



STATE OF NEW JERSEY

DECISION OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Jason Callan and  
Michael Olson, Camden County  
Sheriff's Department

2594

CSC Docket Nos. 2020-~~2694~~ and  
2020-~~2699~~ 2593  
OAL Docket Nos. CSV 05337-20 and  
CSV 05338-20  
(Consolidated)

ISSUED: JULY 3, 2024

The appeals of Jason Callan and Michael Olson, Sheriff's Officer Sergeants, Camden County Sheriff's Department, 45 and 90 working day suspensions, respectively, on charges, were heard by Administrative Law Judge Elia A. Pelios (ALJ), who rendered his initial decision on April 17, 2024. Exceptions were filed on behalf of the appellants and a reply to exceptions was filed on behalf of the appointing authority.

Having considered the record and the ALJ's initial decision, and having made an independent evaluation of the record, including a through examination of the exceptions and reply filed in this matter, the Civil Service Commission (Commission), at its meeting on July 3, 2024, adopted the ALJ's Findings of Fact and Conclusions and his recommendation to modify Olson's 90 working day suspension to a 30 working day suspension. However, it did not agree with his recommendation to modify Callan's 45 working day suspension to a 15 working day suspension. Rather, the Commission modified that the 45 working day suspension to a five working day suspension.

While the appellants filed voluminous exceptions in this matter, mainly asserting that the appointing authority did not sustain its burden of proof, they do not warrant extensive comment. The ALJ's determinations were based on his assessment of the testimonial and documentary evidence in the record and his assessment of the credibility of that evidence. In this regard, the Commission acknowledges that the ALJ, who has the benefit of hearing and seeing the witnesses, is generally in a better position to determine the credibility and veracity of the witnesses. *See Matter of J.W.D.*, 149 N.J. 108 (1997). "[T]rial courts' credibility findings . . . are often influenced by matters such as observations of the character and demeanor of the witnesses and common human experience that are not transmitted

by the record." See also, *In re Taylor*, 158 N.J. 644 (1999) (quoting *State v. Locurto*, 157 N.J. 463, 474 (1999)). Additionally, such credibility findings need not be explicitly enunciated if the record as a whole makes the findings clear. *Id.* at 659 (citing *Locurto, supra*). The Commission appropriately gives due deference to such determinations. However, in its *de novo* review of the record, the Commission has the authority to reverse or modify an ALJ's decision if it is not supported by sufficient credible evidence or was otherwise arbitrary. See N.J.S.A. 52:14B-10(c); *Cavalieri u. Public Employees Retirement System*, 368 N.J. Super. 527 (App. Div. 2004). In this matter, while the appellants' exceptions attempt to establish that the appointing authority's witnesses did not provide truthful testimony, they have not substantiated such claims sufficient to convince the Commission that the due deference normally afforded to an ALJ's credibility determinations should be ignored. As such, the Commission finds that the ALJ's credibility determinations and his findings were not arbitrary, capricious, unreasonable or otherwise in error. Accordingly, the Commission, upon its *de novo* review of the proffered charges, agrees with the ALJ regarding those that were upheld and those that were dismissed.

Further, similar to its assessment of the charges, the Commission's review of the penalty is also *de novo*. In this case, as the ALJ appropriately dismissed certain charges, the originally imposed penalties are not supportable. Nevertheless, given the appellants' status as law enforcement supervisors, who are held to a higher standard, the imposition of discipline is warranted. In this regard, the Commission wholly agrees with the ALJ's reduction of Olson's suspension to a 30 working day suspension. However, it finds that Callan's suspension is more appropriately reduced to a five working day suspension as he was not the individual who was found to have been improperly recording his co-workers. These suspensions should serve as sufficient warning to the appellants that any further misconduct may lead to increased penalties, up to removal from employment.

