



## STATE OF NEW JERSEY

In the Matter of Robert Cuevas,  
Pennsauken, Department of Public  
Safety

**DECISION OF THE  
CIVIL SERVICE COMMISSION**

CSC DKT. NO. 2023-2164  
OAL DKT. NO. CSV 03266-23

ISSUED: JUNE 11, 2025

The appeal of Robert Cuevas, Emergency Medical Technician, Pennsauken, Department of Public Safety, removal, effective February 10, 2023, was heard by Administrative Law Judge Elaine B. Frick, who rendered her initial decision on May 12, 2025. Exceptions were filed on behalf of the appointing authority.

Having considered the record and the ALJ's initial decision, including a thorough review of the exceptions, and having made an independent evaluation of the record, the Civil Service Commission (Commission), at its meeting of June 11, 2025, accepted and adopted the Findings of Fact and Conclusions as contained in the attached ALJ's initial decision and her recommendation to reverse the removal.

As indicated above, the Commission has thoroughly reviewed the exceptions filed by the appointing authority in this matter and finds them unpersuasive. In this regard, the ALJ's determinations are predominantly based on her assessment of the credible evidence in the record. In this regard, while the ALJ did not make explicit credibility determinations, it is clear that she found the appellant's testimony credible, and that no other evidence in the record substantially contradicted that testimony. 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, the exceptions filed are not persuasive in demonstrating that the ALJ's determinations, or her findings and conclusions based on those determinations, were arbitrary, capricious or unreasonable. As such, the Commission has no reason to question those determinations, or the findings and conclusions made therefrom.

The Commission further rejects the appointing authority's contention that the ALJ should have upheld the charge that the appellant was "involved" in a crime of moral turpitude. The ALJ clearly found that the evidence in the record did not support that the appellant's actions were worthy of discipline. The criminal charge was never sustained and ultimately dismissed. Further, the ALJ found, and the Commission agrees, that none of the appellant's other actions rose to an actionable "offense." In this regard, the ALJ stated:

This administrative charge asserts that Cuevas was "involved" in a crime of moral turpitude. There has been no evidence presented to demonstrate that Cuevas retained personal property or cash belonging to another. The Township asserts that Cuevas held onto the wallet for an unspecified period of time. Retaining a found wallet for an "unspecified period of time" is not a crime of moral turpitude. The Township has not asserted that Cuevas committed theft by taking money from the wallet. They specifically assert that whether Cuevas stole money from the wallet is immaterial because the department cannot trust a public servant who "explicitly lied on two separate occasions during official investigations."

There is no sufficient evidence to demonstrate that Cuevas was untruthful to the police or untruthful to the department. The department simply finds Cuevas to be disingenuous because there is no mention of him having a bathroom emergency in the summary statement in the affidavit of probable cause completed for the Complaint-Summons, yet he stated that he had a bathroom emergency in the questionnaire completed for the administrative investigation.

The Township has failed to demonstrate that Cuevas was "involved" in a crime of moral turpitude. I **CONCLUDE** this administrative charge shall be **DISMISSED**.

Finally, the Commission is not persuaded by the appointing authority's argument that the ALJ did not make an assessment regarding the alleged false report charge. In the initial decision, the ALJ concluded that based on the appellant's credible testimony and the other credible evidence in the record, that his actions regarding his possession and return of the wallet in question were not improper and

that the information he provided in the investigations was not materially inconsistent and, thus, not false. For example, the ALJ states:

The unbecoming conduct the Township asserts Cuevas engaged in is that Cuevas lied to the police, and proceeded to lie to the Department . . .

Cuevas testified that he held onto the wallet when he saw the address on the driver's license and thought he would drop it off at the end of his shift. He tended to his bathroom emergency, but when he was disgusted with the condition of the Wawa bathroom, made his purchase, then left the Wawa to go back to the station. He used the bathroom there, then realized he left his cell phone at the Wawa. Since he returned to the Wawa to pick up his cell phone, he decided to turn the wallet in at the store since he was there. This is consistent with the answers provided in this questionnaire. The absence of his bathroom issues in the affidavit of probable cause prepared by a detective, relying upon a hearsay report by another officer, and providing only a brief summary, with no direct quotes attributed to Cuevas, does not demonstrate that Cuevas lied to the police. I **CONCLUDE** there is no evidence that Cuevas lied to the police since there is no mention of a bathroom emergency in the Complaint-Summons, and then lied to the department in his written answers to the administrative questionnaire.

