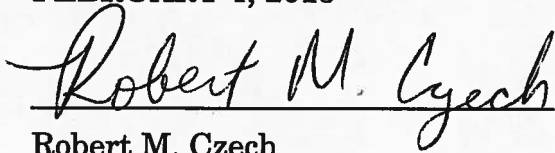


Re: Tamieka Dwyer

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
FEBRUARY 4, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals
and Regulatory Affairs
Civil Service Commission
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attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSR 12730-13

CSC: 2014-480

**IN THE MATTER OF TAMIEKA DWYER,
CITY OF EAST ORANGE POLICE
DEPARTMENT.**

John Anello, Esq., for appellant Tamieka Dwyer (Caruso, Smith, Picini, attorneys)

Marlin G. Townes III, Assistant Corporation Counsel, for respondent City of East Orange (Khalifah L. Shabazz, Corporation Counsel)

Record Closed: November 5, 2014

Decided: December 19, 2014

BEFORE **MICHAEL ANTONIEWICZ, ALJ**:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Appellant, Tamieka Dwyer (Dwyer or appellant), appeals her removal by respondent, City of East Orange Police Department (East Orange or respondent), on charges of chronic and excessive absenteeism, neglect of duty, conduct unbecoming a public employee, and incompetency, inefficiency or failure to perform duties. Dwyer denies engaging in any conduct that warrants major disciplinary action. At issue is whether Dwyer engaged in the alleged conduct and, if so, whether it constitutes the above-mentioned violations warranting removal.

On August 21, 2012, East Orange served Dwyer with a Preliminary Notice of Disciplinary Action (PNDA) alleging that she violated N.J.A.C. 4A:2-2.3(a)(4), chronic or excessive absenteeism, by being absent 105.63 days. On November 16, 2012, Dwyer was served with an Amended Preliminary Notice of Disciplinary Action, dated November 12, 2012, alleging that she violated N.J.A.C. 4A:2-2.3(a)(4), chronic or excessive absenteeism; N.J.A.C. 4A:2-2.3(a)(7), neglect of duty; N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee; N.J.A.C. 4A:2-2.3(a)(1), incompetency, inefficiency or failure to perform duties; and N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause, specifically, EOPD Rule and Regulation section 3:2.8 and EOPD Rule and Regulation section 3:2.3.

Dwyer requested a hearing and forwarded simultaneous appeals to the Civil Service Commission and the Office of Administrative Law (OAL). The appeal was filed with the OAL on August 26, 2013. The hearings were held on December 3, 2013, April 11, 2014, May 6, 2014, August 25, 2014, and August 26, 2014. I denied appellant's motion to dismiss the charges against her on the basis that the issuance of those charges violated the 45-day rule under N.J.S.A. 40A:14-147. The record closed on November 5, 2014, after the parties filed post-hearing submissions.

FACTUAL DISCUSSION

Testimony

Detective Tommy Lee Wright

Detective Tommy Lee Wright (Wright) is a detective assigned to the Professional Standards Unit of the East Orange Police Department for six years. Wright's duties include investigating police misconduct. He also accepts calls and complaints from the public with reference to officers and the conduct of officers as it relates to their duties.

Wright was shown exhibit R-1 which was a chief report prepared by him. Wright stated that on December 24, 2012, he received an anonymous call which indicated that

one of the East Orange police officers was operating a vehicle with a suspended license. Wright then went to the communications area and spoke with the communications officers and asked that they run a driver's abstract on Officer Dwyer. The abstract showed that she, in fact, had a suspended driver's license based on the failure to pay a parking ticket. After reviewing the abstract, Wright contacted Lieutenant Karade (Karade) in order to confirm that Dwyer was operating a motor vehicle, and he discovered that she was. Wright then advised Karade that Dwyer's driver's license was suspended and, as a result, she should be removed from driving any vehicle immediately. Wright also informed Sergeant Reynolds (Reynolds), in order to confirm that Dwyer was removed from a patrol car. Wright stated that Dwyer's activity of driving a police vehicle without a valid driver's license was a violation of Title 39.

Wright then stated that after it was found that she was operating a vehicle without a license, she was ordered not to operate a police vehicle until the time that her license was restored. On January 3, 2013, Wright observed Dwyer operating a marked police vehicle. Wright was in the police parking lot when he noticed Dwyer behind the wheel of a marked vehicle, driving same, despite being instructed not to drive any such vehicles. After making this observation, Wright contacted Karade to advise him of same and to ascertain if Dwyer had her license restored. Karade stated that he was unaware as to whether Dwyer's license was restored and that it was Karade's opinion that she should not be operating a motor vehicle.

Wright then conducted an investigation and ran a driver's motor vehicle abstract, and determined that Dwyer's driving privileges were still suspended. Wright determined that Dwyer violated East Orange rules and regulations, the New Jersey Administrative Code, and N.J.S.A. 39:3-10.

On cross-examination, Wright stated that at some point on December 24, 2012, Dwyer was taken out of the patrol vehicle. Thereafter, Karade ordered Dwyer not to operate a motor vehicle. Wright was then shown a report authored by Dwyer on December 24, 2012, that she submitted to Karade. (P-1.) This report confirms that Dwyer was advised by Karade about her suspended driver's license. Wright was then shown a report from Karade to Dwyer. (P-2.) Wright admitted that Dwyer was driving

the police car in the police parking lot. Wright further admitted that the parking lot is not a public highway. Wright also stated that it was his understanding that Karade ordered Dwyer not to operate a motor vehicle on December 24, 2012, and he noticed Dwyer driving the car on January 3, 2013, prior to her license being restored.

Wright was shown a copy of Dwyer's driver's abstract marked as exhibit P-3. The abstract was run on January 10, 2013, and was reviewed by Wright. The abstract showed that the license restoration fee was paid by Dwyer on January 3, 2013. On cross-examination Wright stated that he did not believe that Dwyer's driving privileges were restored on January 3, 2013. Wright further testified that at some undefined point in time, a traffic summons was satisfied, and that is when her driving privileges were restored.

Wright stated that he knew that Dwyer drove the police car outside the police parking lot because she ended up at 67 South Munn Avenue after taking the car. Information came to him that confirmed that Dwyer paid her traffic summons after January 7, and thereafter her driving privileges were restored.

Wright testified that there were two command investigation reports from Captain Cook, which were created regarding Dwyer. Captain Cook's first report was dated January 4, 2013, (P-5) and the second report was dated January 7, 2013 (P-6).

Wright's report lists the reports reviewed by Wright, and his ultimate finding. The report also confirms that Dwyer was insubordinate to Lieutenant Karade by operating the police vehicle on January 3, 2013, prior to the license being restored. (R-1.)

