



STATE OF NEW JERSEY

DECISION OF THE CIVIL SERVICE COMMISSION

In the Matter of Michael Sosa, Newark, Department of Public Safety

CSC Docket No. 2022-1326 OAL Docket No. CSV 02965-22

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ISSUED: NOVEMBER 22, 2023

The appeals of Michael Sosa, Police Officer, Newark, Department of Public Safety, 94 working day suspension, on charges, was heard by Administrative Law Judge Joann LaSala Candido (ALJ), who rendered her initial decision on October 23, 2023. No exceptions were filed.

Having considered the record and the ALJ's initial decision, and having made an independent evaluation of the record, the Civil Service Commission (Commission), at its meeting on November 22, 2023, adopted the ALJ's Findings of Fact and Conclusions as indicated in the initial decision. However, it disagreed with her recommendation to modify the 94 working day suspension to a six working day suspension. Rather, the Commission imposed a 30 working day suspension.

The Commission makes the following comments. Based on its de novo review of the record, the Commission agrees with the ALJ regarding the charges, including those that were dismissed. However, the question in this matter is penalty. Similar to its assessment of the charges, the Commission's review of the penalty is de novo. In addition to its consideration of the seriousness of the underlying incident in determining the proper penalty, the Commission also utilizes, when appropriate, the concept of progressive discipline. West New York v. Bock, 38 N.J. 500 (1962). In determining the propriety of the penalty, several factors must be considered, including the nature of the appellant's offense, the concept of progressive discipline, and the employee's prior record. George v. North Princeton Developmental Center, 96 N.J.A.R. 2d (CSV) 463. It is settled that the theory of progressive discipline is not a "fixed and immutable rule to be followed without question." See Carter v. Bordentown, 191 N.J. 474 (2007). In this regard, the Commission emphasizes that a Police Officer is held to a higher standard than a civilian public employee. See

*Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), cert. denied, 47 N.J. 80 (1966). See also, *In re Phillips*, 117 N.J. 567 (1990).

The Commission agrees that the upheld misconduct supports a reduced disciplinary suspension in this matter. However, the Commission cannot agree with the ALJ's reduction to a six working day suspension. In this regard, the ALJ merely indicated:

Under the facts presented, a substantial penalty of ninety-four days is not appropriate and excessive. Sosa does not have sustained major disciplines. However, in light of appellant's inappropriate conduct and behavior exhibiting insubordination and failure to thoroughly investigate a domestic violence call and follow the chain of command when filing an administrative report, a six-day suspension is appropriate, and I so **CONCLUDE**.

Clearly, the ALJ has minimized the misconduct in this matter. The appellant failed in numerous aspects in this matter. As found by the ALJ, the appellant neglected his duty by failing to properly investigate a domestic violence incident and blatantly ignored several direct orders from his superior. Such actions are certainly worthy of significant major discipline for a Police Officer, who, as indicated above, are held to a higher standard. Accordingly, the Commission finds that a 30 working day suspension is the appropriate penalty which should impress upon the appellant the inappropriateness of his conduct as well as serve as notice that any future misconduct will result in more severe discipline, up to and including removal from employment.

Since the suspension has been modified, the appellant is entitled to 64 working days of back pay, benefits, and seniority pursuant to *N.J.A.C.* 4A:2-2.10. However, he is not entitled to counsel fees. *N.J.A.C.* 4A:2-2.12(a) provides for the award of counsel fees only where an employee has prevailed on all or substantially all of the primary issues in an appeal of a major disciplinary action. The primary issue in the disciplinary appeal is the merits of the charges. See *Johnny Walcott v. City of Plainfield*, 282 N.J. Super. 121,128 (App. Div. 1995); *In the Matter of Robert Dean* (MSB, decided January 12, 1993); *In the Matter of Ralph Cozzino* (MSB, decided September 21, 1989). In the case at hand, although the penalty was modified by the Commission, charges were sustained, and major discipline was imposed. Consequently, as appellant has failed to meet the standard set forth at *N.J.A.C.* 4A:2-2.12, counsel fees must be denied.

