

not credible in that his statements and evidence demonstrated that he had already made up his mind that the appellant recorded other officers before even investigating the Police Captain's complaint. Conversely, the ALJ determined that after his review of the video numerous times, that the appellant's explanation as to why she was there and what she was doing highly logical and credible. The appointing authority's argument that evidence in an initial decision involving the removal of a former Police Chief should have been admitted into evidence to impeach the appellant's credibility is of no moment. The Commission agrees with the ALJ's determination that the testimony of the individual in that matter that he tried to protect the appellant from unfair treatment by other officers was not relevant.

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 his 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. Therefore, upon its *de novo* review, the Commission finds nothing in the record or the exceptions demonstrating that the ALJ's assessment of the charges, finding that the appointing authority did not sustain its burden of proof, was arbitrary, capricious or unreasonable. Accordingly, the Commission finds that the charges were properly dismissed and the appellant's removal should be reversed.

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*. Moreover, as the appellant has prevailed, she is entitled to reasonable counsel fees pursuant to *N.J.A.C. 4A:2-2.12*.

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 decision of the Superior Court of New Jersey, Appellate Division, in *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 or counsel fees 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 her permanent position.

ORDER

The 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 Qiana Brown.

The Commission orders that the appellant be granted back pay, benefits, and seniority from the time of her removal to the date of her actual 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.

Additionally, the Commission orders that counsel fees be awarded to the attorney for the appellant pursuant to *N.J.A.C. 4A:2-2.12*. An affidavit of services in support of reasonable counsel fees 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* and *N.J.A.C. 4A:2-2.12*, the parties shall make a good faith effort to resolve any dispute as to the amount of back pay or counsel fees. However, under no circumstances should the appellant's reinstatement be delayed pending resolution of any potential back pay or counsel fees dispute.

The parties must inform the Commission, in writing, if there is any dispute as to back pay or counsel fees 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 21ST DAY OF JANUARY, 2026



Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Dulce A. Sulit-Villamor
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 10814-24

AGENCY DKT. NO. N/A

**IN THE MATTER OF QIANA BROWN,
TOWNSHIP OF HILLSIDE
(POLICE DEPARTMENT).**

Tyler Newman, Esq. for appellant Qiana Brown (Murphy Orlando, LLC,
attorneys)

Scott D. Salmon, Esq. for respondent Township of Hillside (Jardim Meiser
Salmon Sprague & Susser, attorneys)

Record Closed: March 18, 2025

Decided: December 23, 2025

BEFORE: **WILLIAM J. COURTNEY, ALJ:**

PROCEEDURAL HISTORY

On October 5, 2023, the Union County Prosecutor's Office Issued a Preliminary Notice of Disciplinary Action ("PNDA") suspending and recommending the termination of Lt. Qiana Brown ("Brown"). Brown appealed and a disciplinary hearing was held on February 9, 2024 resulting in a finding that the disciplinary action of removal was appropriate. On July 10, 2024, respondent Township of Hillside Police Department ("HPD") issued a Final Notice of Disciplinary Action ("FNDA") removing Brown effective October 5, 2023. Lt. Brown filed a timely appeal, and the matter was transmitted to the

Office of Administrative Law August 1, 2024. Hearing was held on February 7, 2025 and the record was closed on March 18, 2025 after receipt of written summations by the parties. Due to the voluminous record the undersigned requested extensions for the issuance of this Initial Decision.

STATEMENT OF THE CASE

All of the charges against Brown stem from an allegation that she violated HPD regulation 3:7(13) and (14), which prohibit recording unauthorized recordings. No one contests that on May 16, 2023, Brown was the Supervisor of Internal Affairs at the HPD and that there was a heated dispute at HPD headquarters between two of her superior officers; Captain Benjamin Niewinsky ("Niewinski") and Captain Lashonda Burgess-Mason ("Burgess"). The issue in this case is whether the HPD has established by a preponderance of the credible evidence that Brown recorded the dispute between Niewinski and Burgess. Because this tribunal concludes that the HPD has failed to establish its burden of proof, Brown's dismissal must be vacated and she must be reinstated to her position at the HPD with backpay, back benefits and reinstatement of her seniority.