On recall, Wright was shown his report (R-1), dated January 18, 2013, regarding the investigation of Dwyer. On page two of the report, he had stated that despite Dwyer being ordered not to drive, Wright had observed Dwyer driving a marked East Orange police unit behind the police headquarters.

Wright admitted on cross-examination that where Dwyer was driving the squad car, it was not a public roadway. However, it was Wright's belief that Dwyer being

behind the wheel of a motorized vehicle, whether on a private roadway or in a parking lot, while her license was suspended was a violation of driving while suspended.

Wright was shown exhibit P-3, which was a driver's abstract for Dwyer. Wright stated that there was something omitted from the abstract from the left of "event date," which he believed may affect the document's interpretation.

Commander Babba Karade

Commander Babba Karade (Karade) has been the night patrol commander with the East Orange Police Department for approximately four and a half months. Prior to that he was a police officer with East Orange for over twenty-eight years. In December 2012 Karade was the tour commander for the day patrol division. A tour commander's responsibilities include making sure that the day-to-day functions of the tour operate in the appropriate manner, including supervising sergeants and ensuring that they carry out their duties, along with the officers and the civilian members of the Department. Karade was shown a document (R-2), which was an administrative memo he wrote to Captain Cook, who was his commander at the time. Karade recalled that he had a conversation on December 24, 2012, with Detective Wright wherein Wright advised him that Dwyer had a suspended license. Wright also provided Karade with the Division of Motor Vehicles paperwork that showed Dwyer's license was suspended. Detective Wright suggested to Karade that he conduct a command investigation, which Karade did. The investigation included a review of documents and speaking with Dwyer directly. Karade identified exhibit R-4 as a certified driver's abstract. This document indicates that Dwyer's basic driving privilege, commercial driving privilege, and registration were suspended, as set forth in the portion showing current status. In addition, Karade spoke with Officer Dwyer. Dwyer stated that she was unaware of the driving infraction because of her "moving situation." Then Karade asked Dwyer to submit a report. Thereafter, Dwyer did, in fact, submit a report. Karade reviewed the report and he asked Dwyer to clarify part of the report (e.g., what she meant by "moving situation"). Karade stated that Dwyer did submit a follow-up report. The change-of-address form came in after December 24, 2012. During, this conversation, Karade advised Dwyer that she could not operate a police vehicle and that she would be

assigned to the real-time crime prevention center. This assignment would not require Dwyer to operate a police vehicle. On the following day, December 25, 2012, Dwyer booked out sick. On December 29, 2012, Karade met with Dwyer again. Dwyer was notified that her license was suspended, and her address was confirmed.

Thereafter, Karade drafted a report and submitted same to his commander, Captain Cook on December 29, 2012. A follow-up report marked as exhibit R-3 was submitted to Cook on January 6, 2013. This report was created because Dwyer was assigned to a lock-down post. She was operating a police vehicle at that time and her license was still suspended. Karade knew she was operating a vehicle because he received a phone call to that effect but he was not sure who called to inform him. After receiving that phone call, Karade had Dwyer come back in and submit another report explaining why she was operating a police vehicle. Karade gave her a written order emphasizing the original order that she was not to operate any East Orange police vehicle until she received authorization to do so. Dwyer signed this document on January 3, 2013.

Karade was then shown a document marked as exhibit R-5, which was a certified motor vehicle driver's abstract that he received from Professional Standards. It described that Dwyer's driving privileges were suspended as of January 3, 2013. In addition, Karade was shown a second certified driver's abstract for Dwyer, dated January 3, 2013. (R-6.) This abstract, which was obtained the day after Karade ordered Dwyer not to drive, confirmed that Dwyer's driver's license was suspended on that date. Karade was then shown a driver's abstract for Dwyer that showed that Dwyer's driver's license was in good standing on January 10, 2013.

On cross-examination, Karade stated that Dwyer admitted to driving a squad car; however, it was possible that she drove the car in a parking lot. Karade also admitted on cross-examination that he gave Dwyer an order on January 3, 2013, not to operate a vehicle until she received authorization to do so.

On redirect, Karade stated that upon review of exhibit R-4, dated December 24, 2012, it showed that Dwyer's driver's license was suspended on that date. Upon review

of R-5, which was a certified driver abstract for Dwyer, dated January 3, 2013, it showed that Dwyer's basic driving privileges were suspended. Upon review of R-6, which is the certified driver abstract for Dwyer, dated January 4, 2013, it showed that her basic driving privileges were suspended on that date. Karade also testified that the traffic summons which is the basis of the suspension was not satisfied until January 7, 2013. Further, Karade found that on January 7, 2013, with a posting date of January 8, 2013, Dwyer's license was restored.

On recall, Captain Karade stated that he is the patrol commander for the midnight patrol division, and his responsibilities include overseeing the operations of the night patrol division. In September 2012 Karade was a police lieutenant and was the tour commander for the day patrol division, and his duties included overseeing the operations of the day patrol division. Karade had a conversation with Dwyer regarding her going to a bar. Dwyer told Karade and Sergeant Sherrod that she went into the City of Orange into The Lounge to use the bathroom and warm up her food. Karade directed Dwyer to submit a report to the sergeant and to Karade.

Inspector Tony Cook

Inspector Tony Cook (Cook) has been with the East Orange Police Department for twenty years. His duties and responsibilities include assisting the chief in the day-to-day operations by overseeing the Patrol Division. At the time of the issue with Dwyer regarding her driver's license, Cook was the captain of the police department. In connection with the investigation into Dwyer, Cook prepared a report dated January 27, 2013. (R-7.) Cook found that there was substantial evidence that Dwyer was in violation of the two departmental violations. Cook referred the matter to Professional Standards after it was found that Dwyer did not possess a driver's license and was insubordinate by not complying with the Department's request to not operate a vehicle until the Department authorizes her to do so. The charges against Dwyer were neglect of duty; conduct unbecoming a public employee; incompetency, inefficiency or failure to perform duties; and insubordination.

Cook was shown exhibit R-5, which shows that on January 3, 2013, Dwyer's driver's license was suspended on that date. Cook was also shown exhibit R-6, which was a copy of Dwyer's driver's abstract which was dated, January 4, 2013. Exhibit R-6 also shows that Dwyer's driver's license was suspended on January 4, 2013

Lieutenant Christian Patrick

Lieutenant Christian Patrick (Patrick) has served as the medical officer for the East Orange Police Department since October 2011. Patrick's duties and responsibilities include monitoring of sick leave and line-of-duty-injury leave for all the members of the East Orange Police Department. Patrick's office monitors sick leave and attendance on a daily basis. If an employee is over the quarterly average for sick leave, then for that quarter a review would ensue.