Upon its review, the Commission finds nothing in the record or the exceptions demonstrating that this finding was arbitrary, capricious or unreasonable.

Since the removal has been reversed, the appellant is entitled to be reinstated with mitigated back pay, benefits, and seniority pursuant to *N.J.A.C. 4A:2-2.10* from the first date of separation without pay until the date of actual reinstatement.

This decision resolves the merits of the dispute between the parties concerning the disciplinary charges and the penalty 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. In the interim, as the court states in *Phillips, supra*, if it has not already done so, upon receipt of this decision, the appointing authority shall immediately reinstate the appellant to his permanent position.

### ORDER

The Civil Service Commission finds that the action of the appointing authority in removing the appellant was not justified. The Commission therefore reverses the removal and grants the appeal of Robert Cuevas.

The Commission orders that the appellant be granted back pay, benefits, and seniority from the appellant's first date of separation without pay to the actual date of reinstatement. 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. However, under no circumstances should the appellant's reinstatement be delayed pending resolution of any potential back pay dispute.

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 11<sup>TH</sup> DAY OF JUNE, 2025



Allison Chris Myers  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Nicholas F. Angiulo  
Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
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Attachment



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

**INITIAL DECISION**

OAL DKT. NO. CSV 03266-23

AGENCY NO. 2023-2164

**IN THE MATTER OF ROBERT CUEVAS,  
PENNSAUKEN TOWNSHIP,  
DEPARTMENT OF PUBLIC SAFETY.**

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**Robert Cuevas, pro se**

**Arlette Laybe, Esq., for respondent, Pennsauken Township Department of Public  
Safety (Brown & Connery, LLP, attorneys)**

Record closed: April 10, 2025

Decided: May 12, 2025

**BEFORE ELAINE B. FRICK, ALJ:**

**STATEMENT OF THE CASE**

Respondent, Pennsauken Township Department of Public Safety (the Township or respondent) asserts that it properly disciplined Robert Cuevas (Cuevas) an emergency medical technician, by removing him from his employment. The Township asserts Cuevas violated multiple charges under N.J.A.C. 4A:2-2.3(a), for having engaged in conduct unbecoming a public employee, having failed to perform his duties, and having neglected his duties, in violation of the Township's standard operating procedures. The Township contends these charges should be sustained due to Cuevas having retained a wallet he found in a Wawa parking lot for an "unspecified" period of time before turning it

into the Wawa management, and for having provided untruthful and conflicting statements to the police department during the criminal investigation and during the department's administrative investigation of the matter. Cuevas challenges the discipline imposed, denying the assertions of the Township, and seeks to be reinstated to his position of employment with the Township. The evidence presented does not demonstrate that Cuevas was untruthful or provided conflicting statements during the investigations, nor that his actions in failing to immediately turn the wallet in to the Wawa management demonstrate a violation of any of the specific charges made against him. No charges have been sustained and Cuevas should be reinstated to his employment.

### **PROCEDURAL HISTORY**

The Township issued a Final Notice of Disciplinary Action (FNDA) on March 24, 2023, imposing discipline of removal from employment upon Cuevas, effective February 10, 2023. Cuevas appealed the determination. The matter was transmitted to the Office of Administrative Law (OAL) where it was filed on April 14, 2023, to be heard as a contested case. N.J.S.A. 52:14B-1 to 14B-15; N.J.S.A. 52:14F-1 to 14F-13.

The parties participated in several telephonic conferences. Hearing dates were set and adjourned several times due to scheduling conflicts and witness availability issues. The hearing was conducted in person at the OAL on January 31, 2025. A written summation submission schedule was established.

Respondent's request for an extension of the summation briefing was granted. The parties submitted written summations and the record closed.

### **FACTUAL DISCUSSION AND FINDINGS**

The following information was derived from the testimony and evidence and determined to be undisputed. I thus **FIND** as **FACTS** the following:

Robert Cuevas began his employment as an Emergency Management Technician (EMT) for the Township of Pennsauken in July 2007. The EMT's are part of the Township's Department of Public Safety, overseen through the fire department.