FACTUAL DISCUSSION

The credible and uncontested facts presented in this case establish that Brown is a 21-year veteran of the HPD. She was born and raised in Hillside, attended Hillside High school. (T. 232:13-20). She attended Fairleigh Dickenson University for four years and in 1995 enlisted in the Army and served her country for eight years, (T. 233:1-2). She knew when she enlisted in the Army that she wanted to pursue a career in law enforcement. (T. 233:1-9). She attended the police academy and graduated at the top of her class ranking 11 out of 64 recruits.(T. 35:1-5) She was hired by the HPD upon her graduation from police academy in 2023 and began her career in law enforcement in the Hillside Community Safety Bureau where she worked directly with members of the community, business leaders and Hillside High School. (T. 2355:21-236:3). She then moved into the patrol division for a period of time where she received awards and

recognition. She also served as a field training officer where she trained other officers for the position of patrol officer. (T.236:8-10).

Brown eventually moved up the ranks and became a sergeant. As sergeant, she oversaw the platoons and telecommunications. In 2006 she was assigned to the narcotics task force where she served in an undercover capacity working with the UCPO. (T. 236:11-21). She was also the only female member of the elite Hillside Police Honor Guard, of which there were only 5 members. (T. 237:2-8).

After studying for the Lieutenant exam, she scored number one (as she had in all her promotional exams). She eventually tested for position of Captain and again scored number one on the exam. (T.237:9-15). In 2018 she began in internal affairs. Received numerous trainings on conducting internal affairs investigations and either conducted internal affairs investigations or assigned them to someone else for the remainder of her career at HPD. (T.238:8-14).

In addition to her responsibilities in internal affairs, Brown was also selected as HPD's accreditation manager. In that role she had to ensure the department's compliance with 115 standards set by the New Jersey State's Chief of Police Association. It was through Brown's efforts that the HPD achieved accreditation for the first time in its 104-year history.

During the entirety of her career her attendance record was impeccable (See P-4) and she received a distinguished service award, and many letters of recognition and commendation. (See Exhibits 14-25).

On May 16, 2023, Captains Niewinski and Burgess were involved in an argument at the HPD Headquarters. The argument began after a meeting the two captains had with then Chief Vincent Riccardi ("Riccardi") to discuss a subordinate of Burgess, who had confided in Niewinski that he was suffering from an illness. (T.188:1-24) Following the meeting, Burgess entered Niewinski's office "irate" about how things transpired at the meeting with Chief Riccardi. Niewinski testified that Burgess was upset because it came out during the meeting that Burgess already knew about her subordinate's illness

but had not disclosed the information to Riccardi. The argument spilled out of Neiowski's office and into Burgess's office. Neiowski described the portion of the argument in Burgess's office as being loud and heated. (T.190:22–192:7).

Brown recalled Burgess yelling at Niewinski about not being included in what was going on in the office and that Niewinski did not treat her with respect. (T. 66:1-22). Sergeant Dennis Donovan of the Union County Prosecutor's Office ("Donovan"), who led the investigation on the charges against Brown, testified that the argument got loud by all accounts. "Lieutenant Brown said she could hear it, Neiowski said that ...it was pretty loud and it definitely was not a friendly conversation." (T. 67:10-22). He also went on to suggest that in her role in internal affairs official Brown could have recorded the conversation and obtained the Chief's permission afterwards because that recording would have been potential evidence of an EEO Complaint and the circumstances were exigent. (T. 69:7-19). Brown, however, testified repeatedly and consistently that she never recorded the argument between Niewinski and Burgess on May 16, 2023 and has never recorded a conversation between employees at the HPD. (T. 90:23 -91:6; 148:2-5; T.290:2-5; T. 252:2-3).

The HPD's entire case against Brown is based on a two-minute video recording taken from a surveillance camera located within the HPD Headquarters on May 16, 2023. On the video, Brown can be seen placing her cell phone on top of a file cabinet located behind the main desk at the HPD and then walking away. At the hearing, the HPD offered to what amounted to be essentially opinion testimony from Neiowski and Donovan that Brown was either recording or attempting to record¹ the argument between Niewinski and Burgess.

The Video reveals and I **FIND** the following as fact:

1. Brown placed her cell phone on the top of a file cabinet located behind the reception desk at the HPD.

¹ Donovan admitted on cross examination that attempting to record a conversation at the HPD is not a violation of the HPD Rules.