This decision resolves the merits of the dispute between the parties concerning the disciplinary charges and the penalty imposed by the appointing authority. However, in light of the Appellate Division's decision, *Dolores Phillips v. Department of Corrections*, Docket No. A-5581-01T2F (App. Div. Feb. 26, 2003), the Commission's decision will not become final until any outstanding issues concerning back pay are

finally resolved.

ORDER

The Civil Service Commission finds that the action of the appointing authority in suspending the appellant was justified. The Commission therefore modifies the 94 working day suspension to a 30 working day suspension.

The Commission orders that the appellant be granted 64 working days of back pay, benefits, and seniority. The amount of back pay awarded is to be reduced and mitigated as provided for in *N.J.A.C. 4A:2-2.10*. Proof of income earned, and an affidavit of mitigation shall be submitted by or on behalf of the appellant to the appointing authority within 30 days of issuance of this decision. Pursuant to *N.J.A.C. 4A:2-2.10*, the parties shall make a good faith effort to resolve any dispute as to the amount of back pay.

Counsel fees are denied pursuant to *N.J.A.C. 4A:2-2.12*.

The parties must inform the Commission, in writing, if there is any dispute as to back pay within 60 days of issuance of this decision. In the absence of such notice, the Commission will assume that all outstanding issues have been amicably resolved by the parties and this decision shall become a final administrative determination pursuant to R. 2:2-3(a)(2). After such time, any further review of this matter shall be pursued in the Superior Court of New Jersey, Appellate Division.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 22<sup>ND</sup> DAY OF NOVEMBER, 2023

*Allison Chris Myers*

Allison Chris Myers  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Nicholas F. Angiulo  
Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
P.O. Box 312  
Trenton, New Jersey 08625-0312

Attachment



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

**INITIAL DECISION**

OAL DKT. NO. CSV 02965-22  
Agency No. 2022-1326

**IN THE MATTER OF MICHAEL SOSA, CITY  
OF NEWARK, DEPARTMENT OF PUBLIC  
SAFETY.**

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**Amie DiCola, Esq., for appellants (Fusco and Macaluso -hearing only)**  
**(The Toscano Law Firm, LLC on the brief)**

**Hugh A. Thompson, Esq., for respondent (Assistant Corporation Counsel, City  
of Newark)**

Record Closed: October 3, 2023

Decided: October 23, 2023

**BEFORE: JOANN LASALA CANDIDO, ALAJ:**

**STATEMENT OF THE CASE**

Appellant, Michael Sosa, City of Newark Police Officer, appealed the disciplinary action of a 94-day suspension by the Newark Police Department (City) for a violation of Newark Police Department Rules and Regulations, Chapter 2:3.17, Neglect of Duty and 4A:2-2.3(a)7, Neglect of Duty for failure to thoroughly investigate a domestic violence call and for a violation of Newark Police Department Rules and Regulations, Chapter

18:4, Disobedience of Orders with respect to removal of his body worn camera (BWC); and for a violation of Newark Police Department Rules and Regulations, Chapter 2:1.10 Insubordination for failure to release a prisoner as ordered by a superior officer; and for a violation of Newark Police Department Rules and Regulations, Chapter 2:2.2 Chain of Command for not following procedure when executing a request for an investigation of a superior officer by way of chain of command; and for a violation of Newark Police Department Rules and Regulations, Chapter 18:14 Disobedience of Orders by failing to issue a Use of Force report; and for a violation of Newark Police Department Rules and Regulations, Chapter 5:1.2 Language by stating "get the fuck out of here" when his supervisor was walking away.

### **PROCEDURAL HISTORY**

On April 14, 2022, the Civil Service Commission transmitted the matter to the Office of Administrative Law (OAL), for a hearing as a contested matter 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 in-person on April 17, 2023. Post-hearing submissions were received on October 3, 2023, on which date the record closed.

### **TESTIMONY**

A summary of the evidence offered in support of, and in opposition to, the charges against appellant follows. The testimony outlined is not intended to be a verbatim report of the testimony of all the witnesses. Rather, it is intended to summarize the testimony and evidence found by the undersigned to be relevant to the issues presented. In short, appellant disputes the facts and penalty that give rise to the charges against him.

