

A-16



**STATE OF NEW JERSEY**

In the Matter of Valerie Bradbury  
City of Newark  
Police Department

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

CSC DKT. NO. 2014-2045  
OAL DKT. NO. CSV 03556-14

**ISSUED: February 5, 2015 PM**

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The appeal of Valerie Bradbury, a Police Officer with the City of Newark, Police Department, 45-day suspension, on charges, was heard by Administrative Law Judge Carol I. Cohen, who rendered her initial decision on December 18, 2014. Exceptions and cross exceptions were filed on behalf of the parties.

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 February 4, 2015 accepted and adopted the Findings of Fact and Conclusion as contained in the attached Administrative Law Judge's initial decision.

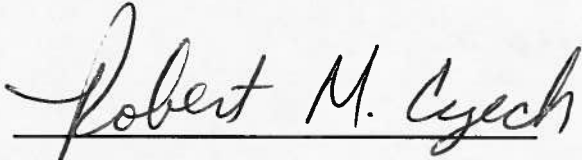
**ORDER**

The Civil Service Commission finds that the action of the appointing authority in suspending the appellant was justified. The Commission therefore affirms that action and dismisses the appeal of Valerie Bradbury.

Re: Valerie Bradbury

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  
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attachment



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

**INITIAL DECISION**

OAL DKT. NO. CSV 03556-14

AGENCY DKT. NO. 2014-2045

**IN THE MATTER OF VALERIE BRADBURY,  
CITY OF NEWARK POLICE DEPARTMENT.**

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**Anthony J. Fusco, Jr., Esq.**, for appellant Valerie Bradbury (Fusco & Macaluso, attorneys)

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

Record Closed: November 17, 2014

Decided: December 18, 2014

BEFORE **CAROL I. COHEN**, ALJ:

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

Respondent, City of Newark Police Department, charged appellant, Valerie Bradbury, with violating Newark Police Department Rules and Regulations, Chapter 3:1.2-4, Demonstration of Respect; Chapter 3:2-3, Respect; Chapter 3:2.5, Lawful Orders; Chapter 3:2.7, Knowledge of Laws and Regulations; Chapter 3:2.8, Assigned Duties; Chapter 7:2.4, Report for Duty Promptly; Chapter 5:4.1, Obedience to Orders; and Chapter 17:1.16, Spelling of Names. These charges stemmed from an incident that occurred on December 18, 2013, when, it was charged, appellant addressed Sgt.

Joao Carvalho, the acting desk lieutenant, in a loud and aggressive tone after being given her assignment.

Respondent served appellant with a Preliminary Notice of Disciplinary Action on February 6, 2014. A departmental hearing was conducted on February 18, 2014, and the charges were sustained. Respondent served appellant with a Final Notice of Disciplinary Action dated February 24, 2014. (R-1.) Appellant was suspended for forty-five days. The matter was appealed to the NJ Civil Service Commission on February 24, 2014. On March 5, 2014, the matter was referred to the Office of Administrative Law (OAL) as a contested case. A settlement conference was held on May 14, 2014. However, the matter failed to settle. The case was assigned to the undersigned on May 20, 2014. On May 21, 2014, a telephone conference was held, and the matter was scheduled for a hearing on August 4, 2014. The matter was adjourned at the request of the respondent because respondent's main witness was on vacation. A new date was set for September 10, 2014. However, the matter was adjourned again because that witness had extended his vacation and was not available on September 10. The hearing was rescheduled for November 17, 2014, and held on that date. Thereafter, the record was closed.

### **STATEMENT OF THE ISSUES**

1. Whether respondent sustained the burden of proving the charges against appellant by a preponderance of the credible evidence.
2. What disciplinary action is appropriate if the charges against appellant are sustained.

## **FACTUAL DISCUSSION**

### **Testimony**

#### **Lt. Robert Clarke**

Lt. Robert Clarke testified that he has been employed by the Newark Police Department for more than twenty-two years. At the time of the alleged incident he was the floor supervisor at the Communications Division. His role was to make sure that the public received police service in a timely manner. Lieutenant Clarke said he called Officer Bradbury to verify that she had arrived at the 4th Precinct. She did not respond to his call at first, but then she called him back. He testified that he did not think that she was intentionally avoiding his call and he would not have written her up for failure to obey an order. He said that it was not unusual when an officer was coming from one precinct to another to forget to switch from one channel to another and that might be why Officer Bradbury did not hear his call immediately. Also, there were a lot of problems with police equipment, which might have malfunctioned.

