



**STATE OF NEW JERSEY**

In the Matter of Alana Velazquez,  
Elizabeth

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

CSC Docket No. 2025-1998

Request for Interim Relief

**ISSUED:** November 26, 2025 (KMG)

Alana Velazquez, Police Officer, Elizabeth, Police Department, represented by Thomas S. Mirigliano Esq., petitions the Civil Service Commission (Commission) for interim relief regarding her reinstatement following an indefinite suspension.

By way of background, the appointing authority referred for an investigation to the Union County Prosecutor's Office (UCPO) an allegation that the appellant caused forged documents to be submitted to its short-term disability benefits provider. Upon review of the evidence, the UCPO obtained an indictment alleging Insurance Fraud, Theft by Deception, and three counts of Forgery. Following the indictment, the appointing authority served the appellant with a Preliminary Notice of Disciplinary Action (PNDA) immediately and indefinitely suspending her without pay, effective September 13, 2017. Thereafter, the appellant was acquitted after a jury trial, effective March 12, 2025. Subsequently, the appointing authority issued a new PNDA, immediately suspending the appellant without pay, effective April 18, 2025. The 2025 PNDA charged the appellant with Conduct Unbecoming a Public Employee, Other Sufficient Causes, and violation of departmental policies.

In her March 25, 2025, request to the Commission for interim relief, the appellant argues that the appointing authority has failed to reinstate her upon her acquittal. In this regard, she asserts that there has been no finding of wrongdoing, and no independent justification presented that justifies her continued exclusion from returning to duty. Instead, the appellant argues that Civil Service law asserts that

when an employee is suspended based solely on pending criminal charges, and those charges are subsequently dismissed or result in an acquittal, the employee is entitled to reinstatement and back pay, unless the appointing authority can show legitimate, independent grounds for disciplinary action. Here, the appellant argues that those standards have not been met.<sup>1</sup>

Instead, the appellant argues that the record shows procedural and substantive shortcomings by the appointing authority. Specifically, the appellant claims that the appointing authority has failed to pursue internal disciplinary action. This lapse, in conjunction with the lack of any internal finding of misconduct shows that her continued suspension is unsustainable. Finally, the appellant maintains that as a result, she is entitled to be immediately reinstated to her prior position, with full back pay and benefits since her 2017 suspension. She also maintains she is entitled to counsel fees.

In response, the appointing authority, represented by Daniel M. Santarsiero Esq., argues that the appellant cannot show a clear likelihood of success on the merits. Here, the appointing authority admits that the appellant was acquitted of the criminal charges in March of 2025. However, as the matter involved allegations of dishonesty, such allegations could be grounds for administrative charges and could still be subject to disciplinary action, due to a lower burden of proof required to substantiate such charges. The appointing authority further asserts that, with regard to police and fire personnel, the conclusion of a criminal trial does not immediately grant the appellant full back pay. Moreover, the appointing authority states it issued an April 18, 2025 PNDA, after an internal investigation on whether administrative charges should be brought. It further noted that the departmental hearing commenced on May 13, 2025.<sup>2</sup>

The appointing authority further argues that any issues regarding the timeliness of the PNDA are moot. It argues that the April 18, 2025, PNDA does not relate to the criminal proceedings but stem from the departmental and Civil Service violations. It proffers that an employee may be suspended immediately and prior to a hearing where it is determined that the employee is unfit for duty or is a hazard to any person if permitted to remain on the job or than an immediate suspension is necessary to maintain safety, health, order, or effective direction of public services. *N.J.A.C. 4A:2-2.5 (a)1*. It asserts that the immediate suspension was necessary to maintain safety, health, order, or effective direction of public services considering the serious nature of the alleged outstanding violations until they are decided at a hearing. Furthermore, the appointing authority asserts that there is no danger of irreparable harm to the appellant as the harm of monetary damages may be resolved through back pay and front pay.

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<sup>1</sup> The appellant did not submit any arguments after the April 18, 2025 PNDA was issued.

<sup>2</sup> At this time it appears that the parties are still engaged in the departmental hearing and a decision has yet to be rendered.

Additionally, the appointing authority contends that automatically reinstating a Police Officer without being afforded the ability to conduct a hearing would severely damage the appointing authority's right to hold a uniformed employee accountable. Depriving it of this right would cause substantial injury to it as well as disregard the public's interest in holding public employees accountable. Furthermore, the appointing authority argues that reinstatement is not possible as the appellant has not maintained her police training, and is no longer qualified to carry a firearm, thereby making her unfit for duty.

Finally, the appointing authority argues that granting the request for interim relief could cause a detrimental impact on the public interest. It argues that the only way to prevent harm from accruing is to allow a hearing officer to determine whether the appellant's conduct violated departmental and civil service law following a full hearing. It contends that a factfinding and disciplinary hearing is required for serious administrative charges and that circumventing this process would be detrimental to the public interest.

No further arguments were submitted by the appellant.