#### **Sergeant Dolores Gonzalez**

Sergeant Dolores Gonzalez testified on behalf of the City. Sergeant Gonzalez was covering the First, Fourth and Sixth Precincts on the date of the incident, June 20, 2021. Gonzalez was called to a location involving a domestic violence situation. When she arrived at the scene, she spoke to Officer Santos and to the female that was

involved in the domestic violence dispute. The female wanted to retrieve her bank card that was in the male's apartment. Gonzalez and Santos accompanied the female to the apartment and Gonzalez noticed the door frame was cracked. The female stated that she did that to get back into the apartment to retrieve her belongings. The female was unable to locate the bank card and Gonzalez escorted her back downstairs.

Sosa was holding the male suspect in the rear seat of the police car. Gonzalez asked the male what happened to which he responded the female tried to stab him with a knife and ripped his shirt. When he kicked her out of the apartment and called the police, she was able to kick the door in, grab his phone and break it. At that point she asked Sosa to uncuff the male and he refused until Gonzalez told Sosa he would be charged if he did not do as ordered. Once Sosa uncuffed the male, Gonzalez accompanied the male to his apartment. She made the determination that the female needed to be arrested and not the male. Gonzalez had not activated her Body Worn Cameras "BWC". Gonzalez felt that Sosa inappropriately used physical force when putting the male into the police car when the male was requesting a supervisor. Pursuant to Policy, Sosa did not report the use of force to the City or to the Federal Government. Gonzalez ordered Officer Santos to arrest the female.

Gonzalez testified as to the policy for BWC. The BWC must be activated immediately when there is an open call investigated. Sosa improperly placed his BWC on the dashboard of the vehicle, and stepped out of the vehicle when he had the male in the rear of the police vehicle. The camera inside the vehicle continued to operate recording the back seat.

#### Michael Sosa

Michael Sosa testified on his behalf. He has been a police officer with the City since July 5, 2015. Sosa and his partner, Officer Santos, were dispatched to a domestic dispute on June 20, 2021. When they arrived on the scene, a male was yelling out the window that he could not come downstairs while the female was in the hallway. The female came down the stairs and told Sosa that she was choked and slammed against the wall and dragged through the apartment before being kicked out. Sosa stated that he noticed red marks on her neck and arm. Sosa then went into the

apartment with the male to get his version of the incident and he was trying to calm him male down. The male stated that he threw the female out of the apartment. The male made no mention of a knife or a broken door, but rather was concerned about his broken phone. He told Sosa that the female had grabbed his shirt. Based upon the visible red marks on the female and no mention by the male of a knife, he assumed there was no knife.

Sosa stated that he made the decision to place handcuffs on the male while he was in the apartment to try to avoid the male's agitation to escalate. Sosa waited for his partner to come upstairs, and he escorted the male downstairs and into the vehicle. He claims to have not used force when he picked up the male's foot to get him into the vehicle, and therefore not needing to file a Use of Force report. Once in the police vehicle, the male requested a supervisor. Sosa's partner made the request for the sergeant who was covering to come to the scene.

Sergeant Gonzalez arrived at the scene and asked Sosa what happened. Sosa testified that he explained to the Sergeant the marks on the female, and he believed to have probable cause for the arrest. The Sergeant left the side of the vehicle and then returned and told Sosa to take the male out of the vehicle and uncuff him. Sosa replied "negative" because he believed he had the aggressor. When threatened with discipline, he released the suspect. The male uttered something to the effect that Sosa needed to go back to training, and he testified that he then said "get the fuck out of here" in frustration of having to release the male. The female would then be arrested based upon the sergeant's order. Sosa had walked to the passenger side of the police vehicle to call his desk Lieutenant Lee and removed his BWC, put it on the dash and Sosa then filed an internal affairs form/report (1001) required when you feel you were given an unlawful order by a superior.

Sosa and his partner transported the female to the municipal holding location at the fifth precinct and he then deactivated the BWC to talk to the lieutenant since that is the procedure when entering a municipal holding area. His partner, officer Santos, stayed with the female in the vehicle when Sosa went to speak to the lieutenant.