#### **Officer Mario Rivera**

Officer Rivera said that he has been employed by the Newark Police Department for eighteen years. He was assigned to the 4th Precinct at the time of the alleged incident, and he witnessed what occurred between Officer Bradbury and Sergeant Carvalho. Officer Rivera identified P-1, which was a report that he generated. He said that he observed Officer Bradbury come into the precinct. She was given her assignment by Sergeant Carvalho. Officer Rivera said that he observed Officer Bradbury speaking in a loud tone to Sergeant Carvalho.<sup>1</sup> Sergeant Carvalho said that he did not see that Officer Bradbury had the proper equipment including her accident book, summons, and city ordinance books.<sup>2</sup> Officer Bradbury responded that she did

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<sup>1</sup> Officer Rivera testified that both Bradbury and Carvalho raised their voices, but Bradbury raised hers first.

<sup>2</sup> Officer Rivera stated that these items were required to go out on duty.

not have them. Sergeant Carvalho then said that if she did not have them, they would be provided by the precinct, but she initially should have had them. The Sergeant said that he would provide them and ordered Officer Colon or Macrae to provide them. They were placed at the desk, but Officer Bradbury initially refused to take them and walked out. Subsequently she returned and took the books. He described her demeanor as being agitated and her voice was raised a little. Officer Rivera testified that Officer Bradbury told the sergeant that she was still within her retraining period. (He did not know if the sergeant checked to see if that information was correct.) Sergeant Carvalho stated that he would help her.

#### Cross-Examination

On cross-examination, Officer Rivera was asked if he knew that some police cars are equipped with an electronic unit that prints out a ticket. He said that he was, but an officer still needed to have a ticket book in case the electronic unit failed to operate properly.

#### **Sgt. John Carvalho**

Sergeant Carvalho said that he has been employed by the Newark Police Department for thirteen years. He was assigned to the 4th Precinct at the time of the incident and was acting desk lieutenant. His job was to be sure that all officers got their assignments and to approve reports until the captain arrived. Sergeant Carvalho identified P-2, the Investigative Submission. Sergeant Carvalho stated that he recorded in the submission what occurred on December 18, 2013. He said that he gave Officer Bradbury her assignment and she responded in an aggressive and loud tone. She stated that she would not go out in the field alone. She said that she had worked inside for a long time and was not used to being alone outside. He responded that he could not make any changes until the captain returned to the precinct and that he was her commanding officer and she should show respect to him. Sergeant Carvalho stated that Bradbury was supposed to have a ticket book, a city ordinance book, an accident book, and related reports that are used on a daily basis including domestic violence and

field inquiry books. Carvalho said that when he attempted to hand these items to Officer Bradbury, she said in an aggressive manner that she was not taking them and accepting them was in her discretion. He responded that the items were required and he ordered her to take them. She said that she was not taking them and would get them from her other command.<sup>3</sup> Several times she refused to take the documents, but finally she took them. Based on this he wrote her up for refusal to obey a lawful order. He also charged her with knowledge of the law and regulations because she did not have her ticket book with her. Further he charged her with failing to report promptly to her assigned duty. This charge was based on the fact that she arrived at the 4th precinct at 8:40 a.m., but she was assigned to start at the 5th precinct at 7:00 a.m. The two precincts were about one mile apart. He felt that it should not have taken her over an hour to get from one precinct to another. Also she was unprepared when she arrived at the 4th.

