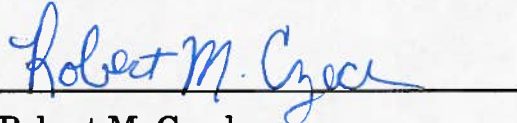


Re: James White

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
MAY 6, 2015

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

Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSV 6044-13

AGENCY DKT. NO. 2013-1858

**IN THE MATTER OF JAMES WHITE,
CAMDEN COUNTY DEPARTMENT
OF CORRECTIONS.**

William B. Hildebrand, Esq., for petitioner (Law Offices of William B. Hildebrand, LLC, attorneys)

Antonietta Paiva Rinaldi, Assistant County Counsel, for respondent (Sherri L. Schweitzer, County Counsel, attorney)

Record Closed: March 2, 2015

Decided: April 16, 2015

BEFORE JOSEPH A. ASCIONE, ALJ:

STATEMENT OF THE CASE

On January 16, 2013, appellant, correction officer (CO) James V. White (White), timely appealed his November 28, 2012, six-month suspension by the Camden County Department of Public Safety Correction Center on charges of violation of N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee, N.J.A.C. 4A:2-2.3(a)(7), neglect of duty, N.J.A.C. 4A:2-2.3(a)(8), misuse of public property, including motor vehicle, and N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause: Camden County Correctional Facility

(CCCF), Rules of Conduct, 1.1 violations in General; 1.2 Conduct Unbecoming; 1.3 Neglect of Duty; and 3.12 Property of Inmates. Various items of personalty, ownership, posited either with the County or the inmates were disposed of by White. The proceeds of the disposal are documented by un-itemized receipts. The proceeds were eventually turned over to the CCCF. White maintains that he took the action pursuant to a lawful order of Sergeant Lucas Marchiano, for the purpose of better organize his work area and obtain cash for the CCCF.

PROCEDURAL HISTORY

On November 27, 2012, and November 28, 2012, Preliminary Notices of Disciplinary Action (PNDA) (R-1) were issued against White, with the specifications identified above. The November 28, 2012, the PNDA sought appellant's removal. On November 28, 2012, an initial Final Notice of Disciplinary Action (FNDA) issued, however, it was withdrawn. On December 12, 2012, White received a disciplinary hearing on the PNDA. On January 9, and 15, 2013, the charges were sustained, and a FNDA (R-2) issued notifying appellant of his suspension for six months effective November 28, 2012. After issuance of the FNDA and notice of appeal, this matter was transmitted to and filed with the Office of Administrative Law (OAL) on May 3, 2013, by the Civil Service Commission for determination as a contested case, pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. A hearing was held on February 23, and March 2, 2015. The parties' counsel presented oral closing statements, and the record closed on March 2, 2015.

FINDINGS OF FACT

There is no dispute as to the proposed facts, I so **FIND** the following **FACTS**:

1. Current and former inmate personalty¹ is under the direction and control of the Commissary Department.
2. CCCF assigned White to the Admissions Unit.
3. For some time prior to the incident here, a person in charge of the Commissary Department requested of a person in charge of the Admissions Unit some space in a secured area of the Admissions Unit to store inmate personalty.
4. Both the February 1, 2009, and the September 1, 2011 amendment to General Order (G.O.) 30 provided that inmate personal property should be disposed of thirty days after the inmate release date.
5. The CCCF Commissary Unit had not disposed of inmate personalty in some time.
6. White exercised control over the personalty.
7. White removed the personalty from manila envelopes some of which were vouchered and discarded those envelopes.
8. White's action eliminated any paper trail which could have served to identify the disposed of personalty.
9. White's actions eliminated the voucher and manila envelope, and placed CCCF with no documentary evidence to defend a former inmate's claim to personalty.

¹ For purposes of this Initial Decision, "personalty" will refer to inmate property which predominately consisted of jewelry and electronic equipment, ie. cell phones. It does not appear that Camden took any action to transfer legal title, sell or dispose of this personalty. There is a specific regulation dealing with inmate property. Whether title of the personalty here, belonged to a former inmate or to Camden, this tribunal makes no distinction.

