



STATE OF NEW JERSEY

In the Matter of Christopher Livoti,
Bergen County Sheriff's Office

CSC DKT. NO. 2024-742
OAL DKT. NO. CSR 11062-23

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

ISSUED: NOVEMBER 26, 2025

The appeal of Christopher Livoti, County Correctional Police Officer, Bergen County, Sheriff's Office, removal, effective May 9, 2023, on charges, was heard by Administrative Law Judge Patrice E. Hobbs, who rendered her initial decision on October 27, 2025. Exceptions were filed on behalf of the appellant and a reply was 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 reply, and having made an independent evaluation of the record, the Civil Service Commission (Commission), at its meeting of November 26, 2025, accepted and adopted the Findings of Fact and Conclusion as contained in the attached ALJ's initial decision and her recommendation to uphold the removal.

As indicated above, the Commission thoroughly reviewed the exceptions filed in this matter. Upon that review, it finds no reason to extensively comment as those filings do not persuade the Commission that the ALJ's findings and conclusions, or her recommendation to uphold the removal were arbitrary, capricious or unreasonable. The main thrust of the appellant's myriad exceptions pertain to the ALJ's credibility determinations. In this regard, the ALJ's decision is based significantly on her assessment of the witnesses' 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). Upon its review and notwithstanding the appellant's arguments in the exceptions, the Commission finds no persuasive evidence in the record or the exceptions to demonstrate that the ALJ's findings and conclusions based on her credibility determinations were arbitrary, capricious or unreasonable.

The appellant also argues that the penalty imposed should be something short of removal. The Commission disagrees. In addition to its consideration of the seriousness of the underlying incident in determining the proper penalty, the Commission also utilizes, when appropriate, the concept of progressive discipline. *West New York v. Bock*, 38 *N.J.* 500 (1962). In determining the propriety of the penalty, several factors must be considered, including the nature of the appellant's offense, the concept of progressive discipline, and the employee's prior record. *George v. North Princeton Developmental Center*, 96 *N.J.A.R.* 2d (CSV) 463. However, it is well established that where the underlying conduct is of an egregious nature, the imposition of a penalty up to and including removal is appropriate, regardless of an individual's disciplinary history. *See Henry v. Rahway State Prison*, 81 *N.J.* 571 (1980). It is settled that the theory of progressive discipline is not a "fixed and immutable rule to be followed without question." Rather, it is recognized that some disciplinary infractions are so serious that removal is appropriate notwithstanding a largely unblemished prior record. *See Carter v. Bordentown*, 191 *N.J.* 474 (2007). In this regard, the Commission emphasizes that a County Correctional Police Officer is a law enforcement officer who, by the very nature of his job duties, is held to a higher standard of conduct than other public employees. *See Moorestown v. Armstrong*, 89 *N.J. Super.* 560 (App. Div. 1965), *cert. denied*, 47 *N.J.* 80 (1966). *See also, In re Phillips*, 117 *N.J.* 567 (1990). Moreover, even when a County Correctional Police Officer does not possess a prior disciplinary record after many unblemished years of employment, the seriousness of an offense such as in this matter may, nevertheless, warrant the penalty of removal.

Regarding the penalty, the ALJ found that:

Livoti argues that zero tolerance and termination should not apply in this case because the policy is meant to protect the integrity of the department by preventing knowing and deliberate drug use. Livoti asserts that there is no evidence of illegal steroid use and that the presence of these steroid metabolites is due to the ingestion of nutritional supplements. However, even Livoti's own expert cannot account for the presence of drostanolone in the lab results. There are

instances where the Commission has given other officers second chances when the positive test result is due to inadvertence. *See In Re Aponte*, 2021 *N.J. Super.* Unpub. Lexis 1491 (App. Div. July 20, 2021). Aponte claimed that his positive drug test for cocaine was a result of his ingestion of a supplement containing a derivative of cocaine and that he did not read the label carefully enough to know it contained a banned substance that could lead to a positive drug test. Aponte **had** an explanation for the presence of the controlled substance, albeit a very reckless explanation, and the ALJ and the Commission determined that rehabilitation was a more appropriate punishment for his recklessness. Livoti is not claiming recklessness for the presence of the steroids in his urine sample.