He also charged her with misspelling his name and refusing to change the spelling when he sent the report back to her for correction. Sergeant Carvalho pointed to excerpts from the Police Rules and Regulations (P-4), which are given to all officers and required to be adhered to. He said that Officer Bradbury violated the rules, including 3:1.2-4—Demonstration of Respect (the way Bradbury addressed him); 3:2.5—Lawful Orders (refused to take the summons book); 3:2.8—Assigned Duties (came unprepared)<sup>4</sup>; 7:2.4—Report for Duty Promptly and fully equipped, including having proper books (reported to precinct late); 3:2.3—Respect (refused to go to the car as directed by the sergeant); 5:4.1—Obedience to Orders (refused to take the summons and ordinance books); 3:2.7—Knowledge of Laws (failed to be equipped with the proper books and forms); and 17:1.16—Spelling of Names (Sergeant Carvalho said that this was important because matters went to court and they had to know the correct people to be dealing with—this would not occur if the person's name was incorrectly spelled). Sergeant Carvalho also produced a copy of the respondent's prior disciplinary history, which was kept in the regular course of business. (P-5.)

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<sup>3</sup> She never returned to the 5th precinct to get the books.

<sup>4</sup> According to Sergeant Carvalho, Officer Bradbury was to report to the 5th precinct at 7:00 a.m. She did not arrive at the 4th precinct until 8:10. The two precincts were a mile apart.

## Re-Direct Examination

Sergeant Carvalho testified that writing tickets and issuing ordinances are covered in the Police Academy and in training once an officer leaves the Academy. Officer Bradbury was dispatched from the 5th to the 4th precinct by the commanding officer of the 5th precinct. Sergeant Carvalho stated that if he had someone in retraining for twenty-nine days, he would feel comfortable sending them out on the twenty-ninth day.

## Cross-Examination

Sergeant Carvalho was asked whether he knew when he assigned Officer Bradbury that she was on retraining. He said that he did not know that initially, but he soon found out. He testified that when he told her of her assignment, Officer Bradbury did not mention retraining. When she did mention it, he checked the system later in the day and confirmed that she was on her last day of retraining. Sergeant Carvalho was asked if the officer was in retraining pursuant to an order of a superior officer, then was it not a conflict for him to send the officer out for duty? Sergeant Carvalho answered in the negative. He said that if the Officer's regular precinct had felt that she was not ready, they would not have allowed her to come to his precinct. Sergeant Carvalho knew that Officer Bradbury had come over from the 5th precinct with Officer Turner. He did not know if they came in the same car. Sergeant Carvalho admitted that he did not know at what time Officer Bradbury had left the 5th precinct or when she was advised to come to the 4th precinct. It was pointed out that Sergeant Carvalho misspelled Ms. Bradbury's name in his report to Captain Easter (P-3). Sergeant Carvalho stated that he did not catch this error. It was also pointed out that in R-1, the December 18, 2014, Tour Assignment Report, Officer Bradbury's name was misspelled. Sergeant Carvalho acknowledged that as the supervising officer, he reviewed the report. However, he said that at the time he reviewed the report, he did not know the proper spelling of Officer Bradbury's name. The sergeant stated that the difference between his misspelling and that of Officer Bradbury was that, when he advised Officer Bradbury that she had



misspelled his name and told her to correct the error, she refused to do so. He had not been asked to revise the spelling in his report.

When asked about the charge involving Rule 3:2.7—Knowledge of the Laws, Carvalho responded that he charged Officer Bradbury because she did not know how to issue traffic summons or a city ordinance. It was day thirty of her retraining, and he was pretty sure that this would have been covered by then. If Officer Bradbury did not know how to issue traffic or a city ordinance summons, then she did not have knowledge of the law.

Sergeant Carvalho acknowledged that Officer Bradbury did go out on duty. She went out on the Alpha Unit for two hours. She eventually took the books with her. Sergeant Carvalho was asked why Officer Bradbury was eventually taken off the Alpha assignment. He responded that she had a conversation with Captain Easter, who called him and told him to put her with someone else. When she came off the Alpha unit, Officer Bradbury went to a mini-precinct at 10:09 a.m. She then went back out with Officer Turner at about 12:02 p.m. Sergeant Carvalho said that he communicated with Captain Easter about Officer Bradbury's demeanor and lack of respect. He could not recall how Captain Easter responded. Sergeant Carvalho was referred to R-4, which he came across while he was doing his investigation. It stated that Officer Bradbury was on retraining for four weeks from November 19 through December 18, 2013.