10. White disposed of the personalty through two businesses acquaintances, who acquired jewelry for cash.
11. White's business acquaintances provided no detailed receipt of the personalty they purchased.
12. White did not obtain an independent determination of the value or fairness of the proceeds received from the business acquaintances for the personalty.
13. White received \$2,995 from the business acquaintances.
14. Sergeant Marchiano had no authority to authorize White's actions as to the personalty, as the Commissary Department had jurisdiction over personalty.
15. White and Marchiano acted in concert to depose of the personalty.
16. Upon receipt of the proceeds of the disposition, White advised his superior officer of the action he took and sought further direction.

FACTUAL DISCUSSION

Camden's presentation of this matter portrays the appellant as an employee who shopped around superior officers to get the authority to take the action he took. When he did not get an acceptable authorization, he badgered Sergeant Marchiano to allow him to dispose of the personalty and he received that apparent authority. Camden emphasized that White acted surreptitiously taking the action on a weekend shift. Camden also emphasized that White took the action to dispose of the vouchered manila envelopes preventing further identification of the disposed personalty. Camden points to the fact that no documentation exists as to the true value of the personalty disposed by the business acquaintances. Camden also points to the fact that no documentation

exists whether White may have received additional funds or benefits from his business acquaintances. These points, however, are not proven by any testimony and are only conjecture. Camden has not presented evidence that White exercised criminal intent in the disposition of the personalty, nor that any surreptitious behavior existed on his part.

White's presentation addressed the clutter of the property in the secured Admissions Unit and the desire to dispose of it. His intended use of the proceeds to provide supplies for the Admissions Unit, which he otherwise personally purchased. White had the consent of Marchiano who agreed with his proposed actions.

When he realized the full amount of the proceeds, he recognized that the value of the personalty exceeded his expectation, and sought authority as to what further action to take.

White's position is that his actions were motivated by the good intention of disposing of this abandoned property that cluttered his department.

TESTIMONY

Camden presented the Internal Affairs investigator John Thomas Jones, who had eight years experience of his twenty plus years experience with Camden. He interviewed White and Marchiano. Marchiano confirmed that he approved White's action. The prosecutor's office rejected a criminal referral, so the administrative route followed. Jones did not know White's intentions. White kept no inventory of the personalty taken and trusted the business associates. White never got the authority from the Warden to take the action. Marchiano knew White had asked around. Various personalty, cell phones, White represented were donated, but, Jones discovered this had not occurred at the time of the third interview of White, some one year after the event. Said items were in White's garage. When asked about insubordination and theft of property charges, Jones respondent, "It is the Warden's decision, initially the Warden sought removal."

Camden presented retired Captain Carla Taylor, a twenty-six year employee of the CCCF. She recalled White asking her on two occasions to be able to dispose of the property and she declined his request. White appeared angry at her response to him. She did not have duty with the Admissions Unit in 2011. She recalled inmate clothing falling within the purview of the Admissions Unit, and from time to time that unit disposed of the clothes. As to White's intention, she did not recall. The CCCF did reimburse White for personal expenditures for supplies. She described White as honest.

Captain Linda Blackwell testified to eighteen years experience with the CCCF. She was the Admission Unit Lieutenant at the time of the incident. She had served in that capacity for one year at the time of the incident. During that year, White asked her three to five times to sell the jewelry for cash. She advised she needed approval from the Deputy Warden. She testified the Deputy Warden said no. Blackwell communicated this to White, yet, he still asked her one month later if he could sell the jewelry. The CCCF Admissions Unit did dispose of inmate clothing in the past. The Admissions Unit did not have the authority over the personalty. That authority resided with the Commissary Department. Blackwell noticed White's nervousness a short time after White arranged for the disposition of the jewelry. He revealed what he did. Blackwell had no other problems with White, and viewed him as honest and fair up to that day. Blackwell did not hear from Marchiano regarding the personalty. Marchiano never asked her for authority to dispose of the personalty. She did not advise Marchiano of the negative answers received from her superiors. Blackwell never heard that the secure location had limited space for supplies.

Marchiano testified he agreed with White to sell the jewelry and get cash. He did not order him to inventory the jewelry. Marchiano opened the secure area, obtained the jewelry, and White took the jewelry, removed the jewelry from its manila envelope, placed it in one-gallon plastic storage bags and moved his vehicle to the sally port to remove the personalty. He did not find White insubordinate.