Since the suspensions have been modified, the appellants are entitled to 40 and 60 working days of back pay, benefits, and seniority, respectively, pursuant to N.J.A.C. 4A:2-2.10. However, they are 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 cases at hand, although some charges were dismissed and the penalties were modified by the Commission, charges were sustained, and discipline was imposed. Consequently, as the appellants have 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 penalties imposed by the appointing authority. However, per 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 appellants was justified. However, it modifies the 45 working day suspension of Jason Callen to a five working day suspension and modifies the 90 working day suspension of Michael Olson to a 30 working day suspension.

The Commission further orders that the appellant be granted 40 and 60 working days of back pay, benefits, and seniority, respectively. The amount of back pay awarded is to be reduced 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 appellants 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 3<sup>RD</sup> DAY OF JULY, 2024

*Allison Chris Myers*

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Allison Chris Myers  
Chairperson  
Civil Service Commission

Inquiries  
and  
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Civil Service Commission  
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Attachment



State of New Jersey  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

**IN THE MATTER OF JASON CALLAN,  
CAMDEN COUNTY SHERIFF'S DEPARTMENT,  
AND**

**IN THE MATTER OF MICHAEL OLSON,  
CAMDEN COUNTY SHERIFF'S DEPARTMENT.**

OAL DKT. NO. CSV 05337-20  
AGENCY DKT. NO. 2020-2594

OAL DKT. NO. CSV 05338-20  
AGENCY DKT. NO. 2020-2593

(CONSOLIDATED)

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**Stuart J. Alterman, Esq.,** for appellants, Jason Callan and Michael Olson  
(Alterman & Associates, LLC, attorneys)

**Michael J. DiPiero, Esq.,** for respondent (Brown & Connery, LLP, attorneys)

Record Closed: March 5, 2024

Decided: April 17, 2024

BEFORE **ELIA A. PELIOS, ALJ:**

**STATEMENT OF THE CASE**

In these consolidated matters, appellants Michael Olson (Melendez) and Robert Callan challenge their 90 and 45 working day suspensions, respectively, (Department). The suspension comes from allegedly engaging in conduct constituting, in Olson's case, violations of N.J.A.C. 4A:2-2.3(1) (Incompetency, Inefficiency/failure to perform duties), N.J.A.C. 4A:2-2.3(3) (Inability to Perform Duties), N.J.A.C. 4A:2-2.3(7) (Neglect of Duty),

and N.J.A.C. 4A:2-2.3(12) (Other Sufficient Cause), specifically, Specifically, Olson is charged with violating Sheriff's Rules and Regulations 3:2.7 (Neglect of Duty), 3:2.8 (Failure to Take Action), 3:2.10 (Performance of Duty), 3:2.13 (Failure to Properly Supervise), 3:3.1 (Obedience to Laws and Regulations), 3:3.5 (Conduct Towards Superior and Subordinate Officers & Associates), 3:3.14 (Chain of Command), 3:4.19 (Truthfulness), 3:4.22 (Subversive Conduct), 4:1.1 (Prohibited Activity – Conduct Private Meetings) and 4:7.8 (Confidentially). In Callan's case the alleged conduct brings charges of violating N.J.A.C. 4A:2-2.3(1) (Incompetency, Inefficiency/failure to perform duties)), N.J.A.C. 4A:2-2.3(7) (Neglect of Duty), and N.J.A.C. 4A:2-2.3(12) (Other Sufficient Cause), specifically, Sheriff's Rules and Regulations 3:2.7 (Neglect of Duty), 3:2.8 (Failure to Take Action), 3:2.10 (Performance of Duty), 3:2.13 (Failure to Properly Supervise), 3:3.1 (Obedience to Laws and Regulations), and 4:1.1 (Prohibited Activity – Conduct Private Meetings). The charges stem from an incident whereby appellants allegedly left their post and recorded their co-workers in their absence.