There is a General Order regarding sick-leave procedures. The Order provides: "Chronic use of sick leave may be symptomatic of an employee's not fitness for duty and if continuing Management must take preventative or corrective action when necessary to protect the employee, other employees and the public good." It further states, "therefore any member who exceeds their yearly sick time allotment or exhibits a pattern of sick leave abuse may face Department charges." (R-10.)

Patrick testified that Sergeant DiElmo (DiElmo), who is now retired, served as the assistant medical officer and worked under Cook's supervision. DiElmo prepared reports in connection with Dwyer's sick leave. He concluded that Dwyer utilized 105.63 sick days in 2011. He further concluded that Dwyer was suspected of pattern absenteeism, and thus she was a chronic or excessive abuser. Dwyer provided a doctor's note on three occasions. The number of days used by Dwyer for sick leave was confirmed by the sick-leave reports and the sick-leave calendars. Patrick determined this to be a possible abuse of sick leave, and he forwarded his findings to the chief of police to see if discipline were warranted. Use of more than 20 days of sick leave is considered to be excessive. Patrick stated that Dwyer used 43.06 sick days in 2010, 27 sick days in 2009, and 38 sick days in 2008. Accordingly, Dwyer used excessive sick time each year by using more than 20 sick days in each year. (R-11.)

Patrick stated that even if an officer is indeed sick, the officer's use of sick leave can be considered excessive and they can be disciplined if they use more than 20 sick days in a year.

On cross-examination, Patrick testified that each officer is allotted 20 sick days per year. Patrick admitted that there was no rule or regulation limiting an officer to 20 days of sick time per year. Patrick also admitted that an officer can carry over sick time. The use of twenty days of sick time has been communicated to the officers. When an officer uses more than 20 days, it impacts the operations and efficiency of the Department because the Department lacks the proper coverage to provide services to the citizens. It also creates a financial impact on the citizens because the Department has to pay overtime for coverage for an officer who uses excessive sick leave.

Captain Raymond Brown

Captain Raymond Brown (Brown) has been with the East Orange Police Department for twenty-eight and a half years. His duties and responsibilities include being in charge of the Community Safety Team, a proactive crime-fighting unit that works the street every day dealing with gangs, guns, and drugs.

The Department kept track of its officers' whereabouts during the course of a shift with a log sheet and an automatic vehicle locator (AVL) via satellite, which tells where the vehicles are, their speed and their direction using a mobile data terminal (MDT). On May 16, 2012, Captain Brown received a call from the police chief, who asked him to check on the location of officer Dwyer. Dwyer was in the City parking lot between Evergreen Place and South Harrison Street. The chief stated to Brown that he saw Dwyer leave from the area of 120 Evergreen Place and South Harrison Street. The chief saw Dwyer pull into the lot, and she was sitting in her car. Dwyer never got out of her car.

The chief wanted Brown to contact Dispatch and ascertain what kind of assignment Dwyer was handling. Brown contacted Dispatch, and he was informed that Dwyer was out of service at 630 Central Avenue and distributing flyers (that address is

about two and a half blocks from Evergreen Place). Brown called the chief back with this information, and the chief responded: "That's impossible, that's not where she is." Brown then called the dispatcher, who confirmed her location at 428 Central Avenue. There was a discrepancy between what was on her computer-aided dispatch (CAD) and where she actually was. The chief then asked Brown to do a report on this matter. (R-13.) Brown pulled the AVL report for the time frame in question, as well as all CAD tickets, log sheets for Dwyer, and the log sheets made by the dispatcher. The log-sheet entries made by Dwyer differed from the AVL created by satellite. The entries made by Dwyer on the log sheet were different from the chief's visual observations. Brown found that Dwyer put herself out for a "vertical patrol" for a total of six minutes at the Ramada Inn. Brown went to the Ramada Inn to investigate. He took the elevator (as the quickest way to go) to the top floor and could not make it faster than seventeen minutes. Brown found that Dwyer indicated on her log sheet that she left the Ramada Inn and took a "directed patrol" for theft at 115 Evergreen Place, which is a two-story office building.

Brown's ultimate conclusion in his investigation, based on all the documents he reviewed, the AVL report, Dwyer's log sheet, and the CAD tickets Dwyer entered into the computer, was that Dwyer made several entries at several locations that Dwyer never visited on directed patrols. It was Brown's opinion that Dwyer falsified the report. Thereafter, disciplinary action was brought against Dwyer based on his findings and investigation.

On cross-examination, Brown stated that there was no definition of "directed patrol" or "vertical patrol" in the rules and regulations. A supervisor can limit certain patrols to certain time frames. Brown also stated that an officer is supposed to exit a vehicle in order to do a directed patrol. To Brown's knowledge, Dwyer's MDT system and CAD system were working properly.

Detective Sergeant Hosia Daniel Reynolds

Detective Sergeant Hosia Daniel Reynolds (Reynolds) has been with the East Orange Police Department for twenty-four years. Reynolds's current position is

detective sergeant in Professional Standards. Reynolds's duties and responsibilities include investigation of misconduct of all agency employees. Reynolds created a report (R-15), which included the steps taken by Reynolds in his investigation. As part of the investigation, Reynolds took several pictures and talked to various people at the establishments in question.

As a result, Reynolds found discrepancies between the locations that Dwyer reported to be at and documentation and observations by Department personnel. Reynolds found that what Dwyer reported in her log sheet was a contradiction as to what she put into the CAD system. Reynolds stated that the AVL report shows that during the time that she stated she took a directed patrol at 428 Central Avenue, her vehicle never crossed a certain part of the intersection that would allow her to be in that area. It was Reynolds's conclusion that he concurred with Captain Brown's findings in terms of fabricated log sheets and CAD entries. Reynolds determined that Dwyer did not go to where she reported.

On recall, Reynolds admitted that he took part in an investigation into Dwyer entering a bar. Reynolds was ordered to the location of The Lounge on Central Avenue in Orange by Captain Phillips. Upon responding to that location, Reynolds found Dwyer's vehicle parked right next to The Lounge in the Hess gas station parking lot. Dwyer was already on the scene with Inspector Wells (at the time Captain Wells) and Sergeant Sherrod. Dwyer was then transported to headquarters by a supervisor. While at the scene, Reynolds interviewed witnesses. The witnesses confirmed that Dwyer went into the bar while in uniform and on duty. Reynolds admitted that he did not interview Dwyer about this incident.

Detective Charles Hinton

Detective Charles Hinton (Hinton) has been with the East Orange Police Department for approximately twenty years. Hinton is in the Professional Standards Unit. Hinton's duties and responsibilities include the investigation of complaints against officers. In September 2012, Hinton was an investigator.