James V. White testified to his twenty-five year history as a corrections officer. He denied any financial difficulties as due to a lot of overtime he earned \$161,000 in his

best year. He testified that most of the items were seven to ten years old, based upon the review of the commitment numbers. He took the action he took as he had a lawful order from his superior Marchiano. He testified that he would have been insubordinate if he refused Marchiano's order. He testified, "He did not believe what he did was improper." He denied familiarity with G.O. 30. He did not know the disposal process. In 2010, the CCCF had a lice problem so clothes were eventually discarded. He believed the jewelry could be dealt with in the same way. The Lieutenants and Deputy Warden would not get back to White on his requests to sell the personalty. No one told him no, no one referred him to G.O. 30. He did not realize he had to keep an inventory. He eventually returned the cell phones to Lieutenant Jones. He got the latest version of G.O. 30, after the incident. The earlier version did not call for an inventory. He complained that Marchiano's one-month suspension and loss of rank was substantially more lenient than the six-month penalty being sought from him.

Addressing the credibility of the witnesses, Jones, Taylor (now retired) and Blackwell testified without inconsistency, were factually focused and presented no animus toward White. Taylor and Blackwell found White to be honest up to the time of this incident. White's credibility cannot be equated with that of the CCCF's witnesses. He challenged Taylor's testimony that she informed him on two occasions that he could not dispose of the personalty. White testified he spoke to over ten but less than twenty supervisors to obtain permission to dispose of the property. White's testimony claimed, "no one every told me no." White denied knowledge of G.O. 30 prior to the incident. Yet, he knew that after thirty days of an inmates' release, the property was suppose to be disposed. There are numerous occasions throughout White's testimony that make the testimony less credible. White's testimony is tainted by his self-interest in attempting to avoid some or all of a penalty for his careless disregard of the property rights of the former inmates or the CCCF. White's testimony attempts to defend his actions as well intentioned, and done with the authority of a supervisor, Marchiano. Anything White did or did not do resulted from an order from Marchiano. Yet, White brings up the issue of his personally purchasing of supplies. This has no relevant basis in his intentions; he received reimbursement for such expenditures in due course. White's true intentions were that he saw the property as "in his way and not belonging to his department." Marchiano, White's witness, confirmed that they took the action

together. White knew in advance of the weekend the action occurred when it would happen, but never sought to inform Blackwell. At best, he and Marchiano took this action to create a slush fund to avoid the appropriate procedures for reimbursement of supply expenditures. White chose business acquaintances because of his or his wife's relationship to the business, one he describes as being like a brother who he knew for twenty-five years, the other known by his wife and had been in business for twenty-five years. While White could chose to use these businesses personally. It is incomprehensible that use of these businesses would occur when selling property in a fiduciary capacity without obtaining better documentation or an appraisal. The word fiduciary capacity is used here, as White had to know the property belonged to either the CCCF or inmates at the time he took his actions. He did not act as a reasonably prudent person in taking protective actions to defend his actions. As a public employee, his obligation is greater than a reasonably prudent person would act. If White refuses to recognize this fiduciary obligation, then he truly intended to deprive the rightful owner of their property interests and his actions are more closely akin to criminal activities.

FINDINGS OF FACT

As a result of the testimony and documentary evidence, I **FIND** the following additional **FACTS**:

17. White had requested overtime from numerous superior officers authority to take the action he took, and consistently received from those officers a negative response or a response that they would further check into the authority to take such action.
18. White never received approval to take said action except from Marchiano.
19. White's intentions in taking such action were motivated by property from the Commissary Department being indefinitely stored in the Admissions Unit.

