



DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
JULY 15, 2015

  
\_\_\_\_\_

Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

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



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

**INITIAL DECISION**

**FAILURE TO APPEAR**

OAL DKT. NO. CSV 11463-14

AGENCY DKT. NO. 2015-474

**IN THE MATTER OF VINCENT R. GRAHAM,  
CAMDEN COUNTY POLICE DEPARTMENT,**

AND

**VINCENT R. GRAHAM,**

Petitioner,

v.

**CAMDEN COUNTY COLLEGE POLICE  
ACADEMY,**

Respondent.

OAL DKT. NO. PTC 5527-14

AGENCY DKT. NO. N/A

(CONSOLIDATED)

---

**Vincent R. Graham**, appellant/petitioner, pro se.

**Karl N. McConnell**, Esq., General Counsel, for respondent, Camden County College Police Academy.

**Antonieta Paiva Rinaldi**, Esq., Assistant County Counsel, for respondent, Camden County Police Department, (Christopher A. Orlando, Esq., Camden County Counsel).

Record Closed: March 30, 2015

Decided: April 2, 2015

BEFORE **JOSEPH A. ASCIONE**, ALJ:

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

On March 11, 2014, the Camden County College Police Academy (CCCPA) dismissed the appellant/petitioner, Vincent Graham, from the CCCPA for failure to meet the physical fitness training requirements, specifically missing sixteen physical education classes. On March 12, 2014, appellant/petitioner appealed the dismissal. On March 12, 2014, appellant/petitioner filed a notice of appeal, and the matter was transmitted by the Police Training Commission (PTC) to the Office of Administrative Law (OAL), where it was filed on May 5, 2014, 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.

By Preliminary Notice of Disciplinary Action (PNDA), dated March 11, 2014, and Final Notice of Disciplinary Action (FNDA), dated August 1, 2014, Camden County Police Department (CCPD) charged appellant/petitioner with violation of N.J.A.C. 4A:2-2.3(a)(1), Incompetency, inefficiency or failure to perform duties; N.J.A.C. 4A:2-2.3(a)(4), Inability to perform duties; N.J.A.C. 4A:2-2.3(a)(12), Other sufficient cause; specifically, violations of CCPD Rules and Regulations: 3:1.7, Performance of Duty; 3:1-32, Work Expectation; and 3:2.21, All Other Conduct. All related to the dismissal of appellant/petitioner from the Camden County College Police Academy (CCCPA) for cause. On August 1, 2014, CCPD terminated appellant/petitioner, as being unable to satisfy the requirements of being a Camden County Police Officer.

On August 15, 2014, appellant/petitioner filed a notice of appeal, and the matter was transmitted by the Civil Service Commission (CSC) to the OAL, where it was filed on September 11, 2014, 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.

On September 16, 2014, OAL Judge, Jeff S. Masin, issued an Order of Consolidation and Predominant Interest, finding the PTC to have the predominant interest, encouraging the PTC to consult with the CSC prior to issuing a Final Decision.

On November 25, 2014, OAL Judge, Joseph A. Ascione, held a prehearing telephone conference with the above-identified parties, and on December 1, 2014, the OAL issued a Prehearing Order setting forth among other things, dates for the completion of discovery, an additional prehearing telephone conference and hearing dates. On February 9, 2015, the OAL revised the Prehearing Order to change the hearing date from March 20, to March 27, 2015. The prehearing telephone conference to be initiated by Ms. Rinaldi, was scheduled for 3:30 p.m. on March 23, 2015, and the first hearing date scheduled for March 30, 2015.

Counsel for both the CCPD and the CCCPA served discovery requests upon the appellant/petitioner. These discovery requests were unanswered by appellant/petitioner. In February, CCCPA's counsel requested leave to move to dismiss the appeal and on granting his request, he filed a motion returnable for March 30, 2015, to dismiss the appeal. In March CCPD's counsel moved to dismiss the appeal for appellant/petitioner's failure to comply with discovery requests.

Appellant failed to attend a prehearing telephone conference scheduled for March 23, 2015, and did not appear for the hearing scheduled for March 30, 2015, despite having received notice of both hearings. Counsel for the CCPD, and the CCCPA attempted to contact appellant/petitioner regarding outstanding discovery requests and left messages on his voice mail on his phone, no calls were returned by appellant/petitioner. Ms. Rinaldi's call to appellant/petitioner to establish the telephone conference, also resulted in her placement of a message in appellant/petitioner's voice mail, appellant/petitioner did not return the call.

