



**STATE OF NEW JERSEY**

In the Matters of S.J., Boonton

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

CSC Docket Nos. 2025-1080 and  
2025-910

Request for Reconsideration  
Request for Enforcement

**ISSUED: March 19, 2025 (HS)**

Boonton, represented by Adam S. Abramson-Schneider, Esq., requests reconsideration of *In the Matter of S.J., Boonton* (CSC, decided October 16, 2024). S.J., a Police Captain with Boonton, represented by Matthew A. Peluso, Esq., requests enforcement of the decision. These matters have been consolidated herein.

As background, on October 18, 2022, the appointing authority immediately suspended S.J. with pay and presented him with a Preliminary Notice of Disciplinary Action (PNDA) indicating administrative charges of insubordination; conduct unbecoming a public employee; neglect of duty; other sufficient cause; misconduct, *N.J.S.A. 40A:14-147*; violating police department rules and regulations; and violating duty assignment and overtime procedures. On February 8, 2023, S.J. was criminally charged with computer criminal activity, *N.J.S.A. 2C:20-25e*; theft by unlawful taking or disposition, *N.J.S.A. 2C:20-3a*; tampering with public records or information, *N.J.S.A. 2C:28-7a(3)*; and falsifying or tampering with records, *N.J.S.A. 2C:21-4a*, crimes of the second, third, or fourth degrees. Thus, on February 10, 2023, the appointing authority immediately suspended S.J. without pay and presented him with another PNDA proposing an indefinite suspension. On that same date, the appointing authority also issued S.J. the following correspondence:

As you are aware, you were previously suspended with pay on October 18, 2022 in response to the PNDA dated October 18, 2022. However, this memorandum puts you on notice that your suspension is being modified to a suspension without pay in response to being charged with

crimes of the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> degree. Specifically, on February 8, 2023 you were charged with *N.J.S.A. 2C:20-25e*, *N.J.S.A. 2C:20-3a*, *N.J.S.A. 2C:28-7a(3)*, and *N.J.S.A. 2C:21-4a*. Your continued suspension is necessary to maintain safety, health, order, and effective direction of public services and you are unfit for duty. This notice shall also serve as written notification of why the suspension is sought in compliance with *N.J.A.C. 4A:2-2.5(b)*. This suspension shall be indefinite pending the disposition of your criminal charges.

S.J. did not request a hearing on the February 10, 2023 PNDA. On February 21, 2023, the appointing authority presented S.J. with a Final Notice of Disciplinary Action (FNDA) imposing an indefinite suspension pending criminal charges, effective February 10, 2023. On May 30, 2024, the court dismissed the criminal charges without prejudice and further ordered that pursuant to *N.J.S.A. 2C:52-6*, an order of expungement shall be granted pursuant to this dismissal for “all records and information related to the arrest.” On June 5, 2024, the Attorney General’s Office of Public Integrity and Accountability (OPIA) indicated that it “fully intend[ed] to proceed with criminal charges against [S.J.]” On June 14, 2024, the appointing authority issued correspondence stating that S.J. would “remain[ ] suspended without pay pending additional criminal charges. Additionally, [S.J.] no longer possesses his [law enforcement] license as it has been suspended [by the Police Training Commission (PTC)].”

In the previous matter, the Civil Service Commission (Commission) determined that it was appropriate for the appointing authority to immediately and indefinitely suspend S.J. on February 10, 2023 pending the disposition of criminal charges. However, the record reflected that on June 3, 2024, the appointing authority received notice that the court had dismissed the criminal complaint that was the basis for S.J.’s indefinite suspension.<sup>1</sup> The Commission noted that upon dismissal of the criminal charges, an employee is entitled to immediate reinstatement to employment following an indefinite suspension or prompt service of any remaining administrative charges upon which the appointing authority wishes to base disciplinary action. See *N.J.A.C. 4A:2-2.7(b)1*. Even when an employee is ultimately removed on administrative disciplinary charges, the employee may be awarded back pay for any undue delay on the appointing authority’s part for the period between dismissal of the criminal charges and service of a PNDA setting forth any remaining administrative charges. To determine otherwise would be contrary to *N.J.A.C. 4A:2-2.7(a)2*, which purpose is to keep public employees from being held in limbo indefinitely even after being exonerated in a criminal proceeding. Thus, the Commission deemed the appointing authority’s inaction from June 3, 2024 onward

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<sup>1</sup> The appointing authority indicated that even assuming, *arguendo*, the criminal charges were not refiled, it would proceed with an additional notice of disciplinary action seeking S.J.’s removal based on the conduct that gave rise to the criminal complaint, which would similarly subject him to an unpaid suspension.

improper and awarded a limited back pay remedy. Specifically, the Commission ordered that S.J. receive back pay from June 3, 2024 until the appointing authority reinstated him; reissued the October 18, 2022 PNDA and converted the immediate suspension with pay to an immediate suspension without pay, if applicable; or issued a new immediate suspension/PNDA setting forth any and all remaining administrative charges.