#### **Officer Justine Branham**

Officer Branham testified that she is a union representative in the West District. Her captain is Captain Easter. She said that she received a call from Officer Bradbury on December 18, 2013, regarding her assignment to the 4th precinct. Bradbury said that she was in retraining and should have been with another officer, but she had been ordered out herself. Officer Branham called Captain Easter and told him that Officer Bradbury felt uncomfortable going out by herself and she asked if she could work with someone else. Captain Easter said that he would look into it.

**Officer Valerie Bradbury**

Officer Bradbury testified that on the day of the incident she reported to her regular precinct, the 5th. Officer Turner and she were told to report to the 4th precinct. They traveled over at the same time, but in separate cars. Turner and she had been training together for the past two weeks. They reported to Sergeant Carvalho. Officer Turner was told that he would be doing a prisoner watch and assigned her to the field. She said that she advised him casually that he might not know that she had been inside for a thousand years.<sup>5</sup> She stated that the sergeant asked her if she had an accident and summons book with her. She said that she told him that she did not have the books. She also told him that she did not know how to work the 4th precinct. She had never worked in the West or North district without someone helping her. For this reason, she was concerned about going out by herself. She said that Officer Turner was familiar with the area and her assumption was that they would work together. Bradbury testified that in the 5th precinct, where she trained, they did not have ticket books, the city ordinance, or summons books. They relied on computers in the police cars. While officers were out finding her the proper books, she said that Carvalho berated her and embarrassed her. She felt that she was being treated like garbage. She went out to locate the vehicle that she was supposed to use. It was covered with snow and ice and she proceeded to clean it off herself. It was her intent to go back in, get what she needed, and go on her way. Officer Bradbury insisted that she never told Sergeant Carvalho that she would not take the books. While she was outside, she called Officer Branham and told her what had occurred with Sergeant Carvalho and asked her what she should do.

Officer Bradbury identified P-3, which was a report that she generated on a computer after she came inside after cleaning off the car that she was going to be using in the 5th precinct. She stated that at the time she did not know the proper spelling of

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<sup>5</sup> Officer Bradbury had worked with the dispatch unit for nearly fourteen years. She claimed that during that time she received no training on patrol duty. She also claimed that she had to be reprogrammed on the use of the computers in the police cars. She also said that during retraining, she did not receive training on the ordinance book. Bradbury stated that she had been with the police department for twenty-two years as a police officer, and five as a civilian working for the department.

the sergeant's name. When she handed the report to Sergeant Carvalho, he did not advise her that she had misspelled his name. Officer Bradbury testified that after she had been out in the field about an hour or two, she was told to report to the mini-precinct. Officer Bradbury said that it was her understanding that while she was in retraining, she would not be in a patrol car by herself. She testified that Sergeant Carvalho's order conflicted with the order of her captain. Officer Bradbury asserted that she never raised her voice to Sergeant Carvalho and did not use any terms of disrespect in his presence.

### Cross-Examination

Officer Bradbury stated that prior to her working in communications, she had gone through the Police Academy and had been trained in writing tickets, learned the rules and regulations of the Department, and what was needed to be ready for duty. Once she was assigned to communications, she was never dispatched out to the field until 2013. However, pursuant to police regulations, she could have been placed out in the field at anytime. On the December date when the incident occurred she had been in retraining for four weeks. However, she claimed that she did not know the 4th District and did not know her way around. She acknowledged that Sergeant Carvalho did not make up the assignment sheet and was following orders in assigning her to the field in the 4th District. She claimed that she did not speak loudly to Sergeant Carvalho and in fact the sergeant was disrespectful to her. However, she acknowledged that in her memo to Captain Easter, she did not mention anything about the sergeant being disrespectful to her. Officer Bradbury claimed that she told Officer Branham that Sergeant Carvalho had been disrespectful toward her. In her testimony, Officer Branham did not say anything about Bradbury claiming that Carvalho was disrespectful toward her.<sup>6</sup>

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<sup>6</sup> When questioned, Officer Braham said that she did not recall Bradbury mentioning that Carvalho had been disrespectful toward her.