Based upon consideration of the testimonial and documentary evidence presented at the hearing, and having had the opportunity to observe the demeanor of the witnesses and assess their credibility, I **FIND** the following **FACTS**, most of which are uncontroverted:

1. Sosa has been employed by the City as a patrolman since July 5, 2015.
2. Sosa and his partner, Jose Santos, were dispatched to a possible domestic violence call initiated by a male on June 20, 2021, and arrived at approximately 3:55 p.m.
3. A male yelled down from a second-floor window unable to open the entrance door because the female involved was in the hallway. The female had kicked the apartment door in and broke the male's phone. There was damage to the door frame of the male's apartment door.
4. The female then came downstairs and opened the door. The officers observed marks around her neck and red marks on her arm.
5. Sosa went to the male's apartment and was told the male threw the female out of the apartment because she broke his phone. The male stated the female came after him with a knife. Sosa noticed a torn shirt.
6. Sosa handcuffed the male who was resisting and escorted him downstairs and placed him in the back seat of the patrol car. The male was requesting a supervisor. Sergeant Gonzalez came to the location.
7. Officer Santos and Sergeant Gonzalez escorted the female upstairs to the apartment to locate her belongings. When unable to find her credit card, the officers escorted the female downstairs.
8. The male informed Sergeant Gonzalez that the female came at him with a knife and ripped his shirt and broke his phone.
9. Sosa placed his BWC on the dash of the vehicle when walking to the passenger side of the vehicle to contact his lieutenant. Sergeant Gonzalez did not have a BWC activated during this domestic call.
10. After speaking with the male, Sergeant Gonzalez orders Sosa to uncuff the male and release him. Sosa refused the order, disagreeing with that decision and convinced it was the male who should be arrested, and by the fourth time, released the male when threatened with disciplinary charges.



11. Santos arrested the female and he and Sosa took her to the Fifth Precinct municipal holding area. Santos remained in the vehicle with the female and Sosa deactivated his BWC and spoke to the lieutenant inside. The female was then escorted by ambulance to the hospital.

### DISCUSSION

The City of Newark has the burden of proving the charges against Michael Sosa by a preponderance of credible evidence. N.J.S.A.11A:1-1 to 12-6. Preponderance is the greater weight of credible evidence and convincing power presented, not necessarily dependent on the number of witnesses. State v. Lewis, 67 N.J. 47 (1975). Moreover, 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). And, where the standard is reasonable probability, the evidence must be such as to "generate belief that the tendered hypothesis is in all human likelihood the fact." Lowe v. Union Beach, 56 N.J. Super. 93, 104 (App. Div. 1959).

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 **CHARGE 1 and B** Sosa is charged with violation of Chapter 2:3-17 Rules and Regulations of neglect of duty when failing to thoroughly investigate a Domestic

Violence assignment on June 20, 2021, and Neglect of Duty for failure to give suitable attention to the performance of duty.

Neglect of duty can arise from an omission or failure to perform a duty as well as negligence. Generally, the term "neglect" connotes a deviation from normal standards of conduct. In re Kerlin, 151 N.J. Super. 179, 186 (App. Div. 1977). "Duty" signifies conformance to "the legal standard of reasonable conduct in the light of the apparent risk." Wytupeck v. Camden, 25 N.J. 450, 461 (1957). Neglect of duty can arise from omission to perform a required duty as well as from misconduct or misdoing. Cf. State v. Dunphy, 19 N.J. 531, 534 (1955). Although the term "neglect of duty" is not defined in the New Jersey Administrative Code, the charge has been interpreted to mean that an employee has neglected to perform and act as required by his or her job title or was negligent in its discharge. Avanti v. Dep't of Military and Veterans Affairs, 97 N.J.A.R.2d (CSV) 564; Ruggiero v. Jackson Twp. Dep't of Law and Safety, 92 N.J.A.R.2d (CSV) 214.

It is clear from the BWC footage that the male informed both officers that the female came after him with a knife and he had a torn shirt. There was no further investigation by the officers into this claim. The male yelled down to Santos and Sosa that the female had kicked the apartment door in and broke his cellphone, and no further investigation was made of this claim. It is clear that such conduct constitutes neglect of duty Chapter 2:3-17. I **CONCLUDE** that the charges in CHARGE I, violation of Newark Police Department Rules and Regulations, Chapter 2:3.17, Neglect of Duty and 4A:2-2.3(a)7, Neglect of Duty for failure to thoroughly investigate a domestic violence call and give suitable attention to the performance of duty is **SUSTAINED**.

