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STATE OF NEW JERSEY

In the Matter of Marion Wilson  
Camden County,  
Department of Corrections

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FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC DKT. NO. 2016-2350  
OAL DKT. NO. CSV 01809-16

ISSUED: **MAR 10 2017** BW

The appeal of Marion Wilson, County Correction Sergeant, Camden County, Department of Corrections, 60 calendar day suspension, on charges, was heard by Administrative Law Judge Sarah G. Crowley, who rendered her initial decision on February 8, 2017. No exceptions were filed.

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 March 9, 2017, accepted and adopted the Findings of Fact and Conclusion as contained in the attached Administrative Law Judge's initial decision.

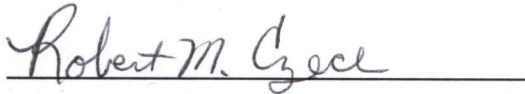
ORDER

The Civil Service Commission finds that the action of the appointing authority in suspending the appellant was justified. The Commission therefore affirms that action and dismisses the appeal of Marion Wilson.

Re: Marion Wilson

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  
MARCH 9, 2017

A handwritten signature in cursive script, reading "Robert M. Czech", is written over a horizontal line.

Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

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

Attachment



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

**INITIAL DECISION**

OAL DKT. NO. CSV 01809-16

AGENCY DKT. NO. 2016-2350

**IN THE MATTER OF MARION WILSON,  
CAMDEN COUNTY, DEPARTMENT OF  
CORRECTIONS.**

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**William Hildebrand, Esq.**, for appellant Marion Wilson

**Antonieta Paiva Rinaldi**, for respondent Department of Corrections

Record Closed: January 13, 2017

Decided: February 8, 2017

BEFORE **SARAH G. CROWLEY**, ALJ:

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

Appellant Marion Wilson appeals from a Final Notice of Disciplinary Action dated January 28, 2016, suspending her for sixty days from her position as a Correction Officer with the respondent Camden County Department of Corrections (CCDOC). Officer Wilson was served with a Preliminary Notice of Disciplinary Action on July 15, 2015, charging her with the following: N.J.A.C. 4A:2-2.3(a)(1), incompetency, inefficiency, failure to perform duties; N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming; N.J.A.C. 4A:2-2.3(a)(7), neglect of duty; N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause. She was also charged with violating CCCF



Rules of Conduct 1.1 Violations in General; 1.2 Conduct Unbecoming; 1.3 Neglect of Duty; 2.8 Leaving Assigned Duty Post; 2.10 Ineffectiveness to Duty; 3.1 Supervision; 3.2 Security; et al. The specifications in the Notice of Disciplinary Action allege that Officer Wilson left her post in the visiting area for approximately one and a half hours, when there were visitors coming and going. This was a blatant disregard of her duties and jeopardized the safety of the visitors, the staff, and the facility.

On January 28, 2016, CCDOC issued a Final Notice of Disciplinary Action sustaining the above charges. Officer Wilson appealed and the matter was transmitted to the Office of Administrative Law (AOL), where it was filed on January 29, 2016, to be heard as a contested case. N.J.S.A. 52:14B-1 to 15 and 14F-1 to 13. The matter was heard on January 9, 2017. The record was held open for a submission from CCDOC on the issue of past disciplinary record, which was filed on January 13, 2017, and the record closed on that date.

### FACTUAL FINDINGS AND TESTIMONY

The following facts are not in dispute. Petitioner has been employed with the CCDOC for nineteen years. She was assigned to the fourth floor visiting area on July 20, 2013. She was working the 7:00 a.m. to 7:00 p.m. shift. At approximately 2:30 p.m., she went down to the information desk, and remained there for an hour and a half. Petitioner was aware that there were visitors and that she was required to be up there to supervise and check visitors for contraband. When Captain Taylor came out and saw her at the information desk, at approximately 4:00 p.m., she told her to get back to her post and advised her supervisor to write her up for leaving her post. Appellant does not dispute any of the foregoing facts, but claims "it was no big deal." She challenges the duration of the suspension.

**Warden Karen Taylor** has been at the CCDOC for approximately twenty years. She was promoted from Captain to Warden three months ago. She is



familiar with this case, because she witnessed petitioner away from her designated post on the afternoon of July 20, 2013. When she saw her down at the information desk, instead of at her post in the visitor's area on the fourth floor, she instructed her to get back to her post. She also instructed her supervisor to write her up for being away from her post. The video was viewed by the court. The video shows petitioner leaving her post at approximately 2:40 p.m. and going to the information desk in the lobby of the main jail, where she remains until 4:03 p.m., when Captain Taylor advised her to return to her post.