Hinton prepared the chief report regarding the incident where Dwyer entered a bar. Hinton created a report (R-16) as a result of the chief of police witnessing Dwyer at a lounge/bar at 55 Central Avenue. When the chief saw Dwyer, he requested a member from the Professional Standards Unit to respond to 55 Central Avenue in Orange. Hinton conducted several interviews (with the owner of the bar, a barmaid, and a patron who was in the bar). The findings of Hinton's investigation were that Dwyer was inside the lounge/bar in Orange while she was actively on duty. The rules and regulations clearly state that uniformed officers are not supposed to be inside establishments while on duty, in full uniform. Dwyer was discovered in the bar by the chief of police, along with Captain Reynolds. In Dwyer's statement to Professional Standards, Dwyer stated that she had an emergency and needed a bathroom. Dwyer also stated that she wanted to warm up some food. Hinton believed that Dwyer had other options to use a bathroom and warm up food, such as using the police department or other establishments in the area. Dwyer could have used the Dunkin' Donuts, Extra Supermarket or Burger King, all located in East Orange. An officer is required to notify his/her supervisor and inform them that he/she needs a bathroom break. Dwyer failed to notify her supervisor to ask for permission for a bathroom or lunch break. Officers are not permitted to go into bars in uniform.

Inspector Sharon Wells

Inspector Sharon Wells (Wells) has worked in the East Orange Police Department for over twenty-four years. Wells is currently the acting chief of police, and is managing the police department. Previously she was the aide to the chief of police.

Wells was driving the chief of police around as he tours the city. They were driving south on South Harrison Street and then East Highland Avenue, which runs into Orange. Wells and the chief made a right on Oakwood Avenue (in Orange) to get to Central Avenue and made a right on Central to proceed east. Wells looked to the left and noticed a police car from East Orange parked near a Hess Gas Station. The car was parked in such a manner whereby it could not be seen from East Orange. Wells parked the car and called the dispatcher to ask who was driving car #39; the dispatcher informed Wells that it was Dwyer. When asked what type of call she was on, Wells was

informed that Dwyer was on a directed patrol at 333 Halsted Street. Wells made a report on this matter. (R-17.) Wells then asked the dispatcher to check the AVL to see where the car was. The dispatcher stated that the car was showing up on the AVL and Wells asked the dispatcher to refresh the screen of the GPS for AVL to confirm where the car was. The dispatcher stated it was showing on Sheppard Avenue. The dispatcher stated that it was on the call for nineteen minutes.

Wells then spoke to Lieutenant Gregory, who was very familiar with AVL and GPS. Lieutenant Gregory said that Dwyer's car was parked on Sheppard Avenue; however, Dwyer was on directed patrol on Halsted Street. At this time, Dwyer came walking out of the bar. Wells told her not to drive the car just in case she was drinking. Clearly, Dwyer was not where she was supposed to be to the dispatcher. Wells then contacted I.A. to come over.

On cross-examination, Wells stated that the policy is that officers are supposed to advise the dispatcher where they are going for bathroom and lunch breaks. These procedures were in place in 2012.

Lieutenant Brian Gregory

Lt. Brian Gregory (Gregory) was with the East Orange Police Department for twenty years and current position is the Commander of the Communication's Unit. Gregory's main function is the supervision of the public safety answering point for East Orange.

On September 26, 2012, Gregory received a call from Wells asking who was driving car #39 and where the car was showing up on the AVL map. The car at that time was showing up on Sheppard Avenue. However, the system showed that Dwyer was taking a directed patrol at 333 Halsted Street. Dwyer was assigned to zone 1 Charlie. However, the car was located on the border of 1 Bravo and 1 Alpha. The car was found to be outside the East Orange limits. In order to go outside the zone or out of the city, the officer needs to obtain permission from the squad sergeant. In order to

take a bathroom break or a lunch break, you need to have permission from the supervisor.

On cross-examination, Gregory stated that the rules regarding bathroom and lunch breaks are well known among the police force and were written down.

Chief William Robinson

Chief William Robinson (Robinson) has been with the East Orange Police Department for thirty-one years and has been the chief of police since 2011. His duties include the day-to-day operation of the police department, the strategies, goals and objectives. Dwyer's driver's abstract (R-5) was obtained by the Department on January 3, 2013, at 9:58 a.m. and showed that Dwyer's driving privileges were suspended on that date. In response, Dwyer wrote a report (R-18) regarding this matter. Dwyer was advised that her license was not restored at 11:20 a.m. on January 3, 2013. Dwyer stated in her report that her license was restored at 1:00 p.m. that day.

On May 16, 2012, Robinson was riding throughout the city in order to monitor what was going on. At about 1:00 p.m., Robinson was heading north on Evergreen Place and he saw a police car heading south in the area of 137 Evergreen Place. At this time, the police car made a right into a parking lot on the side of 134 or 137 Evergreen, pulled in a westerly direction and stopped. Robinson pulled over and went to the opposite side of the street in order to see what the police vehicle was doing. Robinson watched the police vehicle for about ten minutes and the officer was just sitting in the car. Robinson then called Captain Brown in order to determine the type of call this officer was on. Brown called the dispatcher and advised Robinson that the officer was on a directed patrol to hand out flyers. Brown identified the officer in the car as Dwyer. Robinson informed Brown that he was watching Dwyer from 13:21 to 13:31 and Dwyer did not get out of the car yet. At that point Dwyer pulled out of the parking lot heading west towards South Harrison Street. Dwyer pulled out of the lot and made a left going toward Central Avenue. Thereafter, Robinson lost sight of Dwyer and he then informed Brown. After a short period of time, Robinson saw the same police car sitting in another parking lot. Robinson had a clear view of Dwyer's car and called Captain

Brown back. He found out through Brown from the dispatcher that Dwyer was on another directed patrol handing out flyers. Robinson informed Brown that Dwyer was, in fact, sitting in her car. After approximately eight minutes, Dwyer exited her car, went to the passenger door, removed some papers, put them in the garbage can and sat back in her car. Robinson advised Brown to conduct an investigation. Robinson then left the location.

On September 27, 2012, Robinson, along with Inspector Wells, saw Dwyer exiting a bar and was headed back to her police vehicle. On that date, Robinson and Wells were touring the city and they were in the area of 55 Central Avenue when they noticed a police vehicle parked near a Hess gas station next to a bar located in Orange. Both Wells and Robinson questioned why this police car, identified as car #39, was parked in Orange next to a bar. Wells called the dispatcher who advised that it was assigned to Officer Dwyer and it was supposed to be on a directed patrol on Halstead Street in East Orange. Robinson spoke to I.A. and told them to send personnel to the location. Then about six to seven minutes later Robinson saw a patron come out of the bar, look over to the police car and then go back into the bar. About thirty seconds later Dwyer, in full uniform, came out of the bar walking to her car. Both Robinson and Wells were concerned and then went over to Dwyer. Wells engaged Dwyer in conversation. Dwyer stated that she went into the bar to warm up some food. At that time, I.A. pulled up along with Dwyer's supervisor. The supervisor then took her back to the station. Dwyer was supposed to be on Halstead Street on a directed patrol, which is about five blocks away from where she was.