The facts of this case are much more in line with *In re S.D.*, 2024 *N.J. Super.* Unpub. LEXIS 266 (App. Div. Feb. 22, 2024). S.D. claimed that his positive drug test was caused by the passive inhalation of his wife's medicinal marijuana smoke, and he did not think he should have reported his wife's marijuana use. The expert in S.D. could not say with certainty that the positive drug test was from passive inhalation. The Court affirmed the ALJ's analysis of the law, noting specifically the higher standard of behavior to which police officers are held, the Attorney General's and Department's regulations, and the unequivocally mandated termination of employment for positive drug tests. In both *Aponte* and *S.D.*, the officers gave a reason for the presence of the banned substance in their urine samples; one was a reckless explanation, and the other was speculation. Here, Livoti offers **no** explanation for the presence of drostanolone metabolite more than two weeks after he last took any supplements. Livoti's expert also offers no explanation for the presence of the drostanolone metabolite. However, respondent's expert does: it must have been intravenously injected.

I therefore **CONCLUDE** that Livoti must be terminated from his position as a county correctional police officer because of the presence of a controlled substance, namely drostanolone metabolite, which could not have been present in his bloodstream other than by intentional intravenous injection and is a violation of the respondent's General Order for a Drug Free Workplace and the Attorney General's Law Enforcement Drug Testing Policy.

The Commission wholeheartedly agrees with the above assessment and finds that removal from employment is neither disproportionate to the offenses nor shocking to the conscious.

ORDER

The Civil Service Commission finds that the action of the appointing authority in removing the appellant was justified. The Commission therefore affirms that action and dismisses the appeals of Christopher Livoti.

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

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 26TH DAY OF NOVEMBER, 2025



Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSR 11062-23

**IN THE MATTER OF CHRISTOPHER LIVOTI,
BERGEN COUNTY SHERIFF'S OFFICE.**

Matthew J. Troiano, Esq., for appellant Christopher Livoti (Einhorn, Barbarito, Frost, Botwinick & Musmanno, PC, attorneys)

Brian M. Hak, Esq., for respondent Bergen County Sheriff's Office (Eric M. Bernstein & Associates, LLC, attorneys)

Record Closed: September 29, 2025

Decided: October 27, 2025

BEFORE **PATRICE E. HOBBS**, ALJ:

STATEMENT OF THE CASE

On January 13, 2023, appellant, Christopher Livoti, a county correctional police officer with the Bergen County Sheriff's Office (respondent), tested positive for the presence of Schedule III substances that are illegal, specifically steroids, which was a violation of respondent's drug policy and the Attorney General's General Order 06-130. Must Livoti be removed? Yes. Respondent's and the Attorney General's Law Enforcement Drug Testing Policy require termination after a positive test result.

