. According to charges included in a Preliminary Notice of Disciplinary Action issued on December 19, 2013, by reporting late, on December 12, 2013, Officer Jefferson engaged in conduct unbecoming a public employee, in violation of N.J.A.C. 4A:2-2.3(a)(6); had violated N.J.A.C. 4A:2-2.3(a)(11), other sufficient cause by having an unreasonable excuse for lateness of fifteen minutes or less; and N.J.A.C. 4A:2-2.3(a)(4), chronic or excessive absenteeism or lateness. More particularly, it was charged that by being late, Jefferson had violated a Last Chance Agreement that had been part of a settlement of previous charges. Also, it was alleged that her lateness on December 12, constituted a Step 13 violation for unreasonable excuse for lateness of fifteen minutes or less. A Final Notice of Disciplinary Action was issued on May 27, 2014, removing Jefferson effective as of that date. Jefferson appealed this decision to the Civil Service Commission, which transferred the appeal as a contested case for a de novo hearing before the Office of Administrative Law (OAL). A hearing was held on September 9, 2014.

On October 21, 2014, I issued a letter order denying appellant's application to enter evidence into the record which purportedly would demonstrate that respondent Mercer County is not equitably applying and enforcing rules governing lateness and line-ups. Appellant appealed that interlocutory order to the Civil Service Commission and the record was held open pending determination of that appeal. On November 5, 2014, a letter was received from the Civil Service Commission denying appellant's interlocutory motion and on that date the record was closed.

The Final Notice did not itself specify the charges sustained or dismissed by the appointing authority. It merely referenced the report of the hearing officer. Ordinarily, the hearing officer's report from a departmental hearing is not appropriate evidence in a de novo hearing before the Civil Service Commission, except possibly for impeachment purposes. As a practice, it is not considered by administrative law judges. However, here, reference to the report is necessary in order to determine what charges from the Preliminary Notice were sustained or were dismissed by the hearing officer. The hearing officer's report is normally

subject to review by the appointing authority, which can accept it or modify or reject its findings. In most Final Notices, the appointing authority will note on the Final Notice itself, those charges sustained or dismissed. As this Final Notice does not do so, it must be presumed that the appointing authority was satisfied to merely adopt the hearing officer's disposition of the charges. Review of the hearing officer's report, solely for the purpose of determining which of the preliminary charges were sustained or resolved otherwise, reveals that the hearing officer sustained the charges for chronic or excessive absenteeism or lateness and other sufficient cause. The lateness was deemed a Step 13 violation. However, the hearing officer dismissed the charge of misconduct by a public employee, determining that the County had not met its burden to prove that violation. As such, the charge of unbecoming conduct, having been dismissed, is not before the Civil Service Commission.

The Last Chance Agreement arose in a settlement of a charge of a violation of N.J.A.C. 4A:2-2.3(a)(11), other sufficient cause, more specifically, unreasonable excuse for lateness of less than fifteen minutes (A-6). The Agreement notes that the series of charges for this offense constituted Steps 3-14, as specified in a series of twelve Preliminary Notices of Disciplinary Action issued between June 22, 2011 and July 27, 2012. In addition, the Agreement notes that there also were a smaller set of charges for unreasonable excuse for lateness of more than fifteen minutes, (A-7), Steps 3-6, as detailed in four Preliminary Notices, signed by Officer Jefferson and the President of her PBA Local on February 26, 2013; Jefferson pled guilty to all of the charges in these several Preliminary Notices. In lieu of the penalties contained in these many Preliminary Notices, the parties agreed that Jefferson would receive a sixty-day suspension. She also agreed that if she engaged in behavior in the twelve months from the date of the Agreement that resulted in departmental charges of violation of unreasonable excuse for lateness or less than/or more than fifteen minutes, "the County will seek termination for those departmental charges." In addition, if, after a hearing on the charges, the final adjudicator of the charges found that the offense had been committed, "Employee agrees that the penalty for such infraction will be termination from County employment."

