



While the appellant did utilize the photographs contained in the camera in a prior disciplinary proceeding, the specific charges as written against her cannot be sustained.

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. 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 120 working day suspension should be reversed.

Since the suspension has been reversed, the appellant is entitled to mitigated back pay, benefits, and seniority pursuant to *N.J.A.C. 4A:2-2.10* for the time the appellant was suspended. 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, *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.

## ORDER

The Commission finds that the action of the appointing authority in suspending the appellant was not justified. The Commission therefore reverses the 120 working day suspension and grants the appeal of Jennifer Akturnk.

The Commission orders that the appellant be granted back pay, benefits, and seniority for the time the appellant was suspended. 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.

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 4<sup>TH</sup> DAY OF FEBRUARY, 2026

*Allison Chris Myers*

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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. CSV 17044-25

AGENCY DKT. NO. 2026-809

**IN THE MATTER OF JENNIFER AKTURK,  
GARDEN STATE YOUTH CORRECTIONAL  
FACILITY, DEPARTMENT OF CORRECTIONS.**

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**Marcia J. Mitolo, Esq.**, for appellant, Jennifer Akturk (Limsky Mitolo, attorneys)

**Michele C. Sebastiano, Esq.**, for respondent, Garden State Correctional Facility,  
(attorney)

Record Closed: December 31, 2025

Decided: January 7, 2026

BEFORE **SARAH G. CROWLEY, ALJ**:

**STATEMENT OF CASE AND PROCEDURAL HISTORY**

The appellant, Jennifer Akturk (Akturk or appellant), is employed as a corrections officer with the Garden State Correctional Facility (Garden State or respondent). This case involves a 120-day working suspension for charges of “using a state issued digital camera to take unauthorized photographs inside the secured perimeter at Garden State Correctional Facility,” and for providing “SID with false and misleading information during [her] interview,” in connection with that charge. The appellant filed an appeal, and the matter was transmitted to the Office of Administrative Law on September 30, 2025.

N.J.S.A. 52:14B-1 to -15; and N.J.S.A.52:14F-1 to -13. The matter was heard before the undersigned on December 22, 2025, and the record closed after closing submissions by the parties on December 31, 2025.

### **TESTIMONY AND FINDINGS OF FACT**

#### **For the respondent:**

**Tavon Spearman** is an investigator in the Special Investigations Department (SID) with Garden State. He testified that on January 10, 2025, he received a referral to do an investigation into allegations against the appellant. The allegations related to photographs that allegedly came from a state issued camera that were downloaded by the appellant and used in a prior disciplinary proceeding against her.<sup>1</sup> The photographs were marked and entered into evidence as R-6. The photographs included a photo of the lobby entrance gate (not in the secured area), a photo of Lieutenant Valle's closed locker, and one of it opened with a protective vest in it (which were in the secured area). There is also a photo of Lieutenant Valle in the parking lot (not in the secured area) holding her vest in her hand with a caption which states, "Welcome to the Garden! Lt. Valle's motto "Do as I Say NOT as I do." "Where's your protective vest Lieutenant?"

Investigator Spearman testified that someone from IT<sup>2</sup> had accessed appellant's email and she had copies of these photographs that she used in the hearing. The respondent only learned of the existence of the photographs when the appellant used them in connection with a prior disciplinary matter. They believed they came from a state-issued camera, and this fact was confirmed by the appellant who was very forthcoming about how she came into possession of these photographs. Someone had left the

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<sup>1</sup> A prior disciplinary charge against appellant involved the failure to have her vest on when she arrived at work. She was issued a sixty-day suspension as a result of this incident. The photos that were provided by an unnamed source demonstrated that the lieutenant who brought the charges against appellant does not wear her vest. The photographs also show Lieutenant Valle not wearing her vest and a photograph of her locker where her vest remained. The appellant used these photographs in the prior proceeding which resulted in the sixty-day suspension being downgraded to a minor disciplinary infraction.