## CONCLUSION

*N.J.A.C.* 4A:2-1.2(c) provides the following factors for consideration in evaluating petitions for interim relief:

1. Clear likelihood of success on the merits by petitioner;
2. Danger of immediate or irreparable harm;
3. Absence of substantial injury to other parties; and
4. The public interest.

*N.J.S.A.* 11A:2-13 and *N.J.A.C.* 4A:2-2.5(a)1 and 2 provide that an employee may be suspended immediately and prior to a hearing when the employee has been formally charged with a crime of the first, second or third degree, or a crime of the fourth degree on the job or directly related to the job, or where it is determined that the employee is unfit for duty or is a hazard to any person if permitted to remain on the job, or that an immediate suspension is necessary to maintain safety, health, order, or effective direction of public services.

*N.J.A.C.* 4A:2-2.7(a)2 provides that an employee may impose an indefinite suspension to extend beyond six months where an employee is subject to criminal charges as set forth in *N.J.A.C.* 4A:2-2.5(a)2, but not beyond the disposition of the criminal complaint or indictment.

*N.J.A.C.* 4A:2-2.10(b) provides, in pertinent part, where a municipal police officer, has been suspended based on a pending criminal complaint or indictment, following disposition of the charges the employee shall receive back pay, benefits and seniority pursuant to *N.J.S.A.* 40A:14-149.1 *et seq.*<sup>3</sup>

*N.J.S.A.* 40A:14-149.2 provides that 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.A.C.* 4A:2-2.12(a) provides that the Commission shall award partial or full reasonable counsel fees incurred in proceedings before it and incurred in major disciplinary proceedings at the departmental level where an employee has prevailed on all or substantially all of the primary issues before the Commission.

Initially, there is no dispute that the appointing authority had a sufficient basis to indefinitely suspend the appellant effective September 13, 2017, while the criminal charges were pending. Therefore, the sole issue to be determined in this matter is whether the appointing authority was required to immediately reinstate her and provide back pay once acquitted of the criminal charges.

The information provided in support of the instant petition does not demonstrate a clear likelihood of success on the merits. A critical issue in any disciplinary appeal is whether or not the petitioner's actions constituted wrongful conduct warranting discipline. The Commission will not attempt to determine such a disciplinary appeal on the written record without a full plenary hearing before an Administrative Law Judge who will hear live testimony, assess the credibility of witnesses, and weigh all the evidence in the record before making an initial decision. In other words, the mere fact that the appellant was found not guilty in a criminal proceeding does not mean that she has a clear likelihood of success on the merits concerning administrative disciplinary charges as the burden of proof is lower in an administrative proceeding. Therefore, since the appellant has not conclusively demonstrated that she will succeed in having any new administrative charges dismissed, she has not shown a clear likelihood of success on the merits. Additionally, given the serious nature of the disciplinary charges at issue, the public interest is

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<sup>3</sup> *N.J.S.A.* 40A:14-149.1. Suspension of officer charged with offense: Notwithstanding any other law to the contrary, whenever any municipal police officer is charged under the law of this State, another state, or the United States, with an offense, said police officer may be suspended from performing his duties, with pay, until the case against said officer is disposed of at trial, until the complaint is dismissed, or until the prosecution is terminated; provided, however, that if a grand jury returns an indictment against said officer, or said officer is charged with an offense which is a high misdemeanor or which involves moral turpitude or dishonesty, said officer may be suspended from his duties, without pay, until the case against him is disposed of at trial, until the complaint is dismissed or until the prosecution is terminated.

best served by not having the appellant on the job pending the outcome of any such charges.

With regard to her request for back pay, the record indicates that on March 12, 2025, the appointing authority received notice that appellant was found not guilty of the criminal charges that were the basis of her indefinite suspension. 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. Even when an employee is ultimately removed on administrative disciplinary charges, he or she is entitled to an award of back pay for any delay in the period between dismissal of the criminal charges and service of a PNDA setting forth any remaining administrative charges. *See In the Matter of Stanford Harris* (CSC, decided December 17, 2008); *In the Matter of James Shanks* (MSB, decided May 7, 2003). 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. In the current matter, the appointing authority issued the April 2025 PNDA approximately one month after the dismissal of the appellant's criminal charges and following an internal investigation. Thus, under *N.J.S.A. 40A:14-149.2*, there is no basis to grant appellant's request for back pay at this time.

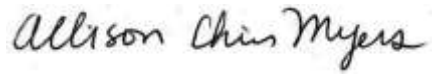
With respect to counsel fees, the primary issue in the current matter is the appellant's current status and whether she will ultimately be disciplined, not her current suspension. In this regard, and as stated above, her not guilty verdict in a criminal proceeding does not mean she will ultimately prevail as there is a lower standard of proof in an administrative proceeding. Moreover, the Commission only grants counsel fees for departmental matters that reach it on appeal. *See N.J.A.C. 4A:2-2.12(f)*. Thus, as there is no other basis under *N.J.A.C. 4A:2-1.5*, any grant of counsel fees for the current matter or any potential future disciplinary action is premature.

### **ORDER**

Therefore, it is ordered that the petition for interim relief be denied.

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 26<sup>TH</sup> DAY OF NOVEMBER, 2025



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