### **PROCEDURAL HISTORY**

On May 1, 2020, the Department issued final notices of disciplinary action (FNDA) sustaining the charges set forth in the PNDAs, suspending Olson for 90 days and Callan for 45 days. Appellants appealed their disciplines to the Civil Service Commission (Commission), which filed the matters at the Office of Administrative Law (OAL) on May 27, 2020, for a contested case hearing pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. An order consolidating the matters was entered on June 7, 2021. Hearings were held on August 24, August 25, September 30 and November 3, 2022 and on October 17 and 18, 2023. The record was held open to allow the parties to submit closing briefs and was closed on March 5, 2024.

### **FACTUAL DISCUSSION**

Appellants, both Sergeants with the Camden County Sheriff's Department, were assigned as supervisors to the Department's Bureau of Criminal Identification (BCI). The bureau provides warrant and arrest information to law enforcement agencies and is in operation every day of the week. At the times relevant to these proceedings, the BCI

overnight shift's staffing detail consisted of two Record Service Technicians (RSTs) and two Sergeants. One of the Sergeants supervises the BCI and the other supervises officers performing outside security work.

For the overnight shift of August 21, 2018, appellants were the sergeants assigned to BCI. Olson was supervising the officers providing security at outside sights while Callan was supervising the RSTs. An incident occurred when the RSTs confronted the appellants with an accusation that appellants had been surreptitiously recording the RSTs. Complaints were made, reports were filed and an investigation occurred which led to the charges under consideration in this matter.

At hearing, testimony was offered by both appellants and by the two RSTs they were supervising on the night in question. In addition, testimony as offered by Paul Robeson, a Sheriff's Officer with Camden County and the current President of the Police Benevolent Association (PBA); Charles Sevick a Sheriff's Officer with Camden County who is also assigned to BCI; Michael Casey, a Sergeant with the Department assigned to BCI; John Fetzer, the Chief Warrant Officer at the Camden County Sheriff's Office; Denise Obre-Davis, a Sheriff's Officer with Camden County also assigned to BCI at the time of the incident; Sharon Grate-Hameen; a lieutenant in charge of the Internal Affairs Unit for the Department; Robert Turner, and Undersheriff with the Department who oversees Internal Affairs Operations; and Adam Camp, a Lieutenant with the Department who was supervising BCI on the night of the events in questions.

The preceding statements are not in dispute and are hereby **FOUND** as **FACT**.

Considering the testimony presented and the evidence placed in the record at the hearing, I make the following **FINDINGS** of **FACT**:

The shift began at 11 PM and ended at 7 AM. At approximately 12:30 AM the sergeants left BCI apparently to conduct their supervision of officers performing security duties at other locations. During this time the RSTs noticed Olson's phone under his computer keyboard. When they looked at the phone, they noticed that it was in an active recording mode, apparently recording the room. The RSTs were upset and proceeded

to let it be known. They contacted Lieutenant Camm to make a complaint about the situation. He advised them that he would take care of it in the morning. Camm proceeded to attempt to call the appellants but did not reach them. Riggs also emailed Undersheriff Robert Turner, whom Riggs knew previously through a family connection.

Finally, the RSTs called Sergeant Callan, as Olson did not have his phone, clearly, and expressed the desire that they return to BCI. Once the appellants returned to BCI, the RSTs informed them of what they found regarding Olson's phone. Appellants denied that they had been recording the RSTs. Olson refused to delete any recording that may have been made. Appellants then again left BCI. They did not state where they were going. But they did not return to BCI for the remainder of the shift. They did not perform further superior security checks at offsite locations, nor did they return to supervise the RSTs at BCI. They also did not return lieutenant Camm's call that evening.

In the aftermath of the incident Olson reached out to Chief Fetzer, who advised him to inform Internal Affairs (IA), specifically Lieutenant Grate-Hameen of the incident. He also spoke to Sergeant Obre-Davis a number of times, both before and after being advised by IA that he should not discuss the matter with anyone. The communications seemed to be a combination of attempts to spin her on what may have happened and to glean information regarding a potential investigation of the incident.