PROCEDURAL HISTORY

On May 9, 2023, respondent served Livoti with a Preliminary Notice of Disciplinary Action. In the notice, respondent charged Livoti with conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.5(a)(1) (Immediate Suspension Without Pay), N.J.A.C. 4A:2-2.3(a)(1) (Incompetency, Inefficiency or Failure to Perform Duties), N.J.A.C. 4A:2-2.3(a)(3) (Inability to Perform Duties), N.J.A.C. 4A:2-2.3(a)(6) (Conduct Unbecoming a Public Employee), N.J.A.C. 4A:2-2.3(a)(7) (Neglect of Duty), N.J.A.C. 4A:2-2.3(a)(12) (Other Sufficient Cause), and for violations of Bergen Sheriff's Office Rules and Regulations 3:1.1 (Obedience to Laws), 3:1.2 (Standards of Conduct), 3:1.9 (Neglect of Duty), 3:1.29 (Unbecoming Conduct), 3:2.2 (Alcoholic Beverages and Drugs), General Order 06-1.30 (Drug Free Workplace Law Enforcement Employees, Attorney General Law Enforcement Drug Testing Policy). Respondent alleges that on January 11, 2023, at a family court proceeding before Passaic County Superior Court Judge Daniel Yablonsky, Mrs. Jeaneen Livoti completed a statement at the Totowa Police Department that on October 23, 2022, their daughter found drugs, pills, syringes and other people's prescriptions in their home. As a result, on January 12, 2023, Livoti was ordered to submit two urine specimens. On January 13, 2023, Livoti's specimens were positive for amphetamines and steroids, specifically, boldenone metabolites and drostanolone and/or metabolites. Drostanolone and boldenone metabolites were not supported by Livoti's doctor's note. As a result, respondent sought his removal and suspended him from his position, effective May 9, 2023.

On August 18, 2023, a disciplinary hearing was held. On September 21, 2023, respondent served Livoti with a Final Notice of Disciplinary Action. In the notice, respondent sustained all the charges and specifications. Respondent also removed Livoti from his position as county correctional police officer, effective May 9, 2023.

On October 4, 2023, Livoti filed a timely appeal. On October 16, 2023, the case was filed with the Office of Administrative Law (OAL) for a hearing under N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. Several telephone prehearing conferences were held in 2023 and throughout 2024. There were significant difficulties in securing expert witnesses for the case, including locating the respondent's expert witness. On

May 19, 2025, I held a final prehearing conference, and on June 13, 2025, I held the hearing. On September 29, 2025, the parties submitted post-hearing briefs, and I closed the record.

FINDINGS OF FACT

Based upon the testimony the parties provided and my assessment of its credibility, together with the documents the parties submitted and my assessment of their sufficiency, I **FIND** the following **FACTS**:

Christopher Livoti has been a county correctional police officer with the Bergen County Sheriff's Office for fifteen years. Prior to that, Livoti was employed by the Trenton State Prison. In August 2022, Livoti worked sixteen-hour shifts, four days on and three days off. His position was not a desk job; he worked inside the jail facility. He worked out during his lunch hour to stay fit for the job. He was not participating in, or training for, any weightlifting competitions. He was not sleeping well, and his girlfriend at the time suggested that he add nutritional supplements to his workout routine. He went to a Natural Body store in Brooklyn and spoke with the manager there, who recommended 1-AD and Monster Plexx supplements. The manager told him that these supplements would help him sleep better and recover faster from his workouts. Livoti had never used these supplements before and relied on the expertise of the manager of the store. Livoti took the supplements for eight weeks, stopped for four weeks and finished the regimen before December 25, 2022.

In January 2023, Livoti was in the midst of a very contentious divorce from his then-wife, Jeaneen. Respondent was notified that on January 11, 2023, Jeaneen stated in the family court proceeding that their seven-year-old daughter found pills, syringes and prescriptions. Based on this report, on January 12, 2023, Livoti was ordered to submit to a drug screening. (R-2.) The Forensic Urine Drug Submission Form (R-4) noted that Livoti was being tested based upon a reasonable suspicion of the use of drugs and anabolic steroids. The Bergen County Sheriff's Office Rules and Regulations (R-10), the Attorney General Drug Testing Policy (R-11) and the Bergen County Sheriff's Office General Orders (R-12) stipulate that drug testing is a requirement for employment and

that any employee found in violation of the policy must be terminated and is permanently barred from future law enforcement employment. Anabolic steroids are Schedule III substances, which are illegal. Amphetamines are also impermissible unless prescribed by a physician. The policies specifically state that Livoti was required to complete the Drug Testing Officer Notice and Acknowledgement Form, Attachment C (R-3), and Drug Testing Medication Information, Attachment D. (R-6.) Attachment D required that Livoti list every medication that he had taken over the past fourteen days, as well as any non-prescription medications, which included nutritional supplements. Livoti completed the attachments to the best of his then recollection.