Cuevas was continuously employed for the Township from his initial hire date and at some point thereafter promoted to the position of Senior EMT. Cuevas was a Senior EMT for the Township as of the incident date of May 24, 2022. Cuevas has no prior discipline. This matter is the first discipline issue for him.

On July 6, 2022, Cuevas was arrested pursuant to a criminal Complaint-Summons which asserted he committed a third degree criminal theft offense in violation of N.J.S.A. 2C:20-6 on May 24, 2022, by coming into control of lost property with the purpose to deprive the owner of \$600 cash. (R-1.) The complaint indicated that Cuevas found a lost wallet in the parking lot of a Wawa market and removed cash from the wallet before turning it into the store personnel. (R-1.)

The criminal charge was apparently remanded from Superior Court to the local municipal court. The criminal complaint was dismissed in municipal court. (R-2 at 14.) An expungement order was entered on November 2, 2022, confirming all records and information pertinent to Cuevas' arrest and criminal complaint were to be removed/expunged from the files and not released by various federal, state, county, and local law enforcement agencies, and court tribunals. (R-2 at 16-17.)

The Township proceeded thereafter with its own administrative investigation of Cuevas regarding the incident of May 24, 2022, since Cuevas was working his shift at the time. As a result of its investigation, the Township issued a Preliminary Notice of Disciplinary Action (PNDA) on February 10, 2023, to Cuevas, charging him with having violated multiple sections of N.J.A.C. 4A:2-2.3(a) by engaging in conduct that violated the Township's standard operating procedures. The anticipated discipline to be imposed was removal from employment. (R-5.)

A departmental hearing was conducted. The Township issued a Final Notice of Disciplinary Action (FNDA) on March 24, 2023, removing Cuevas from his employment, effective February 10, 2023. (R-4.) The FNDA listed the sustained charges of:

1. N.J.A.C. 4A:2-2.3(a)6, conduct unbecoming a public employee (one count) PFD SOP Section 108, Article I;
2. N.J.A.C. 4A:2-2.3(a)6, conduct unbecoming a public employee (one count) PFD SOP Section 108, Article I, section 3
3. N.J.A.C. 4A:2-2.3(a)1, failure to perform duties (one count) PFD SOP Section 108, Article I, Section 5
4. N.J.A.C. 4A:2-2.3(a)7, neglect of duty (one count) PFD SOP Section 108, Article IV.

(R-4.)

The FNDA listed information identifying the incident giving rise to the administrative charges as:

1. Employee found personal property not belonging to him and kept the property [sic] in his possession for an unspecified period of time.
2. Employee knowingly and willfully kept personal property not belonging to him for an unspecified [sic] period of time.
3. Employee was disengenuous [sic] in the performance of his duties, knowingly and willfully submitting a false report to law enforcement.
4. Employee violated his oath and responsibilities as a sworn public official and violated [sic] public trust.

(R-4.)

Jeremy Ruchlin, Sergeant from the Mount Laurel Police Department, testified. He was a detective in 2022 and assigned to conduct an investigation of Cuevas. Sergeant Ruchlin prepared the Complaint-Summons, charging Cuevas with theft on May 24, 2022, by having removed \$600 cash from a wallet Cuevas found in the Wawa parking lot, before Cuevas brought the wallet into the store and turned it over to the store management. (R-1.)

Sergeant Ruchlin was assigned to investigate the matter involving the wallet. He reviewed relevant case reports prepared by others and obtained video from the



ambulance, video from inside the ambulance station, and video surveillance from the Wawa store. He also met with the victim and obtained his statement. None of the reports or videos were presented in the matter. Sergeant Ruchlin testified about what he read in the reports and what he saw in the videos.

Sergeant Ruchlin stated that the victim reported to Sergeant Ruchlin that he went to the local Wawa, and when he went to make a purchase he realized he did not have his wallet. The victim reportedly went home and could not find his wallet. He called the Wawa and was told that someone turned the wallet in. He went back to the Wawa, retrieved his wallet and estimated that approximately \$600 was missing. He was told by a Wawa representative that an EMT had returned the wallet. The victim had a "tile tracker" similar to an Apple Air Tag in his wallet, which can track the wallet's location. The victim reported to Sergeant Ruchlin that the tile tracking report indicated the wallet went from Wawa to an intersection close to the ambulance station, and then back to the Wawa.