Standard Operating Procedure (SOP) 136, issued October 31, 2008, addresses "Lateness." It requires that each officer report "on time, in proper dress and prepared to

perform their duties. All Officers should allow for sufficient time to travel to work. . . . It is the responsibility of each Officer who anticipates being late to contact Master Control and inform a Superior Officer.” Lateness is defined for those officers required to stand line-up as “not being present at Line-Up, in the Muster Room at the start of the shift” which for the 7:00 a.m. shift that Officer Jefferson was serving on December 12, 2013, is defined as “7:00 AM.” In addition, failure to scan in on the Kronos Timekeeping System “at the start of their assigned shift or scanning in after the start of the assigned shift “will be considered late.” Employees who are late “are to receive a late slip by an assigned Superior Officer/Shift Commander who will be in the Master Control area. The officer is required to advise the employee “to sign the late slip to acknowledge receipt and provide a reason for the lateness. If the employee refuses to sign the late slip and/or provide a reason for the lateness, the Supervisor preparing the late slip will indicate that the employee refused to sign and/or to provide a reason by documenting it on the late slip.” The SOP also notes that “All lateness, regardless of degree, will be considered for disciplinary action.”

“SOP 138: Line-Up (Custody Staff)” provides that once line-up has begun, “no one will be permitted to interrupt by joining the ranks late. Anyone missing from line-up who has not been officially excused will be considered late for duty, regardless of whether they are in the building or not.”

I **FIND** that undisputed evidence establishes that Tameka Jefferson clocked in on the Kronos Timekeeping System at 7:05 a.m. on December 12, 2013. Officer Jefferson does not dispute this fact. Acknowledging her awareness of the Last Chance Agreement that predated this event, and contending that she had not been late from July 27, 2012 until December 12, 2013,<sup>1</sup> she testified that on the morning of December 12, 2013, her eleven-year-old daughter suffered a nosebleed, which, while not an uncommon occurrence, was on this particular occasion a more severe bleed that would not stop despite her applying pressure and having the child lean her head forward so as not to swallow blood, in accordance with instructions that Jefferson had previously received. On this particular day, her daughter was “hysterical,” as she would get when the bleeds did not readily stop, and she was coughing up blood. Documentary evidence offered indicates that this child, whose twin does not suffer these

---

<sup>1</sup> Charges of lateness on June 20 and 30, 2013, are the subject of a separate appeal from suspensions of ten and thirty days, were tried in conjunction with, but separate from this removal action.

bleeds, was admitted to Robert Wood Johnson Hamilton Hospital for a bloody nose on June 27, 2011. The Emergency Department Record notes that the nosebleeds were identified by the person providing information, presumably Officer Jefferson, as, "persistent." Jefferson was provided with treatment instructions which are detailed on this record. Jefferson testified that other than this June 2011 visit, there had been no other hospitalizations prior to the December 12, 2013, bleed.

Officer Jefferson explained that when she was working the 7:00 a.m. shift, she would normally leave her home at about 6:25 or 6:30. At the time her child awoke with the nosebleed, she was the only adult in the home. She has someone who watches the children from about 6:15 a.m., and who arrived that morning at about that time. Jefferson had been attempting to stop the nosebleed from about 5:30. It finally stopped after 6:15 and she was able to get dressed for work. She left for work later than she normally would have. She acknowledged that she was aware that she could possibly be late. When she was on the 11:00 p.m. to 7:00 a.m. shift, she had someone stay in the house and she was not present when the children woke up.

According to Ms. Jefferson, on December 12 she was not asked why she was late. She was not given a late slip and was not asked to fill one out, and did not ask for one. A slip was produced in evidence, bearing a signature for the supervisor, but no reason for lateness is listed and no signature of the officer is present. Jefferson testified that she went into Master Control, but the supervisor was in Line-Up. She could have asked to see the supervisor in the West Wing, but did not. Two days later, she tried to explain what had occurred. She told the civilian time-and-attendance person, who told her to see the warden. Jefferson explained about the nosebleed, and the warden told her that she should wait for her hearing and go through "the process." She first produced medical records at the hearing. Ms. Jefferson also noted that her other previous episodes of lateness were not related to this problem of bloody noses, this being the first time that such an event had caused her to be late.

## Discussion

Civil service employees are subject to disciplinary action if the appointing authority is able to meet its burden of establishing, by a preponderance of the credible evidence, that the employee has engaged in conduct that fits within a series of specified disciplinary charges authorized by the New Jersey Administrative Code. N.J.A.C. 4A:2-2.3(a); Matter of Polk, 90 N.J. 550 (1982).