<sup>2</sup> The respondent was to call Thomas Justice, via ZOOM from the Department of Correction IT to demonstrate that the photographs were found on the appellant's email. The appellant stipulated that they were on her email thus, eliminated the need for this witness.

camera on her desk with a post it note on it encouraging her to view the photographs. Spearman testified that his investigation revealed no evidence that the appellant had used the state issued camera or that she took the photographs in question. He did not investigate any other individuals for these offenses. There was no evidence that the appellant had taken the photographs or that she had used a state-issued camera to take these or any other photographs. The only evidence that they had that the photographs had come from a state-issued camera came from appellant herself who was forthcoming in the interview about how the photographs had come into her possession.

The video of the interview with the appellant was played in its entirety and entered into evidence as Exhibit R-5. The appellant explained in the videotaped interview that after she was given a sixty-day suspension for not having her vest on when she arrived at work one day, other officers felt that the charges were unfair because many officers, including Lieutenant Valle, do not wear their vest. Appellant advised Spearman in the interview that someone must have taken those photos to help her out, but it was not her, and she did not know who it was. After using these photographs in the prior departmental hearing, the sixty-day suspension was ultimately downgraded to a minor discipline. Appellant was steadfast in her interview that she did not know who left the camera or who took the photographs.

Officer Spearman testified that he interviewed Lieutenant Valle in connection with the allegations relating to the camera and Valle's report that her lock was removed from her locker, which is where two of the photos in the locker room were taken. He never determined who took the photographs or who removed the lock from her locker. There was never any investigation into the missing lock. Officer Spearman testified that Valle told him that SCOs Tye and Jorge advised her that appellant had requested a state-issued camera. However, both Jorge and Tye denied saying any such thing to Valle and neither had any information about anyone requesting a state issued camera. He is not aware of any investigation or discipline against Valle for these statements which proved to be false. He never obtained any evidence that appellant took the photographs.

Officer Spearman was questioned about the charges which stemmed from his investigation which provided as follows:

On February 19, 2025, GSCF/SID submitted an administrative investigation that revealed that [appellant] used a state issued digital camera to take unauthorized photographs of various locations inside and outside the secured perimeter at Garden State Correctional Facility. In addition, during the SID led investigation it was determined that [appellant] provided SID with false and misleading information during your interview. This conduct will not be tolerated.

Officer Spearman testified that he only conducts the investigation and prepares a report and he is not involved in writing up any charges. He was questioned about what, if any evidence he found that the appellant used a state-issued camera to take unauthorized photographs. Spearman conceded that his investigation did not reveal any evidence that the appellant had used a state-issued camera to take these or any other photographs. The only information he had about who might have taken the photos came from false information provided by Lieutenant Valle that appellant had requested the use of a state-issued camera. There was no record of her requesting a camera and no one corroborated this allegation.

The second charge in the Disciplinary Action alleges that appellant provided "false and misleading information in her interview." Officer Spearman was questioned about this charge, which related to the interview he conducted, which was played in full at the hearing. He could not identify any such statement that was false and/or misleading. He testified that he did not report false or misleading statements. The respondent did not produce any witnesses who were responsible for drafting and issuing the charges or anyone who could corroborate the allegations of false or misleading statements. There were no other witnesses or documentation which demonstrated that the appellant had taken any of the photographs or that she was untruthful or provided misleading statements in her interview.

**Major Joseph Reardon** testified on behalf of the respondent. He has worked for the Central Office of the Department of Corrections for approximately twenty years. He is in charge of assisting in state policies. He was called as a witness to identify the state policies related to unauthorized use of state property, as well as taking photographs in

the secured portion of the facility. He was not involved in the investigation in any way, and he was not responsible for bringing of the charges in this matter. He had no specific knowledge of the case or the charges that were brought. The respondent did not call the individual who was responsible for bringing the charges in this matter. Reardon identified a number of policies that were included in the respondent's exhibits, including the internal management procedures and the Personal Rules and Regulations. He also identified the table of offenses as well as the appellant's confirmation of receipt of the rules and regulations.

Counsel for the appellant raised an objection to him testifying about the specific charges that were brought since the witness was not involved in the investigation or the drafting of the charges. The documentations of the policies and the table of offenses were admitted into evidence without objection. However, the undersigned sustained the objection to Major Reardon testifying about the specific charges that were brought, as it was clear he had no independent knowledge of the circumstances or the charges that were brought against the appellant and was not involved in the investigation or the drafting of the charges. The respondent did not call any witnesses who were involved in bringing these charges, and Major Reardon had no independent knowledge of this investigation or the charges were brought. There were no witnesses called by the respondent.