Respondent submitted prehearing submissions required by the Prehearing Order. Prior to the prehearing telephone conference, respondent requested authority to move to dismiss appellant/petitioner's appeal for his failure to provide discovery. On March 12, 2015, counsel for the CCPD moved to dismiss appellant/petitioner's appeal for failure to comply with discovery. Respondents' counsel attended the March 23, 2015, telephone prehearing conference. At that conference, the undersigned requested counsel to submit a certification of services in connection with the preparation for the

telephone prehearing conference and the previously made motions. CCPD's counsel submitted a certification of services. Both records closed on March 30, 2015.

### **FACTUAL FINDINGS**

I **FIND** the following **FACTS**:

1. Appellant/petitioner has failed to comply with discovery requests of respondents' counsel and has failed to appear on March 23, 2015, for the telephone prehearing conference and the March 30, 2015, hearing date. Further, appellant/petitioner submitted no submissions in opposition to the motions.
2. On March 30, 2015, appellant/petitioner failed to appear to present his case.
3. Antonieta Paiva Rinaldi, Esq., Assistant County Counsel, Christopher A. Orlando, Esq., Camden County Counsel, submitted a certification on March 25, 2015. The certification identified her legal experience, and a reasonable value of her hourly services at \$200 per hour. The certification sought reimbursement for the three hours of work performed for a total of \$600.
4. Karl N. McConnell, General Counsel, CCCPA, similarly made a motion and devoted hours to obtaining discovery from appellant/petitioner.
5. The reasonable value of counsels' services at the rate of \$200 per hour is not unreasonable, however, the actual costs to the Camden County Counsel's Office is likely less than that rate.
6. I find that the reasonable value of the services of each counsel for respondents is \$250 each.

### **LEGAL ANALYSIS AND CONCLUSION**

The OAL has provided appellant/petitioner with two opportunities to excuse his failure to comply with discovery or present proofs of his claim. He has not taken advantage of either of them. Appellant/petitioner has the burden of proof to show that the dismissal from the CCCPA is arbitrary or unreasonable. He has failed to do that. He has also failed to address the motions made to dismiss his appeal for failure to comply with discovery.

The respondents have expended time of their respective counsel in providing legal services in the defense of appellant/petitioner's claim. These services will have to be repeated if this matter is restored to the calendar. Accordingly, the OAL will not restore this matter to the calendar until such time as appellant/petitioner reimburses each respondent \$250 and provides a response to their discovery requests.

I **CONCLUDE** that each of the respondents' respective motions to dismiss the appeal is granted and the CSV appeal and PTC petition are **DISMISSED**.

I **CONCLUDE** that pursuant to N.J.A.C. 1:1-14.4, the petitioner has failed to appear to present his proof and the CSV appeal and PTC petition are **DISMISSED**.

I **CONCLUDE** that prior to this matter being restored to the calendar, appellant/petitioner will pay each respondent the sum of \$250 and comply or otherwise address the discovery requests of the respective respondents.

**ORDER**

For the reasons stated above, I hereby **ORDER** that the matter be returned to the respective Agencies for failure to appear on March 23, 2015 and March 30, 2015.

For the reasons stated above, I hereby **ORDER** that the respondents' motion to dismiss the appeal/petition are **GRANTED** and the matter be returned to the respective Agencies for failure to comply with the discovery requests of respondents.

For the reasons stated above, I hereby **ORDER** prior to this matter being restored to the calendar, appellant/petitioner will pay each respondent the sum of \$250 and comply or otherwise address the discovery requests of the respective respondents.

I hereby **FILE** my initial decision with the **DIRECTOR OF THE POLICE TRAINING COMMISSION and CIVIL SERVICE COMMISSION** for consideration. The PTC will have the predominant interest. It is encouraged that the PTC consult with the CDC prior to issuing a Final Decision.

This recommended decision may be adopted, modified or rejected by the **DIRECTOR OF THE POLICE TRAINING COMMISSION and CIVIL SERVICE COMMISSION**, who by law are authorized to make a final decision in this matter. If the Director of the **DIRECTOR OF THE POLICE TRAINING COMMISSION and CIVIL SERVICE COMMISSION** do not adopt, modify or reject this decision within forty-five days, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.



**APPENDIX**  
**LIST OF WITNESSES**

**For Petitioner:**

None

**For Respondent:**

None

**LIST OF EXHIBITS**

**For Petitioner:**


None

**For Respondent:**

None

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DEPUTY ATTORNEY GENERAL, POLICE TRAINING COMMISSION, Richard J. Hughes Justice Complex, PO Box 085, Trenton, New Jersey 08625-0085**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

April 2, 2015  
DATE

  
JOSEPH A. ASCIONE, ALJ

Date Received at Agency: CSV + PTC

4/2/15

Date Mailed to Parties:  
/lam

4-7-15