The charges that have been brought against Officer Jefferson stem from a single occurrence of lateness occurring on December 12, 2013. The officer does not deny that she arrived at her job late that morning, as the Kronos Timekeeping System documents her as arriving at 7:05, five minutes after she was scheduled to start her shift. She acknowledges that she was late, offering an excuse for the lateness relating to the allegedly unusually troublesome nosebleed suffered by one of her children. The only evidence of this nosebleed is the testimony offered by Jefferson. She has produced evidence that clearly demonstrates that her child had problems with nosebleeds in June 2011, well before the incident in question, and was examined by an otolaryngologist in August of 2014, well after the incident in question. That the child had an ongoing medical condition and likely had a series of nosebleeds is really not in question, and indeed this evidence is undisputed. But did she have a nosebleed on December 12, 2013, and if so, was it of such a nature as to make it impossible for Jefferson to report to duty on time. Indeed, not only did she not report on time, but there is no evidence that she attempted to advise her superiors that due to the circumstances, she might be late, a prospect that she acknowledges she was aware of. She has not produced the person who watched her children, who might well have been able to support her story concerning the significant nosebleed.

Officer Jefferson's proffered excuse for her lateness is not recorded on the late slip. She claims it was not presented to her at the time of her arrival or shortly thereafter, and she acknowledges that she did not attempt to see the West Wing supervisor who she might have been able to report the circumstances to. The SOP itself details that the failure of the Shift Commander/designee/ or Civilian Supervisor to complete the late form, to ensure that the



employee receives a copy of the late slip, or to obtain a reason for lateness or the employee's signature "does not excuse the employee's lateness."

Officer Jefferson has a significant history of lateness, and the settlement of her previous disciplinary action has left her facing a Last Chance situation which of course places extra significance on any violation of her responsibility to be on time. Here, she has offered an excuse for her admitted lateness. The existence of previous discipline for lateness in no way proves that she had no legitimate excuse for her lateness here, and the charge itself is that she was "unreasonably late." Thus, if her excuse is accepted, it would negate the charge. Clearly she has a substantial motive to present an excuse to avoid the clear consequence of a finding of unreasonable lateness.

I am persuaded that if Officer Jefferson's child had truly suffered such a bad nosebleed, that once the person assisting her with child care arrived and the situation calmed down, as she herself acknowledged it did after 6:15, there was ample time for her to have called in and reported that while she would try to be on time, she might be unavoidably late due to her child's problem. One cognizant of such a Last Chance Agreement and aware of such an unusual reason for her delay would, or at least should, have been highly motivated to do so to avoid a charge. But if she just was running late for no good reason, she might not have thought so quickly to use her child as the excuse for her lateness. It is not a mark of venality to be late for work, and surely there could be reasons why Ms. Jefferson did not arrive at the timekeeping machine until five minutes after she was due. Considering the evidence and assessing the credibility of the appellant, I am constrained to **FIND** that Ms. Jefferson did not have a legitimate and reasonable excuse for being late. Neither did she have a legitimate reason why, had she had a potentially legitimate excuse, she could not have contacted her place of work to alert it about the possibility that she would be late. As such, I **CONCLUDE** that she has been proven by a preponderance of the credible evidence to have violated SOP 136 and 138 and to have violated N.J.A.C. 4A:2-2.3(a)(11). Pursuant to the Last Chance Agreement, Ms. Jefferson agreed that in the case of a final determination to this effect, the penalty would be removal. The Civil Service Commission of course has the final authority to issue a Final Decision in this case, but as this Initial Decision must, by law, be written in such form that it can serve as the final administrative decision, I **CONCLUDE**

that both under the Last Chance Agreement and, independent of its terms, given the frequency of her instances of lateness, removal is the proper sanction. It is **SO ORDERED**.

**The Ten-Day Suspension  
Appointing Authority Evidence**

Lieutenant Michael Kownacki, assigned to the Mercer County Corrections Center in April 2012, testified that on June 19, 2013, Officer Jefferson was late for line-up, which started at 11:00 p.m., or 23:00. Line-up was held in the IDR or "Muster" Room, located approximately one hundred (100) feet from Master Control. At line-up the roll is called, information is provided to officers as to which supervisors are on duty, about any codes occurring that day, and any memorandum that may need to be conveyed to them. As for Jefferson, the lieutenant was unaware of the time when she checked in to Line-Up, however, it was after her name was called. He prepared a report of the incident on June 20. He noted that when he presented Jefferson with a late slip, she refused to sign it, at least as he understood from Sergeant Walker. As he noted on the report, he had previously advised Jefferson that she was required to be present in Line-Up as per SOP 136 and 138. He testified that he had told her this on June 12 or 13, 2013. In a "Report to Warden," dated June 12, 2013, Kownacki wrote that he had so advised Jefferson after she reported to line-up after it had already begun. Once again she had refused to sign the late slip for that occasion. A Final Notice of Disciplinary Action, dated September 23 and 25, 2013, shows that Officer Jefferson was issued a written reprimand for the June 11 incident.