### **FINDINGS OF FACT**

The resolution of the claims made by the appellant requires that I make a credibility determination regarding the critical facts. The choice of accepting or rejecting the witnesses' testimony or credibility rests with the finder of fact. Freud v. Davis, 64 N.J. Super. 242, 246 (App. Div. 1960). In addition, for testimony to be believed, it must not only come from the mouth of a credible witness, but it also must be credible. It must elicit evidence that is from such common experiences and observation that it can be approved as proper under the circumstances. See Spagnuolo v. Bonnet, 16 N.J. 546 (1954); Gallo v. Gallo, 66 N.J. Super. 1 (App. Div. 1961). A credibility determination requires an overall assessment of the witnesses' story considering its rationality, internal consistency and the way it "hangs together" with the other evidence. Carbo v. United States, 314 F.2d 718,749 (1963). A fact finder is free to weigh the evidence and to reject the testimony of

a witness, even though not directly contradicted, when it is contrary to circumstances given in evidence or contains inherent improbabilities or contradictions which alone, or in connection with other circumstances in evidence, excite suspicion as to its truth. In re Perrone, 5 N.J. 514. 521-22 (1950). See D'Amato by McPherson v. D'Amato, 305 N.J. Super. 109, 115 (App. Div. 1997).

Having had an opportunity to carefully observe the demeanor of the witnesses, it is my view that the testimony of SID Officer Spearman was not credible, and his testimony was not consistent with the charges that were ultimately brought. Officer Spearman was argumentative and evasive and provided no examples of how the appellant was not truthful in the interview, nor could not identify any such false or misleading statements. Moreover, his investigation report contains no such conclusions. On the charge of "using a state-issued camera," he could not identify any evidence to support this charge yet continued to defend the charges.

Accordingly, I **FIND** the following as FACT:

1. The respondent came into possession of photographs taken at the facility after the appellant produced them in a prior disciplinary proceeding, in which she was charged with not having her vest on and given a sixty-day suspension.
2. These initial charges were reduced to a minor infraction, but appellant was then given a 120-day suspension for use of a state-issued camera to take unauthorized photographs and for being untruthful in the investigation into such use.
3. The appellant was forthcoming and truthful in the investigation as to how she came into possession of the photographs, and there was no evidence at all that she had taken such photographs or used a state-issued camera.
4. There was no evidence that she was untruthful in her interview.
5. The photographs in question demonstrated that Lieutenant Valle did not have her vest on when she came to work, and another photograph demonstrated that Lieutenant Valle's vest was in her locker, and not being worn.

6. There was no evidence that the appellant ever had possession of or used a state-issued camera to take these photographs.
7. The respondent never conducted any other investigation into who used a state issued camera to take these photographs.
8. The appellant was forthcoming about how she came into possession of the photographs, which she used in the prior disciplinary proceeding.
9. The only person who provided untruthful and misleading information in connection with the investigation was Lieutenant Valle, who was not disciplined, and not produced as a witness in this matter.
10. The investigation did not reveal any evidence that the appellant took any photographs with a state-issued camera.
11. The investigation, including the interview of the appellant which was shown in full during the hearing, did not demonstrate any false or misleading statements made by the appellant during the interview.

### **LEGAL ANALYSIS AND CONCLUSIONS OF LAW**

The Civil Service Act, N.J.S.A. 11A:1-1 to -12.6, governs a public employee's rights and duties. The Act is an important inducement to attract qualified personnel to public service and is liberally construed toward attainment of merit appointments and broad tenure protection. Essex Council No. 1, N.J. Civil Serv. Ass'n v. Gibson, 114 N.J. Super. 576 (Law Div. 1971), rev'd on other grounds, 118 N.J. Super. 583 (App. Div. 1972); Mastrobattista v. Essex Co. Park Comm'n, 46 N.J. 138, 147 (1965). The Act states that State policy is to provide appropriate appointment, supervisory and other personnel authority to public officials so they may execute properly their constitutional and statutory responsibilities. N.J.S.A. 11A:1-2(b). To carry out this policy, the Act authorizes the discipline and termination of public employees.