**FINDINGS OF FACT**

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

1. At the time of the incident, Officer Bradbury had been a member of the Newark Police Department for twenty-two years. She had worked inside in communications for fourteen years. During that time, she had never been assigned out in the field.
2. Prior to November 19, 2013, she was reassigned from communications to a field position outside the precinct. Before beginning those duties she was assigned to retraining from November 19, 2013, to December 18, 2013.
3. On the last day of her retraining she was assigned out from the 5th precinct to the 4th precinct. Her assignment was to patrol by herself in an Alpha unit in the district. Officer Bradbury was not familiar with the 4th precinct.
4. Sergeant Carvalho was following an order of his superiors when he assigned Officer Bradbury to the Alpha unit. He was not permitted to countermand the order without the approval of his superior officer.
5. While Officer Bradbury reported to the 5th Precinct at 7:00 a.m., there is no proof of when she was told to proceed to the 4th Precinct. The appellant arrived at the 4th Precinct at 8:40 a.m.
6. When Officer Bradbury arrived in the 4th Precinct, she did not have her ticket book, city ordinance, or accident book with her. Upon her arrival she was given her assignment by Sergeant Carvalho. Officer Bradbury loudly and aggressively objected to the sergeant's order and claimed that she was still in retraining and should not go out alone. She also objected to taking the summons and

ordinance books offered to her by Sergeant Carvalho. While initially she refused to take the books, eventually, she did take them.

7. Completing tickets is included in the training at the Academy and is also covered in subsequent field training. Even if a car is equipped with a computer that can generate tickets, an officer needs the ticket and summons book in case the computer is not functioning.
8. Officer Bradbury contacted her union representative, Officer Justine Branham, and told her that she was uncomfortable going out in the 4th Precinct by herself. Officer Branham contacted Captain Easter, who ordered Officer Bradbury to return from the Alpha unit after two hours and to go to a mini-precinct. Later she was re-assigned out in the 4th Precinct with Officer Turner, who had also come from the 5th Precinct following retraining and was familiar with the 4th Precinct.
9. In the memo from Officer Bradbury to Sergeant Carvalho regarding the incident, the appellant spelled the sergeant's name incorrectly in the body of the report (P-3). Sergeant Carvalho asked Officer Bradbury to correct the misspelling, but she refused to do so. The correct spelling of names is important, because these are official police records and incorrect spelling may lead to erroneous identification.

### **ARGUMENTS OF THE PARTIES**

#### **Officer Bradbury**

Officer Bradbury argued that the charges against her could not be sustained. As to the charge that the respondent was unavailable, she pointed to the testimony of Lieutenant Clarke, who said that he did not consider it a violation. He stated that he did not think that Officer Bradbury had intentionally failed to return his call. When an officer is switching duties, they can be temporarily unavailable. When Bradbury saw that Clarke had called, she returned his call. As for reporting late, Bradbury argued that there was no testimony to indicate when Bradbury was given her assignment from the

5th Precinct to report to the 4th or when she left the 5th Precinct. The record only showed the time she reported to each of the precincts. The fact that there was a short distance between the 4th and 5th Precinct was not determinative of whether Officer Bradbury was late for her assignment.

As for the charge of knowledge of the law, the appellant asserted that she never told Sergeant Carvalho that she did not know the laws and could not enforce them. What she did not know was how to fill out an ordinance book. She had not used a book for thirteen years and no one had trained her on it during retraining. She also asserted that in the 5th Precinct, where she had been retrained, they did not use books, but relied on computers in the patrol cars. She claimed that she was not unprepared and if that were the case it was because the department had not given the instruments that she needed to be prepared. Officer Bradbury insisted that she did have an accident book with her when she went to the 4th Precinct, but there was no sign-in sheet for it. In addition, there was no reason why she would not have taken the summons and ordinance book when it was offered to her. She asserted that she did take the books offered to her.

Officer Bradbury claimed that it was Sergeant Carvalho who confronted her with a hostile attitude first. She did not raise her voice to him. Rather than being berated by him, she went out to the car to get it ready. As for the testimony of Officer Rivera to the contrary, she argued that Rivera did not indicate that he thought that Bradbury was being disrespectful to the sergeant. In addition, she questioned whether Officer Rivera's testimony was credible or whether he backed up his sergeant because he was his superior officer. She also wondered about the validity of the sergeant conducting an investigation in which he was the complaining witness.