Sergeant Ruchlin did not interview Cuevas at the time of his investigation. Another officer interviewed Cuevas and completed a report. Sergeant Ruchlin believed that the report by the officer indicated that Cuevas stated he went to Wawa, made a purchase, realized he forgot his cell phone there, and when he returned to get it, he found the wallet and turned it in.

Sergeant Ruchlin testified about his recollection of the videos he reviewed. He saw the victim enter the Wawa store and while inside, the ambulance pulled into the parking lot and Cuevas and his partner entered the store. The victim left. Cuevas made a purchase by removing a brown wallet from his pocket, and then exited the store. Cuevas is seen bending over in the parking lot in the area where the victim had parked, and then returned to the ambulance.

Sergeant Ruchlin testified that the video surveillance from the ambulance station shows that when the ambulance arrived at the station, Cuevas went into the station, entered the restroom, and when he exited the restroom, he was holding a black bi-fold wallet. Cuevas and his partner went back to their ambulance and drove back to the Wawa. Cuevas is seen on the video going back into the Wawa and returning the wallet.

No videos or photographs were produced at the hearing. Cuevas asserted that none were provided in discovery. Sergeant Ruchlin explained that he does not handle discovery requests but that the video was submitted into evidence as part of the criminal investigation. He did not believe that video of township buildings is provided under an OPRA request for security reasons. He guessed that the videos were not provided since the criminal investigation matter was expunged. Sergeant Ruchlin could not recall if there were photographs or still clips from the videos since the matter occurred almost three years ago.

Jonathan Hutton, current Fire Chief for the Township, testified. He became chief as of January 2023. He has overall administrative and operational authority of the fire department, which is comprised of three divisions, the Suppression Division, the EMS Division, and the Fire Marshall's office. During the transition process of the outgoing chief retiring at the end of 2022, Chief Hutton became aware of the May 24, 2022, matter involving Cuevas.

Chief Hutton understood that the administrative investigation of the matter involving Cuevas was placed on hold until the criminal matter was resolved. He understood that the criminal matter was done sometime in December 2022 and the prior chief initiated the administrative investigation, which transitioned to Chief Hutton to complete.

Chief Hutton prepared an administrative investigation questionnaire and presented it to Cuevas. (R-2.) This is an administrative tool used to determine whether any wrongdoing has occurred or whether there has been a violation of departmental or Township standard operating procedures. The questions are specific to the matter of May 24, 2022, created by Chief Hutton based upon information passed on to him from the prior chief and a rough outline of questions the prior chief had prepared. The questionnaire ordered Cuevas to complete answers to all of the thirty-two questions, under oath. There are handwritten answers in the space provided under each question, completed by Cuevas on January 24, 2023 while at the fire station. (R-2.)

Based upon the answers by Cuevas, Chief Hutton summarized that Cuevas acknowledged finding the wallet, taking it into his possession and holding it for an unspecified period of time. Question number three asked Cuevas if he found a wallet and Cuevas responded "yes" and then question number four asked if he kept the "found wallet in your possession for an unspecified period of time" and Cuevas responded "yes." (R-2 at 1.) Chief Hutton asserted that although the criminal matter was dismissed and expunged, the Township found that that testimony by Cuevas in the written questionnaire interview was in direct conflict with what was in the criminal Complaint-Summons. Specifically, Chief Hutton found that Cuevas' admission in the questionnaire to keeping the wallet for an unspecified period of time due to a bathroom emergency, directly conflicted with a statement that appears in the criminal Complaint-Summons that Cuevas reported that he lost his cell phone and returned to the Wawa. He did not recall any information in the criminal Complaint-Summons indicating that Cuevas stated he had a bathroom emergency. This was found to be disingenuous, so the administrative charges issued to Cuevas. Chief Hutton was confident that this was enough to bring the charges against Cuevas.

Chief Hutton acknowledged he never identified any amount or referenced any dollar amount having been in the wallet in the questions that are in the questionnaire. He confirmed that nowhere in the questionnaire was Cuevas asked about money or cash that was alleged to be in the wallet.

Chief Hutton asserted that this is a matter of the integrity of the Township's fire department, with a critical component being the public trust in the department's mission to serve the public. Since the department members usually encounter the general public when they are having some type of crisis, they are vulnerable and need to be willing to allow the department members into their personal space, such as their home, car, or wherever, to service their needs. Any conflict that jeopardizes the element of public trust could be detrimental to the service the department has to deliver.

