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**STATE OF NEW JERSEY**

In the Matter of Devin Simpson  
Hudson County  
Department of Corrections

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

CSC DKT. NO. 2014-1688  
OAL DKT. NO. CSR 00391-14

**ISSUED: July 30, 2014 PM**

The appeal of Devin Simpson, a County Correction Officer with Hudson County, Department of Corrections, removal effective December 5, 2013, on charges, was heard by Administrative Law Judge Michael Antoniewicz, who rendered his initial decision on June 17, 2014. 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 July 30, 2014, accepted and adopted the Findings of Fact and Conclusion as contained in the attached Administrative Law Judge’s initial decision.

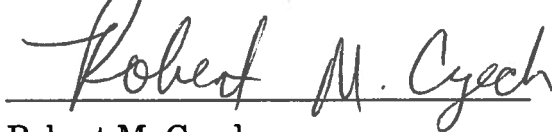
**ORDER**

The Civil Service Commission finds that the action of the appointing authority in removing the appellant was justified. The Commission therefore affirms that action and dismisses the appeal of Devin Simpson.

Re: Devin Simpson

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  
JULY 30, 2014

A handwritten signature in cursive script that reads "Robert M. Czech". The signature is written in black ink and is positioned above a horizontal line.

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



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

**INITIAL DECISION**

OAL DKT. NO. CSR 00391-14

2014-1688

**IN THE MATTER OF DEVIN SIMPSON,  
HUDSON COUNTY DEPARTMENT  
OF CORRECTIONS.**

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**James Addis, Esq.,** for appellant Devin Simpson

**John A. Smith, III,** Assistant County Counsel, for respondent Hudson County  
(Donato J. Battista, County Counsel)

Record Closed: May 12, 2014

Decided: June 17, 2014

BEFORE **MICHAEL ANTONIEWICZ, ALJ:**

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

On December 5, 2013, appellant Devin Simpson was removed by the appointing authority from her position as a county correction officer at the Hudson County Department of Corrections (Department) as a result of an incident occurring on and after August 27, 2013, between herself and an Inmate D.W. Appellant was charged with insubordination, N.J.A.C. 4A:2-2.3(a)(2); conduct unbecoming a public employee, N.J.A.C. 4A:2-2.3(a)(6); neglect of duty, N.J.A.C. 4A:2-2.3(a)(7); and other sufficient cause, N.J.A.C. 4A:2-2.3(a)(11). The charges allege violations of several Administrative rules governing correction officers, all of which are filed under the rubric

of "Conduct Unbecoming a Public Employee and Other Sufficient Cause," N.J.A.C. 4A:2-2.3(a)(6) and (a)(11). Appellant filed her appeal on January 13, 2014, with the Office of Administrative Law pursuant to N.J.S.A. 40A:14-202d.

### SUMMARY OF TESTIMONY

#### Lieutenant Ronald Edwards

Lt. Ronald Edwards (Edwards) was employed by the Hudson County Department of Corrections. Edwards's duties included supervising staff, budget reports, and online training. As part of Simpson's training, which took place annually, she received the Department's Rules and Regulations Manual. (R-1.) Excerpts of the rules and regulations include a zero tolerance of guards fraternizing with inmates. In the event that there is any contact, the correction officers must report same to the Director of Corrections. Edwards asserts that this is an absolute requirement. An officer may have contact, communication, and relationship with an inmate if it was reported and approved by the Director of Corrections.

During Edwards's twenty-seven years of employment, he never remembered a directive that contact with an inmate was acceptable. It was stipulated between the parties that Simpson received a copy of the rules and regulations. In addition, the policy regarding fraternizing was generally posted. The policy was issued on March 22, 2010. Simpson was employed at that time. She completed the online class on September 22, 2013. Simpson answered correctly that there was a zero tolerance regarding the policy against fraternization. (R-5.) The Department's profile for Simpson showed that she only had minor discipline infractions. (R-6.) On re-direct, Edwards described Simpson as very intelligent. He stated that she was in the five per cent highest intelligence range.