Regarding the "spelling incident" Officer Bradbury pointed out that her name was spelled wrong in police reports and Sergeant Carvalho did not correct the misspelling. More importantly, she asserted that she had never been ordered to change the spelling of his name. She claimed that if she had been asked to correct the change, she would have done so, since it was an easy procedure.

Officer Bradbury claimed that it was not the proper procedure to send a person in retraining out in the field without another officer and it was not conducive to safety both for the officer and the citizens. She pointed out that as soon as Captain Easter was informed of the situation, he countermanded Sergeant Carvalho's order and brought Bradbury back into the precinct.

### **Newark Police Department**

Newark asserted that the case was a matter of credibility and as such, Newark should prevail. Officer Rivera testified as to what he observed and the tone and demeanor of the appellant. All this pointed to the fact that Officer Bradbury began the altercation and was loud, aggressive, and disrespectful toward Sergeant Carvalho. Officer Bradbury's testimony that she was calm and never raised her voice was contradicted by the testimony of Rivera and Carvalho. According to Officer Rivera, Bradbury refused to take the books offered to her or to go out to the car. His testimony was confirmed by Sergeant Carvalho. Officer Bradbury was on the last day of her retraining. In addition, she had received training in the Academy, which was re-enforced when she came out of the academy and when she was retrained. Still she claimed that she was not prepared to go out into the field. Newark also pointed out that while Officer Bradbury testified that she had been shouted at and demeaned, she did not put this in any report that she generated. While she claimed that she reported the abuse to Officer Branham, her union representative, the officer testified that she did not recall Bradbury saying that she had been demeaned by the sergeant.

### **LEGAL DISCUSSION**

Respondent has the burden of proof and must establish by a fair preponderance of the credible evidence that appellant was guilty of the charges. Atkinson v. Parsekian, 37 N.J. 143 (1962). Evidence is found to preponderate if it establishes the reasonable probability of the fact alleged and generates a reliable belief that the tendered hypothesis, in all human likelihood, is true. See Loew v. Union Beach, 56 N.J. Super.

93, 104 (App. Div. 1959), overruled on other grounds, Dwyer v. Ford Motor Co., 36 N.J. 487 (1962).

Determinations often turn on credibility. Credibility is the value that a finder of the facts gives to the testimony of a witness. The process of evaluating the credibility of witnesses entails: (a) observing demeanor; (b) evaluating the ability to recall specific details; (c) considering the consistency of the testimony under direct and cross-examination; (d) determining the significance of any inconsistent statements or evidence; and (e) otherwise developing a sense of the witness's candor. This 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. See Carbo v. U.S., 314 F.2d 718 (9th Cir. 1963), cert. denied sub. nom., Palermo v. U.S., 377 U.S. 953 84 S. Ct. 1625, 12 L. Ed. 2d 498 (1964).

In evaluating the weight, trustworthiness and reliability of the evidence, factors such as motive, bias, confirming witnesses or statements, corroborative evidence, and common sense must be considered. Frequently, the trier of fact relies on the innate sense of whether the testimony has the ring of truth. In undertaking this evaluation, the trier of fact must assess and weigh the credibility of witnesses for the purpose of making factual findings as to the disputed facts. Credibility is the value that a finder of fact gives to a witness' testimony. It requires an overall assessment of the witness' story in light of its rationality, internal consistency and the manner in which it "hangs together" with the other evidence. Carbo, supra, 314 F.2d at 749. "Testimony to be believed must not only proceed from the mouth of a credible witness but must be credible in itself" in that "[i]t must be such as the common experience and observation of mankind can approve as probable in the circumstances." In re Perrone, 5 N.J. 514, 522 (1950). A fact finder "is free to weigh the evidence and to reject the testimony of a witness . . . 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." Id. at 521-22; see D'Amato by McPherson v. D'Amato, 305 N.J. Super. 109, 115 (App. Div. 1997). A trier of fact may reject testimony as "inherently incredible" and may also reject testimony when "it is



inconsistent with other testimony or with common experience” or “overborne” by the testimony of other witnesses. Congleton v. Pura-Tex Stone Corp., 53 N.J. Super. 282, 287 (App. Div. 1958). The choice of rejecting the testimony of a witness, in whole or in part, rests with the trier and finder of the facts and must simply be a reasonable one. Renan Realty Corp. v. Cmty. Affairs Dep’t, 182 N.J. Super. 415, 421 (App. Div. 1981).