Sosa was also charged in **CHARGE II** with Newark Police Department Rules and Regulations, Chapter 18:4, Disobedience of Orders with respect to removal of his body worn camera (BWC). Specifically, On June 20, 2021, Sosa removed his BWC from its carrier five times and placed it on the dashboard of the patrol vehicle and exited the vehicle to engage in unknown police misconduct. He deactivated his BWC prior to his prisoner being processed and placed into a cell in violation of G.O. 1 8-05. "Members

shall activate the BWC to record police related interactions with citizens in the performance of their duties. Activation is required immediately upon receiving a dispatched assignment or the initiation of a police action until completion of the assignment". The respondent has not sustained these charges by a preponderance of the evidence. Sosa deactivated his BWC when calling and speaking to a superior outside his vehicle and appropriately deactivated his BWC when entering the holding facility at the Fifth Precinct and speaking to the Lieutenant. Therefore, I **CONCLUDE** that respondent has not sustained the violation of Newark Police Department Rules and Regulations, Chapter 18:4, Disobedience of Orders with respect to removal of his body worn camera (BWC) and **CHARGE II** must be **DISMISSED**.

Sosa is also charged in **CHARGE III** with insubordination for the willful disobedience of any lawfully issued directive by a superior officer or any disrespectful, mutinous, insolent, or abusive language or action directed toward a superior officer.

The Civil Service Commission utilizes a more expansive definition of insubordination than a simple refusal to obey an order. In re Chaparro, CSV 4112-10, Initial Decision (November 12, 2010), modified, CSC (March 18, 2011) (citing In re Stanziale, A-3492-00T5 (App. Div. April 11, 2002), <<http://njlaw.rutgers.edu/collections/courts/>> (appellant's conduct in which he refused to provide complete and accurate information when requested by a superior constituted insubordination)); In re Lyons, A-2488-07T2 (App. Div. April 26, 2010), <<http://njlaw.rutgers.edu/collections/courts/>>; In re Moreno, CSV 14037-09, Initial Decision (June 10, 2010), modified, CSC (July 21, 2010), <<http://njlaw.rutgers.edu/collections/oal/>>; In re Bell, CSV 4695-09, Initial Decision (May 12, 2010), modified, CSC (June 23, 2010), <<http://njlaw.rutgers.edu/collections/oal/>>; In re Pettiford, CSV 8804-07, Initial Decision (March 13, 2008), modified, Merit System Board (May 21, 2008), <<http://njlaw.rutgers.edu/collections/oal/>>. (Moreno, Bell, and Pettiford all concerned disrespect of a supervisor.)

The Civil Service Commission also has determined that an appellant is required to comply with an order of his or her superior, even if he or she believed the orders to be improper or contrary to established rules and regulations. See Palamara v. Twp. of Irvington, A-5408-05T3 (App. Div. February 28, 2005). There is no dispute that Sosa

received a clear directive from Gonzalez to uncuff and release the male in the rear of the police vehicle and he decided not to obey that directive by not doing so until he was threatened with discipline. This is by definition insubordination.

The Civil Service Commission has often noted that a police department is a paramilitary organization. Officers are required to follow orders—even if they do not like the way they are being delivered—or what the orders direct them to do. The appropriate means of objecting is to file a protest or complaint after the fact. Here, Officer Sosa did not initially comply to release the male that was handcuffed in the rear of the police vehicle; he responded “negative” and handed the sergeant the handcuff keys until the sergeant made the request four times and threatened discipline. The male stated that Sosa needed training and Sosa replied, “get the fuck outta here.” Based upon these actions, I therefore **CONCLUDE** that Sosa engaged in conduct that amounted to insubordination and disrespect, a violation of Newark Police Department Rules and Regulations, Chapter 2:1.10 Insubordination for failure to release a suspect as ordered by a superior officer, with the exception of abusive language towards a superior which has not been proven by a preponderance of the evidence by respondent.

Based upon the above, respondent has sustained the violation of Newark Police Department Rules and Regulations, **CHARGE III** must be **SUSTAINED**.