On cross-examination, Edwards admitted that Simpson took her annual test in a very fast time. Edwards stated that if a correction officer wanted authorization to associate with a cousin, for example, the correction officer would have to request

authorization from the Director. In order to have inmate contact, the correction officer would have to set up an account in the prison and the inmate could make the telephone call to the correction officer and each call would be charged against the account.

### Aristides Lambos

Aristides Lambos (Lambos) was a sergeant with Internal Affairs. Lambos conducted investigations and background checks. Lambos recalled that Simpson made a report regarding a motor vehicle incident on August 27, 2013. There were a number of bounty hunters who were after a former prisoner (D.W.) at the time Simpson had loaned her car to D.W. At this time, D.W. was not incarcerated, but Simpson did report the incident as required.

Lambos created a report in order to make sure that there was no violation of relevant rules and regulations. (R-11.) As part of the investigation, he obtained copies of the Jersey City police reports. (R-8.) Lambos checked the master name index and the dates of incarceration of inmate D.W. at the facility. Lambos discovered that inmate D.W. was incarcerated prior to August 2013, approximately twenty times. Simpson was working at the facility when inmate D.W. was incarcerated. Lambos then interviewed Simpson and recorded the conversation on tape. During her interview, Simpson stated that she was friends with inmate D.W. for one and a half years. Simpson stated that she was unaware of inmate D.W.'s criminal history. Lambos testified that inmate D.W. spoke with Simpson approximately forty times. The regulations dictate that Simpson was required to report contact with inmate D.W., but no such reports were made by her. Lambos also stated that inmate D.W. was an unlicensed driver when he drove Simpson's car. In addition, Lambos received copies of the recorded phone calls between Simpson and inmate D.W., which appeared overly familiar with expressions like "Hold on babe, I am liking you and I am loving you."

Lambos also found that Simpson went to "Spanky," who is a family member and a bail bondsman. Simpson found out that inmate D.W. had a child-support warrant. It was Lambos's position that once Simpson was aware of inmate D.W.'s arrest warrant,

she was required to cooperate and failed to do so. On August 28, 2013, Simpson submitted a report regarding the bounty hunter incident. In the meantime, Simpson is providing assistance to inmate D.W., including getting bail. Lambos's assessment was that Simpson was not cooperating as was required.

On cross-examination, Lambos admitted that inmate D.W. was arrested and incarcerated eleven times. He also admitted that the Simpson's report was a fair statement of the facts on the bounty hunter incident. Lambos also stated that he interviewed one bounty hunter, Louis Facone. It was also Lambos's belief that Simpson did not know if inmate D.W. was an unlicensed driver. Lambos also stated that Simpson has the name "Weebles" tattooed on her wrist, which was inmate D.W.'s nickname.

#### Michael McMillan

Michael McMillan (McMillan) also worked for the Internal Affairs Department. McMillan questioned Simpson during the investigation. McMillan searched the telephone logs with copies of CDs that included the calls. The logs contained the time and pin number of the calls. McMillan stated that there were about fifty calls between Simpson and inmate D.W. McMillan downloaded the calls between inmate D.W. and Simpson on a disc. McMillan authored a report dated September 30, 2013, (R-17) and it was his conclusion that Simpson failed to report her conversations with inmate D.W. McMillan concluded that Simpson was lying about her relationship with inmate D.W. Simpson denied that she was intimately involved with Inmate D.W. and stated that they were "just friends." McMillan believed that they were more than friends. McMillan also believed that if they were in a relationship for more than one year, Simpson should have known of inmate D.W.'s criminal history.

Devin Simpson

Devin Simpson (Simpson) was age thirty-four and a correction officer for the Hudson County Department of Corrections at the time of the incident. Simpson was hired in September 2005. She had no previous law enforcement background. Simpson has three children ages fifteen, ten, and five.