### **Request for Reconsideration**

In its request for reconsideration, the appointing authority states that as part of the Attorney General's Office's investigation and charges against S.J., that office took S.J.'s personnel and internal affairs files and will not release them to the appointing authority. Further, the appointing authority maintains, the Attorney General's Office would not have the documents but for S.J.'s illegal conduct in removing documents, files, and hard drives from the Police Department. It is impossible, per the appointing authority, for the parties to move forward with a departmental hearing when they do not have the evidence necessary to present in connection with the discipline because it remains with the Attorney General's Office as a result of S.J.'s actions. The appointing authority states that the disciplinary hearing will be held once the vital documents that are required as evidence at such hearing are released by the Attorney General's Office and can be presented at the hearing. Further, the appointing authority contends that it should not be required to restore S.J. to the payroll. Rather, he should remain on an unpaid suspension so as to prevent the appointing authority from violating the law, *see N.J.S.A. 52:17B-67.1* (person not to be employed as law enforcement officer without holding valid, active license), and wasting taxpayer resources, pending restoration of his license by the PTC.

In response, S.J. argues that the appointing authority's request presents no new evidence or any clear, material error in the Commission's prior decision. Rather, it is merely a "second bite of the apple" and an attempt to stall his return to work. Further, S.J. maintains, the request is legally moot since there are no valid existing criminal or administrative charges against him, nor can there ever be any new criminal or administrative charges against him for any of the allegations in the October 18, 2022 PNDA or February 21, 2023 FNDA. Thus, S.J. urges that he must be immediately returned to employment with his full salary and paid all back pay from February 10, 2023 to the present.

### **Request for Enforcement**

In his request for enforcement, S.J. asserts that the charges contained in the October 18, 2022 PNDA could not have been lawfully brought against him given the Morris County Prosecutor's Office's failure to indicate whether the charges were "sustained" to the appropriate authority since the appropriate authority was barred

by the Attorney General's Internal Affairs Policy and Procedures (IAPP) in making any such determinations on its own. Those charges, according to S.J., were also unlawfully issued in violation of *N.J.S.A. 40A:14-118* and the Open Public Meetings Act (OPMA). In addition, the criminal charges were dismissed, and any administrative charges relating back to those criminal charges would now be time-barred.<sup>2</sup> He adds that the February 10, 2023 PNDA and February 21, 2023 FNDA were unlawfully issued in violation of *N.J.S.A. 40A:14-118* and the OPMA.

S.J. contests the appointing authority's (1) refusal to return him to active employment; (2) continuing suspension of him without pay; and (3) refusal to issue him back pay from the date of his suspension without pay on February 21, 2023 to the present, caused solely as the result of the now-dismissed criminal charges, despite: (a) the Commission's October 16, 2024 decision; (b) dismissal of the criminal charges on May 30, 2024; (c) no new criminal charges or indictments having been filed against him by the Attorney General or any other law enforcement agency in the months since dismissal of all criminal charges by the Attorney General's Office against him; and (d) no new administrative charges filed against him, despite having two years to bring any such new administrative charges. S.J. seeks: (1) a return to active employment and reinstatement of his full salary; and (2) payment of all back pay due to him from February 10, 2023 to the present.

In response, the appointing authority proffers that enforcement actions are not one of the well-established purposes of the Commission's appeals procedure. Moreover, the Commission does not have the jurisdiction to enforce the prior decision because both *N.J.S.A. 11A:10-4* and *N.J.A.C. 4A:10-2.3* provide that the proper procedure for bringing an enforcement action in relation to a Commission decision is to advance such enforcement action in the Superior Court. The appointing authority asserts that there is no statute or regulation that affords the Commission the authority or ability to enforce its own decisions. The appointing authority adds that New Jersey Court Rule 4:67-6 further confirms that the Superior Court is the appropriate forum.<sup>3</sup>

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<sup>2</sup> S.J. contends that the appointing authority unlawfully submitted certain expunged documents relating to the criminal charges and asks the Commission to immediately remove those documents from the record. The Commission has no basis to do so at this juncture as those documents were made part of the record, and appeal files are maintained according to set retention schedules. However, it is noted that appeal files in any Commission matters shall not be considered government records subject to public access pursuant to the Open Public Records Act. *See N.J.A.C. 4A:1-2.2(c)1*.

<sup>3</sup> The appointing authority also argued that S.J.'s enforcement request must be stayed pending a decision on its reconsideration request in the interest of judicial economy and the avoidance of potentially contradictory rulings. Because the Commission is considering these matters in a consolidated fashion, these concerns have been addressed.

## CONCLUSION

### **Request for Reconsideration**

*N.J.A.C.* 4A:2-1.6(b) provides that a petition for reconsideration shall be in writing signed by the petitioner or the petitioner's representative and must show the following: (1) the new evidence or additional information not presented at the original proceeding, which would change the outcome and the reasons that such evidence was not presented at the original proceeding; or (2) that a clear material error has occurred. A review of the record reveals that reconsideration is not justified.

