



STATE OF NEW JERSEY

In the Matter of Joseph Howe, Cape
May County, Sheriff's Department

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

CSC Docket No. 2026-1221

Request for Reconsideration

ISSUED: September 2, 2026 (SLK)

The Cape May County Sheriff's Office (County), represented by William G. Blaney, Esq., requests reconsideration of the Civil Service Commission's (Commission) decision *In the Matter of Joseph Howe* (CSC, decided September 24, 2025) which reversed Joseph Howe's removal.

By way of background, Howe began his employment with the Sheriff's Office on October 1, 2023, and entered the Atlantic Couty Police Training Center (Academy) in December 2023 and graduated in April 2024 as a County Correctional Police Officer. Prior to graduating from the Academy, Howe was instructed to complete an Instructor Evaluation Form (Evaluation). Howe completed the Evaluation, which asked for honest and thoughtful answers, by indicating that he thought that the instruction contained "antiwhite narrative propaganda." Further, some of the Academy recruits read Howe's Evaluation and cautioned him not to submit it, but he did. After graduation, Howe's Evaluation was circulated to the superiors at the Cape May County Correctional Facility (Facility), which led to an April 29, 2024 meeting between Warden Lombardo, Captain Magill, and Howe. After a discussion about Howe's obligation as a sworn officer, Lombardo provided Howe with a copy of the Standard Operating Procedures (SOPs) concerning harassment in the workplace, and a copy of the Rules and Regulations relating to impartial attitude, subversive organizations, and affiliations with radical groups. Additionally, Lombardo instructed Howe to write a report memorializing their meeting, which led to Howe drafting a special report where he expressed his concerns that the materials offered

by the Academy presented and created an anti-white culture that he perceived as hostile. Further, on the same day Lombardo issued a special report to the Undersheriff, indicating that he had explained to the Howe his obligation as a sworn officer, Lombardo spoke about workplace speech and Howe's responsibility as a caretaker of inmates of all races, creeds, and religions. Also, Lombardo noted that he directed Howe to submit a report memorializing the meeting and the documentation that he provided to Howe.

Howe wrote his special report on a facility computer that was used by all officers but saved to Howe's personal folder. However, unbeknownst to Howe, his personal folder was not private, as it was accessible to any officer using the computer who wanted to open it. On April 30, 2025, Officer Wainwright, in the presence of Officer Womack, confronted Howe in the facility about what he had written. After realizing that Wainwright had read his report, Howe responded to Wainwright's questions and a general discussion about the topics in the report and the Evaluation. The discussion ended when they returned to work.

Subsequently, Lombardo requested that there be an Internal Affairs (IA) investigation regarding an allegation that Howe engaged in "deferential treatment, insubordination, and conduct unbecoming which occurred on or about April 2024." Further, Howe was placed on administrative leave, effective May 2, 2024. The investigation summarized that Howe admitted to having a conversation with Wainwright and Womack after meeting Lombardo and Magill. Additionally, Wainwright read Howe's special report that was saved in Howe's folder and asked for Howe to clarify it. Moreover, before the investigation was completed, Howe passed a fitness for duty psychological examination. Thereafter, on July 17, 2024, Howe was served a Preliminary Notice of Disciplinary Action (PNDA), suspending him without pay and seeking his removal. Howe waived his right to a departmental hearing and was issued a Final Notice of Disciplinary Action (FNDA). Howe directly appealed his removal to the Office of Administrative Law as a contested case.

In the Administrative Law Judge's (ALJ) first initial decision, concerning the insubordination charge, the ALJ noted that neither Howe's or Lombardo's special reports memorializing their meeting used the phrase "cease and desist." Specifically, the ALJ found that there was nothing in the record to show that Lombardo expressly, plainly, and clearly told Howe what he was prevented from doing after the meeting. Also, the ALJ found that the County failed to establish that Lombardo or Magill informed Howe to keep the contents of the meeting confidential. As a result, the ALJ found that there was no clear understandable order given to Howe to support the insubordination charge. Moreover, the ALJ determined that the County failed to establish the other charges. Consequently, the ALJ recommended in the first initial decision that Howe's removal be reversed.

Subsequently, in a July 2, 2025, decision, the Commission remanded the matter to the Office of Administrative Law so that the ALJ could provide a more thorough legal analysis as to how or if the information written on Howe's Evaluation was entitled to protection under the First Amendment. The Commission indicated that if it was, that would provide an *additional* reason why the proffered charges should be dismissed. Conversely, if it was not, the ALJ should reexamine her determinations.