2. The file cabinet was located approximately 4 feet from the doorway to Captain Burgess's office, but the phone was not placed on the file cabinet closest to Burgess's office. (See also, T. 54:20-23).
3. The phone was not hidden or covered up in any way that would indicate that Brown was attempting to hide the phone. (See also, T.47:10-13 and 212:5-21).
4. The phone remained out of Brown's physical possession for a total of 41 seconds.
5. Of the 41 seconds the phone was not in Brown's possession, Neiwinski was in Burgess's office for a total of 21 seconds.
6. As he exited Burgess's office, Brown observed the phone on top of the file cabinet and believed it was Burgess's phone.
7. When he returned to Burgess's office to inquire about the phone, Burgess informed him that the phone did not belong to her.
8. Upon exiting Burgess's office for the second time, Neiwinski encountered Brown who identified the phone as hers.
9. When Neiwinski asked Brown why the phone was left on the file cabinet, she informed him that she left it there because she was going into chief Riccardi's office.
10. After holding onto the phone for several more seconds, he returned the phone to Brown.

The investigation of the incident by the UCPO began after Niewinski called Donovan and informed him that Brown had taped an argument that he had with another captain at the HPD². (T. 14:7-19). While Donovan testified that it was the Union County Prosecutor's Office Policy to conduct investigations involving the Chief of Police or any command staff with the rank of Captain or above, he did not identify any policy of the Union County Prosecutor's Office that authorized their investigation of Hillside Police

² I am limiting my decision in this appeal to the allegation set forth in the Final Notice of Disciplinary Action (FDNA) which relate to the charges sustained by the Union County Prosecutor's Office in their September 28, 2023, Investigation Report. Although there was some mention of other investigations involving Chief Riccardi and Lt. Brown those investigations were not the subject of this appeal, and this tribunal did not consider allegations asserted therein.

Officers like Brown who holds the rank of Lieutenant, which is below the rank of Captain. While the jurisdiction of the UCPO to conduct this investigation was not challenged, it is obvious from Donovan's testimony that there were other UCPO investigations pending against Riccardi and Brown which could have impacted or biased Donovan's findings and recommendations in this case. Donovan testified that he was assigned the case in part because he was "familiar with all of the players in Hillside" and that he knew "who the different people were in this ongoing kind of complaint". (T. 23:15-18).

During his interview with Brown, Donovan asked several times whether she recorded the argument between Neiwinski and Burgess and each time she denied recording. (T.39:18-33). Brown told Donovan that she was in the area near the filing cabinets because she was waiting to see the chief in his office. (T. 40:16-25). She had an internal affairs interview that day and needed to speak to the Chief about it. (T. 40:16-25). Brown explained that while there was a door in her office that connected to the Chief's office, she did not use that door and would always use the main entrance to access his office. (T. 43:3-14). Brown also admitted placing her phone on the filing cabinet because she was going into the Chief's office³. (T. 40:1-6).

On cross examination, Donovan confirmed that neither he nor Niewinski ever listened to a recording of the argument that was allegedly taped by Brown on May 16, 2023. Indeed, there has been no evidence presented that anyone has ever seen physical evidence of or heard an actual recording of the incident.

The testimony at the hearing disclosed and I **FIND** that:

1. Neiwinski did not see a video recording application running when he handed Brown's phone back to her on May 16, 2023. (T.46:15-22)
2. Neiwinski did not even attempt to look at, unlock or even assess whether a recording was being made when he had the phone in his possession on May

³ Donovan testified that he asked Brown and Neiwinski if there was a rule that prohibited them bringing a cell phone into the chief's office and he indicated that no one ever heard of such a rule. Brown, however, never indicated that there was a rule prohibiting cell phones in the Chief's office. She simply indicated that she did not want to bring the phone into his office while she was meeting with him.

16, 2023, even though he was angry because he believed he was being recorded. (T.46:24-47:2); (T.211:10-19); (T. 217:19-28:11); (T.219:77-16).

3. Niewinski did not even indicate to Donovan whether the phone was powered on or off when he picked it up. (T.47:3-7).
4. The phone was not placed in the closest position to Burgess's office where Brown was alleged to be recording. (T. 54:20-23).
5. None of the "other complaints" against Brown that Donovan testified the UCPO had investigated were ever sustained. (T.126:2-8).

The testimony of Donovan also confirms that as Brown approached the file cabinet in the video, to place her phone down, she could have been shutting it off. (T. 57:17-25). He also admits that what seemed to be a flash of light on the phone's screen as it was placed on the filed cabinet could have been a reflection of light and not an indication that the phone was on. (T. 61:1-4). Donovan attempted to Zoom in on the screen in the video to determine whether the screen was lit or whether it was a reflection but he was unable to do so. I **FIND** that it has not been established that the phone was turned on or recording when it was placed on the file cabinet.