Livoti stated that he has never knowingly taken anabolic steroids. Livoti stated that he has never injected anabolic steroids. Livoti has had a history of low testosterone for more than nine years and has been on prescribed testosterone replacement treatment (TRT). The TRT is an injectable prescription that he self-administers twice weekly. He does have syringes and a prescription bottle for the TRT. Livoti did not know that supplements such as 1-AD and Monster Plexx could contain prohormones that would result in a positive test for some anabolic steroids. He no longer uses the nutritional supplements 1-AD or Monster Plexx.

Livoti does not dispute the accuracy of the lab results, which report that he tested positive for 2 ng/ml of boldenone metabolite and 2 ng/ml of drostanolone metabolite. Livoti also does not dispute that the Attorney General's Drug Testing Policy is applicable.

Detective Christopher Corrigan has worked in the Office of Professional Standards for the Bergen County Sheriff's Office for the past six years. He has performed over one hundred internal affairs investigations, including drug-related offenses. He and Detective Sergeant Steve Ruiz were assigned to conduct the investigation into Livoti. After receiving the information from the family court proceeding, Ruiz ordered Livoti to submit to a reasonable suspicion drug screening for drugs and anabolic steroids. On February 14, 2023, Ruiz received the toxicology report from the state laboratory which indicated a positive result for amphetamines. The specimen was not tested for steroids and had to be resubmitted. (R-17.) On March 14, 2023, Ruiz received the second toxicology report from the state laboratory which was positive for boldenone metabolite and drostanolone

metabolite. (R-15,16.) The toxicology report indicated that both metabolites were listed on Livoti's medication sheet. (R-15 at 13.) Ruiz requested that Livoti obtain a letter from his medical provider to account for the positive results. On March 16, 2023, Dr. Berberian provided a letter to confirm that Livoti was prescribed amphetamines prior to the drug test, that he was currently receiving TRT and that he was fit for duty. (R-8.) Berberian did not list any steroids in his letter.

Upon receipt of Dr. Berberian's letter, Ruiz requested that Livoti provide another list of all the medications and supplements that he had been taking on January 12, 2023. Livoti submitted an additional handwritten form (R-7), which included additional nutritional supplements, namely 1-AD and Monsterplexx, not previously listed on Attachment D.

On April 26, 2023, a third toxicology report was submitted and indicated that both metabolites were not listed on Livoti's medication sheet. (R-5.) To address the confusion, on June 14, 2023, Dr. Andrew Falzon submitted a letter stating that the boldenone and drostanolone metabolites previously reported as being listed on the medication sheet (R-15 at 13) were in fact not listed on the medication sheet and that this was an inadvertent error. (R-14.) No further explanation was given.

On May 9, 2023, Ruiz issued and served Livoti with an Immediate Suspension Memo (R-18), an Immediate Suspension Notice (R-19), and a Preliminary Notice of Disciplinary Action. On September 21, 2023, Livoti was served with the Final Notice of Disciplinary Action terminating his employment as of May 9, 2023.

Dr. Victor Uralets was the forensic toxicologist for Redwood Toxicology Laboratory, Abbott, which is the only laboratory used for testing and analyzing urine specimens that are submitted by the State of New Jersey. Uralets reviewed the data and specimens submitted for Livoti. Uralets concluded in his report (R-20) that Livoti tested positive for the steroids boldenone and drostanolone metabolites, and that the medications and supplements do not explain the positive test result. Uralets has since retired from Redwood Toxicology Abbot.