On August 27, 2013, she got into the passenger seat of a car after working at the correction facility and D.W. was in the driver's seat. As they were driving, another car blocked them near a corner of the block. A man jumped out of his car with a weapon drawn. There were several other men, wearing bullet-proof vests. They were walking toward the car. Simpson put her hands on the dashboard of the car. As the men with the guns approached the door of the car, a man at the rear of the car stated "If you move I will blow your f\*\*king head off." D.W. informed Simpson that they were bounty hunters after him because he had a warrant. D.W. then drove around the road block and avoided the bounty hunters. Simpson stated that she was screaming. After driving away, D.W. jumped from the car to avoid capture. Another car with the bounty hunters was following them, who also jumped from their car and approached Simpson. One of the bounty hunters moved toward the car with his gun pointed at Simpson. Shortly thereafter, other cars (unmarked police vehicles) came to the scene. Many people jumped from the cars and surrounded Simpson's car with weapons drawn.

At the scene, an off-duty police officer stopped to resolve the incident. The bounty hunters did not want to press charges and just wanted the file off their desk. Simpson called D.W. in order to convince him to turn himself in to the police, but he did not want to do so. Simpson received a ticket for leaving the scene of an accident. They all went to the police station in the southern district. Simpson gave a statement to the police and was released. Thereafter, Simpson went to Internal Affairs to report the incident; however, no one was there so she was told to submit the report the next day. (R-7.) Simpson stated that everything in the report was true and had given the report to Lambos.

Simpson stated that she met D.W. at a party and they became friends. Thereafter, they went to clubs together. She knew that D.W. had children but did not know that he was ever arrested, that he had a criminal record, or was ever in jail. Simpson never asked about whether he had a criminal history. Simpson never spent the night at D.W.'s house. Since July 27, 2013, she would see D.W. a couple times a week. She believed that D.W. was a party promoter. Simpson admitted that there were thirty-seven recorded calls between her and D.W. It was Simpson's position that she did not violate the rules because the disclosure rule applies only if she knew him while he was in jail. In addition, Simpson stated that she did not help D.W. avoid apprehension. Simpson admitted that she loved D.W., but was never asked if the relationship was sexual, intimate, or if he was her boyfriend. Simpson stated that she did not try and hide anything about her relationship with D.W. Simpson stated in the interview that she was familiar with the anti-fraternization policy.

Simpson admitted to the following as her discipline history: fined for two days for lateness; disciplined for refusing mandatory overtime; called out sick without time; for being late at work; and fell asleep during mandatory class.

On cross-examination, Simpson stated that she did not report to work on August 27, 2013. She admitted that D.W. hit the bounty hunter car when evading capture. Simpson further stated that she was unaware that there needed to be additional information in the report. Simpson admitted under oath that she did not report her contact with D.W. to the Director. Simpson further agreed that her conversation with D.W. amounted to sexual banter. Simpson stated that she did not accept any other calls from inmates, only D.W. Simpson also admitted that she helped D.W. get bail.

### Victor Ransom

Victor Ransom (Ransom) was a correction officer for Hudson County for eight and a half years in the medical department. Ransom knew Simpson and found her to be a truthful person as well as an upstanding officer. Simpson would put officers back in line when they were out of line. Ransom was told about the incident on August 27,



2013, with D.W. by Simpson. Ransom admitted on cross-examination that he was not her supervisor. In addition, he did not know about her relationship with D.W. and did not know D.W. or Simpson's phone calls with D.W.