Robinson testified that Rule 2:4-7 states that officers could only leave their zone if there is an emergency and then after permission from their supervisor. In addition, Rule 3:2.8 states that an officer needs permission from a supervisor to leave the city and then to advise the supervisor when they return.

On cross-examination, Robinson was shown P-7, which was Dwyer's certified driver's abstract, dated January 4, 2013. Robinson acknowledged that a restoration fee was paid on January 3, 2013.

On May 16, 2012, at 13:16 to 13:27, Dwyer indicated in her patrol log that she was performing a directed patrol at 630 Central Avenue. Dwyer's patrol log was marked as P-8. Robinson stated that this log must be a fabrication because he saw Dwyer sitting in her vehicle at 134 Evergreen from 13:21 to 13:31. Robinson confirmed that the AVL for Dwyer's vehicle was working correctly.

Reviewing Dwyer's report, dated September 26, 2012, to Sergeant Sherrod, Dwyer wrote that on that date she had an unavoidable personal break. Dwyer defined that in the report as having to go to the bathroom extremely bad. Robinson stated that all he remembered was that Dwyer had to warm up food at the bar. Robinson stated that he came to realize that the AVL was not working as it showed the vehicle on Shepard Avenue when, in fact, it was in Orange at 55 Central Avenue.

On redirect examination, Robinson stated that it would not be proper for Dwyer to go to the bar to use the bathroom and heat up her food because it is a violation to go into a bar in uniform and a violation to leave the city without getting proper permission. In addition, there were many other locations Dwyer could have gone to use the bathroom instead of a bar, i.e., the headquarters.

Tiffany Tucker

Tiffany Tucker (Tucker) has a master's degree from NJIT and a bachelor's degree from Rowan University in computer science. Tucker started as a computer service tech at the East Orange Police Department in July or August of 2005. Tucker was promoted to senior technician and then to IT manager in July 2011. As IT manager, her duties included overseeing the staff and supervise all the IT projects. Tucker was admitted as an expert in the East Orange Police Department's computer systems.

Tucker explained that the East Orange Police Department generated CAD reports, which is a digital representation of an incident or a call that comes into the Department. The program that generates the CAD reports is called Antion. Tucker described that the Antion system in 2012 would malfunction once in a while. Tucker

could not say a specific date when it went down. She described the Antion going down not that frequently, "but it happened."

Tucker described an AVL report as an output from the GPS coordinates within any given time frame. Tucker described the AVL reports as not always being accurate. Tucker could not say how often it was wrong. She was shown an AVL report for car #95 on May 16, 2012. (P-13.) Tucker stated that they had problems with all the vehicle's AVL systems. It was Tucker's opinion that this AVL Report was not reliable, but "it was a yes and no question" . . . "it could have been and it couldn't have been." Tucker could not answer the question. Tucker stated that he was never questioned about an internal affairs investigation into Dwyer regarding an incident that took place on May 16, 2012.

Tucker stated that CAD reports would be off, but she could not say how often. Tucker also testified that there may be lag time where the system took additional time to catch up with the car's location.

On cross-examination Tucker admitted that at the time of her testimony she was suspended. The suspension involved the computers in East Orange. Tucker could not recall any issues on May 16, 2012, and September 26, 2012, regarding Dwyer's CAD reports. In addition, Tucker could not recall any issues with the AVL in car #95 on May 16, 2012. Tucker testified that by looking at exhibit P-13, she could not tell if there were any errors with the AVL system. Tucker had no specific knowledge that car #95 was malfunctioning on May 16, 2012. Tucker also had no specific knowledge of malfunctions on September 26, 2012, in car #39.

Tamieka Nicole Dwyer

Tamieka Dwyer (Dwyer) is the appellant in this case. She entered the Police Academy in January 2010 and graduated in June 2010. Dwyer was sworn in as a police officer in East Orange on June 17, 2010.

Dwyer was advised by Lieutenant Karade that her driver's license was suspended on December 24, 2012. Dwyer stated that she was not aware that she was suspended because she was in the process of moving. Dwyer stated that her son got a ticket and she was unaware of same. Based on nonpayment of the ticket, her license was suspended. Dwyer's superior officer advised her not to operate a motor vehicle until her license was reinstated. Dwyer stated that she complied with that order. She further stated that she went online and paid the summons and then restoration fee. Dwyer made the payment on January 3, 2013. She reviewed her driver's abstract (P-14), which showed a restoration of driving privileges on January 3, 2013. Dwyer admitted that she drove a motor vehicle on January 3, 2013, in the police parking lot for two minutes. Dwyer drove to 67 South Munn in the back of the headquarters. Dwyer admitted on direct examination that she drove down the street.

Dwyer admitted that she was on duty on May 16, 2012, and was working the 8:00 a.m. to 4:00 p.m. shift. Dwyer was patrolling 1 Alpha zone. Dwyer was shown P-15, which was her daily sheet. It shows the different locations and target locations where she was to do directed patrols. Dwyer testified that she did the patrols on those dates. Dwyer was using car #95. Dwyer testified that the MDT was not functioning on that day and that she notified the Department of the malfunction. Dwyer further stated that she performed a directed patrol at 120 Evergreen Place. (P-8.) The patrol took place between 12:56 to 13:03 at the location of the Ramada Inn Hotel and it was a building check. Dwyer stated that she walked into the Ramada Inn on the lobby level and spoke with someone in the lobby and then walked up one level. Then Dwyer went back to her vehicle and did a directed patrol at 44 Beech, which took place at 13:03 to 13:06. Dwyer did other directed patrols in the area. She also did a patrol at 630 Central Avenue at 13:16 and it was completed at 13:27. This location was at Rite-Aid and she handed out flyers. Dwyer was then shown P-16, which she identified as copies of the flyers she handed out. After being at 630 Central Avenue, Dwyer went to 428 Central Avenue. She arrived there at 13:27 and completed the patrol at 13:38. Directly thereafter, Dwyer had a traffic stop at 528 Central Avenue. This took place at 13:48. She arrived at 528 Central Avenue at 13:48.