Cuevas testified that on May 24, 2022, he and his partner were on an ambulance service call and he began to experience a bathroom emergency, due to a known gastric problem. As soon as they completed the service call, they drove to a local Wawa so that

he could use the bathroom. Cuevas saw the wallet in the lot, picked it up and went into the Wawa bathroom. Cuevas stated that when he found the wallet, he briefly opened it and saw a driver's license with a local address. He initially thought he could personally return it at the end of his shift because the location was a few minutes from the station.

Cuevas did not use the Wawa facility because it was in a disgusting condition. He washed his hands and exited the bathroom. He purchased his dinner and went out to the ambulance. He drove back to the ambulance station with his partner, which was a few minutes away from the Wawa. He did not mention to his partner that he found the wallet. His partner was a co-worker Cuevas described as maybe speaking a total of twenty words throughout their history of working together. They barely spoke unless work related.

At the station, Cuevas used the bathroom to address his needs. He realized then that he did not have his cell phone. He had left it in the Wawa bathroom. Cuevas went out to his partner, and they drove back to the Wawa. He retrieved his cell phone. He decided to drop the found wallet back at the store since they had to go back to get his cell phone. He denied looking through the wallet or removing anything from the wallet.

He recalled being interviewed by a police officer about the matter. He was not asked about using the bathroom and did not mention his bathroom break needs. He was asked what happened and he told the officer about finding the wallet and then returning it to the Wawa.

### **LEGAL ANALYSIS AND CONCLUSIONS**

A civil service employee's rights and duties are governed by the Civil Service Act and regulations promulgated by the Civil Service Commission. N.J.S.A. 11A:1-1 to 11A:12-6; N.J.A.C. 4A:1-1.1. The Act is intended to attract qualified individuals to work in public service positions and thus is to be liberally construed toward attainment of merit appointments and broad tenure protections. Essex Council No. 1, N.J. Civil Service Association v. Gibson, 114 N.J. Super. 576, 581 (Law Div. 1971), rev'd on other grounds, 118 N.J. Super. 583 (App. Div. 1972), citing Mastrobattista v. Essex County Park Commission, 46 N.J. 138, 145, 147 (1965).

A civil service employee who commits a wrongful act related to their employment is subject to discipline. Such discipline may be a reprimand, suspension, or removal from employment, depending upon the incident. N.J.S.A. 11A:1-2; 11A:2-6; 11A:2-20; and N.J.A.C. 4A:2-2. Public entities should not be burdened with an employee who fails to perform their duties satisfactorily or they engage in misconduct related to their duties. N.J.S.A. 11A:1-2(a); 11A:2-20. Therefore, a public entity may impose major discipline upon a civil service employee, including termination/removal from their position of employment. N.J.S.A. 11A:1-2; N.J.A.C. 4A:2-2.2.

The appointing authority employer has the burden of proof to establish the truth of the major disciplinary action brought against a civil service employee. N.J.A.C. 4A:2-1.4(a). The standard of proof in administrative proceedings is by a preponderance of the credible evidence. N.J.S.A. 11A:2-21; N.J.A.C. 4A:2-1.4(a); and see, Atkinson v. Parsekian, 37 N.J. 143, 149 (1962). Evidence is considered to preponderate "if it establishes the reasonable probability of the fact." Jaeger v. Elizabethtown Consolidated Gas Co., 124 N.J.L. 420, 423 (Sup. Ct. 1940) citation omitted. The evidence must "be such as to lead a reasonably cautious mind to a given conclusion." Bornstein v. Metropolitan Bottling Co., 26 N.J. 263, 275 (1958).

Here, Cuevas is alleged to have acted in a manner to warrant imposition of the discipline of removal for having violated multiple charges. Each charge noted as having been sustained in the FNDA is addressed below.

**1. N.J.A.C. 4A:2-2.3(a)6, conduct unbecoming a public employee, in violation of PFD SOP Section 108, Article I-conduct unbecoming a firefighter.**

The term "unbecoming conduct" has been broadly defined and recognized as conduct that adversely affects the morale or efficiency of the government unit or workplace or has the tendency to destroy the public's respect for public employees and destroy the public's confidence in the delivery of public services. Karins v. City of Atlantic City, 152 N.J. 532, 554 (1998); In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960).