The IA investigation was delayed significantly while the Prosecutor's office conducted its own investigation of the incident, no evidence of any recording was produced. This was because Olson had obtained a new cell phone but forgot the password used to protect the data on the prior phone and as such all data was lost during the switch and unavailable for review. Nonetheless the investigation resulted in the charges currently under consideration being proffered.

In light of the previous findings, it is noted that Olson never admitted to recording the RSTs, nor has anyone heard such recording and to be fair it is material to these proceedings that a finding be made as to whether Olson recorded the RSTs and whether he did so intentionally. While initially denying doing so, Watkins did ultimately produce a video showing Olson's phone recording. Olson denies doing so deliberately and was

unaware of the recording and never listened to it.

But both his explanation of the circumstance, the reasons why it cannot be verified, rely upon a series events, any of which taken by themselves would be unusual, and taken together merely serve to compound the sense that the series of convenient events which frustrated the investigation of the matter may not be merely coincidental. To wit: that the phone, if it was recording, had been activated accidentally; that once accidentally recording, the phone was out of site under Olson's keyboard because he used the phone to increase elevation and relieve wrist pressure; that by the time the investigation began he had obtained a new phone; that in transferring his data to his new phone he forgot the password he created to protect the recording and as a consequence the data was lost – irretrievable.

Again, any of these circumstances taken on their own may seem innocuous enough. Rare is the phone user who hasn't taken an accidental photo or initiated an inadvertent phone call. People are constantly changing or upgrading their phones. It is hardly a significant occurrence (though one may question the wisdom of retiring a phone that was likely to be the subject of investigations both criminally and administratively that may have impacted his career). But taken together these occurrences paint a picture of an attempt, more likely than not, to frustrate the truth. I further **FIND** that Olson did turn on the recording on his phone before he and Callan left to perform their security checks.

### **CONCLUSIONS OF LAW**

The Civil Service Act, N.J.S.A. 11A:1-1 to -12-6, and its implementing regulations, N.J.A.C. 4A:1-1.1 to -10-3.2, are designed in part "to encourage and reward meritorious performance by employees in the public service and to retain and separate employees on the basis of the adequacy of their performance." N.J.S.A. 11A:1-2(c). A public employee may be subject to discipline for several reasons, including "failure to perform duties," "conduct unbecoming a public employee," "neglect of duty," and "other sufficient cause," which may include violations of an appointing authority's internal rules and regulations. N.J.A.C. 4A:2-2.3(a). Major discipline for such infractions may include removal, disciplinary demotion, or a suspension or fine of more than five working



days. N.J.A.C. 4A:2-2.2(a). If a public employee appeals a major disciplinary action, the burden of proof at a hearing shall rest with the appointing authority. N.J.A.C. 4A:2-1.1; N.J.A.C. 4A:2-1.4(a); N.J.A.C. 4A:2-2.9.

In an appeal from a disciplinary action or ruling by an appointing authority, the appointing authority bears the burden of proof to show that the action taken was appropriate. N.J.S.A. 11A:2-21; N.J.A.C. 4A:2-1.4(a). The authority must show by a preponderance of the competent, relevant and credible evidence that the employee is guilty as charged. Atkinson v. Parsekian, 37 N.J. 143 (1962); In re Polk, 90 N.J. 550 (1982). When dealing with the question of penalty in a de novo review of a disciplinary action against an employee, it is necessary to reevaluate the proofs and "penalty" on appeal, based on the charges. 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).

In the present matter, Olson is charged with violations of N.J.A.C. 4A:2-2.3(1) (Incompetency, Inefficiency/failure to perform duties), N.J.A.C. 4A:2-2.3(3) (Inability to Perform Duties), N.J.A.C. 4A:2-2.3(7) (Neglect of Duty), and N.J.A.C. 4A:2-2.3(12) (Other Sufficient Cause). Callan is charged with violating N.J.A.C. 4A:2-2.3(1) (Incompetency, Inefficiency/failure to perform duties), N.J.A.C. 4A:2-2.3(7) (Neglect of Duty), and N.J.A.C. 4A:2-2.3(12) (Other Sufficient Cause).