On September 26, 2012, Dwyer was assigned to 1 Charlie zone in car #39. Dwyer stated that she was having a problem with the car's MDT on that day. Dwyer notified the Department that she was having a problem with the MDT. Dwyer was shown P-18, her manual log sheet for September 26, 2012. Dwyer recalls leaving East Orange and went into Orange. Dwyer stated that when she was assigned to that zone, she would often cross over to Orange. Her patrol log shows that she was at 333 Halsted Street from 13:26 to 13:29. After going to Halsted Street she made further patrols.

Dwyer described the bar to be 100 feet from the East Orange border, in Orange. Dwyer said she entered the lounge to use the restroom. She had tried to use the Burger King bathroom (in East Orange), but it was being used. The Burger King is across the street from the lounge. Dwyer stated that she was feeling sick on that day. The owner of the lounge grabbed her food and told Dwyer that she would heat up the food while she was in the bathroom. Dwyer stated that she was in the lounge for about twelve minutes.

Dwyer was then shown P-17, which was the charging document regarding excessive and chronic absents. It states that Dwyer was absent 105.63 days in 2011. The notice for discipline for these absences was dated November 12, 2012, and was served upon Dwyer on November 16, 2012.

On cross-examination, Dwyer admitted that she confirmed that her license was restored on January 3, 2013, around 1:00 p.m. Dwyer stated that she reported for roll call on that date at 8:00 a.m. Dwyer also admitted that she drove the police vehicle to 67 Munn a little after 8:00 a.m. Dwyer stated that she paid the restoration fee on December 24, 2012.

Dwyer was shown exhibit P-14, which stated that on January 3, 2013, she paid her restoration fee. The posting date for this payment was January 3, 2013. The document further confirmed that the date of the restoration was January 8, 2013.

Dwyer also admitted that she did not apprise her supervisor of her bathroom break when she went to the lounge. Furthermore, Dwyer admitted that the gas station located in East Orange next to The Lounge had a bathroom which she could have used. Dwyer also admitted that there were other establishments she could have used for a bathroom.

Dwyer further admitted on cross-examination that officer get 20 days for sick time. Dwyer stated that in the year 2011, she had a personal medical issue. As a result she took an FMLA leave.

On redirect examination, Dwyer stated that she did not apprise headquarters of her going to the bathroom in Orange because it was an emergent situation. Dwyer stated that she selected The Lounge because it was opening, it was an emergency, and she knew the place was safe and clean.

FINDINGS OF FACT

In light of the contradictory testimony presented by the respective witnesses, the resolution of the charges against Dwyer requires that I make credibility determinations with regard to the critical facts. The choice of accepting or rejecting the witness's testimony or credibility rests with the finder of facts. Freud v. Davis, 64 N.J. Super. 242, 246 (App. Div. 1960). In addition, for testimony to be believed, it must not only come from the mouth of a credible witness, but it also has to be credible in itself. It must elicit evidence that is from such common experience and observation that it can be approved as proper under the circumstances. See Spagnuolo v. Bonnet, 60 N.J. 546 (1974); Gallo v. Gallo, 66 N.J. Super. 1 (App. Div. 1961). A credibility determination requires an overall assessment of the witness's story in light of its rationality, internal consistency and the manner in which it "hangs together" with the other evidence. Carbo v. United States, 314 F.2d 718, 749 (9th Cir. 1963). A fact finder "is free to weigh the evidence and to reject the testimony of a witness even though not contradicted when it is contrary to circumstances given in evidence or contains inherent improbabilities or contradictions which alone or in connection with other circumstances in evidence excite suspicion as

to its truth." In re Perrone, 5 N.J. 514, 521-522 (1950); see D'Amato by McPherson v. D'Amato, 305 N.J. Super. 109, 115 (App. Div. 1997).

Having had an opportunity to observe the demeanor of the witnesses, I **FIND** that Wright, Patrick, Hinton, Karade, Robinson, Brown, and Wells were all credible. There was no testimony or other proof that any of them had any personal bias against Dwyer. Wells was truthful in her testimony. Robinson was also extremely credible in his testimony, which remained unshaken even under extensive and focused cross-examination. Robinson made many personal observations of Dwyer that were clear and concise. Robinson then alerted the proper individuals to follow up investigations regarding what he saw and any possible violations and charges which may result. Captain Brown was also very credible. He clearly described the process before he issues a disciplinary notice. There was no indication in his testimony that he had a bias against Dwyer. He admitted that he did not check the facts in the Internal Affairs report because he does not micro-manage the Internal Affairs department. He clearly testified as to the rules and regulations that he believed Dwyer violated. Both Inspector Cook and Captain Karade were also credible in their respective testimony were believable and well organized in their presentation of evidence. Neither presented any evidence that they had a bias against Dwyer. Lastly, the testimony of Wright, Patrick, Reynolds, Hinton, and Gregory were all credible. No evidence was presented that they had any bias against Dwyer and nothing in their testimony indicated such a bias.

The testimony of Tucker, although interesting, failed to shed any light on the cogent issues presented in this case. Tucker failed to have any personal knowledge of the malfunctions connected to Dwyer's respective police cars and her testimony was more general in nature.

The testimony of Dwyer, although generally consistent with many of her previous reports she submitted, was not credible in light of the witnesses for the respondent. In fact her admissions can lead to substantiation of a number of the charges.

I **FIND** the testimony of Robinson, Brown, Patrick, Karade, and Wright also to be credible. Robinson was clear, truthful, and concise in his testimony. I found Brown,

Karade, and Wright to be very credible. I found Patrick to be credible, as his testimony was a matter of math and setting forth the police department policy for sick days.

I **FIND** Dwyer not to be credible. It is not credible that she would pay the summons and the restoration fee and then “assume” that she was restored after receiving an order not to drive until her license was restored. I **FIND** that at the time she drove the police vehicle on January 3, 2013, her license had NOT been restored despite her statement that she had paid “a restoration fee.”

I also **FIND** that Dwyer’s use of the liquor establishment, located in Orange, was a violation of a number of rules and regulations, i.e., being on duty but outside the City of East Orange without prior permission and being in a liquor establishment while on duty and in uniform. Dwyer’s explanation of having a bathroom emergency lacked credibility as Dwyer admitted that the Hess gas station located in East Orange had a bathroom, was not a liquor establishment, and was accessible. Dwyer had a number of alternatives to deal with her bathroom emergency and to heat her food without violating rules and regulations.

I further **FIND** that in the face of the clear testimony of Patrick regarding her use of sick days in 2011 and the policy regarding excessive use of sick time, Dwyer offered little defense to her violation of that policy.

Having reviewed the testimony and evidence and credibility of the witnesses, I make the following additional **FINDINGS** of **FACTS**.

1. Dwyer was absent from assigned work with the East Orange Police Department for 105.63 days in 2011, without good cause.
2. Police officers in the East Orange Police Department are allotted 20 sick days each year.
3. When a police officer is out more than 20 sick days, it creates a personnel and financial strain on the City of East Orange.

