



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Johnathan Taylor,
City of Newark

CSC Docket No. 2014-1424

Request for Reconsideration

ISSUED: **AUG 01 2014** (WR)

The City of Newark, represented by Meredith Accoo, Assistant Corporation Counsel, petitions the Civil Service Commission (Commission) for reconsideration of its attached final decision, rendered on November 7, 2013, which enforced the settlement agreement between the parties and imposed a \$1,000 fine on the appointing authority.

By way of background, Johnathan Taylor was served with a Final Notice of Disciplinary Action (FNDA), dated May 18, 2010, charging him with insubordination and violations of the Newark Police Department Rules and Regulations regarding demonstration of respect and disobedience of orders and suspending him for 10 working days without pay from June 17, 2010 until June 30, 2010. Taylor appealed to the Commission, where the matter was then transferred to the Office of Administrative Law (OAL) and eventually settled. In particular, the appointing authority agreed to reimburse Taylor for six of the days he was suspended and amend the FNDA to reflect Taylor was suspended for four days. The Administrative Law Judge (ALJ) recommended approval of the settlement, and upon its review, the Commission acknowledged the settlement agreement on January 9, 2013. In his March 14, 2013 request to the Commission for enforcement of the settlement agreement, Taylor indicated that the appointing authority had not yet complied with the settlement agreement, to which the appointing authority countered that, as of April 12, 2013, it was in the process of doing so. As set forth in detail in the attached decision, the Commission ordered the appointing authority to comply with the terms of the settlement agreement. It also ordered a \$1,000 fine be assessed against the appointing authority.

In its request for reconsideration, the appointing authority states that by May 28, 2013, it had fully complied with the terms of the settlement agreement. Accordingly, it requests that the Commission release it from the \$1,000 fine. In support of its request, the appointing authority submits a copy of the amended FNDA, showing that Taylor was suspended for four days and a copy of the reimbursement check paid to Taylor.

It is noted that despite the opportunity to respond to the appointing authority's request for reconsideration, Taylor did not do so. It is further noted that the appointing authority has not paid the \$1,000 fine.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) sets forth the standards by which the Commission may reconsider a prior decision. This rule provides that a party must show that a clear material error has occurred or present new evidence or additional information not presented at the original proceeding which would change the outcome of the case and the reasons that such evidence was not presented at the original proceeding.

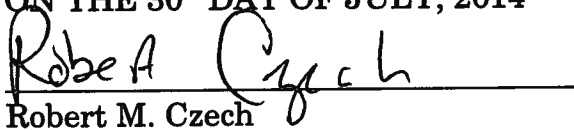
As explained in the attached decision, the appointing authority stated on April 14, 2013 that "the City is currently processing a reimbursement payment to [Taylor]" and "is in the process of amending [Taylor's] personnel records to reflect that he was suspended for four days." However, despite being subsequently contacted several times for the status of its compliance, the appointing authority failed to submit any evidence that the FNDA had been amended or that Taylor had been reimbursed. While the appointing authority indicates that it had complied with the terms of the settlement agreement by May 28, 2013, it presents no argument as to why it was unable to supply the Commission with this information, despite several requests to do so. The appointing authority has clearly wasted administrative time and resources by failing to timely advise the Commission of its compliance. Therefore, the appointing authority has not shown that a clear material error has occurred. Although the appointing authority has presented new evidence or additional information not presented at the original proceeding, it has not provided any reasons why this information was not presented during the original proceeding. Accordingly, under the circumstances presented, there are no grounds on which to grant reconsideration of the prior decision and the appointing authority is ordered to pay the previously assessed \$1,000 fine within 15 days of issuance of this decision.

ORDER

Therefore, it is ordered that the request for reconsideration be denied. Pursuant to *N.J.A.C.* 4A:10-2.1(a), the Commission orders that the previously assessed fine against the City of Newark in the amount of \$1,000 be paid within 15 days of issuance of this decision. Beginning on the 16th day from the issuance of this decision, if the appointing authority does not comply, it will be assessed an additional \$100 per day, and continuing for each day of continued violation, up to a maximum of \$10,000.

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 30th DAY OF JULY, 2014**



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

Attachment

c: Johnathan Taylor
Anthony J. Fusco, Jr., Esq.
Meredith Accoo, Assistant Corporation Counsel
Julien X. Neals
Kenneth Connolly
Joseph Gambino
Beth Wood