The suspension of S.J.'s law enforcement license and generalized concerns over wasting taxpayer resources cannot justify S.J.'s continued unpaid suspension. The Commission already indicated in the prior decision that the appointing authority was not strictly being ordered to reinstate S.J. to active law enforcement duties. The prior decision was also clear in noting S.J.'s Civil Service rights at this juncture. Specifically, upon dismissal of criminal charges, an employee is entitled to immediate reinstatement to employment following an indefinite suspension or prompt service of any remaining administrative charges upon which the appointing authority wishes to base disciplinary action. Further, the employee may be awarded back pay for any undue delay on the appointing authority's part for the period between dismissal of the criminal charges and service of a PNDA setting forth any remaining administrative charges. The appointing authority's position that the disciplinary hearing will go forward only when certain vital documents required as evidence are released by the Attorney General's Office is similarly untenable. The criminal charges were dismissed. Continuing to keep S.J. in limbo when his Civil Service rights are clear, *see N.J.S.A.* 11A:2-13, *N.J.A.C.* 4A:2-2.7(a)2, and *N.J.A.C.* 4A:2-2.7(b)1, cannot be sanctioned. Accordingly, the appointing authority has not met the standard for reconsideration as it has not shown that a clear material error has occurred or presented new information that would change the outcome.

### **Request for Enforcement**

The appointing authority relies on *N.J.S.A.* 11A:10-4, *N.J.A.C.* 4A:10-2.3, and New Jersey Court Rule 4:67-6 to argue that the Superior Court is the only appropriate forum to enforce a Commission decision and that the Commission lacks the ability to enforce its own decisions. However, pursuant to *N.J.A.C.* 4A:10-2.1(a)1, where a violation of or noncompliance with Civil Service law or regulations is found, the Commission may issue an order of compliance. *See also, N.J.A.C.* 4A:2-1.8(a)14 (listing "[e]nforcement" of a Commission decision as a type of appeal). As such, the Commission has the ability to enforce the prior decision and, because the appointing authority did not meet the standard for reconsideration, now does so. The appointing authority shall immediately provide S.J. with back pay from June 3, 2024 until it reinstates him; reissues the October 18, 2022 PNDA and converts the immediate

suspension with pay to an immediate suspension without pay, if applicable; or issues a new immediate suspension/PNDA setting forth any and all remaining administrative charges.

The Commission is specifically given the power to assess compliance costs and fines against an appointing authority, including all administrative costs and charges, as well as fines of not more than \$10,000, for noncompliance or violation of Civil Service law or rules or any order of the Commission. *N.J.S.A. 11A:10-3; N.J.A.C. 4A:10-2.1(a)2. See In the Matter of Fiscal Analyst (M1351H), Jersey City*, Docket No. A-4347-87T3 (App. Div. February 2, 1989). As noted above, the appointing authority has been ordered to take immediate action upon the issuance of this decision. If, however, the appointing authority has not acted within 30 days of the issuance of this decision, it shall be assessed a fine of \$100 per day, beginning on the 31st day following the issuance of this decision, for each day of continued violation up to a maximum of \$10,000.

However, the Commission declines to go further and order S.J.'s return to active employment and payment of all back pay due to him from February 10, 2023, the date he was indefinitely suspended pending criminal charges. In this regard, the appointing authority is not strictly required to return S.J. to active employment at this juncture. Further, the appointing authority has indicated its intent to bring administrative charges based on the conduct that gave rise to the criminal charges, and it may still do so under the Commission's order in this decision. As such, it remains premature to consider a back pay award dating from February 10, 2023.<sup>4</sup> Finally, the Commission will not address S.J.'s arguments that the charges contained in the various disciplinary notices were unlawful in light of the IAPP, *N.J.S.A. 40A:14-118*, the OPMA, and untimeliness. These arguments going to the propriety of the charges are misplaced at this stage in the proceedings as it must be emphasized that the Commission's role at this stage is not to adjudicate the merits of any charges.

## ORDER

Therefore, it is ordered that Boonton's request for reconsideration be denied. It is further ordered that S.J.'s request for enforcement be granted in part as set forth above.<sup>5</sup>

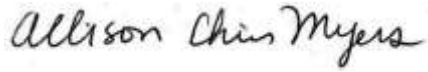
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<sup>4</sup> "If a suspended police officer is found not guilty at trial, the charges are dismissed or the prosecution is terminated, said officer shall be reinstated to his position and shall be entitled to recover all pay withheld during the period of suspension *subject to* any disciplinary proceedings or administrative action." *N.J.S.A. 40A:14-149.2* (emphasis added).

<sup>5</sup> It is noted that S.J. appears to believe that his appeal dated June 21, 2024 remains pending before the Commission. That is not the case. The Commission accepted the June 21, 2024 appeal as a request for interim relief and disposed of it in the prior decision. *See In the Matter of S.J., Boonton* (CSC, decided October 16, 2024). With the instant decision, which effectively affirms that prior decision, S.J. has no pending appeals before the Commission.

This is the final administrative determination in these matters. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 19<sup>TH</sup> DAY OF MARCH, 2025



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