### FINDINGS OF FACT

1. Appellant Simpson was a correction officer for the County of Hudson, New Jersey.
2. As such, Simpson was instructed and familiar with the rules and regulations of the Department.
3. Part of the county's rules and regulations include a rule against fraternization, which states that there should be no personal contact between inmate of the correctional facilities and the correction officers without the permission of the Director.
4. Appellant was in her car, being driven by D.W., when bounty hunters attempted to arrest D.W.—as he was a known fugitive.
5. Thereafter, Simpson was required to make a report regarding the incident, which was made by Simpson; however, no other disclosure or request was made by Simpson.
6. Shortly after making the report and appearing at Internal Affairs regarding the arrest, Simpson agreed to establish a phone link with inmate D.W. and herself.
7. The phone records reveal very personal conversations between inmate D.W. and appellant Simpson in over forty different telephone calls.
8. Many of the phone calls contained conversations of an intimate nature as well as discussions regarding bail for inmate D.W. and other personal dialogue.

9. Such phone calls were prohibited under the Department's fraternization policy.
10. The phone calls were well beyond a simple friendship between two individuals and included talks of a sexual nature, as admitted by the appellant in her testimony.
11. Appellant failed to report her ongoing relationship with inmate D.W. and failed to report her ongoing telephone contact with him.
12. Appellant Simpson admitted that she did not notify the Department of her relationship and the calls between the two.
13. Appellant was tested on the rules and regulations and received a score of 91% correct. This test was taken within days of the many calls she received from inmate D.W.

### **LEGAL ANALYSIS AND CONCLUSIONS OF LAW**

A civil employee who commits a wrongful act related to his or her duties or gives other just cause, may be subject to major discipline. N.J.S.A. 11A:2-6; N.J.S.A. 11A:2-20; N.J.A.C. 4A:2-2.2; N.J.A.C. 4A:2-2.3. In an appeal from such discipline, the appointing authority bears the burden of proving the charges upon which it relies by a preponderance of the competent, relevant and credible evidence. N.J.S.A. 11A:2-21; N.J.A.C. 4A:2-1.4(a); Atkinson v. Parsekian, 37 N.J. 143 (1962); In re Polk, 90 N.J. 550 (1982). 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).

Preponderance may also be described as the greater weight of credible evidence in the case, not necessarily dependent on the number of witnesses, but having the greater convincing power. State v. Lewis, 67 N.J. 47 (1975). Both guilt and penalty are redetermined on appeal from a determination by the appointing authority.

Henry v. Rahway State Prison, 81 N.J. 571 (1980); W. New York v. Bock, 38 N.J. 500 (1962).

The Appointing Authority has charged Simpson with violating Civil Service Rule N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee and other sufficient cause. "Unbecoming conduct" is broadly defined as any conduct that adversely affected the morale or efficiency of the governmental unit or that has a tendency to destroy public respect and confidence in the delivery of governmental services. In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960). Unbecoming conduct may include behavior that is otherwise unsuitable, indecorous or improper under the circumstances. Conduct unbecoming a public employee may be less serious than a violation of the law, but it is inappropriate on the part of the public employee. Ferrogine v. State Dep't of Human Servs., Trenton Psychiatric Hosp., CSV 2441-98, Initial Decision (April 17, 1998), modified, MSB (July 6, 1998), <<http://njlaw.rutgers.edu/collections/oal/>>. It is a fact-sensitive determination rather than one based on a legal formula.

Conduct unbecoming a public employee is one of several enumerated grounds for removal for public employees found in N.J.A.C. 4A:2.2.3(a)(6). Numerous rules promulgated by the Department of Corrections describe the conduct which the Department finds unacceptable.

Employees of the New Jersey Department of Corrections are expected at all times to preserve a proper demeanor and to act as befits representatives of the State.

[Exhibit R-6, SSCF 94.]

...

No State officer or employee shall knowingly act in any way that might reasonably be expected to create an impression or suspicion among the public having knowledge of his acts that he may be engaged in conduct violative of his trust as a State officer or employee.

[Exhibit R-6, SSCF 95.]

...

Officers must maintain a high degree of self control at all times.

[Exhibit R-6, SSCF 70.]

...