20. White acted in concert with Marchiano to dispose of the personalty the subject of this disciplinary action.
21. By acting in concert with Marchiano, White cannot maintain that he acted under the apparent authority of Marchiano's verbal order to dispose of the personalty.
22. White's actions were not authorized by any superior officer.
23. Accepting that White did not act with criminal intent, he had an obligation to dispose of the personalty in a fiduciary responsibility.
24. The CCCF did not comply with the appropriate procedures under G.O. 30 in converting the legal ownership of the personalty.
25. The personalty in question at the moment White took action to dispose of same remained in the name of the inmates.
26. Alternatively, to factual finding twenty-five, legal title to the personalty as to inmates discharged from the CCCF, thirty days prior to the disposition by White, vested with the CCCF.
27. White's disposal of the personalty without authority violated N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee, N.J.A.C. 4A:2-2.3(a)(7), neglect of duty, N.J.A.C. 4A:2-2.3(a)(8), misuse of public property, N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause - CCCF General Rules of Conduct 1.1 Violations, 1.2 Unbecoming Conduct, 1.3 Neglect of Duty; and 3.12 Property of Inmates.
28. White's disposal of the personalty without obtaining sufficient documentation of the disposal violated N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee, N.J.A.C. 4A:2-2.3(a)(7), neglect of duty, N.J.A.C. 4A:2-2.3(a)(8), misuse of public property, N.J.A.C. 4A:2-

2.3(a)(12), other sufficient cause - CCCF General Rules of Conduct 1.1 Violations, 1.2 Unbecoming Conduct, 1.3 Neglect of Duty; and 3.12 Property of Inmates.

29. White's disposal of the personalty violated N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee, N.J.A.C. 4A:2-2.3(a)(7), neglect of duty, N.J.A.C. 4A:2-2.3(a)(8), misuse of public property, N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause - CCCF General Rules of Conduct 1.1 Violations, 1.2 Unbecoming Conduct, 1.3 Neglect of Duty; and 3.12 Property of Inmates.

30. White's disposal of the personalty through business acquaintances known to he and his wife was inappropriate and violated N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee, N.J.A.C. 4A:2-2.3(a)(7), neglect of duty, N.J.A.C. 4A:2-2.3(a)(8), misuse of public property, N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause - CCCF General Rules of Conduct 1.1 Violations, 1.2 Unbecoming Conduct, 1.3 Neglect of Duty; and 3.12 Property of Inmates.

31. White had no significant prior negative disciplinary history.

LEGAL ANALYSIS AND CONCLUSIONS

Civil service employees' rights and duties are governed by the Civil Service Act and regulations promulgated pursuant thereto. N.J.S.A. 11A:1-1 to 11A:12-6; N.J.A.C. 4A:1-1.1. The Act is an important inducement to attract qualified people to public service and is to be liberally applied toward merit appointment and tenure protection. Mastrobattista v. Essex Cnty. Park Comm'n, 46 N.J. 138, 147 (1965). However, consistent with public policy and civil service law, a public entity should not be burdened with an employee who fails to perform his or her duties satisfactorily or who engages in misconduct related to his or her duties. N.J.S.A. 11A:1-2(a). Such an employee may be subject to major discipline. N.J.S.A. 11A:1-2(b), 11A:2-6, 11A:2-20; N.J.A.C. 4A:2-2.2, -2.3(a).

An appeal to the Civil Service Commission requires the OAL to conduct a de novo hearing to determine the employee's guilt or innocence, as well as the appropriate penalty if the charges are sustained. In re Morrison, 216 N.J. Super. 143 (App. Div. 1987).

The burden of persuasion falls on the appointing authority in enforcement proceedings to prove a violation of administrative regulations. Cumberland Farms, Inc. v. Moffett, 218 N.J. Super. 331, 341 (App. Div. 1987). The appointing authority must prove its case by a preponderance of the credible evidence, which is the standard in administrative proceedings. Atkinson v. Parsekian, 37 N.J. 143 (1962). Precisely what is needed to satisfy the standard must be decided on a case-by-case basis. The evidence must be such as to lead a reasonably cautious mind to the given conclusion. Bornstein v. Metro. Bottling Co., 26 N.J. 263 (1958). Preponderance may also be described as the greater weight of credible evidence in the case, not necessarily dependent on the number of witnesses, but having the greater convincing power. State v. Lewis, 67 N.J. 47 (1975).

"Conduct unbecoming a public employee" is an elastic phrase that encompasses conduct that adversely affects the morale or efficiency of a governmental unit or that has a tendency to destroy public respect in the delivery of governmental services. Karins v. City of Atl. City, 152 N.J. 532, 554 (1998); see also In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960). It is sufficient that the complained-of conduct and its attending circumstances "be such as to offend publicly accepted standards of decency." Karins, supra, 152 N.J. at 555 (quoting In re Zeber, 156 A.2d 821, 825 (1959)). Such misconduct need not necessarily "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 as an upholder of that which is morally and legally correct." Hartmann v. Police Dep't of Ridgewood, 258 N.J. Super. 32, 40 (App. Div. 1992) (quoting Asbury Park v. Dep't of Civil Serv., 17 N.J. 419, 429 (1955)).