4. On September 26, 2012, Dwyer entered a liquor establishment located outside the city limits of East Orange, while in uniform, without obtaining permission from, or even giving notice to, her supervisor.
5. Dwyer had the opportunity to use several bathroom facilities on September 26, 2012, within the City of East Orange, including at the Hess gas station next to the bar, the nearby hospital or the police headquarters.
6. Dwyer's written reports on or about May 16, 2012, failed to accurately reflect her whereabouts on that date.
7. Dwyer's driver's license was suspended on or before December 24, 2012, at which time the East Orange Police Department became aware of same.
8. Dwyer was given an order not to operate any vehicles until her driving privileges were restored.
9. Dwyer was reassigned to duties at the police department that did not require her to drive a vehicle.
10. Dwyer was driving a police vehicle on January 3, 2013, prior to her driver's license being restored.

LEGAL ANALYSIS AND CONCLUSION

Based on the foregoing facts and the applicable law, I **CONCLUDE** that the charges of chronic and excessive absenteeism, neglect of duty, conduct unbecoming a public employee, incompetency, inefficiency or failure to perform duties, and other sufficient cause, specifically, violation of Rules and Regulations (3:2.8 and 3:2.3) of the East Orange Police Department, are sustained.

The purpose of the Civil Service Act is to remove public employment from political control, partisanship, and personal favoritism, as well as to maintain stability and continuity. Connors v. Bayonne, 36 N.J. Super. 390 (App. Div.), certif. denied, 19 N.J. 362 (1955). The appointing authority has the burden of proof in major disciplinary actions. N.J.A.C. 4A:2-1.4. The standard is by a preponderance of the credible evidence. Atkinson v. Parsekian, 37 N.J. 143 (1962). Major discipline includes removal or fine or suspension for more than five working days. N.J.A.C. 4A:2-2.2. Employees may be disciplined for insubordination, neglect of duty, conduct unbecoming a public employee, and other sufficient cause, among other things. N.J.A.C. 4A:2-2.3. An employee may be removed for egregious conduct without regard to progressive discipline. In re Carter, 191 N.J. 474 (2007). Otherwise, progressive discipline would apply. W. New York v. Bock, 38 N.J. 500 (1962). In the Bock case, it was stated:

Just cause for dismissal can be found in habitual tardiness or similar chronic conduct. While a single instance may not be sufficient, numerous occurrences over a reasonably short space of time, even though sporadic, may evidence an attitude of indifference amounting to neglect of duty. Such conduct is particularly serious on the part of employees whose job is to protect the public safety and where the men service precise shifts to afford continuous protection. . . .

. . . The only safe course in charging chronic misconduct is to state specifically that the employee is being charged as a habitual offender, with a recital of the several instances warranting that characterization.

[Bock, supra, 38 N.J. at 522 (citations omitted).]

The Civil Service Commission has held that a police officer is held to a higher standard of duty than that of other public employees. In re Kines, 2013 N.J. CSC LEXIS 507 (July 31, 2013). A police officer is a special kind of public employee whose primary duty is to enforce and uphold the law. Ibid. A police officer 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. Ibid.

Attendance at work is the most basic duty of an employee, especially in the area of public safety, and employees who cannot maintain an acceptable attendance record can expect to be subject to disciplinary action, up to and including removal. The negative impact of excessive absenteeism on the efficiency and morale of a police department cannot be overstated. Ibid.

After reasonable consideration is given to an employee by an appointing authority, the employer is left with a serious personnel problem and a point is reached where the absenteeism must be weighed against the public right to efficient and economic service. Terrell v. Newark Hous. Auth., 92 N.J.A.R.2d (CSV) 750, 752. An employer is entitled to be free of excessive disruption and inefficiency due to an inordinate amount of employee absences. Ibid.

An employer has a legitimate right to expect that its employees will attend work as scheduled. The courts have consistently held that excessive absenteeism need not be accommodated and attendance is an essential function of most jobs. Reasonably regular, reliable and predictable attendance is a necessary element of most jobs. An employee who does not come to work cannot perform any of the job functions, essential or otherwise. An employee who cannot get to work does not satisfy the essential requirements of her employment. An employee of any status cannot be qualified for the position if unable to attend the workplace to perform the required duties. In re Johnson, Initial Decision (January 23, 2013) (citations omitted), <<http://njlaw.rutgers.edu/collections/oal/>>.

Notably, the Civil Service Commission has upheld appointing authorities using the yearly allotment of sick days to police officers as a benchmark for determining how many absences are excessive. Gonzalez v. Passaic Police Dep't, CSV 9559-97, Initial Decision (Aug. 30, 2000), adopted, Merit System Board (October 23, 2000), <<http://njlaw.rutgers.edu/collections/oal/>>.

There is little doubt that Dwyer used an excessive amount of sick time 2011. The testimony of Lieutenant Patrick was quite clear that Dwyer used 105.63 sick days in

2011. Dwyer offered no genuine credible explanation for the days used over the allotted 20.

Hearings at the OAL are de novo. Ensslin v. Twp. of N. Bergen, 275 N.J. Super. 352 (App. Div. 1994), certif. denied, 142 N.J. 446 (1995).

“Unbecoming conduct” is broadly defined as any conduct that adversely affects 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. The conduct 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. In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960).

Any misconduct by a police officer can effect morale and/or impact the public’s perception of law enforcement. In re Green, 2013 N.J. CSC LEXIS 585 (June 26, 2013). A police officer 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. In re Carter, supra, 191 N.J. at 486. “Acts that subvert good order and discipline in a police department” have been deemed to constitute conduct so unbecoming a police officer as to warrant dismissal. In re Herrmann, 192 N.J. 19, 35 (2007) (citation omitted). “[I]t is a fundamental principle of the workplace, especially in a paramilitary organization, that rules and regulations are to be followed. A Police Officer cannot pick and choose which rules and regulations he or she will adhere to.” In re Green, supra, 2013 N.J. CSC LEXIS 585.

Many New Jersey cases indicate the importance of maintaining discipline within the paramilitary organization to a police department. Refusal to obey orders and disrespect cannot be tolerated. Such conduct adversely affects the morale and efficiency of the department.” Rivell v. Civil Serv. Comm’n, 115 N.J. Super. 64 (App. Div.), certif. denied, 59 N.J. 269 (1971).

When determining the appropriate penalty to be imposed, the Board must consider an employee's past record, including reasonably recent commendations and prior disciplinary actions. Bock, supra, 38 N.J. 500. Depending on the conduct complained of and the employee's disciplinary history, major discipline may be imposed. Id. at 522-24. Major discipline may include removal, disciplinary demotion, suspension or fine no greater than six months. N.J.S.A. 11A:2-6(a); N.J.S.A. 11A-2-20; N.J.A.C. 4A:2-2.2; N.J.A.C. 4A:2-2.4.