No officer shall act or behave, either in an official or private capacity, to the officer's discredit, or to the discredit of the Department.

[Exhibit R-6, SSCF 73.]

...

No officer shall violate the laws, statutes or ordinances of the United States, its territories and possessions, or of any state of the United States or of any political subdivision thereof.

[Exhibit R-6, SSCF 68.]

...

Fraternization Regarding Incarcerated Relatives or Associates. Staff notification requirements. Custody staff members of the HCDOC, employees of contracted departments and contractors working on grounds of HCCC, must notify the Director of Corrections in writing or relatives or associates who are in the custody of the HCCC and notify the Director of Corrections immediately when a relative or associates becomes incarcerated at the HCCC.

Associates include, but are not limited to: 1. Friends; 2. Girlfriend, 3. Boyfriend, 4 Roommate/live-in com/Domestic Partner or Fiancé or Fiancée.

Failure to comply with the above shall result in disciplinary action, up to and including termination.

[R-3.]

Appellant's conduct after being fully aware that D.W. was an inmate violated each of these provisions and is, therefore, conduct unbecoming a public employee. Simpson was fully aware of the policy, but offered a tortured explanation of the policy stating that if a correction officer was friends with a person prior to that person becoming an inmate, the correction officer was not required to report the contact to the

Director. This explanation is without any credibility and cannot be accepted by this Court.

The policy goes on further to state that “employee communications with incarcerated associates are permitted with the permission of the Director provided the Director is satisfied there is no threat to the orderly operation; and this Rule requires notice to the Director.” In paragraph two, the regulation states that “an employee who wishes to communicate by telephone, correspondence or any other means with an inmate (whether or not they are a relative or an associate) shall submit a written request for permission to communicate with the inmate to the Director of Corrections.” Correction officers must be especially sensitive to their public conduct. Appellant’s status subjects her to a higher standard of conduct and responsibility than is required of other public employees. In Moorestown v. Armstrong, 89 N.J. Super. 560, 566 (App. Div. 1965), the Appellate Division summarized this special degree of care as follows.

It must be recognized that a [law enforcement officer] is a special kind of public employee. His primary duty is to enforce and uphold the law. He carries a service revolver upon his person and is constantly called upon to exercise tact, restraint and good judgment in his relationships with the public. He represents law and order according to the citizenry. He must present an image of personal integrity and dependability in order to have respect of the public, particularly in a small community.

It is expected that Simpson as a correction officer was required to present an image of personal integrity, dependability, and respect for the law and authority. Miccio v. Mid-State Correctional Facility, CSV 2428-87, Initial Decision (June 8, 1987), aff’d, Merit Sys. Bd. (July 14, 1987). A finding or conclusion that a public employee engaged in conduct unbecoming need not be based upon the violation of a particular rule or regulation and may be based upon the implicit standard of good behavior governing public employees consistent with public policy. City of Asbury Park v. Dep’t of Civil Serv., 17 N.J. 419, 429 (1955); Hartmann v. Police Dep’t of Ridgewood, 258 N.J. Super. 32, 40 (App. Div. 1992).

In In re Cruz, CSR 4755-11, Initial Decision (September 1, 2011), <http://njlaw.rutgers.edu/collections/oal/>, the administrative law judge upheld the removal of a correction officer for her violation of the Correction Department's fraternization policy. That Court found that the purpose behind a non-fraternization regulation is important in that if such conduct occurs between a correction officer and an inmate over whom the correction officer has responsibility and control, there is a real threat to the safety of others in the institution because of a possible breach in the objectivity that such correction officer must exercise in maintaining safety and order. Correctional facilities often consider a fraternization infraction by an employee serious enough to warrant removal in the first instance, presumably because the dangers inherent in an unduly familiar relationship in the institutional context are so great so as to believe that employees who violate this ban cannot and often will not be trusted or relied upon and therefore cannot be tolerated in continued employment in a dangerous environment and within a quasi-military structure. See Hansen v. Dep't of Corr., CSV 11069-94, Initial Decision (March 11, 1999), adopted, MSB (January 13, 2000), <http://njlaw.rutgers.edu/collections/oal/>.