G. Brent Dawson, Ph.D., a forensic toxicologist with Redwood Toxicology Laboratory, Abbott, has reviewed the data and reports from Dr. Uralets and concurs with his opinion that the anabolic steroid metabolites boldenone and drostanolone were in Livoti's urine and are not listed on the medications and supplements provided by Livoti. Dawson was aware that Hi-Tech Pharmaceuticals had manufactured and distributed products that were mislabeled and that these products contained controlled substances such as prohormones and anabolic steroids. 1-AD, which is one of the supplements that Livoti was taking, is one of the products that was manufactured and distributed by Hi-Tech Pharmaceuticals. Dawson admitted that the supplement 1-AD could have resulted in Livoti's positive test for boldenone metabolite. Dawson stated that drostanolone is only available in injectable form and that there was nothing on the market that contained a prohormone that could metabolize to drostanolone. Dawson stated that even if there were prohormones that were contained in a supplement, they would be metabolized and excreted from the system within five days.

William Dunn has been a forensic toxicologist for over forty years. He has reviewed the litigation packages from the New Jersey State Medical Examiner Toxicology Laboratory, the litigation package from Redwood Toxicology Laboratory, and Livoti's medication lists. Livoti's urine tested positive for boldenone and drostanolone metabolites. These metabolites are prohormones that have been found in products that are manufactured and distributed by Hi-Tech Pharmaceuticals. Hi-Tech Pharmaceuticals manufactured and distributed 1-AD, which is one of the supplements that Livoti was taking at the time that he provided the urine sample. Hi-Tech Pharmaceuticals misbranded their supplements, and boldenone was detected in 1-AD. Livoti's use of 1-AD would account for the boldenone metabolites in his urine. Dunn stated that the only way to determine whether the products contained drostanolone would be to test the product itself, which was not done. Dunn proffered four arguments for the presence of boldenone in Livoti's urine: Dunn stated that Livoti could have either knowingly taken boldenone, unknowingly ingested boldenone through the oral supplement, the laboratory misidentified boldenone, or Livoti might be producing endogenous boldenone. Dunn had no plausible explanation for the presence of drostanolone.

CONCLUSIONS OF LAW

The Civil Service Act (the Act) and regulations promulgated under the Act govern the rights and duties of a civil service employee. N.J.S.A. 11A:1-1 to 11A:12-6; N.J.A.C. 4A:2-1.1 to 4A:2-6.2. A civil service employee who commits a wrongful act related to his or her duties or who gives other just cause may be subject to major discipline. N.J.S.A. 11A:2-6; N.J.A.C. 4A:2-2.3. For example, employees who engage in conduct unbecoming are subject to discipline. N.J.A.C. 4A:2-2.3(a).

The issues to be determined at the de novo hearing are whether the appellant is guilty of the charges brought against him and, if so, the appropriate penalty that should be imposed. Henry v. Rahway St. Prison, 81 N.J. 571 (1980); W. New York v. Bock, 38 N.J. 500 (1962). The appointing authority bears the burden of proving the charges by a preponderance of the credible evidence. In re Matter of Revocation of the License of Polk, 90 N.J. 550 (1982); Atkinson v. Parsekian, 37 N.J. 143 (1962).

The evidence must lead a reasonably cautious mind to a given conclusion. Bornstein v. Metro. Bottling Co., 26 N.J. 263 (1958). Therefore, the party on whose side the greater weight of evidence preponderates must prevail. Jackson v. Del., Lackawanna and W. R.R. Co., 111 N.J.L. 487, 490 (E. & A. 1933). For reasonable probability to exist, the evidence must be believed as a fact. Loew v. Union Beach, 56 N.J. Super. 93, 104 (App. Div. 1959) (citation omitted). Preponderance may also be described as the greater convincing power. State v. Lewis, 67 N.J. 47 (1975). Credibility, or, more specifically, credible testimony, must be credible in and of itself. Spagnuolo v. Bonnet, 16 N.J. 546, 554-55 (1954).

When a sworn law enforcement officer tests positive for illegal drug use, the officer must be immediately suspended, must be administratively charged and upon final disciplinary action, must be terminated, the officer must be reported to the Central Drug Registry and the officer must be permanently barred from future law enforcement employment in New Jersey. Attorney General's Law Enforcement Drug Testing Policy, § VIII(C) at 13.