Upon remand, in the ALJ's second initial decision, after performing a legal analysis, the ALJ found that Howe's Evaluation was not entitled to protection under the First Amendment. Further, the ALJ found that Lombardo warned Howe that he could not express his beliefs about anti-white culture in the workplace, which was a lawful order that was not protected by the First Amendment. Additionally, the ALJ stated that it was clear from Howe's testimony and his special report that he understood that the purpose of the meeting was to discuss what he had written on the Evaluation, and the only plausible reason for the meeting was for Lombardo's warning to Howe to cease all further discussion regarding his beliefs. Thus, the ALJ indicated that Lombardo issued to Howe a clear order to not engage in any further discussion about his views as written on the Evaluation. Therefore, the ALJ determined that Howe was insubordinate when he responded to Wainwright and Womack during the discussion about his special report and Evaluation. The ALJ also determined that Howe engaged in conduct unbecoming a public employee, neglect of duty, and other sufficient cause. Consequently, the ALJ recommended Howe's removal.

However, in the Commission's September 24, 2025, decision, it disagreed with the ALJ's conclusion that Howe's Evaluation was not protected under the First Amendment as the Academy was an academic setting where he was asked to provide his honest assessment of his courses and the comments were not made "in the line of duty" or directly made to an individual. Further, as indicated in its prior decision, the finding that Howe's Evaluation was protected speech was an *additional* reason to reverse the removal. Therefore, the Commission adopted the ALJ's Findings of Facts and Conclusions from the ALJ's first initial decision and reversed the removal.

In its request for reconsideration, the County presents that the charges stem from two incidents. The first being the April 29, 2024 meeting where Lombardo advised Howe not to engage in a racially charged discussion in the correctional facility and it was discovered that the very next day that he engaged in a racially charged discussion with two coworkers. Additionally, the County states that the investigation revealed that during field training, Howe previously engaged in an inappropriate and racially charged discussion with a coworker. The County argues that the Commission made a clear material error in its September 24, 2025 decision as the Evaluation was not the reason for Howe's removal. It emphasizes that the AI investigation was triggered based on Howe's conversation with Womack and Wainwright on April 30,

2024. The County asserts that the analysis as to whether the Evaluation was protected free speech had no bearing on the appropriateness of Howe's speech after his meeting with Lombardo where he was instructed not to talk about such inflammatory topics in the workplace. It states that the Commission did not address the multitude of witness testimony that the ALJ deemed credible, that Howe was instructed to discontinue speaking on the controversial topics expressed in his Evaluation. It reiterates that it is perplexing how the Evaluation could be an *additional reason* when it was never the reason for the charges in the first place as the reason he was removed was for his insubordination among other charges.

The County argues that Howe's Evaluation being protected speech does not grant him immunity from being disciplined for prohibited speech while conducting his duties as a public employee. It asserts that even if Howe's speech was protected at the Academy, it was not protected at the workplace and Howe made discriminatory and inflammatory remarks while on duty to Wainright and Womack.

Additionally, the County argues that the proper First Amendment analysis should have been concerned with Howe's speech at his place of employment, at the facility, and not at the Academy. It presents case law to demonstrate that there are limits on a government employee's freedom of speech. Therefore, the County contends that Howe engaged in workplace speech where he ignored a cease-and-desist order and openly expressed his white nationalist beliefs not only in his special report, but with other employees. It highlights Lombardo's special report where he said that he "spoke about workplace speech and his responsibility as a caretaker of inmates of all races, creeds and religions." The County highlights that Howe was only disciplined after being told to cease and desist conversations with racial undertones that could upset either other staff or inmates and was counseled on workplace speech. It also notes that testimony demonstrates that other staff did prove that these topics were upsetting, which led to the investigation and subsequent charges. The County contends that Howe's speech rights do not outweigh the County's interest in maintaining the safety and efficiency of the facility.

Finally, the County argues that the Commission failed to recognize established case law and did not clearly state its reasoning for rejecting the legal conclusion in the second initial decision. The County states that it does not believe that the free speech issue regarding the Evaluation should have any bearing on whether the charges should be upheld. However, if it does, it believes that the Commission failed to do a proper analysis and recognize established case law. The County highlights that upon remand, the ALJ found that Howe's Evaluation was not protected free speech and recommended that his removal be upheld. It asserts that despite the ALJ's logical conclusion, the Commission, without citing any new case law, simply stated that it disagreed with the ALJ's conclusion that the Evaluation was not protected free speech without expanding upon its reasons for doing so.