Warden Taylor testified regarding the importance of staying at your post. The visitors need to be supervised during their visitation for several reasons, all having to do with the safety and security of the facility. There are fights that break-out between the visitors or the children that are brought in can be left unattended and get hurt. There is also a risk of inappropriate conduct between visitor and inmates. Although there is a Plexiglas divider between them, inappropriate sexual interactions have been known to occur. In addition, you are supposed to limit the time of the visits and check for contraband. Petitioner was out of her post and failed to supervise the visitation and check for contraband for one hour and a half.

Warden Taylor discussed the various infractions which petitioner was cited for. In addition to the neglect of duty and conduct unbecoming, there are very specific rules regarding leaving an assigned post. Rule 2.10 relates to inattentiveness to duty and 3.1 applies to supervisors, who are held to a higher standard. Warden Taylor discussed the rules which relate to security. Petitioner was to monitor visitors on her post, and check for contraband before and after each visit. Warden Taylor felt it was a very serious infraction, since she left for not just a few minutes but for an hour and a half and that the resulting risk to safety and security of other inmates, visitors and other officers.



**For appellant:**

**Marion Wilson** is a correction officer at the CCDOC, where she has worked for the last nineteen years. She was posted on the visitor's station on the fourth floor and was working the 7:00 a.m. to 7:00 p.m. shift on July 20, 2015. She did not dispute that she left her post at approximately 2:40 p.m. and did not return until Warden Taylor instructed her to return to her post at approximately 4:00 p.m. She testified that she was down at the information desk. She testified that visitors had no physical contact and they communicate by phone only, so it was no big deal. She testified that in protective custody they do not have a guard on duty, so she is not sure why she has to remain on the visitor's area. She acknowledged that she was assigned to that post, she was aware of the rules with respect to staying there and she probably should not have left. She testified that she did not check anyone for contraband during the time she was down at the information desk. She also acknowledged that visitors were supposed to be there for only twenty minutes and she did not monitor this during the day in question.

**FINDINGS OF FACT**

The resolution of the charges against Officer Wilson requires that I make a credibility determination regarding some of the facts. However, the critical facts in this case are undisputed. Officer Wilson does not dispute that she left her post for approximately one and a half hours, and she failed to check visitors for contraband, supervise visits or monitor the duration of the visits. The only factual issue that is in dispute is the importance of the rules in question. The choice of accepting or rejecting the witnesses' testimony or credibility rests with the finder of fact.—Freud v. Davis, 64 N.J. Super. 242, 246 (App. Div. 1960). In addition, for testimony to be believed, it must not only come from the mouth of a credible witness, but it also has to be credible in itself. It must elicit evidence that is from such common experiences and observation that it can be approved as proper under the circumstances, See Spagnuolo V. Bonnet, 16 N.J. Super. 546 (1954); Gallo v. Gallo, 66 N.J. Super. 1 (App. Div. 1961). A credibility determination requires an overall assessment of the witnesses' story in light of its rationality,



internal consistency and the manner in which it "hangs together" with the other evidence. Carbo v. United States, 314 F. 2d 718,749 (1963). A fact finder is free to weigh the evidence and to reject the testimony of a witness, even though not directly contradicted, when it is contrary to circumstances given in evidence or contains inherent improbabilities or contradictions that alone or in connection with other circumstances in evidence, excite suspicion as to its truth. In re Perrone, 5 N.J. Super. 514, 521-22 (1950). See DAmato by McPherson v. D'Amato, 305 N.J. Super. 109, 115 (App. Div. 1997). With respect to the importance of remaining in your post and doing your job in a correction center, I found the testimony of Warden Taylor sincere and credible. I found that appellant's claim that "it was no big deal" to leave your post for an extended period of time to be not credible.

Based on this testimony and evidence in the record I **FIND** that Officer Wilson left her post in the visitor's area for approximately one hour and a half. I further **FIND** that the duties of the visitor's post required her to remain in the visitor's area. I further **FIND** that the duties of this post required Officer Wilson to check visitors for contraband, supervise all visitors and monitor the duration of the visitation. I further **FIND** that Officer Wilson failed to perform her duties and that such failure presented a significant safety risk to visitors, inmates as well as fellow officers

### **CONCLUSIONS OF LAW**

A civil service employee's rights and duties are governed by the Civil Service Act and the regulations promulgated pursuant thereto. N.J.S.A. 11A:1-1 to 12-6; N.J.A.C. 4A:1-1,1 to 4A:10-3.2. A civil service employee who engages in misconduct related to his or her duties or who gives another just cause may be subject to major discipline. N.J.A.C. 4A:2-2.2 -2.3(a). In appeals concerning major disciplinary actions brought against classified employees, the burden of proof is on the appointing authority. N.J.A.C. 4A:2-1.4(a). The standard of proof in administrative proceedings is a preponderance of the credible evidence. In re Polk License Revocation, 90 N.J. Super. 550 (1982); Atkinson v. Parsekian,