When a sworn law enforcement officer tests positive for illegal drug use, be immediately suspended, must be administratively charged and upon final disciplinary action, must be terminated, the officer must be reported to the Central Drug Registry and the officer must be permanently barred from future law enforcement employment in New Jersey. Bergen County Sherriff's Office General Order 6-1.30, Drug Free Workplace, § VIII(C) at 21.

In January 2023, respondent obtained information that Livoti's seven-year-old daughter found pills, syringes and prescriptions at their home. Respondent immediately requested that Livoti be screened for drugs and anabolic steroids based on a reasonable suspicion. Respondent did not verify whether Livoti's daughter's testimony was accurate, nor did respondent speak with Janeen Livoti. Livoti fully cooperated with the drug screening, providing all the medication and supplements that he could recall taking. Livoti used and had been using TRT that was prescribed by his physician, Dr. Berberian. TRT is an injectable treatment that he self-administers with the use of a syringe. Syringes and prescription drug vials would therefore be present in his medicine cabinet. Livoti was working fourteen-hour days, was fatigued and was not sleeping well. He consulted with a manager at a health food store who suggested that he add the supplements 1-AD and Monster Plexx to his workout routine. Livoti had never heard of those supplements and relied on the manager's expertise. In August 2022, Livoti started taking the supplements, having taken the last of the supplements in December 2022.

In January 2023, he was ordered to submit to drug testing under reasonable suspicion for drugs and anabolic steroids because of a statement his then-wife made in court. His then-wife stated that their seven-year-old daughter saw drugs, pills and syringes in their home. Respondent did not seek to confirm this information; they only immediately requested drug testing for drugs and anabolic steroids. Livoti fully cooperated with the drug screening, providing the urine specimen and listing all the medications and supplements that he had taken fourteen days prior to the testing. On March 14, 2023, the report confirmed the presence of boldenone and drostanolone metabolites.

There is no dispute that the urine test results show the presence of boldenone metabolite and drostanolone metabolite. There is no dispute that these two substances are Schedule III controlled substances and are illegal. Both experts confirmed that boldenone has been positively identified in 1-AD. Both experts could not state with certainty that 1-AD or Monster Plexx did not contain drostanolone without testing the product for drostanolone. Both experts agreed that Hi-Tech Pharmaceuticals manufactured and distributed supplements that did not contain accurate labels of their ingredients. Dunn stated it was possible that products manufactured and distributed by Hi-Tech Pharmaceuticals could contain boldenone. Dunn had no explanation for the presence of drostanolone in Livoti's urine. Dawson stated that even if it were possible that drostanolone were available in an oral form, any oral form of drostanolone is excreted from the body within five days. Livoti stated that he last ingested supplements fourteen days before the urine sample. Dawson stated that the only possible way for drostanolone to be present in Livoti's blood work more than two weeks after any possible oral supplement is through intravenous injection.

I **CONCLUDE** that respondent has met its burden by a preponderance of the evidence that Livoti knowingly used anabolic steroids, a controlled substance. In the grand scheme of things, the individual charges are largely irrelevant, since the Attorney General's Law Enforcement Drug Testing Policy (rev. 2020) requires that, in the event of a positive test, the agency immediately suspend and ultimately terminate the officer. Id. at 13 § VIII(C). Further, the policy provides that any officer who tests positive for illegal drugs "shall be permanently barred from future law enforcement employment in New Jersey." Ibid. See also Bergen County's General Order (December 18, 2008), Section VIII.C. This consequence has been upheld by the courts on multiple occasions, most recently in In re Ferro, 2024 N.J. Super. Unpub. LEXIS 1483 (App. Div., July 8, 2024). While there are some plausible scientific reasons for the presence of boldenone in Livoti's urine, there is no plausible explanation for the presence of drostanolone other than through intentional intravenous injection.