In this case, the credibility of appellant Simpson must be called into question. Her attempt to explain how she was in compliance with the non-fraternization policy despite her extensive and personal relationship with inmate D.W. can only raise her credibility into serious doubt. See In re Brown, CSR 14362-11, Final Decision (September 5, 2012). Correction officers must have an unyielding, uncompromising devotion to the applicable rules and regulation in order for the effective operation of each correctional facility. The danger of improper or unauthorized contact between officers and inmates is well established. Bowden v. Bayside State Prison, 268 N.J. Super. 301 (App. Div. 1993). In addressing the penalty to be imposed, it was stated that "The appellant's conduct with respect to the inmate cannot be justified. It undermines the respondent's efforts to instill appropriate discipline, order, reason and security within the prison environment. Removal is the only appropriate penalty for a violation of the fraternization policy." Ibid.

## **CONCLUSIONS**

Appellant takes no responsibility for her actions. She stated that she understood the rules and regulations but believed that it only applied to relationships with inmates if the correction officer met them after they became an inmate. This is a tortured interpretation of this rule and regulation and lacks complete credibility. The length and depth of Simpson's relationship with inmate D.W. makes her transgression to be a serious violation. Appellant was not credible when she testified she did not remember the incident. Her written and oral statements to the police were not credible either as it lacked detail. Simpson continued to assist inmate D.W. even after she became aware of his criminal background, even going so far as to assist him in getting bail.

I **CONCLUDE** that appellant committed conduct unbecoming a public employee when she carried on a lengthy and emotional relationship with an inmate and did not notify the Department of same and did not seek permission to continue that relationship.

## **ORDER**


I **AFFIRM** the action of the appointing authority, in removing the appellant from her position as a correction officer in the Hudson County Department of Corrections.

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, 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.

\_\_\_\_\_  
June 17, 2014  
DATE

  
\_\_\_\_\_  
MICHAEL ANTONIEWICZ, ALJ

Date Received at Agency:

\_\_\_\_\_  
*June 17, 2014*

Date Mailed to Parties:

\_\_\_\_\_  
*June 17, 2014*

jb



**APPENDIX**

**WITNESSES**

**For Appellant:**

Devin Simpson  
Victor Ransom

**For Respondent:**

Lt. Ronald Edwards  
Sgt. Aristides Lambos  
Michael McMillan, Internal Affairs

**EXHIBITS**

**For Appellant:**

P-1 Final Notice of Disciplinary Action (31-B) dated October 31, 2013

**For Respondent:**

- R-1 Custody Staff Rules and Regulations Manual dated December 2009
- R-2 Receipt and Acknowledgement Form dated February 27, 2011
- R-3 Hudson County Corrections, Fraternalization Policy
- R-4 Signatures Report for training
- R-5 Hudson County Staff Rules and Regulations Test A
- R-6 Employee Profile for Simpson
- R-7 Hudson County Correctional Center Incident Report dated August 28, 2013
- R-8 Jersey City Police Supplementary Investigation Report
- R-9 New Jersey Master Name Index for D.W.
- R-10 CD of Simpson Interview
- R-11 Lambos Investigation Report dated September 10, 2013
- R-12 CD of recorded telephone calls between D.W. and Simpson
- R-13 and R-14 CD of recorded telephone calls between D.W. and Simpson

R-15 Tape of recorded telephone calls between D.W. and Simpson

R-16 Report Name: Call Detail Report September 9, 2013

R-17 Report by McMillan dated September 30, 2013

R-18 Preliminary Notice of Disciplinary Action 31-A dated October 3, 2013

R-19 Final Notice of Disciplinary Action (31-C) dated December 24, 2013