37 N.J. Super. 143 (1962).

This matter involves a major disciplinary action brought by the respondent appointing authority against the appellant seeking a sixty-day suspension. The appellant is charged with inability to perform duties, neglect of duty, conduct unbecoming and other sufficient cause. She is also charged with violating Rules of Conduct 1.1; Rule 2.8 Leaving Assigned Duty Post; Rule 2.10 inattentiveness to Duty; Rule 3.1 Supervision; and Rule 3.2 Security. The charges all relate to the appellant leaving her post in the fourth floor visiting area for approximately one hour and a half on July 20, 2015. She is also charged with the failure to supervise, check for contraband or monitor duration of visits. Officer Wilson does not dispute the forgoing violations, and I have found as fact that she did in fact violate all of the foregoing rules. In addition to the undisputed testimony, there is a video which cooperates all the foregoing undisputed facts.

I therefore **CONCLUDE** that the respondent has satisfied its burden of proving that appellant violated all the foregoing rules by failing to remain in her post, monitor visitors, or check for contraband. I **CONCLUDE** that the charges are **SUSTAINED**.

#### PENALTY

Once a determination is made that an employee has violated a statute, rule, regulation, etc., concerning his/her employment, the concept of progressive discipline must be considered. West New York v. Bock, 38 N.J. Super. 500 (1962). While this case did not specifically use the phrase "progressive discipline," its facts strongly suggest that a record of progressive discipline should precede the ultimate penalty, which is removal. The concept of progressive discipline involves consideration of the number of prior disciplinary infractions, the nature of those infractions and the imposition of progressively increasing penalties. It is well settled that correction officers, like police officers are held to a higher standard of conduct



than other public employees because of the sensitive nature of the position they occupy. Twp. of Moorestown v. Armstrong, 89 N.J. Super. 560 (App. Div. 1965), cert, denied, 47 N.J. Super. 80 (1966). It has also been noted in corrections cases, that failure to adhere to security precautions could have potentially serious consequences, which may give rise to a more serious penalty regardless of the lack of any past disciplinary consequences. I/M/O Martha Hicks and Antonio Price, OAL Dkt. Nos. CSV 11373 and CSV 11494-13; 2014 N.J. Agen. Lexis 469 (2014).

The appellant received a sixty-day suspension for the foregoing violations, which were not only a violation of her specific duties, but such duties were critical to security of both inmates, visitors and fellow employees. The appellant has argued that under the applicable case law, only seven years of discipline should be reviewed. The respondent argues that all prior discipline should be considered. I **CONCLUDE** that regardless of whether I go back seven years or fifteen years in appellant's disciplinary history, the penalty is appropriate under the circumstances and is sustained. Appellant sustained major discipline in 2009 resulting in a thirty-day suspension for a Supervision charge, and two other Supervision charges as well as three neglect of duty charges in the seven years preceding the charge in the within matter. I also find that the appellant's lack of remorse and position that these infractions which jeopardized the security in the facility were "no big deal," is an aggravating factor in this case. I therefore, **CONCLUDE** that the sixty-days suspension without pay is appropriate under these circumstances.

#### **ORDER**

I hereby **ORDER** that the charges be **AFFIRMED**, and the suspension of sixty-days **SUSTAINED**.

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

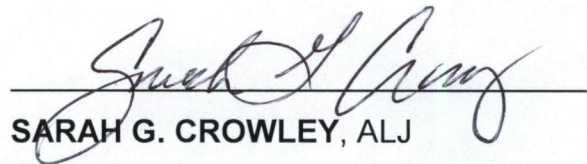
This recommended decision may be adopted, modified or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.



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.

February 8, 2017

DATE

  
SARAH G. CROWLEY, ALJ

Date Received at Agency:

February 8, 2017 (mailed)

Date Mailed to Parties:

February 8, 2017 (mailed)

SGC/mel

**APPENDIX**

**WITNESSES**

**For appellant:**

Officer Marion Wilson

**For respondent:**

Warden Karen Taylor

**EXHIBITS**

**For appellant:**

None

**For respondent:**

- R-1 Supervisor's Staff Complaint Report authored by Lt. Reginald Adkins dated July 1, 2015
- R-2 Video/Timeline
- R-3 Preliminary Notice of Disciplinary Action (13A) dated July 16, 2015
- R-4 Camden County Department of Corrections Rules of Conduct
- R-5 Camden County Department of Corrections Post Order #013 Visiting Officer
- R-6 Camden County Department of Corrections General Order #073 Person Conduct of Employees
- R-7 Camden County Department of Corrections General Order #074 Professional Code of Conduct
- R-8 Sgt. Marion Wilson Chronology of Discipline