



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Edward Drzewiecki,
New Jersey State Prison

CSC Docket Nos. 2021-225, *et al.*

Minor Discipline Appeals

ISSUED: NOVEMBER 27, 2020
(SLK)

Edward Drzewiecki, a Senior Correctional Police Officer, appeals an official written reprimand, a three working day suspension and a five working day suspension issued by New Jersey State Prison. The appeals have been consolidated due to common issues presented.

The record indicates that the appointing authority issued charges for time and attendance issues against the appellant for December 2, 2019 and December 24, 2019 incidents. A departmental hearing was held on February 10, 2020. The hearing officer sustained the charges, which resulted in the appellant receiving an official written reprimand for the December 2, 2019 incident, and a three working day suspension for the December 24, 2019 incident.

Additionally, the appointing authority issued charges against the appellant on July 31, 2020 for the appellant's refusal or failure to work overtime without a reasonable excuse on July 5, 2020, which was in violation of department rules and regulations. In response, the appellant submitted a major discipline form that was acknowledged to be received on August 8, 2020 by a supervisor and a minor discipline form that was signed by the appellant on August 8, 2020, but there is no indication of any receipt by a superior or any representative of the appointing authority. Thereafter, in an August 20, 2020 letter, the Department of Corrections indicated that the appellant failed to appeal by the August 9, 2020 deadline. Therefore, it

indicated that a five working day suspension for the July 5, 2020 incident became effective.

On appeal, regarding the official written reprimand and three working day suspension, the appellant asserts that the appointing authority's hearing officer was arbitrary, negligent, abused power, violated due process, and engaged in falsification and deceitful influence which undermined the disciplinary process. He states that the hearing officer structurally omitted testimony, omitted evidence, and engaged in falsification to the point that the Joint Union/Management Panel (JUMP) appeal was tarnished as JUMP relied on the alleged false evidence that was provided by the hearing officer. The appellant also alleges contractual and departmental rule violations in the disciplinary process. Moreover, he believes that the principles of progressive discipline were not followed.

Concerning the five working day suspension, the appellant presents that this was the first time where he was disciplined where the appointing authority provided him both minor and major discipline appeal forms. He indicates that he filed both with the shift commander, who was the appointing authority's designee. However, the shift commander refused to sign the minor discipline appeal form at the bottom because he stated that there was no signature requirement. The appellant states that in his other disciplinary appeals, he was provided only major discipline appeal forms, which were accepted by human resources regardless of the type of appeal. He represents that his minor discipline appeal form should have been sent to human resources. Therefore, the appellant argues that management had the responsibility to forward his appeal to human resources and he should not lose his appeal rights because of management's failure to do so. He also submits forms indicating that he requested discovery for this incident. Additionally, the appellant argues that this discipline was not warranted. Further, the appellant believes that his discipline should be dismissed due to the appointing authority's failure to conduct a hearing within 20 days of receipt of his appeal, per his collective negotiations agreement.

Although given the opportunity, the appointing authority did not respond.

CONCLUSION

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

1. The Commission shall review the appeal upon a written record or such other proceeding as the Commission directs 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 policy that such actions should terminate at the departmental level.

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 administrative management of the Commission. The Commission will also not disturb 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).

Regarding the charges related to the official written reprimand and the three day working suspension, the appellant has not alleged, nor has he provided any evidence that the reason for his minor discipline was motivated by invidious discrimination considerations such as age, race or gender bias. Further, Civil Service rules provide considerable latitude to appointing authorities in matters pertaining to time and attendance. In considering minor discipline involving time and attendance, the Commission generally defers to the judgment of the appointing authority since it is the appointing authority's right to expect consistency in attendance to meet workflow and service level requirements. Moreover, alleged violations of specific procedures governing disciplinary actions which may be controlled by the labor agreement negotiated between the employer and majority representative are not reviewable by the Commission. Therefore, there is no basis to disturb the appointing authority's decisions for these matters.

Concerning the five working day suspension, the Commission finds that the appellant's appeal presents issues of general applicability in the interpretation of a policy. Specifically, the appellant represents that he submitted his appeal in a timely fashion to his shift commander, the appointing authority's designee. He submits two appeal forms that he signed that are dated within the required time, one of which there is a signature acknowledging receipt of the appeal by a supervisor. The appellant indicates that his appeal was considered untimely because the shift commander did not forward the appeal forms to human resources. While the record is unclear as to why the appellant's appeal was not accepted by the appointing authority, as the appointing authority has not refuted any of the appellant's statements or otherwise responded to this appeal, the Commission finds that the appellant's appeal of his five working day discipline was filed timely and shall be

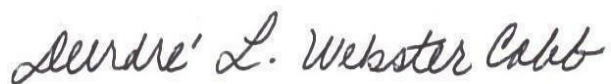
remanded to the appointing authority to proceed in accordance with the appointing authority's normal minor disciplinary process.

ORDER

Therefore, it is ordered that the appellant's appeals of his official written reprimand and three-working day suspension are denied. The appellant's appeal of his five working day suspension is remanded to the appointing authority to proceed in accordance with the appointing authority's normal minor disciplinary process.

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 24TH DAY OF NOVEMBER 2020



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