LEGAL ANALYSIS

When witnesses present conflicting testimonies, it is the duty of the trier of fact to weigh each witness's credibility and make a factual finding. In other words, credibility is the value a fact finder assigns to the testimony of a witness, and it incorporates the overall assessment of the witness's story in light of its rationality, consistency, and how it comports with other evidence. Carbo v. United States, 314 F.2d 718 (9th Cir. 1963); see Polk, supra, 90 N.J. 550. Credibility findings "are often influenced by matters such as observations of the character and demeanor of witnesses and common human experience that are not transmitted by the record." State v. Locurto, 157 N.J. 463 (1999). A fact finder is expected to base decisions of credibility on his or her common sense, intuition or experience. Barnes v. United States, 412 U.S. 837, 93 S. Ct. 2357, 37 L. Ed. 2d 380 (1973). Also, "[t]he interest, motive, bias, or prejudice of a witness may affect his credibility and justify the [trier of fact], whose province it is to pass upon

the credibility of an interested witness, in disbelieving his testimony.” State v. Salimone, 19 N.J. Super. 600, 608 (App. Div.), certif. denied, 10 N.J. 316 (1952) (citation omitted).

Lieutenant Brown testified in a straightforward and direct manner. She answered questions without hesitation. Her demeanor was relaxed and professional. While her recollection of her actions on May 16, 2023, during her interview with the UCPO may not have been as accurate as Niewinski's, there is a clear and logical reason for that. Niewinski had the video of the incident in his possession for more than a month and had viewed it several times before his interview with Donovan. He testified that he reviewed the tape four days before his meeting with Donovan to refresh his recollection. (T. 214:12-200)

Donovan initially testified that Brown's answers at her interview were inconsistent with what he saw on the video and that he had shown her the video several times. (82:13-84:16). When questioned further by the court, however, he changed his testimony and acknowledged that Brown had not seen the video before she was questioned. (T.84:16-86:16). When asked about the conversation she had with Niewinski two months prior when she was attempting to retrieve her phone from Niewinski, she told Donovan that she didn't remember the exact dialogue between them, she did remember telling him that she was waiting to see the chief. (T. 882:16-18). Her statement to Donovan was consistent with her testimony at the hearing and consistent with her actions on the video. I find Brown's testimony credible.

I find the testimony of Niewinski not credible. On the day in question, he was involved in a loud and heated argument with another high-ranking officer. The argument was described by Donovan as possible evidence of an EEO complaint. (T.69:17). Niewinski testified that when he thought Burgess was recording him, he was upset because he believed she was recording their heated argument. (T. 217:19-218:11). When He found out seconds later that it was Brown's phone, he was mad at her because he thought she was recording him. (T.220:9-16). At no time did Niewinski indicate that he was concerned that either Burgess or Brown had violated the HPD's Hillside's General Duties and Responsibilities by recording which is what Brown was

ultimately charged with. His concern was the potential documentation of his inappropriate behavior which I find projects an improper interest and bias upon his testimony concerning Brown.

Neiwinski's belief that Brown was recording on the day in question is also unsupported by the evidence. No copy of any recording has ever been found or released. Neiwinski himself had the phone in his possession on May 16, 2023, and while he testified that he believed he was being recorded, never checked to see if the phone was recording. (T.211:10-19) ;(T.219:7-16). Common sense would dictate that if you believed you were being recorded and you had the recording device in your possession; you would look to see if the device was recording or at the very least confirm that it was turned on.

Finally, I find that Neiwinski's testimony was inconsistent when he testified that he did not speak to anyone about his suspicions concerning Brown prior to bringing his complaint to Donovan. (T. 223:25-224:3). Donovan testified that he remembers Neiwinski telling him that he had a brother who was a Captain in the Elizabeth Police Department and that he spoke to his brother about what he should do. (T. 14:12:16). He also told Donovan that it was his brother that told him he needed to take his complaint to the UCPO and that he couldn't file it within his own department. (T. 21:9-21).

I also find that the testimony of Donovan is not credible. I believe the testimonial and documentary evidence submitted show that he was biased against Brown even before he heard Neiwinski's complaint. The transcript of Donovan's interview with Niewinski reflects the following questions and answers:

Donovan: [D]o you know why she [Brown] would want to record this argument between you and Captain Burgess?

