

A-8



**STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION**

In the Matter of Jose Rosado,
City of Newark

CSC Docket No. 2014-56
OAL Docket No. CSR 9976-13

Remand to the
Office of Administrative Law

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ISSUED: **NOV 24 2014** (DASV)

The appeal of Jose Rosado, a Police Officer with the City of Newark, of his removal, effective November 14, 2011,¹ on charges, was heard by Administrative Law Judge Michael Antoniewicz (ALJ), who rendered his initial decision on October 1, 2014. Exceptions were filed on behalf of the appointing authority.

Having considered the record and the ALJ's initial decision, and having made an independent evaluation of the record, the Civil Service Commission (Commission), at its meeting on November 6, 2014, ordered that the matter be remanded to the Office of Administrative Law (OAL).

DISCUSSION

The appellant was served with a Final Notice of Disciplinary Action (FNDA) removing him from employment, effective November 14, 2011, on charges of violating the Newark Police Department's rules and regulations concerning criminal law and conduct in public and private and conduct unbecoming a public employee. Specifically, the appointing authority asserted that the appellant impugned the reputation of the Police Department by committing theft of over \$500 by using a banking business account belonging to the Knights of Columbus in Linden for personal use and without authorization, pled guilty and admitted to the theft by unlawful taking or theft of movable property in the Superior Court of New Jersey, and entered into a Pre-Trial Intervention Program (PTI). Upon the

¹ The appellant was initially indefinitely suspended pending disposition of criminal charges.

appellant's appeal, the matter was transmitted to the OAL for a hearing as a contested case.

In the initial decision, the ALJ set forth the testimony of the appointing authority's sole witness, Christine Locke, a Police Sergeant with the City of Newark, who conducted an investigation of the appellant's four criminal complaints. Locke testified that criminal charges had been filed against the appellant for thefts from the Knights of Columbus' checking account, which were third-degree crimes. However, the charges were eventually dismissed upon the appellant's successful completion of PTI. The main terms of the PTI included the appellant paying fines and fees, performing community service, and maintaining full-time employment. Moreover, the ALJ found that the appellant did not plead guilty to any of the charges, nor was there a requirement of any admission of guilt to participate in PTI. The ALJ emphasized that no independent evidence supporting the criminal charges was presented during the OAL hearing. It is noted that the appellant did not testify.

Based on the foregoing findings, the ALJ concluded that the appointing authority did not meet its burden of proving by a preponderance of the credible evidence the charges against the appellant. The ALJ stated that there was no evidence to prove that the appellant violated criminal law as charged by the appointing authority. Further, the ALJ indicated that there was no testimony proving the underlying incident or "an act so egregious to warrant termination of employment." Rather, the evidence presented was an indictment, a plea of not guilty, and participation and successful completion of PTI. Therefore, the ALJ recommended dismissal of the charges and reversal of the appellant's removal.

In its exceptions, the appointing authority asserts that the ALJ erred in his findings. It argues that, notwithstanding the fact that the appellant did not enter a guilty plea, it proved that the appellant was guilty of violating the Newark Police Department's rules and regulations concerning criminal law since he entered into PTI, performed community service, made restitution, and paid penalties. The appointing authority submits that the foregoing actions of the appellant clearly impugn the reputation of the Police Department. Therefore, he is guilty of violating the Newark Police Department's rules and regulations concerning conduct in public and private and conduct unbecoming a public employee. The appointing authority emphasizes that the appellant was arrested and charged with several counts of theft. He entered into PTI, which "is not the same as a 'not guilty' verdict." Further, the appointing authority indicates that the appellant, as a Police Officer, is held to a high standard of conduct and responsibility. Therefore, it maintains that the appellant's actions are sufficiently severe to warrant his removal. The appointing authority notes that the appellant's prior disciplinary history includes a

90-day suspension for neglect of duty and a six-day suspension for conduct relating to an unsustained criminal charge.²

Upon its *de novo* review of the record, the Commission is unable to adopt the ALJ's recommendation based on the existing record. The Commission cannot ignore the seriousness of the accusation against the appellant. Moreover, while participation in PTI is neither a conviction nor an acquittal, it has not been construed to constitute a favorable termination. See *N.J.S.A. 2C:43-13(d)*. See also *Grill and Walsh v. City of Newark Police Department*, Docket No. A-6224-98T3 (App. Div. January 30, 2001); *In the Matter of Christopher J. Ritoch* (MSB, decided July 27, 1993). Thus, it is possible for the appellant to be found guilty of unbecoming conduct even though he entered into PTI and the criminal charges were ultimately dismissed. The Commission is ever mindful of the high standards that are placed upon Police Officers, who hold highly visible and sensitive positions within the community. Additionally, a Police Officer is a special kind of public employee:

