



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Wilbur Battersby
State Park Police
Department of Environmental
Protection

CSC DKT. NO. 2014-2581
OAL DKT. NO. CSV 5144-14

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ISSUED: September 3, 2014 PM

The Civil Service Commission, at its meeting of September 3, 2014, acknowledged the attached settlement in the above matter.

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
SEPTEMBER 3, 2014

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

SETTLEMENT

EARLY SETTLEMENT PROGRAM

OAL DKT. NO. CSV 5144-14

AGENCY DKT. NO. 2014-2581

**IN THE MATTER OF WILBUR BATTERSBY,
STATE PARK POLICE, DEPARTMENT OF
ENVIRONMENTAL PROTECTION.**

Jeffrey Ziegelheim, Esq., for appellant (Alterman & Associates, LLC, attorneys)

Robin Liebeskind, Director, for respondent pursuant to N.J.A.C. 1:1-5.4(a)(2)

Record Closed: July 15, 2014

Decided: July 17, 2014

BEFORE BEATRICE S. TYLUTKI, ALJ t/a:

This matter concerns the appeal of Wilbur Battersby, from the action of the appointing authority. Upon receipt of appellant's hearing request, the matter was transmitted to the Office of Administrative Law for determination 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.

As a result of a settlement conference, the parties agreed to a settlement of all issues in dispute and have prepared a settlement agreement which is attached and fully incorporated herein.

I have reviewed the record and the terms of settlement and I **FIND:**

1. The parties have voluntarily agreed to the settlement as evidenced by their signatures.
2. The settlement fully disposes of all issues in controversy.

I **CONCLUDE** that this matter is no longer a contested case before the Office of Administrative Law. It is **ORDERED** that the parties comply with the settlement terms and that these proceedings be **CONCLUDED**.

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.

July 17, 2014
DATE

Beatrice S. Tylutki
BEATRICE S. TYLUTKI, ALJ t/a

Date Received at Agency:

Date Mailed to Parties:

July 18, 2014

/cad

SETTLEMENT AGREEMENT

IN THE MATTER OF

Wilbur B. Battersby, Jr

AND

NJ DEP

The parties in this appeal have voluntarily resolved all disputed matters and enter into the following settlement, which fully disposes of all issues in controversy between them.

A. The Final Notice of Disciplinary Action dated April 22, 2014 contained the following charges and proposed discipline:

	<u>Charge</u>	<u>Discipline</u>	<u>Dates Effective</u>
1.	<u>6. Conduct Unbecoming a public employee</u>		
2.	<u>12. Other Sufficient Cause</u>	<u>SDP 1.03 & 4.06</u>	
3.			
4.			
5.			

B. The Appellant Wilbur B. Battersby Jr withdraws his/her appeal and request for a hearing, and the Respondent Department of Environmental Protection agrees that the following result will occur with regard to each charge:

	<u>Charge</u>	<u>Disposition</u>	<u>New Penalty</u>
1.	<u>See A.</u>	<u>NO Change</u>	<u>60 days</u>
2.			<u>The next infraction of Conduct</u>
3.	<u>The Employee has the right to pursue appeal to OAL at which time will determine the penalty & charges.</u>	<u>Unbecoming a public Employee</u>	<u>the Dept will seek removal of the Employee.</u>

- 4. This includes a request for a Departmental Hearing
- 5. prior to an administrative hearing.

C. The parties have agreed to the following:

For Suspensions, Complete the Following:

- 1. To date, appellant has been suspended for a total of 0 days based upon the above charges.
- 2. The total number of days of back pay, if any, to be paid by the appointing authority to the Appellant is as follows: 0.
- 3. Any other days from the time of last suspension day until return to work shall be treated as follows: _____.

For Removals, Complete the Following

- 1. To date, appellant has served a total of _____ days without pay based upon the above charges.
- 2. The total number of days of back pay, if any, to be paid by the appointing authority to the Appellant is as follows: _____.
- 3. Any other days from the time of last suspension day until reinstatement shall be treated as follows: _____.
- 4. (Strike if not applicable) The appellant agrees to a
 resignation in good standing
 general resignation
 which shall be effective _____ [date]. Any days from the effective date of removal to the effective date of resignation shall be treated as follows:

 _____.

The parties acknowledge that under N.J.A.C. 17:1-2.18, no pension or seniority time may be credited for periods for which the employee is not paid by the employer.

D. NJDEP (Respondent) shall amend Appellant's personnel records to conform to the terms of the settlement. All internal records of the Department of NJDEP will be kept intact. Nothing herein shall preclude the Department from releasing information on this matter to anyone who has a release executed by appellant or as consistent with the law. Any information regarding the underlying charges will be provided to the Public Employees Retirement System pursuant to N.J.S.A. 43:1-3.3 as amended effective April 14, 2007.

E. Appellant waives all other claims against Respondent Department with regard to this matter, including any award of back pay, counsel fees or other monetary relief, except as may otherwise be provided herein.

F. Except for the assessment of Wilbur C. Bellersky, Jr.'s disciplinary record in any subsequent personnel disciplinary hearing, nothing in this agreement shall be deemed to be an admission of liability on behalf of either party. This agreement shall not constitute a precedent in matters involving other employees.

G. Appellant waives all claims, suits or actions, whether known, unknown, vested or contingent, civil, criminal or administrative, in law or equity against the State of New Jersey, the New Jersey Department of Environmental Protection, their employees, agents, or assigns, including but not limited to those which have been or could have been made or prosecuted on account of any conduct of any party occurring at any time with respect to the events, information or disputes giving rise to this action up to the date of this agreement, including, but not limited to, all claims under Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Americans with Disabilities Act, the Family Leave Act, the Family and Medical Leave Act, the New Jersey Law Against Discrimination, the Equal Pay Act, the Conscientious Employee Protection Act, the Age Discrimination in Employment Act, Title 11A - the Civil Service Act, the Older Workers Benefits Protection Act, the Occupational Safety and Health Act, the Public Employee

Occupational Safety and Health Act, the New Jersey Smoking Act, New Jersey wages and hours law, public works statutes, unemployment compensation laws, disability benefits laws, the United States Constitution, the New Jersey Constitution, any workers compensation or common law claims and any contract express or implied. This waiver includes all claims involving any continuing effects of actions or practices which arose prior to the date of this Settlement Agreement and bars the use in any way of any past action or practice in any subsequent claims, except pending workers' compensation claims.


H. The parties agree that if any portion of this Settlement Agreement is deemed unenforceable, the remainder of this Settlement Agreement shall be fully enforceable.

I. This agreement will become effective only if approved by the **CIVIL SERVICE COMMISSION**. Any disapproval by the **CIVIL SERVICE COMMISSION** shall not interfere with the rights of either party to pursue the matter further.


7-15-14
DATE


Appellant Ulbrannan et al

7-15-14
DATE


Respondent

7-15-14
DATE


ON BEHALF OF William Bettesby

DATE

ON BEHALF OF

CERTIFICATION

I, William Bettlesby, being the moving party in this matter, hereby certify that I have reviewed this Settlement Agreement and fully understand its meaning and terms. I acknowledge my understanding and verify my acceptance of the terms of this Settlement Agreement. I acknowledge that my representative questioned my understanding, verified my acceptance of the terms of this Settlement Agreement, and answered all my questions regarding this settlement to my satisfaction. I am satisfied with my representation and I enter into this Settlement Agreement voluntarily.

I also understand that if this Settlement Agreement is approved by the **CIVIL SERVICE COMMISSION**, my claim against the Respondent will terminate.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

15 July 2014
DATE

[Signature]
NAME