Neiwinski: To, to have something against either me or her.

Donovan: Okay um, and you said you had some concerns that, that what you thought were private conversations were obviously repeated, so there's, there's some concern...**I can tell you that I've heard this from other officersthere is some concern.**

Neiwinski: Yeah.

Donovan: that **perhaps your conversations are being overheard.**

[Exhibit H-2, 17:16-23, *emphasis added*]

My first concern with this statement is Donovan's belief that the incident allegedly being recorded was a private conversation. When Neiwinski was asked earlier in his interview whether other people in the department heard his argument with Burgess, he replied: "I'm sure other people did hear in the uh, offices or in the hallway." Id at 5:4-7. My second concern is that he had already made up his mind that Brown had recorded other officers even before the investigation of Niewinski's complaint had even started. Donovan's bias or prejudice towards Brown is further exemplified is several other comments he made during his testimony at the hearing.

Donovan testified that at the time of Neiwinski's complaint he was interviewing a lot of Hillside police officers because a lot of officers had made complaints against Brown in her role as the internal affairs lieutenant and against former Chief Riccardi. He stated that "[t]here were quite a few officers who felt that [Riccardi] had corrupted the internal affairs system, was targeting certain officers and they were bringing their complaints to me" (T. 15:2-11). When the court questioned the extent of his ongoing investigations of the HPD he indicated that he had several open investigations, specifically against Riccardi and Brown. (T. 16:2-5). He later testified that the complaints were mostly that former Chief Riccardi was using Lt. Brown as essentially an attack dog and any complaints made against her were "squashed" by the chief. (T. 16:17-17:4). He emphasized he had been investigating Chief Riccardi since the fall of 2022 and was still investigating him when Niewinski contacted him. (T. 19:19-23). Had it not been for the very effective

cross examination of Donovan, this tribunal would have been left with the impression that Brown was just a bad cop misusing her position in internal affairs at the HPD. However, on cross examination Donovan was asked if the Union County Prosecutor's Office ever sustained any of the complaints against Brown that he testified he was investigating. His answer was that none of the other complaints he investigated against Brown were sustained. (T.126:22-8).

Donovan also testified that because Brown was an internal affairs lieutenant he believed that she probably would take an interest in a fight between two captains and record them. (T.67:23-12). He even testified that before Brown even came in for her interview, he believed she was going to tell him that she was recording the incident in her role as an internal affairs officer. (T. 68:22-69:15) Accordingly, he already had determined she had recorded the incident before he ever spoke to her.

BURDEN OF PROOF

The appointing authority bears the burden of proving the charges upon which it relies by a preponderance of the competent relevant and credible evidence. N.J.S.A. 11A:2-21; N.J. C. 4A:2-2.4(a); Atkinson v. Parsekian, 37 N.J.143 (1962); In re Polk, 90 N.J. 550 (1982). Preponderance is the greater weight of credible evidence in the case, not necessarily dependent on the number of witnesses, but having the greater convincing power. Martinez v. Jersey City Police Dept. CSV 077553-02, Initial Decision (October 27, 2003). The evidence must be such as to lead a reasonable cautious mind to a given conclusion. Id. Where the standard is reasonable probability, that is preponderance of evidence, the evidence must be such as to generate a belief that the tendered hypothesis is in all human likelihood the fact. Id. "there is a relaxed evidentiary standard in administrative hearings, "nevertheless "there must be substantial, or sufficient, credible evidence in the record to support the charges assessed." N.J.S.A. 52:14B-10(c); In Re Taylor, 158 N.J. 644, 656-657 (1999); Cumberland Farms, Inc. v. Moffett, 218 N.J. Super. 332, 341 (App. Div. 1987).

The HPD is the appointing authority in this case it bears the burden to of proving the charges by a preponderance of the credible evidence. As I have already indicated, I

find that the HPD's two main witnesses⁴, Donovan and Neiwinski, lacked credibility and I therefore assign little weight to the testimonial and documentary evidence that they have provided in this case. On the other hand, I found Brown's testimony to be credible, and I believe her testimony that she did not record any conversation on May 16, 2023, and that she did not lie when she denied doing so.