In response, Howe, represented by Michael C. Mormando, Esq., presents that despite the Commission's decision, he has not been reinstated nor has the County paid him back pay or responded to his affidavit of mitigation concerning back pay. He states that prior to entering the Academy, he worked under two senior officers in the facility who provided him on-the-job training, and no complaints were made about him. Thereafter, while attending the Academy, he was to complete an evaluation form and was specifically told it would be cowardly to not fill out the form with honest critique, which led him to complete the Evaluation stating his personal belief that some of the training was racially biased. He claims that his comments were not racially derogatory or threatening. After graduation, there was a meeting between himself, Lombardo and Magill. During the meeting, Lombardo started talking about the Evaluation and Howe advised that he is not a racist and explained his comments on the form. Further, Howe provides that Lombardo gave him the SOPs concerning harassment in the workplace to promote a healthy and productive work environment. Additionally, he states that Lombardo gave him a copy of the Rules and Regulations that related to impartial attitude, subversive organizations and affiliations with radical groups. However, Howe asserts that Lombardo did not tell him to not discuss his points of view at the facility. Instead, he provides that Lombardo instructed him to write a report memorializing the meeting. Also, Howe notes that Lombardo wrote a report about the meeting. He highlights that neither his report nor Lombardo's report mention any order or direction given to him about what he could or could not discuss at work. Howe emphasizes that in the first initial decision, the ALJ found that there was nothing in the record showing that Lombardo expressly, plainly, and clearly told him what he was prevented from doing after their meeting. Therefore, the ALJ found that there was no clear understandable order given to Howe to support the insubordination charge. Moreover, Howe notes that the PNDA and FNDA both state he talked to other officers about the Evaluation and his viewpoints "*despite the aforementioned meeting*" rather than despite being ordered not to do so.

Concerning Howe's special report, he indicates that he wrote it on a facility computer and saved it in his own folder. Howe states that he was not told that he should write it in a way to prevent others from accessing it and no one told him that others could access it. Therefore, Howe questions how Womack and Wainright came into possession of it. He asserts that he is amazed that he could be disciplined, after being confronted by other officers, who had no right to review his report. He wonders if Lombardo or Magill leaked the information to the officers so that they would confront him. Howe reiterates that it was Wainwright who confronted him about the report. Further, he indicates that Wainright and Womack were senior to him and trained him prior to his attendance at the Academy. Howe describes the conversation about the report with Wainright and Womack as a discussion, where neither racially derogatory remarks nor threats were exchanged. He notes that neither Wainright nor Womack were disciplined for expressing their views to him or discussing their beliefs in the workplace.

Howe provides that Womack then submitted a report about his recollection of the meeting where he described him as a white supremacist. However, Howe denies this as he only wants equal treatment among races, and he disagrees with teachings that vilifies white. Further, he states that Womack testified that he is not an expert on the subject. Also, Howe indicates that Womack admitted that he never threatened Womack or uttered racially derogatory monikers or words.

Regarding the IA investigation, Howe states that multiple officers were interviewed concerning their interactions with him at the Academy. He notes that none of these officers had made any complaints against him. Further, Howe presents that the County admitted that information concerning Howe's interactions at the Academy with other officers were *not* the subject of the IA case, or the discipline given.

Howe indicates that the County also attempted to support his removal based on an alleged conversation that he had with Womack prior to attending the Academy. He states that Womack wrote a July 3, 2024 report where he recounted a conversation he had with Howe while training him. However, the ALJ, based on the six months that had passed prior to Womack writing the report and Womack's lack of direct recollection, found that the quoted language was not credible. The ALJ also noted that Womack never filed any harassment charges against Howe, and Howe never attempted to continue conversations against Womack's wishes.

Howe argues that his comments on the Evaluation were protected free speech as determined by the Commission. He reiterates that he was instructed to provide an honest assessment of Academy training, even told that he would be a coward if he did not speak his mind, and that is exactly what he did. Howe notes that the testimony indicates that the County provided that his discipline was not based on his Evaluation, and he asserts that he cannot be disciplined based on protected speech.

Howe contends that the County failed to meet its burden to prove that he was insubordinate and therefore failed to meet its burden as to all disciplinary charges. He states that the Commission rejected the ALJ's findings from the second initial decision and adopted the findings from the first initial decision. Specifically, Howe highlights the ALJ's finding that there was nothing in the record to show that Lombardo expressly, plainly, and clearly told him what he was prevented from doing after their meeting. Therefore, there was no clear understandable order given to him to support the insubordination charge. He reiterates that Lombardo never gave him a cease-and-desist order, and he believes that such an order would violate the First Amendment. Further, Howe indicates that the ALJ found that Lombardo and Magill's testimony that they gave Howe a cease-and-desist order was not credible and those credibility findings should be given due deference.