The unbecoming conduct the Township asserts Cuevas engaged in is that Cuevas lied to the police, and proceeded to lie to the Department. The Township asserts that Cuevas provided the police with one version of events, based upon information in the affidavit of probable cause in the Complaint-Summons issued to Cuevas. There is a brief summary in the affidavit of probable cause section of the Complaint-Summons indicating that an officer from the police department, who did not testify in this proceeding, spoke to Cuevas at the ambulance station. There is a brief synopsis in the affidavit of probable cause completed by Sergeant Ruchlin. Aside from being hearsay within hearsay, there is no direct quote attributed to Cuevas in the affidavit of probable cause, nor anywhere else in the Complaint-Summons. The brief paragraph in the affidavit is simply a summary. There are no details in the hearsay summary paragraph to demonstrate that Cuevas lied to the police about the matter. He reported that he found the wallet and that he turned it in to the Wawa manager. That information is not in dispute.

There are no inconsistencies in his testimony as to whether he found the wallet during his first or second visit to the Wawa. He found it on his first visit. The Township asserts that at issue is whether Cuevas actually dealt with a bathroom emergency, supposedly making such a claim since there is nothing in Sergeant Ruchlin's affidavit of probable cause that Cuevas was having a bathroom emergency. The Township is also suspicious about the timing when Cuevas decided to turn in the wallet.

The only inconsistency in testimony presented is between Sergeant Ruchlin stating Cuevas found the wallet as he exited the Wawa and Cuevas having testified that he found it as he was entering the Wawa. That is not an inconsistency that is material to this analysis. The Township focuses on alleged inconsistencies being that Cuevas never mentioned his bathroom issues to the initial investigating police officer and that he held onto the wallet for an "unspecified period of time."

Cuevas testified that he held onto the wallet when he saw the address on the driver's license and thought he would drop it off at the end of his shift. He tended to his bathroom emergency, but when he was disgusted with the condition of the Wawa bathroom, made his purchase, then left the Wawa to go back to the station. He used the bathroom there, then realized he left his cell phone at the Wawa. Since he returned to

the Wawa to pick up his cell phone, he decided to turn the wallet in at the store since he was there. This is consistent with the answers provided in this questionnaire. The absence of his bathroom issues in the affidavit of probable cause prepared by a detective, relying upon a hearsay report by another officer, and providing only a brief summary, with no direct quotes attributed to Cuevas, does not demonstrate that Cuevas lied to the police. I **CONCLUDE** there is no evidence that Cuevas lied to the police since there is no mention of a bathroom emergency in the Complaint-Summons, and then lied to the department in his written answers to the administrative questionnaire.

Cuevas was not convicted of any offense, but rather the charge was dismissed and has been expunged. Although in hindsight it may have been more prudent to simply turn in the wallet at the Wawa as soon as he picked it up in the lot, Cuevas did not commit any crime relative to his finding the wallet, keeping it with him when he returned to the station, and then turning it in at the Wawa when he went back to retrieve his cell phone. The vague "unspecified period of time" assertion is not supported in any way. The amount of time Cuevas had the wallet in his possession was approximately thirty minutes, given the testimony about the stop at the Wawa, what Cuevas did in the Wawa, and the short distance from the Wawa to the ambulance station and the time spent at the station using the bathroom, and then returning to the Wawa. Failing to immediately turn in the wallet to the store is not conduct that is so reprehensible to destroy the public's trust in the members of the Township's fire department.

I **CONCLUDE** that the Township has failed to demonstrate by a preponderance of the evidence that Cuevas engaged in conduct unbecoming an employee related to the May 24, 2022, matter or during the investigation of the criminal charge or the administrative investigation of the matter. I **CONCLUDE** the charge of unbecoming conduct must be **DISMISSED**.

**2. N.J.A.C. 4A:2-2.3(a)6, conduct unbecoming a public employee, in violation of PFD SOP Section 108, Article I-conduct unbecoming a firefighter, Section 3, involved in a crime of moral turpitude.**

Cuevas was not convicted of any crime. He was initially charged with a third degree criminal theft offense under N.J.S.A. 2C:20-6, which was apparently remanded to the local municipal court, and then dismissed. The charge has been expunged.