On cross-examination, the witness was shown a printout from the Kronos System, which showed that Officer Jefferson had scanned in at 22:56, or 10:56 p.m., prior to the start of her shift. Kownacki was unaware of this. Sergeant Walker, who told Kownacki that he had spoken to Jefferson, did not tell him that she had claimed to have had to go to the bathroom. If Kownacki had been told by an officer in advance of the start of line-up of a need for an emergency bathroom visit, he would have excused the officer from the line-up. He could not say that Officer Jefferson's late arrival at line-up that day caused her to miss any information. He acknowledged that if one scans in by 11:00 p.m., as required, there could be a delay in getting through the sally port of up to one minute. However, when he

heads to the Muster Room, he will look back to see if anyone is coming down the hall before he starts line-up. The door to the Muster Room is left open "the majority of times" during line-up.

### **Thirty-Day Suspension Appointing Authority Evidence**

Lieutenant Asa Paris, a lieutenant at Mercer County Corrections Facility since November 2, 2012, and previously a sergeant at that institution, testified that he called line-up on June 29 for the 11:00 p.m. to 7:00 a.m. June 30 tour of duty. At that time, Officer Jefferson was late for line-up. The Kronos System shows that she scanned in at 11:03 p.m., as stamped by Lieutenant Fioravanti, who was in Master Control. However, when Paris called line-up she was not present. When Paris went to Master Control, Lieutenant Fioravanti told Paris that after Jefferson scanned in she went out of the building. Paris wrote a report of the incident. According to Fioravanti, Jefferson did not provide her with a reason for being late. Paris confirmed that Jefferson had reentered the building and was in the Northeast One Living Unit.

On cross-examination, Lieutenant Paris could neither confirm nor deny the accuracy of the handwritten "11:00 pm Kronos" entry, written on R-7, the Attendance and Overtime Record upon which is also the stamped "2013 Jun 29PM11:03:07." However, the SOP defines one not present for the start of line-up as late. Indeed Corrections policy is that once line-up commences, no one is allowed in.

### **Officer Jefferson's Testimony on Both Charges**

Officer Jefferson acknowledged that she was not in the Muster Room for the start of line-up on either June 19 or 29. On the 19th, she scanned in at 10:56 p.m., but had to go to the bathroom. As she was not "technically late," she refused to sign the late slip. She did not tell Lieutenant Kownacki when she arrived that she needed to go the bathroom, as he was in the Muster Room. She did tell Sergeant Walker when he gave her the late slip. Jefferson testified that she "had to go."

On June 29, she again failed to make line-up at its start. When she arrived at the door to the Muster Room, she was not permitted to enter. She had arrived at the building, parking in a spot that was not legal. It was dark and she did not drive up and down the aisle of the parking area. After scanning in, she went out to move the car. She was aware that she had to be at line-up on time. She had not been charged with lateness on other occasions when she failed to get to line-up on time.

In addition to the testimony offered by Officer Jefferson, counsel for the appellant advised that he wished to produce testimony from the president of the union concerning alleged inconsistency in the enforcement of the rules regarding lateness. In an Interlocutory Order, dated October 14, 2014, I denied the production of this evidence.

### Discussion

Once again, Standard Operating Procedure (SOP) 136, issued October 31, 2008, addresses "Lateness." It requires that each officer report "on time, in proper dress and prepared to perform their duties. All Officers should allow for sufficient time to travel to work. . . . It is the responsibility of each Officer who anticipates being late to contact Master Control and inform a Superior Officer." Lateness is defined for those officers required to stand line-up as "not being present at Line-Up, in the Muster Room at the start of the shift."