His primary duty is to enforce and uphold the law. He carries a service revolver on his person and is constantly called upon to exercise tact, restraint and good judgment in his relationship with the public. He represents law and order to the citizenry and must present an image of personal integrity and dependability in order to have the respect of the public . . . See *Moorestown v. Armstrong*, 89 *N.J. Super.* 560, 566 (App. Div. 1965), *cert. denied*, 47 *N.J.* 80 (1966). See also, *In re Phillips*, 117 *N.J.* 567 (1990).

The public expects a Police Officer to present a personal background that exhibits respect for the law and rules. Therefore, given the nature of the charges and the appellant's position as a Police Officer, the Commission remands this matter to the OAL. Specifically, in order to have a complete record for the Commission's review, the appellant's conduct with respect to the underlying incident must be addressed. In this regard, the appointing authority is to be presented with the opportunity to call the appellant as a witness pursuant to the Commission's subpoena powers under *N.J.S.A. 11A:2-7*, which states in pertinent part that:

² Agency records indicate that the appellant's prior disciplinary history includes suspensions of 90 days, 60 days, six days (two), five days, four days, and one day. Additionally, the hearing record is not clear regarding the 90-day suspension. In that regard, the appellant had been previously suspended for a total of 90 days in 2004 on charges of a violation of departmental rules and regulations regarding the accessibility to department surgeons and superior officers and neglect of duty. However, the former Merit System Board modified the suspension to a 60-day suspension. See *In the Matter of Jose Rosado* (MSB, decided July 19, 2006), *denied on reconsideration* (MSB, decided December 6, 2006). The 90-day suspension cited by the appointing authority may be in reference to a disciplinary action that was imposed in 2006.

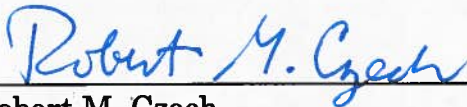
The Commission may subpoena and require the attendance of witnesses in this State and the production of evidence or documents relevant to any proceeding under this title. Those persons may also administer oaths and take testimony.

If the appointing authority does not call the appellant, the Commission authorizes the ALJ, pursuant to his powers under *N.J.A.C. 1:1-14.6(n)*, to act in its stead to take the testimony of the appellant regarding the criminal charges and the appellant's conduct giving rise to his indictment and entrance to PTI. Further, should either party wish to present testimonial or other evidence regarding the underlying incident, they should be afforded the opportunity. The Commission emphasizes that in order for it to render a fair determination, it must have a complete record.

ORDER

The Commission orders that this matter be remanded to the OAL for further proceedings as set forth above.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 6TH DAY OF NOVEMBER, 2014



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSR 09976-13

2014-56

**IN THE MATTER OF JOSE ROSADO,
CITY OF NEWARK, POLICE DEPARTMENT.**

Alfred V. Gellene, Esq., for appellant Jose Rosado (Fusco & Macaluso Partners,
attorneys)

Alison Brown Jones, Assistant Corporation Counsel, for respondent City of
Newark (Karen Brown, Corporation Counsel)

Record Closed: September 8, 2014

Decided: October 1, 2014

BEFORE **MICHAEL ANTONIEWICZ**, ALJ:

STATEMENT OF THE CASE

Police Officer Jose Rosado (Rosado or appellant) was hired by the respondent City of Newark Police Department on February 27, 1995. Respondent alleges that appellant was charged with four criminal complaints by the Union County Prosecutors Office involving theft from the Knights of Columbus in Linden, New Jersey. Respondent alleges that appellant committed four violations of criminal law and thus committed conduct unbecoming a public employee and other sufficient cause. On December 12, 2012, Rosado entered the Pre-Trial Intervention (PTI) program without a guilty plea.

Appellant was suspended without pay on November 14, 2011, and was also terminated, effective November 14, 2011.

Respondent has charged appellant with conduct unbecoming a public employee and violating criminal law and other charges as a result of an incident allegedly occurring between June 25, 2009, to January 31, 2011.