Incompetency, inefficiency or failure to perform duties has been held to consist of the failure of an employee to adhere to proper procedures. See Okosa v. Union County Human Serv., CSV 5279-99, Initial Decision, (July 20, 2000), modified, Merit Sys. Bd.<sup>15</sup> (September 15, 2000) <<http://njlaw.rutgers.edu/collections/oal/>>.

In the present matter, both appellants have been charged under this provision. The record reflects a litany of instances where appellants did not conform to procedures. Withdrawing from BCI and sitting in the car for hours while ostensibly supervising other employees; not informing their subordinates or supervisors of their whereabouts; ignoring Lieutenant Camm's call; not reporting the incident between appellants and the RSTs. I **CONCLUDE** that respondent has demonstrated by a preponderance of credible

evidence that both appellants violated this provision, and that the charge must be **SUSTAINED** as to both appellants.

Neglect of duty is predicated on an employee's omission to perform, or failure to perform or discharge, a duty required by the employee's position and includes official misconduct or misdoing along with negligence. Clyburn v. Twp. of Irvington, CSV 7597-97, Initial Decision, (September 10, 2001), adopted, Merit Sys. Bd.<sup>16</sup> (December 27, 2001) <<http://njlaw.rutgers.edu/collections/oal/>>. See Steinel v. Jersey City, 193 N.J. Super. 629 (App. Div. 1984), aff'd on other grounds, 99 N.J. 1 (1985).

In the present matter, both appellants have been charged with neglect of duty. The record reflects that after they were confronted by Riggs and Watkins, appellants withdrew from their post and spent the rest of their shift in a car outside BCI, ignoring a call from their supervising Lieutenant and failing to report the incident. I **CONCLUDE** that respondent has demonstrated by a preponderance of credible evidence that both appellants neglected their duties, and that the charge must be **SUSTAINED** as to both appellants.

With regard to the violation of N.J.A.C. 4A:2-2.3(a)(3), inability to perform duties, the fundamental concept that one should be able to perform the duties of the position is stated in Briggs v. Department of Civil Service, 64 N.J. Super. 351, 356 (App. Div. 1960).

In the present matter, only Olson has been charged with a violation of this provision. The record reflects no competent evidence that he is or was unable to perform any of his assigned duties. I **CONCLUDE** that respondent has not demonstrated a violation of this provision, and that the charge must be **DISMISSED**.

Appellants are also charged with a violation of N.J.A.C. 4A:2-2.3(a)(12) (Other Sufficient Cause). Specifically, Olson is charged with violating Sheriff's Rules and Regulations 3:2.7 (Neglect of Duty), 3:2.8 (Failure to Take Action), 3:2.10 (Performance of Duty), 3:2.13 (Failure to Properly Supervise), 3:3.1 (Obedience to Laws and Regulations), 3:3.5 (Conduct Towards Superior and Subordinate Officers & Associates), 3:3.14 (Chain of Command), 3:4.19 (Truthfulness), 3:4.22 (Subversive Conduct), 4:1.1

(Prohibited Activity – Conduct Private Meetings) and 4:7.8 (Confidentially). Callan is charged with violating Sheriff's Rules and Regulations 3:2.7 (Neglect of Duty), 3:2.8 (Failure to Take Action), 3:2.10 (Performance of Duty), 3:2.13 (Failure to Properly Supervise), 3:3.1 (Obedience to Laws and Regulations), and 4:1.1 (Prohibited Activity – Conduct Private Meetings).

Reviewing the implicated rules and regulations (P-9), it is apparent that the mandates of Sheriff's Rules and Regulations 3:2.7 (Neglect of Duty), 3:2.8 (Failure to Take Action), 3:2.10 (Performance of Duty), 3:2.13 (Failure to Properly Supervise) and the analysis of potential violations of these regulations overlap significantly with the analysis of violations of N.J.A.C. 4A:2-2.3(1) (Incompetency, Inefficiency/failure to perform duties) and N.J.A.C. 4A:2-2.3(7) (Neglect of Duty).