"Neglect of duty" has been interpreted to mean, "an employee . . . neglected to perform an act required by his or her job title or was negligent in its discharge." In re Glenn, CSV 5072-07, Initial Decision (February 5, 2009) (citation omitted), adopted, Civil Service Commission (March 27, 2009), <<http://njlaw.rutgers.edu/collections/oal/>>. The term "neglect" means a deviation from the normal standards of conduct. In re Kerlin, 151 N.J. Super. 179, 186 (App. Div. 1977). "Duty" means conformance to "the legal standard of reasonable conduct in the light of the apparent risk." Wytupeck v. Camden, 25 N.J. 450, 461 (1957) (citation omitted). Neglect of duty can arise from omitting to perform a required duty as well as from misconduct or misdoing. Cf. State v. Dunphy, 19 N.J. 531, 534 (1955). Neglect of duty does not require an intentional or willful act; however, there must be some evidence that the employee somehow breached a duty owed to the performance of the job.

When witnesses present conflicting testimonies, it is the duty of the trier of fact to weigh each witness's credibility and make a factual finding. In other words, credibility is the value a fact finder assigns to the testimony of a witness, and it incorporates the overall assessment of the witness's story in light of its rationality, consistency, and how it comports with other evidence. Carbo v. United States, 314 F.2d 718 (9th Cir. 1963); see In re Polk, 90 N.J. 550 (1982). Credibility findings "are often influenced by matters such as observations of the character and demeanor of witnesses and common human experience that are not transmitted by the record." State v. Locurto, 157 N.J. 463 (1999). A fact finder is expected to base decisions on credibility on his or her common sense, intuition or experience. Barnes v. United States, 412 U.S. 837 (1973).

However, the finder of fact is not bound to believe the testimony of any witness, and credibility does not automatically rest astride the party with more witnesses. In re Perrone, 5 N.J. 514 (1950). Testimony may be disbelieved, but may not be disregarded at an administrative proceeding. Middletown Twp. v. Murdoch, 73 N.J. Super. 511 (App. Div. 1962). Credible testimony must not only proceed from the mouth of credible witnesses but must be credible in itself. Spagnuolo v. Bonnet, 16 N.J. 546 (1954). The evidence presented and the credibility of the witnesses will assist in resolving whether the charges and discipline imposed should be sustained; or whether there are mitigating circumstances, which should impact the charges and the penalty. Mitigating

circumstances must be taken into consideration when determining whether there is just cause for the penalty imposed.

In the instant case, I found a significant portion of the respondent's witnesses' testimony and documentation offered to be credible. I also found the limited testimony of Marchiano credible. For reasons stated under Factual Discussions, I did not find the testimony of White to be credible. His motivation for his actions related more to his personal convenience than an attempt to act in the best interest of the CCCF. I did not find his actions to be criminally motivated, but his testimony revealed a complete disregard of property rights of the discharged inmates or the CCCF. His actions were careless and have left the CCCP subject to exposure to inmates' claims.

In the present case, the CCCF has met its burden of proof. White's actions were taken in concert with Marchiano. Both were assigned to the Admissions Unit. The actions were the disposition of the personalty that belonged to previously discharged inmates or the CCCF. White acknowledges the action he took. White relies on the fact that the actions were taken under the authority of Marchiano. Marchiano attempts to provide protection to White, however, he acknowledged that the actions were taken in concert. White's violation was the complete disregard that a procedure may or may not have existed to dispose of property of this nature. In the absence of knowing of a procedure, he had an obligation as a correction officer employee to act in a manner that would not offend publicly accepted standards of decency. White did not do so. White chose not to adequately document the disposition of the personalty.

I **CONCLUDE** that respondent has met its proof by a preponderance of the evidence that White violated N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee, N.J.A.C. 4A:2-2.3(a)(7), neglect of duty, N.J.A.C. 4A:2-2.3(a)(8), misuse of public property, N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause - CCCF General Rules of Conduct 1.1 Violations, 1.2 Unbecoming Conduct, 1.3 Neglect of Duty; and 3.12 Property of Inmates.