Appellant appeals from the determination removing him from his position as a police officer on charges of conduct unbecoming a public employee, violation of criminal law, and other sufficient causes, in violation of N.J.A.C. 4A:2-2.3(a)(6) and (12), and Human Resource Bulletin 84-17 (as amended). Appellant denies the charges and asserts that the appointing authority has failed to meet its burden of proving the charges.

PROCEDURAL HISTORY

On January 2, 2013, a Preliminary Notice of Disciplinary Action (PNDA) was filed seeking appellant's removal from his position as a police officer. Respondent suspended appellant without pay, effective November 14, 2011. On December 12, 2011, respondent issued a Final Notice of Disciplinary Action (FNDA) that sustained the disciplinary charges set forth below and removed appellant from his position with the City of Newark effective November 14, 2011.

Appellant appealed the FNDA and the matter was filed with the Office of Administrative Law (OAL) on July 15, 2013, for a hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. The undersigned was assigned to the case. A telephone prehearing conference was held on August 8, 2013, and a hearing date of October 11, 2013, was scheduled but adjourned at the request of respondent. The matter was rescheduled for January 3, 2014.

Following prior adjournments of the hearing dates (January 3, 2014, March 7, 2014, April 28, 2014, and June 30, 2014), the matter was rescheduled for July 15, 2014,

and the hearing was held. The parties were granted until September 8, 2014, to file post-hearing submissions at which time the record was closed.

ISSUES

Based on the evidence presented, is there sufficient credible evidence to sustain the charges against appellant, as set forth in the FNDA? If appellant is guilty of any or all of the charges, is the penalty of removal warranted?

SUMMARY OF TESTIMONY

Christine Locke

Christine Locke (Locke) was a sergeant employed by the City of Newark Police Department for twenty years and in November 2012 was an investigator in the police department. After her investigation Locke created a report with regard to appellant. (R-1.) The report stated that the investigation disclosed sufficient evidence to prove the allegations of conduct unbecoming a public employee and petitioner's violation of a crime.

Locke testified that criminal complaints were filed against Rosado alleging thefts of over \$500 from the Knights of Columbus in Linden, New Jersey. The thefts were allegedly from the Knights' checking account in Commerce TD Bank. Locke obtained the complaint filed against Rosado for these crimes. (R-2.) However, Rosado entered the Pre-Trial Intervention Program and did not enter a guilty plea to these crimes. The terms of the PTI program, for a twelve-month period, were: payment of fines and fees; performance of community service; maintain full-time employment; and other related requirements. (R-3.) The transcript of the PTI hearing shows Rosado's entrance into the program. (R-4.) Rosado entered the program and successfully completed same. Locke confirmed that the Rules and Regulations, 3:1.1, states that "Police officers in both private and public lives shall conduct themselves so as to avoid impugning the reputation of the Department." (R-5.) Locke further confirmed that A-1 was the full Pretrial Intervention Program for Rosado into which he entered. At no time did Rosado

enter a guilty plea to the charges. Rosado had no previous criminal history. No independent evidence supporting the criminal charges was presented by this witness and the respondent.

FINDINGS OF FACT

Based on the testimonial and documentary evidence presented and having had the opportunity to observe the demeanor of the witnesses and assess their credibility, I **FIND** the following **FACTS**:

1. Appellant was an employee of the Newark Police Department as a police officer;
2. On November 7, 2014, Rosado was charged with the crime of theft, which is a third-degree crime;
3. Appellant was then charged by the Newark Police Department with violation of the Rules and Regulations 18:24 of the Newark Police Department, which prohibited the violation of any criminal law by a Newark Police Officer, and for violation of N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee;
4. Appellant was then suspended on November 14, 2011, without pay;
5. Appellant was then served with a FNDA relating to the above charges and ordering his removal as a Newark police officer as of November 14, 2011;
6. At no time was Rosado convicted of any offenses contained in the complaint;
7. Appellant pled not guilty at all stages of the criminal proceedings and maintained his innocence;
8. Rosado was offered entry into the Pretrial Intervention Program (PTI) and accepted same;

9. Rosado's entry into the PTI program did not require any admission of guilt to the underlying charges;
10. Rosado did not plead guilty to any crime charged and he completed his probationary period under the PTI program and all charges were dismissed;
11. Rosado's entry into the PTI program was not based on his guilt, but rather was based on the suggestion of the Prosecutor and Rosado's attorney; and
12. The only evidence presented was the fact that Rosado was charged with a crime, he maintained his innocence, he entered the PTI program, and all charges were dismissed.