Sosa is charged in **CHARGE IV** with a violation of Newark Police Department Rules and Regulations, Chapter 2:2.2 Chain of Command for not following procedure when executing a request for an investigation of a superior officer by way of chain of command.

Newark Police Department Rules and Regulations, Chapter 2:2.2 Chain of Command requires its officers to submit an administrative report through the chain of command. Sosa bypassed that Chapter when he submitted his report directly to the Office of Professional Standards. Therefore, I **CONCLUDE** that Sosa violated Chapter 2:2.2 and this Charge is **SUSTAINED**.

**CHARGE V** charges Sosa with violation of its Rule and Regulation Chapter 18:14, Disobedience of Orders when he did not execute a Use of Force Report when using excessive force when placing the male in the rear of the marked police vehicle.

The testimony and evidence provided shows that the male resisted arrest when despite warning that force may be used, he continued to resist while asking for a supervisor. He did not adhere to the officer's oral demand and Sosa lifted his leg to put him in the vehicle. The weight of the testimony indicates that Sosa followed through on his training and completed an arrest when he felt there was probable cause to believe a domestic violence occurred against the female and did so without use of force. A Use of Force Report was therefore not warranted. I **CONCLUDE** that respondent has not sustained the violation of Newark Police Department Rules and Regulations, Chapter 18:14, Disobedience of Orders with respect to a failure to execute a Use of Force Report and **CHARGE V** must be **DISMISSED**.

Lastly, regarding the charge of Chapter 5:1.2 Language in **CHARGE VI**, whereby the BWC recorded Sosa stating "get the fuck out of here" possibly out of frustration that the male was being released and him telling Sosa he needed training, but it does not prove that it was directed towards his superior officer. Therefore, I **CONCLUDE** that respondent has not sustained the violation of Newark Police Department Rules and Regulations, Chapter 5:1.2, Language and **CHARGE VI** must be **DISMISSED**.

### **PENALTY**

There remains the issue of the imposition of a ninety-four working day suspension for these six charges. In deciding which penalty is appropriate, the courts have looked toward the concept of progressive discipline. W. New York v. Bock. The New Jersey Supreme Court held that evidence of a past disciplinary record, including the nature number and proximity to prior instances of misconduct can be considered in determining the appropriate penalty. See Selph v. Newark Hous. Auth., 94 N.J.A.R.2d (CSV) 420. An employee's past disciplinary record may be reviewed to determine the appropriate penalty for the current specific offense. The penalty imposed must not be

so disproportionate to the offense and the mitigating circumstances that the decision is arbitrary and unreasonable.

Under the facts presented, a substantial penalty of ninety-four days is not appropriate and excessive. Sosa does not have sustained major disciplines. However, in light of appellant's inappropriate conduct and behavior exhibiting insubordination and failure to thoroughly investigate a domestic violence call and follow the chain of command when filing an administrative report, a six-day suspension is appropriate, and I so **CONCLUDE**.

Based upon all the foregoing, including the evidence and certifications submitted, I **CONCLUDE** that respondent has met its burden of proving, by a preponderance of the credible evidence for **CHARGES I and B** and **CHARGES III and IV**.

### **ORDER**

It is hereby **ORDERED** that the ninety-four-day suspension of the appellant is hereby **MODIFIED** to six days and that any back pay, shall be reinstated to Officer Michael Sosa, along with any other accompanying employment benefits.

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.**



October 23, 2023

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DATE

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JOANN LASALA CANDIDO, ALAJ

Date Received at Agency:

October 23, 2023

Date Mailed to Parties:

October 23, 2023

ljb

**Witnesses:**

**For Appellant:**

Michael Sosa

**For respondent:**

Sergeant Dolores Gonzalez

**EXHIBITS**

JOINT

- J-1 Final Notice of Disciplinary Action dated September 28, 2021
- J-2 Preliminary Notice of Disciplinary Action dated July 26, 2021
- J-3 Disciplinary Record
- J-4 Rules and Regulations
- J-5 Body Worn Camera General Order 18-05
- J-6 Use of Force General Order 18-21
- J-7 Thumb Drive BWC video
- J-8 Incident Report dated June 20, 2021

For Appellant:

P-1 Use of Force policy section on reporting

For respondent:

N/A