The courts have frequently recognized the sensitive position held by a law enforcement officer. It is well settled that “[t]he obligation to act in a responsible manner is especially compelling in a case involving a law enforcement official.” In re Phillips, 117 N.J. 567, 576 (1990). In the words of the Appellate Division:

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

[Moorestown Twp. v. Armstrong, 89 N.J. Super. 560, 566 (App. Div. 1965), cert. denied, 47 N.J. 80 (1966).]

Conduct by a police officer which indicates “an attitude of mind and approach to the obligation of his office fundamentally at variance with his sworn duty” is a violation of the required standard of behavior inherent in the position. City of Asbury Park v. Dep’t of Civil Serv., 17 N.J. 419, 429-30. Adherence to this high standard of conduct is an obligation that a law enforcement officer voluntarily assumes when he enters public service. In re Emmons, 63 N.J. Super. 136, 142 (App. Div. 1960).

Officer Bradbury is charged with a number of violations. Charge VIII deals with reporting “off duty.” There was no testimony presented regarding Officer Bradbury failing to return to the 4th Precinct and failing to salute a superior officer. As for Charge VII—obedience to orders—Newark charged that she received a lawful verbal order from the communications supervisor and she disobeyed the order. I assume that this relates to the testimony of Lieutenant Clarke. However, Lieutenant Clarke testified that he did

not believe that Officer Bradbury had failed to respond to telephone messages checking on her whereabouts. Therefore, that charge cannot be sustained.

As for Charge VI—reporting for duty promptly—this charge also cannot be sustained. As was pointed out, there was no testimony as to when Officer Bradbury was assigned out from the 5th Precinct to the 4th Precinct. The fact that she reported for duty in the 5th Precinct at 7:00 a.m. does not prove that she was promptly assigned out to the 4th Precinct and should have been there shortly thereafter.

The decision on Charge I—demonstration of respect—hinges on credibility. Officer Bradbury insisted that she did not raise her voice or act disrespectfully toward Sergeant Carvalho and in fact was disrespected by the sergeant. There was testimony from Sergeant Carvalho to the contrary and his testimony was confirmed by Officer Rivera. Officer Bradbury has tried to discount Rivera's testimony by saying that he was trying to curry favor with his superior. The problem is that Officer Bradbury's version of the events is not corroborated by Officer Branham to whom Bradbury claims she confided about the abusive treatment. There is also no evidence in any written reports that Bradbury submitted about verbal abuse by Carvalho. During the hearing Officer Bradbury was quite animated. Based on the testimony and my observation of the appellant, I believe that the charge of demonstration of disrespect has been sustained. Charge II—responsibility for own actions—had to do with Officer Bradbury's alleged refusal to go into the core in an Alpha unit.<sup>7</sup> Officer Bradbury's testimony makes it clear that she was very nervous about going out by herself. She had not been out in the field for many years and she was unfamiliar with her surroundings. However, this was the last day of her retraining and she was expected to perform her duties. As apprehensive as she was, it was not an excuse for her refusal to go out into the field. While she pointed out that eventually she did go in the Alpha car alone, this was done after much commotion.

Charge III dealt with Officer Bradbury's refusal to take a traffic summons book and city ordinance book. The appellant claimed that she was not retrained on the use

of the book, since there were computers in her prior precinct to use to write tickets. While this might have been the case, as Officer Rivera pointed out, even cars equipped with computers, had to have a back-up paper system in case there was a computer failure and training would have been provided at some point on the manual writing up of summons and ordinances. Both Sergeant Carvalho and Officer Rivera testified that Officer Bradbury refused to take the books, and the appellant's aversion toward use of the books points to the sustaining of this charge. Charge IV deals with the same set of issues. The department argued that since Officer Bradbury stated that she did not know how to issue traffic summonses and city ordinance summonses, she did not have knowledge of the laws and regulations of the department. While it is not entirely clear from the testimony that Officer Bradbury did not know the law and regulations, without having the proper equipment, i.e., summons or ordinance books, she could not enforce the laws.