LEGAL ANALYSIS AND DISCUSSION

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 and N.J.A.C. 4A:1-1.1 to 4A:2-6.2. The Act is an important inducement to attract qualified personnel to public service and is liberally construed toward attainment of merit appointments and broad tenure protection. Essex Council No. 1, N.J. Civil Serv. Ass'n v. Gibson, 114 N.J. Super. 576 (Law Div. 1971), rev'd on other grounds, 118 N.J. Super. 583 (App. Div. 1972); Mastrobattista v. Essex DOC Park Comm'n, 46 N.J. 138, 147 (1965). Governmental employers also have delineated rights and obligations. A public employee who is protected by the provisions of the Act may be subject to major discipline for a wide variety of offenses connected to his employment. N.J.A.C. 4A:2-2.2(a) provides the penalties for a major discipline of removal or suspension for more than five working days at any one time. The Act sets forth that it is State policy to provide appropriate appointment, supervisory and other personnel authority to public officials so they may execute properly their constitutional and statutory responsibilities. N.J.S.A. 11A:1-2(b), 11A:2-6, 11A:2-20; N.J.A.C. 4A:2-2.2, 2-2.3(a).

There is no constitutional or statutory right to a government job. State-Operated Sch. Dist. of Newark v. Gaines, 309 N.J. Super. 327, 334 (App. Div. 1998). A civil

service employee who commits a wrongful act related to his duties, or gives other just cause, may be subject to major discipline. N.J.S.A. 11A:2-6. The issues to be determined at the de novo hearing are whether the appellant is guilty of the charges brought against him and, if so, the appropriate penalty, if any, which should be imposed. See Henry v. Rahway State Prison, 81 N.J. 571 (1980); W. New York v. Bock, 38 N.J. 500 (1962). In this matter, the City of Newark bears the burden of proving the charges against appellant by a preponderance of the credible evidence. See In re Polk, 90 N.J. 550 (1982); Atkinson v. Parsekian, 37 N.J. 143 (1962).

Charges

The charges set forth in the Newark's disciplinary action includes various acts of conduct unbecoming a public employee and the violation of criminal law. Conduct unbecoming a public employee has been described as any conduct which adversely affects the morale or efficiency of a department; conduct which has a tendency to destroy respect for public employees and their departments; or conduct which destroys confidence in public service. See In re Emmons, 63 N.J. Super. 136, 140-42 (App. Div. 1960); cf. Moorestown v. Armstrong, 89 N.J. Super. 560, 566 (App. Div. 1965), certif. denied, 47 N.J. 80 (1966). There is no precise definition for conduct unbecoming a public employee, and the question of whether conduct is unbecoming is made on a case-by-case basis, N.J.A.C. 4A:2-2.3(a)(6). King v. County of Mercer, CSV 2768-02, Initial Decision (February 24, 2003), adopted, Merit Sys. Bd. (April 9, 2003), <http://njlaw.rutgers.edu/collections/oal/>; see Jones v. Essex County, CSV 3552-98, Initial Decision (May 16, 2001), adopted, Merit Sys. Bd. (June 26, 2001), <http://njlaw.rutgers.edu/collections/oal/>.

The Administrative Code does not specifically define unbecoming conduct. Unbecoming conduct is not precisely defined in N.J.S.A. 11A or N.J.A.C. 4A. See, e.g., Emmons, supra, 63 N.J. Super. at 140. The term unbecoming conduct has been applied in case law to cover a broad range of conduct, including misconduct. The court in Pfitzinger v. Board of Trustees, PERS, 62 N.J. Super. 589, 602 (Law Div. 1960), in attempting to define conduct unbecoming or misconduct, stated, "[T]here is no specified definition for what conduct falls into these categories. Each case must be decided on its

own merits in the light of the public position held by the individual involved.” In Hartmann v. Police Department of Ridgewood, 258 N.J. Super. 32, 40 (App. Div. 1992), the court held that a finding of misconduct need not be predicated upon the violation of any particular rule or regulation, but may be based merely upon the violation of the implicit standard of good behavior, which devolves upon one who stands in the public eye as an upholder of that, which is morally and legally correct. Unbecoming conduct may include behavior, which is improper under the circumstances. The conduct may be less serious than a violation of the law, but is inappropriate on the part of a public employee because it is disruptive of governmental operations. Depending upon the incident complained of and the employee’s past record, major discipline may include removal for conduct unbecoming a public employee. W. New York v. Bock, 38 N.J. 500, 522-24 (1962). It is axiomatic that in order to prove that the employee violated criminal law, the respondent must show that the employee entered a plea of guilty to the violation of criminal law of facts which prove that the employee violated the specified criminal law.