N.J.A.C. 4A:2-2.3(a) provides that a public employee may be subject to major discipline for various offenses. The burden of proof is always on the appointing authority in disciplinary matters to show that the action taken was justified. N.J.S.A. 11A:2-21; N.J.A.C. 4A:2-1.4(a). The employee's guilt of the charge(s) must be established by a preponderance of the competent, relevant and credible evidence. Atkinson v. Parsekian, 37 N.J. 143 (1962); In re Polk License Revocation, 90 N.J. 550 (1982). Precisely what is needed to satisfy the standard must be decided on a case-by-case basis. The evidence must be such as to lead a reasonably cautious mind to the given conclusion. Bornstein v. Metropolitan Bottling Co., 26 N.J. 263, 275 (1958). Preponderance may also be described as the greater weight of the credible evidence in the case, not necessarily dependent on the number of witnesses, but having the greater convincing power. State v. Lewis, 67 N.J. 47, 49 (1975). Credibility, or, more specifically, credible testimony, in turn, must not only proceed from the mouth of a credible witness, but it must be credible in itself, as well. Spagnuolo v. Bonnet, 16 N.J. 546, 554–55 (1954). Both guilt and penalty are redetermined on appeal from a determination by the appointing authority. Henry v. Rahway State Prison, 81 N.J. 571 (1980); West New York v. Bock, 38 N.J. 500 (1962).

The appellant has been charged as follows:

On February 19, 2025, GSCF/SID submitted an administrative investigation that revealed that [appellant] used a state issued digital camera to take unauthorized photographs of various locations inside and outside the secured perimeter at Garden State Correctional Facility. In addition, during the SID led investigation it was determined that [appellant] provided SID with false and misleading information during your interview. This conduct will not be tolerated.

The respondent did not demonstrate by a preponderance of credible evidence that the appellant took any unauthorized photographs with a state-issued camera. In fact, the respondent did not provide any evidence that the appellant used a state-issued camera to take these photographs, or that she was not truthful in the investigation. The only fact witnesses for the respondent, and the individual who conducted the investigation could not identify any false or misleading statements made by the appellant during her interview, or any evidence that the appellant had taken the photographs in question. The

investigation completed by the respondent did not reveal who took the two photographs of Lieutenant Valle's locker, which were the only photos taken inside the secure perimeter of the facility. Moreover, there was no evidence that appellant made any false or misleading statements during the interview.

### **CONCLUSION AND ORDER**

Accordingly, I **CONCLUDE** that the respondent failed to prove any of the charges by a preponderance of the evidence, and they are all therefore **DISMISSED**, and that back pay shall be awarded to the appellant.

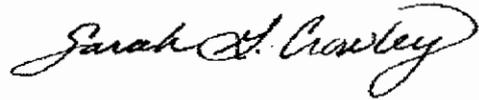
I hereby **FILE** my initial decision with the **CIVIL SERVICE COMMISSION** for consideration.

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. 52:14B-10.

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.

January 7, 2026

DATE



SARAH G. CROWLEY, ALJ

Date Received at Agency:

January 7, 2026

Date Mailed to Parties:

January 7, 2026

SGC/lam/oni

## **APPENDIX**

### **Witnesses**

#### **For appellant**

None

#### **For respondent**

Tavon Spearman

Joseph Reardon

### **Exhibits**

#### **For respondent**

- R-1 Preliminary Notice of Discipline dated February 21, 2025
- R-2 Final Notice of Disciplinary Action dated September 8, 2025
- R-3 NJDOC Special Investigation Division Investigative Report from Tavon Spearman dated January 10, 2025
- R-4 Supplemental Report from Tavon Spearman dated January 10, 2025
- R-6 Photographs - print out and thumb drive
- R-7 Photograph with caption
- R-8 Emails
- R-9 Report of missing lock dated November 25, 2024
- R-10 Forensics Report from Thomas Justice
- R-11 Emails of Photographs
- R-12 Internal Management Procedure Post Order
- R-13 Law Enforcement Personnel Rules and Regulations
- R-14 Orientation Receipt Form
- R-15 Training Summary Report
- R-16 Work History
- R-17 Table of Offenses