

B. 110



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Thomas Schreffler,  
Mountainview Youth Correctional  
Facility

Minor Discipline Appeal

CSC Docket No. 2016-3397

ISSUED: **DEC 13 2016**

(ABR)

Thomas Schreffler, a Correction Sergeant at Mountainview Youth Correctional Facility (Mountainview), Department of Corrections (DOC), represented by Frank M. Crivelli, Esq., appeals an official written reprimand.

By way of background, C.W., a Senior Correction Officer, filed a discrimination complaint against the appellant on October 28, 2015, alleging that the appellant made disparaging remarks about African-Americans and Muslims, such as "Muslims have no right to be President of the United States" and "the Middle East should be obliterated," greeted inmates with the phrase "what's up my nigga," and stated that the sound of gun shots from yearly qualifications at Mountainview "sound[ed] like Newark or Paterson." C.W. also contended that the appellant removed him from his regular assignment location. DOC's Equal Employment Division (EED) investigated the matter and upheld the allegations. The appellant was advised of the complaint on December 16, 2015. On January 11, 2016, the appointing authority served the appellant with an official written reprimand on charges of: (1) conduct unbecoming a public employee; (2) other sufficient cause; (3) violation of DOC's policy prohibiting discrimination, harassment or hostile environments in the workplace; and (4) violation of the DOC Human Resource Bulletin 84-17, as amended. The appointing authority alleged that the appellant, on multiple occasions and as recently as November 2015, made inappropriate comments to inmates and that co-workers found the comments to be offensive. Specifically, it was alleged he stated that: "Muslims should never be considered to be President;" "All Muslims are terrorists;" and "Muslims are terrorists, why would we want a Muslim in the White House." The appointing

authority determined that the conduct constituted harassment based on religion and was inappropriate for a Correction Sergeant.

The appellant subsequently appealed the disciplinary action. Following a departmental hearing, the Hearing Officer denied the appeal and upheld the charges. The Hearing Officer found that the appointing authority had presented two credible witnesses, C.W. and S.M., a Senior Correction Officer, in support of the charges. The Hearing Officer concluded that written statements from three other Senior Correction Officers, who claimed that they never heard the appellant make any disparaging remarks, only constituted hearsay evidence. The Hearing Officer also noted that, in the course of the hearing, neither the appellant nor the appellant's representative denied that the appellant made the alleged remarks. The Hearing Officer found that the appointing authority had met its burden of proof and established that the appellant had committed harassment based on religion. Accordingly, the Hearing Officer upheld the official written reprimand.

On appeal to the Civil Service Commission (Commission), the appellant contends that the official written reprimand should be rescinded. First, the appellant argues that the appointing authority failed to meet its burden of proof and that such failure constitutes an issue of general applicability in the interpretation of law, rule or policy, as required pursuant to *N.J.A.C. 4A:2-3.7(a)*. Specifically, the appellant maintains that the appointing authority's supporting evidence was insufficient to prove the alleged conduct, as its two witnesses were unable to recall the specific dates the alleged comments were made, C.W.'s claim that "other officers" heard the alleged disparaging remarks was not corroborated and none of the "other officers" who heard the alleged remarks were called to testify. The appellant also claims that the three written statements he submitted from other Senior Correction Officers was credible evidence that flatly refuted the testimony of the appointing authority's witnesses concerning the alleged disparaging remarks.

The appellant also argues that the appointing authority's charges were vague and overbroad because they merely allege that the statements were "made to inmates and officers found the comments to be offensive" and do not specify to whom, when or where the alleged comments were made. Furthermore, the appellant argues that the Hearing Officer did not adequately consider all evidence submitted, namely evidence that C.W. and S.M. were biased against the appellant and were making their claims in retaliation for the appellant having reported them for incidents of insubordination. The appellant submits copies of Special Custody Reports dated November 12, 2015, and December 18, 2015, in which he reported C.W. and S.M., respectively, for insubordination. Lastly, the appellant claims that the penalty imposed was excessive in light of the evidence and will severely impair his ability to secure future promotions.

In response, the appointing authority argues that this matter does not satisfy the Commission's standard for review of minor disciplinary appeals. Specifically, it contends that it followed proper disciplinary procedures and that the EED investigation found credible evidence that the appellant violated the DOC Policy Prohibiting Discrimination in the Workplace by making disparaging comments about Muslims, which supports the Hearing Officer's decision.

### CONCLUSION

*N.J.A.C.* 4A:2-3.7(a) provides that minor discipline may be appealed to the Commission. The rule further provides:

1. The Civil Service Commission shall review the appeal upon a written record or such other proceeding . . . and determine if the appeal presents issues of general applicability in the interpretation of law, rule or policy. If such issues or evidence are not fully presented, the appeal may be dismissed and the Commission's decision will be a final administrative decision.
2. Where such issues or evidence under (a)1 above are presented, the Commission will render a final administrative decision upon a written record or such other proceeding as the Commission directs.

This standard is in keeping with the established grievance and minor disciplinary procedure that such actions should ordinarily terminate at the departmental level.

Moreover, in considering minor discipline actions, the Commission generally defers to the judgment of the appointing authority as the responsibility for the development and implementation of performance standards, policies and procedures is entrusted by statute to the appointing authority. The Commission will also not disturb hearing officer credibility judgments in minor discipline proceedings unless there is substantial credible evidence that such judgments and conclusions were motivated by invidious discrimination considerations such as age, race or gender bias or were in violation of Civil Service rules. *See e.g., In the Matter of Oveston Cox* (CSC, decided February 24, 2010). A review of the record evidences no showing that either factor, which would warrant further Commission review, is present in this case. The appellant does not argue that the Hearing Officer's determination was the product of any discrimination. Instead, the appellant essentially seeks a review of the Hearing Officer's determination on the merits. In this regard, in reviewing these matters, this agency must rely on the experience and judgment of hearing officers to adequately summarize testimony and make reasonable and rational conclusions. Based on this record, neither the specificity of the charges, as communicated by the appointing authority, nor the conduct of the appointing authority in this minor disciplinary case constitute an issue of general applicability

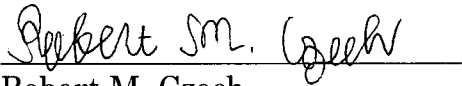
in the interpretation of law, rule or policy. Therefore, there is no basis to disturb the Hearing Officer's conclusion and no further review will be conducted by the Commission.

**ORDER**

Therefore, it is ordered that this appeal be denied.

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  
THE 7<sup>TH</sup> DAY OF DECEMBER, 2016



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