Moreover, Howe argues that even if it were believed that he was ordered not to speak about his beliefs, the County still failed to meet its burden. Howe questions as to whether Lombardo or Magill leaked information to Womack and Wainright as he states that he never approached another officer about his Evaluation, his meeting with Lombardo or his beliefs. Moreover, he notes that it was Womack and Wainright who confronted him. Concerning the County's attempt to discipline Howe based on a prior interaction between Womack and Howe, Womack admitted that he never filed any reports about the conversation. Further, Howe states that it was Womack who approached him and opened the discussion. Howe indicates that in the ALJ's first initial decision, regarding this conversation, the ALJ found that Womack's wording on his own report was not credible, Womack never filed a harassment charge against Howe, and Howe never attempted to continue that conversation with Womack against Womack's wishes.

In reply, the County argues that Howe's response is unsupported by the record. It states that contrary to Howe's contentions, the ALJ found Lombardo and Magill, along with others who testified for the County, credible. Further, the County emphasizes that Howe completely ignores the ALJ's reversal in the second initial decision. The County asserts that it is most troubling that Howe accuses Lombardo and Magill of fabricating that there was a cease-and-desist order to support the subject discipline as there is nothing in the record to support this allegation. Similarly, it believes that to insinuate that either Magill or Lombardo would fabricate or leak information to put their years of service in jeopardy to get a favorable outcome is nonsensical and there is nothing in the record to support this allegation. Regarding Womack's and Howe's prior interaction, the County indicates that Womack testified that the interaction occurred and that the ALJ recognized that this conversation occurred. The County argues that it was clear from Howe's testimony that he used the opportunity to espouse his beliefs. Therefore, it believes that Womack's failure to report the conversation immediately does not negate that the conversation was troubling to him. Additionally, the County provides that once Womack saw Howe's special report, he realized that there was an ongoing issue with Howe rather than a one-off conversation and reported it accordingly.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) provides that a request for must show the following:

1. The new evidence or additional information not presented at the original proceeding, which would change the outcome and the reasons that such evidence was not presented at the original proceeding; or
2. That a clear material error has occurred.

In this matter the County has not met the standard for reconsideration. A review of the first initial decision indicates that there was testimony by some of the

facility superiors that Howe was given a cease and desist or similar order during the April 29, 2024 meeting. However, a review of Lombardo's special report memorializing the meeting does not indicate that Howe was specifically instructed to cease and desist or otherwise ordered not to discuss his views under all circumstances. Further, in this case, Howe did not approach anyone about his view after that meeting. Rather, Womack and Wainright accessed Howe's special report and then confronted Howe about his views. Therefore, the ALJ's finding that "there was no clear understandable order given to Howe to support the insubordination" is supported by the record. Further, the Commission remanded the matter to the ALJ solely to perform an analysis as to whether the Evaluation was protected speech under the First Amendment. Therefore, it unclear how the ALJ's First Amendment analysis changed the ALJ's prior finding that Howe was not given a clear understandable order under these circumstances, which was supported by the record.

Similarly, in the ALJ's first initial decision, regarding Howe's conversation with Womack prior to the Academy, the ALJ explained that due to the passage of time, six months, Womack's lack of direct recollection, Womack not filing a harassment charge at the time of the conversation, Womack's continuing to train Howe at the time, and Howe's never attempting to continue the conversation against the wishes of Womack, and as to why the ALJ did not find Womack's quoted language as reliable and why the County had not met its burden that Howe engaged in conduct unbecoming. As such, it is unclear how the ALJ's First Amendment analysis changed these findings, which were supported by the record.

Finally, in the Commission's September 24, 2025 decision, the Commission disagreed with the ALJ and found that the Evaluation speech was protected under the First Amendment. The County does not appear to be contesting that the Evaluation was protected speech or at least is asserting that this is not the relevant First Amendment analysis as it contends that Commission should have analyzed whether Howe's speech after the April 29th meeting was protected speech, which it argues was not. However, it is reiterated that the First Amendment analysis was proffered for an "additional reason" to dismiss the charges. Therefore, even if Howe's speech after the April 29th meeting was not protected speech under the First Amendment, this does not change the findings that his speech during the April 29th meeting was not insubordinate under the circumstances of this matter. Accordingly, the County has not met the standard for reconsideration. The Commission also reiterates its prior order that Howe is to receive mitigated back pay and counsel fees, and under no circumstances should his reinstatement be delayed pending any potential back pay or counsel fee dispute.

ORDER

Therefore, it is ordered that this request 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 2ND DAY OF SEPTEMBER, 2026



Mary Cruz
Acting Chairperson/Chief Executive Officer
Civil Service Commission

Inquiries
and
Correspondence

Shannon L. Dalton
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Joseph Howe
Michael C. Mormando, Esq.
Robert Nolan Sheriff
William G. Blaney, Esq.
Division of Agency Services
Records Center