PENALTY

When dealing with the question of penalty in a de novo review of a disciplinary action against a civil service employee, the proofs and penalty on appeal based on the charges presented must be evaluated. N.J.S.A. 11A:2-19; Henry v. Rahway State Prison, 81 N.J. 571 (1980); West New York v. Bock, 38 N.J. 500 (1962). Depending on the conduct complained of and the employee's disciplinary history, major discipline may be imposed. West New York v. Bock, supra, 38 N.J. at 522-24. Major discipline may include removal, disciplinary demotion, and suspension or fine no greater than six months. N.J.S.A. 11A:2-6(a), -20; N.J.A.C. 4A:2-2.2, -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.

Here, White's prior negative disciplinary history is non-existent. His actions are not mitigated by his attempt to claim his motivation resulted from a desire to provide funds to the CCCF. White's motivation was personal, and he disregarded directions not to take such action. I understand and concur in the earlier determinations that removal would be an appropriate penalty for White. To reduce the penalty in any way would send the wrong message. I have considered and rejected White's claim that the penalty afforded Marchiano is disproportionate to that being sought against him. It is difficult to value the Marchiano settlement which resulted in his demotion. White may be disgruntled that a better offer had not been afforded him. He may also be disgruntled that Marchiano's demotion allowed him to potentially earn more income due to overtime rules. The rejection by this tribunal of the disproportionality is that many circumstances come into play in determining offers and settlements. There is no persuasive evidence introduced by White that the CCCF had a motivation to treat White disparately. Marchiano's settlement will not be considered relevant here. It is White's prior clean slate that indicates that the respondent's FNDA should remain.

Accordingly, I **CONCLUDE** that the respondent's imposition of a six-month suspension is appropriate.

ORDER

I **ORDER** that White's appeal is **DENIED** in all respects.

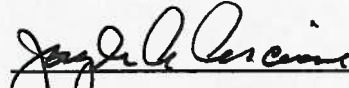
I further **ORDER** that the six-month suspension against White is **AFFIRMED**.

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. 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, PO 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.

April 16, 2015
DATE



JOSEPH A. ASCIONE, ALJ

Date Received at Agency:

4/16/15

Date Mailed to Parties:

4/16/15

lam

APPENDIX

LIST OF WITNESSES

For Appellant:

James V. White

Sergeant Lucas Marchiano

For Respondent:

John Thomas Jones, Internal Affairs, CCCF

Captain Carla Taylor, Retired

Captain Linda Blackwell

LIST OF EXHIBITS

For Appellant:

- P-1 Duplicate of R-1
- P-2 Duplicate of R-2
- P-3 Duplicate of R-2
- P-4 Duplicate OF R-5
- P-5 Duplicate OF R-4
- P-6 Order 30 effective 2/1/09
- P-7 Not offered into evidence
- P-8 Pictures of returned items
- P-9 Duplicate of R-7
- P-10 Objected to and excluded from evidence
- P-11 Objected to and excluded from evidence
- P-12 Objected to and excluded from evidence
- P-13 Performance Reviews
- P-14 Disciplinary Histories

P-15 Rules of Conduct 1.1, 1.2, 1.3, 1.4 AND 3.12

For Respondent:

- R-1 PNDA, dated 11/27/12 AND 11/28/12
- R-2 FNDA, dated 11/28/12, 1/9/13 AND 1/15/13
- R-3 Loudermill Consideration, dated 11/28/12
- R-4 IA Report of J. Jones
- R-5 Incident Report of L. Blackwell, dated 11/22/11
- R-6 Video (not reviewed)
- R-7 Jewelry receipts
- R-8 Pictures of jewelry and other accessories
- R-9 IA Interview Transcript of J. White, dated 11/21/12
- R-10 IA Interview Transcript 2 of J. White, dated 11/21/12
- R-11 IA Interview Transcript of Sergeant Lucas Marchiano, dated 11/21/12
- R-12 IA Interview Transcript 3 of J. White, dated 11/26/12
- R-13 G.O. 30
- R-14 Rules of Conduct D.O.C.
- R-15 J. White Discipline Chronology