HPD's case was based entirely on a two-minute tape and their interpretation, without any further investigation, as to what Brown said she was doing. Brown told both Neiwinski and Donovan that she put her cell phone on the file cabinet because she was going speak with Chief Riccardi. Neither Neiwinski nor Donovan made any effort to determine if it was Brown's regular practice to not take her cell phone with her when she was meeting with the chief. All they had to do was ask the Chief, but they chose not to. They also did not look at any additional tapes to determine if she did in fact meet with the chief or if she typically left her phone and other personal items around the department. (T. 236:17-237:4). Also, even though Neiwinski had the phone in his hand when he testified that he believed first Burgess and then Brown was recording him, he was unable to testify as to whether the phone was recording or even turned on.

In an apparent attempt to obtain evidence of a recording, during Donovan's interview with Brown he asked if she would allow him to "dump" the contents of her personal cell phone. Brown refused because there was a lot of personal information on her phone such as bank records, medical records and emails and personal family photos. She also testified that Donovan never offered to limit his search to audio recordings or to certain types of files or apps. (T.259;19-260:25). Donovan agreed that dumping the phone meant to remove or "dump" all the contents including your texts, call logs and photos. He also admitted that he did not offer to limit his search of the phone even though they were only looking for an audio recording. (T. 137:5-139:23).

As the trier of fact, I am expected to base my decisions regarding credibility on common sense, intuition or experience. Barnes, supra., 412 U.S. 837, (1973). My

⁴ There was one other witness presented by the HPD that I did find credible. The witness was Detective William Blakely, who authenticated the recording of the incident which was marked as Exhibit H-7. Detective Blakely gave no testimony concerning the charges at issue.

Common sense, intuition and experience in life and in law, tells me that a person like lieutenant Brown, who dedicated her entire professional life to the community where she was born and raised, who rose through ranks of the HPD receiving numerous Letters of Recommendation and Commendation and who never received any major or even minor discipline is a person who deserves to be believed. I have viewed the video numerous times and I find Brown's explanation as to why she was there, what she was doing to be logical and highly credible.

I find that the HPD has not proven by a preponderance of the evidence that Brown made a recording in violation of HPD Rules and Regulation 3:7.14(13) or (14). I also find that the HPD has not proven by a preponderance of the evidence that Brown violated 2:1.2 when she said she did not record during her interview with Donovan.

The allegations that Brown violated 1:5-2 and 2:1.2(7) are based on the claimed violation of HPD Rules and Regulation 3:7(13) and (14), and 2:1.2. For the same reasons, I find that 3:7(13), (14) and 2:1.2 were not violated, I find that 1:5-2 and 2:1.2(7) were not violated.

Conduct Unbecoming

“Conduct unbecoming a public employee” encompasses conduct that adversely affects the morale or efficiency of a governmental unit or that tends to destroy public respect for government employees and confidence in the operation of governmental services. Karins v. City of Atl. City, 152 N.J. 532, 554 (1998). It is sufficient that the complained-of conduct and its attending circumstances “be such as to offend publicly accepted standards of decency.” *Id.* at 555 (citation omitted). Such misconduct need not necessarily “be predicated upon the violation of any particular rule or regulation but may be based merely upon the violation of the implicit standard of good behavior which devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct.” Hartmann v. Police Dep’t of Ridgewood, 258 N.J. Super. 32, 40 (App. Div. 1992) (citation omitted).

Police officers are held to a higher standard of conduct than ordinary public employees. In re Phillips, 117 N.J. 567, 576-77 (1990). They represent “law and order to the citizenry and must present an image of personal integrity and dependability in order to have the respect of the public.” Moorestown v. Armstrong, 89 N.J. Super. 560, 566 (App. Div. 1965), certif. denied, 47 N.J. 80 (1966). Maintenance of strict discipline is important in military-like settings such as police departments, prisons and correctional facilities. Rivell v. Civil Serv. Comm’n, 115 N.J. Super. 64, 72 (App. Div.), certif. denied, 50 N.J. 269 (1971); City of Newark v. Massey, 93 N.J. Super. 317 (App. Div. 1967). Refusal to obey orders and disrespect of authority cannot be tolerated. Cosme v. Borough of E. Newark Twp. Comm., 304 N.J. Super. 191, 199 (App. Div. 1997).

In this case, I have found that HPD has not sustained their burden of proof that the underlying offenses of recording other employees or lying took place. Accordingly, the conduct the HPD claims was unbecoming has not been proven and allegation must be dismissed.