As such, I **CONCLUDE** that respondent has demonstrated, by a preponderance of credible evidence, that both appellants Olson and Callan have violated Sheriff's Rules and Regulations 3:2.7 (Neglect of Duty), 3:2.8 (Failure to Take Action), 3:2.10 (Performance of Duty), 3:2.13 (Failure to Properly Supervise). The charges are **SUSTAINED** as, it follows, are the charges that both appellants violated Sheriff's Rules and Regulations 3:3. (Obedience to Laws and Regulations).

Both appellants were also charged with violating Sheriff's Rules and Regulations 4:1.1 (Prohibited Activity – Conduct Private Meetings). Reviewing the requirements of this regulation (P-9) I **CONCLUDE** that there is not enough context presented or evidence in the record to support this charge. It is **DISMISSED**.

Olson was additionally charged with violations of 3:3.5 (Conduct Towards Superior and Subordinate Officers & Associates), 3:3.14 (Chain of Command), 3:4.19 (Truthfulness), 3:4.22 (Subversive Conduct), and 4:7.8 (Confidentially).

As to:

3:3.5 (Conduct Towards Superior and Subordinate Officers & Associates), I **CONCLUDE** that the recording of RSTs Riggs and Watkins by Olson violated this provision. **SUSTAINED**.

3:3.14 (Chain of Command), I **CONCLUDE** that by not returning the call of Lieutenant Camm and attempting to go directly to Chief Fetzer, Olson violated this provision. **SUSTAINED**.

3:4.19 (Truthfulness), I **CONCLUDE** that the convenient inability by Olson to provide critical information regarding this matter constitutes a violation of Section C of this provision. **SUSTAINED**.

3:4.22 (Subversive Conduct), I **CONCLUDE** that by recording his colleagues and attempting to manipulate the investigation and disciplinary process, Olsen violated this provision. **SUSTAINED**.

4:7.8 (Confidentially), I **CONCLUDE** that by attempting to speak to others regarding the incident and its investigation, specifically Sergeant Obrey-Davis, after being directed not to, Olson violated this provision. **SUSTAINED**.

Considering the foregoing, I **CONCLUDE** that the charge of violating N.J.A.C. 4A:2-2.3(a)(12) (Other Sufficient Cause) must be **SUSTAINED** as to both appellants.

### **PENALTY**

Since the Department has sustained charges against appellants, it is necessary to determine the penalty to be imposed. This inquiry often involves the concept of progressive discipline, which provides that “past misconduct can be a factor in the determination of the appropriate penalty for present misconduct.” In re Hermann, 192 N.J. 19, 29 (2007) (citing Bock, 38 N.J. at 522). An employee’s past record includes “an employee’s reasonably recent history of promotions, commendations and the like on the

one hand and, on the other, formally adjudicated disciplinary actions as well as instances of misconduct informally adjudicated, so to speak, by having been previously brought to the attention of and admitted by the employee.” Bock, 38 N.J. at 523-24.

The concept of progressive discipline may “support the imposition of a more severe penalty for a public employee who engages in habitual misconduct” or “mitigate the penalty for a current offense . . . for an employee who has a substantial record of employment that is largely or totally unblemished by significant disciplinary infractions.” Hermann, 192 N.J. at 30-33. However, progressive discipline may be bypassed “when the misconduct is severe, when it is unbecoming to the employee’s position or renders the employee unsuitable for continuation in the position, or when application of the principle would be contrary to the public interest.” Id. at 33.

The Civil Service Commission’s review of penalty is de novo. N.J.S.A. 11A:2-19 and N.J.A.C. 4A:2-2.9(d) specifically grant the Commission authority to increase or decrease the penalty imposed by the appointing authority.

General principles of progressive discipline apply. Town of W. New York v. Bock, 38 N.J. 500, 523 (1962). Typically, the Board considers numerous factors, including the nature of the offense, the concept of progressive discipline and the employee’s prior record. George v. N. Princeton Developmental Ctr., 96 N.J.A.R.2d (CSV) 463.