Penalty

There is no constitutional or statutory right to a government job. State-Operated Sch. Dist. v. Gaines, 309 N.J. Super. 327, 334 (App. Div. 1998). Civil Service employees' rights and duties are governed by the Civil Service Act, which provides that a public employee may be subject to major discipline for various employment-related offenses. N.J.A.C. 4A:2-2.3. In an appeal from a disciplinary action or ruling by an appointing authority, the appointing authority bears the burden of proof to show, by a preponderance of the evidence, that the action taken was appropriate. N.J.A.C. 4A:2-1.4(a).

Termination is a major disciplinary action, and respondent bears the burden of proof. N.J.A.C. 4A:2-1.4(a). The burden of proof is by a preponderance of the evidence, Atkinson v. Parsekian, 37 N.J. at 149, and the hearing is de novo, Henry v. Rahway St. Prison, 81 N.J. at 579. On such appeals, the Civil Service Commission may increase or decrease the penalty, N.J.S.A. 11A:2-19, and the concept of progressive discipline guides that determination. In re Carter, 191 N.J. 474, 483–86 (2007). In this case, I found that Bergen County has proven by a preponderance of the evidence that Livoti should be terminated. Thus, an employee's prior disciplinary record is inherently relevant to determining an appropriate penalty for a subsequent offense, In re Carter, 191 N.J. at 483, and the question upon appellate review is whether such punishment is "so disproportionate to the offense, in the light of all the circumstances, as to be shocking to one's sense of fairness." Id. at 484 (quoting In re Polk, 90 N.J. at 578 (internal quotes omitted)). Indeed, progressive discipline may only be bypassed when the misconduct is severe, when it renders the employee unsuitable for continuation in the position, or when the application of progressive discipline would be contrary to the public interest. In re Herrmann, 192 N.J. 19, 33 (2007).

New Jersey has long recognized that a police officer is a special kind of public employee who represents law and order and must represent an image of integrity and dependability. Twp. of Moorestown v. Armstrong, 89 N.J. Super. 560, 566 (App. Div. 1965). Police officers are held to a high standard of responsibility and conduct. Ibid. They voluntarily agree to being held to this higher standard of conduct when they enter public service. In re Phillips, 117 N.J. 567, 577 (1990). Courts have affirmed terminations

of public servants for serious infractions or if they involve the safety of the public. Klusaritz v. Cape May Cnty., 387 N.J. Super. 305 (App. Div. 2006) (affirming dismissal of incompetent CPA despite no disciplinary record); In re Hall, 335 N.J. Super. 45 (App. Div. 2000) (sustaining dismissal for attempted theft); Cosme v. Borough of E. Newark Twp. Comm., 304 N.J. Super. 191 (App. Div. 1997) (affirming dismissal of police officer who took unauthorized paid vacation); Bowden v. Bayside St. Prison, 268 N.J. Super. 301 (App. Div. 1993) (sustaining removal of prison guard who gambled with inmates for cigarettes); City of Newark v. Massey, 93 N.J. Super. 317 (App. Div. 1967) (affirming dismissal of police officer based on his multiple instances of insubordination and careless handling of weapon).

Livoti argues that zero tolerance and termination should not apply in this case because the policy is meant to protect the integrity of the department by preventing knowing and deliberate drug use. Livoti asserts that there is no evidence of illegal steroid use and that the presence of these steroid metabolites is due to the ingestion of nutritional supplements. However, even Livoti's own expert cannot account for the presence of drostanolone in the lab results. There are instances where the Commission has given other officers second chances when the positive test result is due to inadvertence. See In Re Aponte, 2021 N.J. Super. Unpub. Lexis 1491 (App. Div. July 20, 2021). Aponte claimed that his positive drug test for cocaine was a result of his ingestion of a supplement containing a derivative of cocaine and that he did not read the label carefully enough to know it contained a banned substance that could lead to a positive drug test. Aponte **had** an explanation for the presence of the controlled substance, albeit a very reckless explanation, and the ALJ and the Commission determined that rehabilitation was a more appropriate punishment for his recklessness. Livoti is not claiming recklessness for the presence of the steroids in his urine sample.