A system of progressive discipline has evolved in New Jersey to serve the goals of providing employees with job security and protecting them from arbitrary employment decisions. The concept of progressive discipline is related to an employee's past record. The use of progressive discipline benefits employees and is strongly encouraged. The core of this concept is the nature, number, and proximity of prior disciplinary infractions evaluated by progressively increasing penalties. It underscores the philosophy that an appointing authority has a responsibility to encourage the development of employee potential. Dwyer received discipline for an incident that occurred on September 23, 2013, which resulted in a reprimand.

Progressive discipline has been bypassed when an employee engages in severe misconduct, especially when the employee's position involves public safety and the misconduct causes risk of harm to persons or property. In re Stallworth, 208 N.J. 182, 196-97 (2011).

In this case, Dwyer's conduct clearly broke the rules and regulations of the East Orange Police Department. Dwyer left the City of Orange while on duty without permission and entered a liquor establishment while on duty and in uniform. In addition, Dwyer fabricated reports she submitted to her superiors. This put Dwyer at risk as her superiors had no idea of her location. In addition, Dwyer did not properly execute her duties as a police officer while on duty. Furthermore, there was sufficient evidence to show that Dwyer's driver's license was suspended and that while suspended, she drove a police vehicle. Thus, Dwyer disobeyed an order that she should not operate a vehicle until her license was reinstated. This was not done when Dwyer operated the vehicle.

ORDER

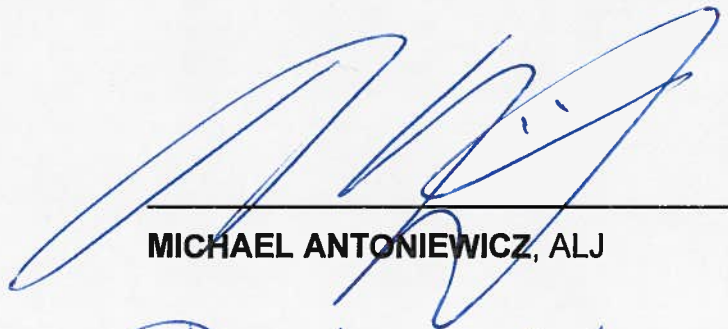
Based on the foregoing findings of fact and applicable law, it is hereby **ORDERED** that the determination of the East Orange Police Department that Tamieka Dwyer be removed from employment is **AFFIRMED**.

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.

December 19, 2014
DATE



MICHAEL ANTONIEWICZ, ALJ

Date Received at Agency:

December 19, 2014

Date Mailed to Parties:

December 19, 2014

jb

WITNESSES

For Appellant:

Tiffany Tucker
Tamieka Dwyer

For Respondent:

Detective Tommy Lee Wright
Officer Mark Patrick
Captain Raymond Brown
Chief William Robinson
Detective Hosia Reynolds
Detective Charles Hinton
Lieutenant Brian Gregory
Captain Baba Karade
Inspector Tony Cook
Inspector Sharon Wells

EXHIBITS

For Appellant:

- P-1 Report from Officer T. Dwyer to Lt. Baba Karade, dated December 24, 2012
- P-2 Request for report from Lieutenant Karade to Officer T. Dwyer, dated December 24, 2012
- P-3 Driver's abstract for T. Dwyer, dated January 10, 2013, page 1
- P-4 Driver's abstract for T. Dwyer, dated January 10, 2013, pages 2, 4, 5
- P-5 Report from Captain Tony Cook to the Professional Standards Unit, dated January 4, 2013
- P-6 Report from Captain Tony Cook to the Professional Standards Unit, dated January 7, 2013
- P-7 Driver's abstract for T. Dwyer, dated January 4, 2013, Page 1
- P-8 Radio car patrol log for Officer T. Dwyer, dated May 16, 2012

- P-9 Report from Captain Raymond Brown to Chief Robinson, dated June 25, 2012
- P-10 Google map of East Orange border with Orange
- P-11 Google map of East Orange and Orange crossing Route 280
- P-12 Report from Officer T. Dwyer to Sgt. J. Sherrod, dated September 26, 2012
- P-13 AVL Vehicle Activity report for T. Dwyer's vehicle, dated May 16, 2012
- P-14 Driver's abstract for T. Dwyer, dated January 10, 2013, page 1
- P-15 Day patrol activity report sheet, 1A2 zone, dated May 16, 2012
- P-16 Copy of flyers handed out by Officer Dwyer
- P-17 Preliminary notice of Disciplinary Action, dated November 12, 2012
- P-18 Radio car patrol log, dated September 26, 2012
- P-19 Report from Officer T. Dwyer to Sgt. H. Reynolds, dated January 3, 2013

For Respondent:

- R-1 Report by Det. Tommy Wright to Chief William C. Robinson dated January 18, 2013, re: P.S.U. #12-212
- R-2 December 29, 2012, Report by Lt. Baba Karade re: Off. T. Dwyer Command Investigation
- R-3 January 6, 2013, Report by Lt. Baba Karade re: Off. T. Dwyer Command Investigation Follow-Up
- R-4 December 24, 2012, Motor Vehicle Driver's Abstract for Officer Dwyer
- R-5 January 3, 2013, Motor Vehicle Driver's Abstract for Officer Dwyer
- R-6 January 4, 2013, Motor Vehicle Driver's Abstract for officer Dwyer
- R-7 January 4, 2013, Report by Captain Tony Cook re: Driver License
- R-8 January 7, 2013, Report by Captain Tony Cook re: Officer T. Dwyer
- R-9 March 7, 2013, Preliminary Notice of Disciplinary Action
- R-10 East Orange Police Department General Order 2:8
- R-11 May 22, 2012, Report by Sgt. Andrew Di Elmo, 2011 Yearly Sick Leave Investigation
- R-12 Employee Sick Leave Reports
- R-13 June 25, 2012, Report by Captain Brown re: Performance of Duty (Directed Patrols)
- R-14 November 12, 2012, Preliminary Notice of Disciplinary Action
- R-15 August 13, 2012, Report by Sgt. Hosia Reynolds re: Officer Tamiaka Dwyer

- R-16 October 27, 2012, Report by Det. Charles Hinton re: Officer Tamiaka Dwyer
- R-17 September 27, 2012, Report by Captain Sharon Wells re: Officer T. Dwyer
- R-18 January 3, 2013, Report by Officer Tamiaka Dwyer re: Suspended driver's license
- R-19 East Orange Regulation 2:4.7
- R-20 East Orange Regulation 3:2.8