“Although we recognize that a tribunal may not consider an employee’s past record to prove a present charge, West New York v. Bock, 38 N.J. 500, 523 (1962), that past record may be considered when determining the appropriate penalty for the current offense.” In re Phillips, 117 N.J. 567, 581 (1990).

Ultimately, however, “it is the appraisal of the seriousness of the offense which lies at the heart of the matter.” Bowden v. Bayside State Prison, 268 N.J. Super. 301, 305 (App. Div. 1993), certif. denied, 135 N.J. 469 (1994).

The Commission has authority to increase the penalty beyond that established by the appointing authority’s Final Notice of Disciplinary Action, but not to removal from

suspension. N.J.S.A. 11A:2-19. The Civil Service Commission may increase or decrease the penalty imposed by the appointing authority, but removal shall not be substituted for a lesser penalty. See Sabia v. City of Elizabeth, 132 N.J. Super. 6, 15–16 (App. Div. 1974), certif. denied, Elizabeth v. Sabia, 67 N.J. 97 (1975).

Maintenance of strict discipline is important in military-like settings such as police departments, prisons and correctional facilities. Rivell v. Civil Serv. Comm'n, 115 N.J. Super. 64, 72 (App. Div.), certif. denied, 50 N.J. 269 (1971); City of Newark v. Massey, 93 N.J. Super. 317 (App. Div. 1967). Refusal to obey orders and disrespect of authority cannot be tolerated. Cosme v. Borough of E. Newark Twp. Comm., 304 N.J. Super. 191, 199 (App. Div. 1997).

The need for proper control over the conduct of inmates in a correctional facility and the part played by proper relationships between those who are required to maintain order and enforce discipline and the inmates cannot be doubted. We can take judicial notice that such facilities, if not properly operated, have a capacity to become "tinderboxes."

[Bowden v. Bayside State Prison, 268 N.J. Super. 301, 305-06 (App. Div. 1993), certif. denied, 135 N.J. 469 (1994).]

In the present matter, both appellants are superior officers and are to be held to a higher standard. The record reflects that Sergeant Olson recorded his colleagues at BCI without their knowledge and took steps to ensure that the recording was never heard and to either frustrate, manipulate or gain insight to any IA investigation resulting from this incident.

Both Olson and Callan on the evening in question, withdrew from their assignment and failed to perform their duties for a large portion of their shift on the night in question. They provided supervision to neither the RSTs at BCI nor the officers providing security services at other locations and instead spent hours in the car, either on the road or parked outside BCI. They avoided a call from a superior officer and did not take steps to appropriately report the incident. The sustained charges no doubt support the imposition of major discipline. While both appellants have essentially unremarkable disciplinary histories, strict discipline must be maintained in a Sheriff's Department, and both are

superior officers who must be held to a higher standard and set an appropriate example. In light of the totality of the circumstances I **CONCLUDE** that the imposed suspensions, ninety days for Olson and forty-five days for Callan, are appropriate and should be **MODIFIED** to thirty days for Olson and fifteen days for Callan.

**ORDER**

I **ORDER** that the charges of violations of N.J.A.C. 4A:2-2.3(1) (Incompetency, Inefficiency/failure to perform duties)), N.J.A.C. 4A:2-2.3(7) (Neglect of Duty), and N.J.A.C. 4A:2-2.3(12) (Other Sufficient Cause), against both appellants Olson and Callan be and are hereby **SUSTAINED**.

I further **ORDER** that the charge of violating N.J.A.C. 4A:2-2.3(3) (Inability to Perform Duties) against appellant Olson be and is hereby **DISMISSED**.

I finally **ORDER** that the forty-five-day suspension of Sergeant Callan and the ninety-day suspension of Sergeant Olson be **MODIFIED** to thirty days for Olson and fifteen days for Callan.