In the instant case, no evidence was presented at the hearing proving that Rosado did, in fact, violate any criminal law. The respondent seems to rely on the fact that a complaint was filed against Rosado which lead to a dismissal of all of the charges through the PTI Program. When witnesses present conflicting testimonies, it is the duty of the trier of fact to weigh each witness’s credibility and make a factual finding. Credibility is the value a fact finder assigns to the testimony of a witness, and it incorporates the overall assessment of the witness’s story in light of its rationality, consistency, how it comports with other evidence and the manner in which it hangs together with the other evidence. Carbo v. United States, 314 F.2d 718, 749 (9th Cir. 1963), cert. denied, Palermo v. United States, 377 U.S. 953, 84 S. Ct. 1625, 12 L. Ed. 2d 498 (1964); see In re Polk, 90 N.J. 550 (1982). Credibility findings are often influenced by matters such as observations of the character and demeanor of witnesses and common human experiences that are not transmitted by the record. State v. Locurto, 157 N.J. 463 (1999). A fact finder is expected to base decisions on credibility on his or her common sense, intuition or experience. Barnes v. United States, 412 U.S. 837, 93 S. Ct. 2357, 37 L. Ed. 2d 380 (1973).

The finder and trier of facts is not bound to believe the testimony of any witness, and credibility does not automatically rest on the side of the party with more witnesses. In re Perrone, 5 N.J. 514 (1950). Testimony may be disbelieved, but may not be disregarded at an administrative proceeding. Middletown Twp. v. Murdoch, 73 N.J. Super. 511 (App. Div. 1962). Where facts are contested, the trier of fact must assess and weigh the credibility of the witnesses for purposes of making factual findings as to the disputed facts.

The evidence must be such as to lead a reasonably cautious mind to a given conclusion. Bornstein v. Metro. Bottling Co., 26 N.J. 263 (1958). A decision must favor the party on whose side the weight of the evidence preponderates, and according to the reasonable probability of truth. Jackson v. Del., Lackawanna and W. R.R. Co., 111 N.J.L. 487, 490 (E. & A. 1933). Credibility and credible testimony must not only proceed from the mouth of a credible witness, but it must be credible in itself. Spagnuolo v. Bonnet, 16 N.J. 546, 554-55 (1954).

In the instant case, I have considered the strength of the consistent testimony, the demeanor, as well as the possible conflicting position(s) of witnesses, prior to finalizing an Order. I have noted that there was no testimony proving the incidents contained in the Complaint 001258 (R-2). Respondent merely presented evidence of an indictment, reaffirmed the plea of not guilty, and the entry into the Pre-Trial Intervention Program and its successful completion.

Preponderance of the Evidence

Where an employee is charged with an offense, the employer must prove its case by a preponderance of the credible evidence, which is the standard in proceedings before an administrative agency. Atkinson v. Parsekian, 37 N.J. 143 (1962). The preponderance may also be described as the greater weight of credible evidence in a case, not dependent on the number of witnesses, but having the greater convincing power. State v. Lewis, 67 N.J. 47 (1975). The purpose of Civil Service legislation is to secure for county, state and municipal governments efficient public service and to advance the welfare of people as a whole, not specifically or exclusively just the welfare

of the civil servant. N.J.S.A. 11A:1-2(b); Park Ridge v. Salimone, 21 N.J. 28 (1956). In order to carry out this policy, the Civil Service Act includes provisions authorizing the discipline and termination of public employees. N.J.A.C. 4A:2-2.3(a).

In disciplinary cases the appointing authority has both the burden of persuasion and production and must demonstrate by a preponderance of the competent, relevant and credible evidence that it had just cause to discipline the officer and file charges. See Coleman v. E. Jersey State Prison, CSV 1571-03, Initial Decision (February 25, 2004), <http://njlaw.rutgers.edu/collections/oal/> (citations omitted); see also N.J.S.A. 11A:2-21; N.J.A.C. 4A:2-1.4(a); In re Polk, 90 N.J. 550, 560 (1982); In re Darcy, 114 N.J. Super. 454, 458 (App. Div. 1971); N.J.S.A. 11A:2-6(a)(2), -21; N.J.A.C. 1:1-2.1; N.J.A.C. 4A:2-1.4. A preponderance of evidence has been defined as that evidence which generates belief that the tendered hypothesis is in all human likelihood the fact. Martinez v. Jersey City Police Dep't, CSV 7553-02, Initial Decision (October 27, 2003), <http://njlaw.rutgers.edu/collections/oal/> (quoting Loew v. Union Beach, 56 N.J. Super. 93, 104 (App. Div. 1959)).