This administrative charge asserts that Cuevas was "involved" in a crime of moral turpitude. There has been no evidence presented to demonstrate that Cuevas retained personal property or cash belonging to another. The Township asserts that Cuevas held onto the wallet for an unspecified period of time. Retaining a found wallet for an "unspecified period of time" is not a crime of moral turpitude. The Township has not asserted that Cuevas committed theft by taking money from the wallet. They specifically assert that whether Cuevas stole money from the wallet is immaterial because the department cannot trust a public servant who "explicitly lied on two separate occasions during official investigations."

There is no sufficient evidence to demonstrate that Cuevas was untruthful to the police or untruthful to the department. The department simply finds Cuevas to be disingenuous because there is no mention of him having a bathroom emergency in the summary statement in the affidavit of probable cause completed for the Complaint-Summons, yet he stated that he had a bathroom emergency in the questionnaire completed for the administrative investigation.

The Township has failed to demonstrate that Cuevas was "involved" in a crime of moral turpitude. I **CONCLUDE** this administrative charge shall be **DISMISSED**.

**3. N.J.A.C. 4A:2-2.3(a)1, failure to perform duties, in violation of PFD SOP Section 108, Article I – conduct unbecoming a firefighter, Section 4, convicted of any indictable offense.**

Cuevas was not convicted of an indictable offense. The charge against him was dismissed and expunged. I **CONCLUDE** this administrative charge shall be **DISMISSED**.

**4. N.J.A.C. 4A:2-2.3(a)7, neglect of duty, in violation of PFD SOP Section 108, Article IV – neglect of duty.**



The administrative code does not define neglect of duty and what would constitute a violation of neglect of duty. The term "neglect" imports a deviation from normal standards of conduct. In re Kerlin, 151 N.J. Super. 179, 186 (App. Div. 1977). Neglect of duty implies that a public employee has not performed a required official duty. It is not merely the fact that an employee has done an imprudent act. Rushin v. Board of Child Welfare, 65 N.J. Super. 504, 515 (App. Div. 1961).

The Township's policy on personnel conduct-discipline specifies that neglect of duty will constitute a violation of the conduct-discipline code. The policy specifies four instances of neglect of duty. Section 1 indicates that neglect of duty is being absent without leave less than five consecutive days. Section 2 specifies that neglect of duty is failing to properly supervise subordinates, or to take other appropriate disciplinary action. Section 3 specifies that neglect of duty is failure to comply with an order or command, or regulations, or lawful orders. Section 4 specifies that neglect of duty is failure to properly care for assigned equipment.

Here, the Township has not asserted what duty Cuevas neglected. It simply asserts that there is sufficient evidence in the record to conclude Cuevas was dishonest and failed to act properly as an EMT. First, there is insufficient evidence in the record to conclude that Cuevas was dishonest, and I have concluded that it has not been demonstrated that Cuevas lied to the police, nor lied to the department in his questionnaire. Second, there has been nothing asserted that Cuevas did not neglect to perform a duty through service as an EMT, under the specification sections of the Township's policy. Failing to turn in the found wallet immediately to the Wawa management does not demonstrate neglect of duty as an EMT. I **CONCLUDE** that the charge of neglect of duty shall be **DISMISSED**.

Having concluded that all asserted charges in the FNDA should be dismissed, I **CONCLUDE** that the imposition of discipline of removal is improper. I **CONCLUDE** that Cuevas shall be reinstated to his position of employment as a senior EMT.

**ORDER**

It is **ORDERED** that all charges asserted against Cuevas in the FNDA have been unfounded and shall be **DISMISSED**. It is **ORDERED** that no discipline shall be imposed upon Cuevas. It is **ORDERED** that he shall be reinstated to his position of employment and receive back pay and all benefits as required under the law.

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. 40A:14-204.

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.



May 12, 2025

DATE

ELAINE B. FRICK, ALJ

Date Received at Agency:

\_\_\_\_\_

Date Mailed to Parties:

\_\_\_\_\_

EBF/gd

**APPENDIX**

**WITNESSES**

**For appellant**

Robert Cuevas

**For respondent**

Jeremy Rushin

Jonathan Hutton

**EXHIBITS**

**For appellant**

None

**For respondent**

R-1 Complaint-Summons

R-2 Administrative Investigation-Notice and Questionnaire

R-3 September 16, 2022, letter to Cuevas from Department of Health regarding updated notice of summary suspension

R-4 FNDA

R-5 PNDA

R-6 Township Fire Department Procedures, section 108