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 17, 2024  
DATE

ELIA A. PELIOS, ALJ

Date Received at Agency:

April 17, 2024

Date Mailed to Parties:

April 17, 2024

EAP/caa



**APPENDIX**

**WITNESSES**

**For Appellants:**

Michael Olson  
Jason Callan  
Paul Robeson  
Robert Turner  
Charles Sevick

**For Respondent:**

Dara Riggs  
Gail Watkins  
Adam Camm  
Sharon Grate-Hameen  
Denise Obre-Davis  
John Fetzer  
Michael Casey

**EXHIBITS**

**For Petitioner:**

- P-1 Supervision Policy
- P-2 General Order 11.00 - Disciplinary Policy - Review Board
- P-3 Internal Affairs Policies and Procedures
- P-4 Investigation Report, dated April 26, 2019
- P-5 Handwritten Notes of Investigator
- P-6 Handwritten Notes Between the Sheriff and BCI Unit
- P-7 Diagram
- P-8 Correspondence Between Sheriff's Dept and Prosecutor's Office

- P-9 Camden County Sheriff's Department Rules and Regulations
- P-10 Statement of RST Dara Riggs, dated August 22, 2018
- P-11 Statement of RST Gail Watkins, dated August 23, 2018
- P-12 Statement of Lt. Adam Camm, dated January 31, 2019
- P-13 Statement of Sgt. Denise Obre-Davis, dated August 23, 2018
- P-14 Statement of Sheriff's Officer Paul Robeson, dated August 27, 2018
- P-15 Statement of Sgt. Jason Callan, dated January 22, 2019
- P-16 Statement of Sgt. Michael Olson, dated April 4, 2019
- P-17 Michael Olson Certificate of Release or Discharge from Active Duty
- P-18 Jason Callan Preliminary Notice of Disciplinary Action (31-A) (PNDA), dated May 3, 2019
- P-19 Michael Olson Preliminary Notice of Disciplinary Action (31-A) (PNDA), dated May 3, 2019

**For Respondents:**

- R-1 Michael Olson Final Notice of Disciplinary Action (FNDA)
- R-2 Jason Callan Final Notice of Disciplinary Action (FNDA)
- R-3 Camden County Sheriff's Manual of Rules and Regulations
- R-4 Email from Dara Riggs to Robert Turner, dated August 21, 2018
- R-5 Email from John Fetzer to Adam Camm, dated August 21, 2018
- R-6 Email from John Fetzer to Thomas Schlichtig, dated August 24, 2018
- R-7 Investigation Report of Obre-Davis, dated August 24, 2019
- R-8 Email from Denise Obre-Davis to Sharon Grate-Hameen, dated August 27, 2018
- R-9 Phone Records of Denise Obre-Davis, dated August 23, 2018
- R-10 Statement of RST Gail Watkins, dated August 23, 2018
- R-11 Statement of RST Dara Riggs, dated August 22, 2018
- R-12 Statement of Sgt. Michael Olson, dated April 4, 2019
- R-13 Statement of Sgt. Jason Callan, dated January 22, 2019
- R-14 Statement of Lt. Adam Camm, dated January 31, 2019
- R-15 Statement of Sgt. Denise Obre-Davis, dated August 23, 2018
- R-16 Statement of Sheriff's Officer Paul Robeson, dated August 27, 2018
- R-17 Daily Activity Sheet for Paul Robeson, dated August 21, 2018

- R-18 Daily Activity Sheet for Glenn Vanleer, dated August 21, 2018
- R-19 Daily Activity Sheet for Sgt. Scott Mennel, dated August 21, 2018
- R-20 Daily Activity Sheet for Andrew Austin, dated August 21, 2018
- R-21 Disciplinary History for Sgt. Jason Callan (dated April 17, 2015; September 28, 2015; and December 8, 2015)
- R-22 Disciplinary History for Sgt. Michael Olson (dated January 12, 2010; January 4, 2011; August 7, 2013; and October 14, 2015)