In each of these instances of alleged lateness, on June 19 for the June 20 shift and on June 29 for the June 30 shift, Officer Jefferson acknowledges that she failed to arrive at the Muster Room so as to be present for the start of line-up. Thus, by definition, she was late on both occasions. Her excuses vary. The second, for June 29, that she parked illegally, scanned in and then had to go out and move her car to a presumably legal space before reporting to line-up, is quite obviously a completely unacceptable excuse. She should have arranged to arrive at the building with enough time to spare so as to be able to locate a legal parking spot with enough time to enter the building, scan in and arrive at the Muster Room in time for the SOP and thus a violation of N.J.A.C. 4A:2-2.3(a)(11) (other sufficient cause, the violation of the SOP). As for the 19th, she scanned in timely, but failed to arrive for line-up

on time, thus being late. Her excuse, a bathroom "emergency" may well reflect what actually happened. But again, perhaps she should have made it to work in time to allow a trip to the bathroom with enough time to still be at line-up for its start. She had to have been well aware by this date that being late to line-up was highly problematic. It is not clear why she did not at the very least tell someone in Master Control that she had to go to the bathroom. As for her claim of telling Sergeant Walker, neither party produced this officer. Kownacki testified to his discussion with Walker. He claimed that Walker did not tell him of Jefferson claiming that she had gone to the bathroom.

I **FIND** that on June 19, Officer Jefferson did arrive at the scanner and scan in at 10:56 p.m. She failed to arrive at line-up at its start. I **FIND** that she went to the bathroom, but I am unable to accept that she could not have at the very least advised the officer in Master Control of her need to quickly go to the bathroom, thereby making it unlikely that she would get to line-up on time. Given her recent warning from Lieutenant Kownacki about being late, this failure negates any basis for finding that she had a legitimate excuse for not only being late, but for failing to notify a superior officer that she might, or indeed, most likely would, be late, as the SOP required. Thus I **CONCLUDE** that Officer Jefferson violated both SOP 136 and 138 and thereby violated N.J.A.C. 4A:2-2.3(a)a(11).

### Penalty

Captain Richard Beardan testified that the latenesses of June 19 and 20 and 29 and 30 were Step 2 and Step 3 violations of the Mercer County Public Safety Table of Offenses and Penalties, more specifically, D-15 (Violation of a rule, regulation, policy, procedure, order or administrative decision). The recommended penalty for a Step 2 violation of this section is in a range of a ten-day suspension to removal. The recommended penalty for a Step 3 violation is removal, but the captain explained that while the penalty imposed for the June 19 and 20 violation was ten days, the penalty imposed for the June 29 and 30 offense was not removal, as sought in the Preliminary Notice, but a thirty-day suspension. The Civil Service Commission reviews disciplinary appeals de novo, and considers these Tables of Offenses and Penalties to be guidelines that do not bind the Commission. Nevertheless, given the nature of the offenses, and the limited amount of delay in the officer actually being at work, I

see no reason to disturb these penalties. They appear reasonable to the situation. Therefore, for the violations of the SOPs on June 19 and 20, a ten-day suspension is imposed. For the violations occurring on June 29 and 30, a thirty-day suspension is imposed. **IT IS SO ORDERED.**

I hereby **FILE** my initial decision with the **CIVIL SERVICE COMMISSION** for consideration.

This recommended decision may be adopted, modified or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 40A:14-204.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, DIVISION OF APPEALS AND REGULATORY AFFAIRS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, PO Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

November 6, 2014

DATE

  
\_\_\_\_\_  
JEFF S. MASIN, ALJ

Date Received at Agency:

11/6/14

Date Mailed to Parties:

11/6/14

**LIST OF WITNESSES:**

**For appellant:**

Tameka Jefferson

**For respondent:**

Captain Richard Bearden

**LIST OF EXHIBITS:**

**CSV 782-14:**

**For appellant:**

P-1 Time Clock History Sheet

**For respondent:**

- R-1 Report to Warden (Incident), date of report June 20, 2013
- R-2 Standards and Operating Procedures, Mercer County Correction Center, Section 136
- R-3 Standards and Operating Procedures, Mercer County Correction Center, Section 138
- R-4 Report to Warden (Incident), date of report June 12, 2013
- R-5 Attendance and Overtime Record
- R-6 Report to Warden (Incident), date of report June 30, 2013
- R-7 Attendance and Overtime Record
- R-8 Final Notice of Disciplinary Action, September 20, 2013
- R-9 Mercer County Public Safety Table of Offenses and Penalties

**CSR 7383-14:**

**For appellant:**

- P-1 Hospital Emergency note, June 27, 2011
- P-2 Hospital Emergency note, June 27, 2011
- P-3 Letter to Dr. Baiser from Dr. Shah, dated August 22, 2014

**For respondent:**

None