Other Sufficient Cause

N.J.A.C. 4A:2-2.3(a) (12) provides that a Civil Service employee may be disciplined for Other sufficient cause. Here, the only cause for discipline that the HPD alleges is that Brown recorded in violation of the HPD Rules and Regulations and also lied about it. As indicated above, The HPD has failed to meet its burden of proof to show a violation of the Rules and Regulations so this claim must also fail. The HPD has failed to show what other sufficient cause existed.

CONCLUSION

For the reasons set forth above, I Conclude that the July 10, 2024 Final Notice of Disciplinary Action must be vacated and that Lieutenant Quiana Brown be reinstated effective October 5, 2023, with back pay and benefits along with reinstatement of any seniority rights.

ORDER

IT IS on this 23rd day of December 2025 **ORDERED** that:

1. The July 10, 2024 FNDA is **VACATED**;
2. Lieutenant Quiana Brown is reinstated to her position of Lieutenant at the Hillside Police Department with back pay and benefits and full seniority rights effective, October 5, 2023.

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.



December 23, 2025
DATE

WILLIAM J. COURTNEY, ALJ

Date Received at Agency:

December 23, 2025

Date Mailed to Parties:

December 23, 2025

db

APPENDIX

List of Witnesses

For Appellant:

Quiana Brown, Lieutenant

For Respondent:

Dennis Donovan, Sergeant

Benjamin Neiwinski, Captain

William Blakely, Detective

List of Exhibits

For Petitioner

- P-1 2020 Personnel Evaluation, Bates No. Hillside 118-119
- P-2 2021 Personnel Evaluation, Bates No. Hillside 347-248
- P-3 2022 Personnel Evaluation, Bates No. Hillside 349-350
- P-4 Sick Time Incentive Certifications, Bates No. Hillside 79, 82-102
- P-5 6-Month Employment Progress Report (2003), Bates No. Hillside-238
- P-6 Field Training Officer Recruit Report (2004), Bates No. Hillside-I 07
- P-7 Educational and Training Log (2003-2020), Bates No. Hillside 286-288
- P-8 Educational and Training Log (2020-2023), Bates No. Hillside-351-354
- P-9 Hillside Police Department Rules and Regulations
- P-10 HPD [A General Order 1.3.1, I.4.3a-e

- P-11 Attorney General Guidelines for Internal Affairs Policies and Procedures, None
- P-12 Correspondence Concerning 2004 Motor Vehicle Accident, Bates No. Hillside-224
- P-13 Accreditation Manager Profile
- P-14 Guardian Tracking Awards and Recognitions, Bates No. Hillside-341-346
- P-15 June 10, 2004, Letter of Commendation, Bates No. Hillside -218
- P-16 October 21, 2004, Letter of Commendation, Bates No. Hillside-217
- P-17 November 29, 2004, Letter of Commendation, Bates No. Hillside -215
- P-18 April 27, 2005, Letter of Commendation, Bates No. Hillside-213
- P-19 January 29, 2007, Letter of Recognition from Fairleigh Dickinson University, Bates No. Hillside-206
- P-20 June 6, 2006, Excellent Police Duty Award, Bates No. Hillside-207
- P-21 March 17, 2009, Letter of Recognition, Bates No. Hillside-198
- P-22 June 10, 2009, Letter of Recognition from Fairleigh Dickinson University, Bates No. Hillside-197
- P-23 April 14, 2010, Email of Appreciation from Citizen, Bates No. Hillside -187
- P-24 May 10, 2010, Letter of Recognition from Fairleigh Dickinson University, Bates No. Hillside-186
- P-25 April 27, 2012, Letter of Recognition from Fairleigh Dickinson University, Bates No. Hillside-162
- P-26 HPD Accreditation Website, Bates No. Hillside 310-311

For Respondent

Exhibit#	Date	Description
Hillside-1	10/06/2023	Preliminary Notice of Disciplinary Action
Hillside-2	10/03/2023	UCPO Internal Affairs Report
Hillside-3	03/15/2021	HPD Rules and Regulations Policy
Hillside-4	07/10/2023	Transcript of Capt. Benjamin Niewinski
Hillside-5	07/13/2023	Transcript of Lt. Qiana Brown
Hillside-6	08/25/2023	Transcript of Det. William Blakely
Hillside-7	05/16/2023	Video Surveillance Recording
Hillside-8	02/09/2024	Disciplinary Hearing Transcript
Hillside-9	07/10/2024	Final Notice of Disciplinary Action