There is a duty of the trier of facts to decide in favor of the party on whose side the weight of the evidence preponderates, in accordance with a reasonable probability of truth. Evidence is said to preponderate if it establishes the reasonable probability of the fact. The evidence must be such as to lead a reasonably cautious mind to a given conclusion. Bornstein v. Metro. Bottling Co., 26 N.J. 263, 275 (1958).

Penalty

Unless the penalty is unreasonable, arbitrary, or offensively excessive, it should be permitted to stand. Ducher v. Dep't of Civil Serv., 7 N.J. Super. 156 (App. Div. 1950). Appellant's entire record of performance must be considered when attempting to determine if the judgment of the appointing authority was unreasonable, arbitrary or capricious. See Bock, supra, 38 N.J. 500.

Based on an assessment of the type, nature and extent of the alleged infractions presented in the instant matter, the penalty imposed by respondent is clearly not in

proportion to the violations alleged. The extent and severity of the charges and specifications as set forth on the Final Notice of Disciplinary Action and as described in the testimony leaves me to believe that the penalty of removal is inappropriate as no charges were proven at the de novo hearing.

CONCLUSION

Based on the above, I **CONCLUDE** that respondent has not met the burden of proving by a preponderance of the evidence that appellant's action rose to the level of conduct unbecoming to a public employee or a violation of criminal law that warrants a termination from his employment with respondent as a police officer. I **CONCLUDE** that appellant's alleged violation of criminal law or conduct unbecoming a public employee was not proven as the evidence presented fails to prove there was an act so egregious to warrant termination of employment. I **CONCLUDE** that no evidence was presented to support the charge against appellant for violation of any law, as the only evidence presented was: a complaint being filed against the appellant; his entry in the PTI program with a plea of not guilty; and the successful completion of the PTI program..

I further **CONCLUDE** after careful consideration of all the foregoing and pursuant to applicable law that respondent has not established by a preponderance of credible evidence the charges against appellant.

ORDER

Accordingly, it is **ORDERED** that the disciplinary action entered in the Final Notice of Disciplinary Action of the City of Newark against appellant is hereby **REVERSED**.

It is **ORDERED** that no penalty be imposed in this matter.

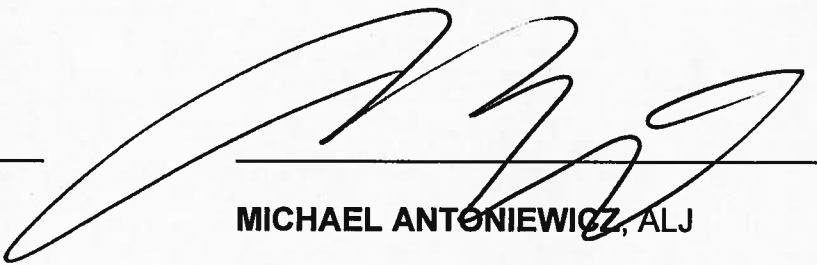
I further **ORDER** appellant be awarded back pay, benefits, and seniority in accordance with N.J.A.C. 4A:2-2.10 and reasonable counsel fees in accordance with N.J.A.C. 4A:2-2.12.

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, MERIT SYSTEM PRACTICES AND LABOR RELATIONS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, P.O. 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.

10/1/14
DATE


MICHAEL ANTONIEWICZ, ALJ

Date Received at Agency: 10/1/14

Mailed to Parties: 10/1/14

jb

APPENDIX

LIST OF WITNESSES

For Appellant:

None

For Respondent:

Sergeant Christine Locke

LIST OF EXHIBITS IN EVIDENCE

For Appellant:

A-1 Pretrial Intervention Program for Rosado, dated October 17, 2012

For Respondent:

R-1 Investigation Report, dated December 26, 2012

R-2 Complaint – Summons against Rosado

R-3 Terms of the PTI Program requirements

R-4 Transcript of PTI Hearing, dated December 12, 2012

R-5 Rules and Regulations for the Newark Police Department, revised
January 1, 2006

R-6 Rosado's Concise Officer History