Charge IX dealt with the spelling of names. The appellant pointed out that there were other misspellings in the official reports, including the spelling of Officer Bradbury's name. Sergeant Carvalho pointed out that the spelling of a name was important for proper police records. The issue really isn't whether the sergeant was being petty in pursuing this charge. The issue is that after the misspelling was pointed out, Officer Bradbury refused to correct the mistake. This was a direct disobeying of an order. The appellant claimed that she never got the order, but based on the demeanor of the witnesses and other contradictory statements by Officer Bradbury, I **CONCLUDE** that she got the order, but decided not to obey it.

In West New York v. Bock, 38 N.J. 500, 523-24 (1962), the New Jersey Supreme Court held that evidence of a past disciplinary record, including the nature, number and proximity of prior instances of misconduct, can be considered in determining the appropriate penalty. Also, where an employee's misconduct is sufficiently egregious, removal may be warranted and need not be preceded by progressive penalties. In re Hall, 335 N.J. Super. 45 (App. Div. 2000), certif. denied, 167 N.J. 629 (2001); Golaine v. Cardinale, 142 N.J. Super. 385, 397 (Law Div. 1976), aff'd, 163 N.J. Super. 453

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<sup>7</sup> Charge V—assigned duties—does not have any specification. However it appears to deal with the same

(App. Div. 1978), certif. denied, 79 N.J. 497 (1979). The penalty imposed must not be so disproportionate to the offense and the mitigating circumstances that the decision is arbitrary and unreasonable.

The Newark Police Department submitted Officer Bradbury's prior disciplinary history to justify the penalty imposed on the police officer. There was no testimony interpreting the disciplinary history and a review of the print out is not self-explanatory. It appears that charges were leveled against the appellant on February 12, 2007, for being absent without leave and disobedience to orders. The document shows a disposition of guilty, but there is no listing of penalty received. There is another charge of fitness for duty on February 20, 2007, but again there is no denotation of penalty. There is a charge on June 11, 2007, showing a thirty-day suspension for disobedience, insubordination, and fitness for duty. All of these charges were sustained.

### CONCLUSIONS OF LAW

Based on the testimony of the witnesses and the exhibits submitted, I **CONCLUDE** the following charges have been sustained:

- Charge I     Demonstration of Respect
- Charge II    Responsibility for Own Actions
- Charge III   Lawful Orders
- Charge IV    Knowledge of Laws and Regulations
- Charge V     Assigned Duties
- Charge VII   Obedience to Orders
- Charge IX    Spelling of Names

Further, I **CONCLUDE** that the Newark Police Department has failed to sustain the following charges:

- Charge VI    Reporting for Duty Promptly

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issue of refusal to go out in the field as she was assigned to do.

**Charge VIII Reporting "off duty"**

Based on the number of charges sustained and the history of prior disciplinary actions involving similar infractions on the appellant's part and taking into consideration the fact that the last incident occurred approximately six years prior to the incident on which these charges are based, I **CONCLUDE** that a suspension of forty-five days without pay is reasonable.

**ORDER**

I therefore **ORDER** that the appellant shall be suspended from duty for a period of forty-five days without pay.

I hereby **FILE** my Initial Decision with the **CIVIL SERVICE COMMISSION** for consideration.

This recommended decision may be adopted, modified or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, 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.

12/18/14  
DATE

Carol I. Cohen  
CAROL I. COHEN, ALJ

Date Received at Agency:

December 18, 2014 (db)

Date Mailed to Parties:

db

December 18, 2014 (db)

**APPENDIX**

**List of Witnesses**

**For Appellant:**

Valerie Bradbury  
Justine Branham

**For Respondent:**

Robert Clarke  
Mario Rivera  
John Carvalho

**List of Exhibits**

**For Petitioner:**

- P-1 Report from Officer Rivera
- P-2 Investigative Submission
- P-3 Call-in Service Time
- P-4 Newark Police Department Rules and Regulations
- P-5 Disciplinary History

**For Respondent:**

- R-1 Tour Assignment Report
- R-2 Summons Sign-Out Sheet
- R-3 Traffic Summons Sign-Out Sheet
- R-4 Memo from Officer Bradbury to Captain Venable dated November 18, 2013
- R-5 Report on Snow and Ice, page 2 - Summary of Snow Total