The facts of this case are much more in line with In re S.D., 2024 N.J. Super. Unpub. LEXIS 266 (App. Div. Feb. 22, 2024). S.D. claimed that his positive drug test was caused by the passive inhalation of his wife's medicinal marijuana smoke, and he did not think he should have reported his wife's marijuana use. The expert in S.D. could not say with certainty that the positive drug test was from passive inhalation. The Court affirmed the ALJ's analysis of the law, noting specifically the higher standard of behavior to which

police officers are held, the Attorney General's and Department's regulations, and the unequivocally mandated termination of employment for positive drug tests. In both Aponte and S.D., the officers gave a reason for the presence of the banned substance in their urine samples; one was a reckless explanation, and the other was speculation. Here, Livoti offers **no** explanation for the presence of drostanolone metabolite more than two weeks after he last took any supplements. Livoti's expert also offers no explanation for the presence of the drostanolone metabolite. However, respondent's expert does: it must have been intravenously injected.

I therefore **CONCLUDE** that Livoti must be terminated from his position as a county correctional police officer because of the presence of a controlled substance, namely drostanolone metabolite, which could not have been present in his bloodstream other than by intentional intravenous injection and is a violation of the respondent's General Order for a Drug Free Workplace and the Attorney General's Law Enforcement Drug Testing Policy.

ORDER

Based upon the foregoing, it is **ORDERED** that Livoti be **TERMINATED** from his position as a county corrections police officer at the Bergen County Sheriff's Office.

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.

October 27, 2025
DATE



PATRICE E. HOBBS, ALJ

Date Received at Agency:

October 27, 2025

Date Mailed to Parties:

October 27, 2025

APPENDIX

Witnesses

For appellant:

Christopher Livoti, appellant
William A. Dunn, M.S.

For respondent:

Christopher Corrigan, Bergen County Sheriff's Office
G. Brent Dawson, Ph.D.

Exhibits

For appellant:

- A-1 Emails between the Office of Professional Standards and Dr. Berberian
- A-2 Toxicology reports
- A-3 Email to Livoti, dated March 14, 2023
- A-4 Letter from Dr. Berberian, dated March 16, 2023
- A-5 Labcorp results, dated January 30, 2023
- A-6 Curriculum vitae for William A. Dunn, M.S.
- A-7 Report from William A. Dunn, M.S., dated December 3, 2024

For respondent:

- R-1 Final Notice of Disciplinary Action, dated September 21, 2023
- R-2 Order to Submit Reasonable Suspicion Screening Form
- R-3 Officer Acknowledgement Form – Attachment C
- R-4 Forensic Urine Drug Testing Custody and Submission Form
- R-5 Amended Toxicology Report, dated April 26, 2023
- R-6 Drug Testing Medication Information – Attachment D
- R-7 Officer Livoti's provided medication list

- R-8 Dr. Berberian's medical letter, dated March 16, 2023
- R-9 Prescribed medication list
- R-10 General Order 00-1.2 BSCO Employee Rules and Regulations
- R-11 Attorney General's Law Enforcement Drug Testing Policy
- R-12 General Order 06-1.30 BSCO Drug Free Workplace Law Enforcement
Employees
- R-13 Signature Summary Officer Livoti
- R-14 Medical Review Officer letter, dated June 14, 2023
- R-15 Litigation packet – State Lab
- R-16 Litigation packet – steroids
- R-17 Internal Affairs Investigation Report, dated May 10, 2023
- R-18 Suspension memo, dated May 9, 2023
- R-19 Immediate Suspension Notice, dated May 9, 2023
- R-20 Expert report of G. Brent Dawson, Ph.D., dated March 10, 2025
- R-21 Curriculum vitae for G. Brent Dawson, Ph.D.