



STATE OF NEW JERSEY

In the Matter of Jonathan
Mohammed, Department of
Corrections

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

CSC Docket No. 2026-2613

Request for Interlocutory Review

ISSUED: June 12, 2026

Jonathan Mohammed, a former Senior Correctional Police Officer with the Department of Corrections, represented by Stuart J. Alterman, Esq., requests interlocutory review of the May 26, 2026 order of Administrative Law Judge Nicole Minutoli (ALJ) in *Jonathan Mohammed v. New Jersey Department of Corrections*, CSC Docket No. 2025-713, OAL Docket No. CSR-14511-2024S, pursuant to *N.J.A.C. 1:1-14.10(a)*.

In a letter dated June 4, 2026, the parties were informed that the appellant's request for interlocutory review was granted. The parties were also given the opportunity to submit additional arguments pursuant to *N.J.A.C. 1:1-14.10(d)*.

As background, the appellant, a former Senior Correctional Police Officer, appealed his removal, effective September 23, 2024. The appellant was served with a Final Notice of Disciplinary Action, removing him on charges of conduct unbecoming a public employee, other sufficient cause, and violation of a rule, policy, procedure, order, or administrative decision. Specifically, the appointing authority alleged that the appellant used excessive force and falsified records. The appellant appealed his removal to the Civil Service Commission (Commission), and the matter was transmitted to the Office of Administrative Law (OAL) as a contested case.

At the OAL, the appellant made an oral motion to introduce an expert witness at the start of the hearing. The ALJ, in an oral ruling, denied the appellant's request to add an expert witness because the witness list had already been provided and the

hearings had already been scheduled. The ALJ also denied the appellant's request for a stay pending interlocutory review.

In the instant matter, the appellant argues that the ALJ's decision to deny the introduction of an expert witness was inconsistent with controlling authority and is prejudicial to his case. He maintains that the ALJ's statement on the first day of hearing on May 26, 2026, that he should seek a settlement because upon reviewing certain video evidence she felt that the facts were not favorable to him, compelled him to introduce an expert to testify to the video evidence in an effort to address the ALJ's preconceived notions about the case. The appellant explains that an expert was not previously retained due to funding issues. In support of this contention, the appellant submits an email he had sent to his attorney indicating that the decision to retain an expert witness had to be cancelled due to financial inability. However, once the ALJ's comments were made and the urgent need for the expert testimony was evident, the funding issues were resolved. The appellant maintains that pursuant to *In re Lalma*, 343 N.J. Super. 560, 566 (App. Div. 2001), evidentiary standards are relaxed in administrative proceedings and relevant evidence should almost always be admitted. Additionally, the appellant relies on N.J.S.A. 52:14B-10(a)(1) and N.J.A.C. 1:1-15.1(c) to argue that relevant evidence can be excluded **only if** its probative value is substantially outweighed by the risk of undue prejudice. The appellant adds that it is the party seeking to exclude the evidence that bears the burden of proof.

Further, the appellant asserts that pursuant to *In re Commitment of G.D.*, 358 N.J. Super. 310, 315-16 (App. Div. 2003), the decision of whether to exclude an expert report [or expert testimony] that is submitted late is guided by whether there was (1) a design to mislead, (2) surprise, and (3) prejudice if the evidence is admitted. In this regard, the appellant argues that his request is narrow and is not seeking to add a new factual event or theory. The proposed expert was to address the same Body Worn Camera evidence and reports that are at the heart of the case. Stated differently, the expert testimony would be offered to contextualize the evidence that is already at issue. The expert's role would be to assist the tribunal in understanding specialized video-review issues, not to decide the ultimate merits of the case. He states that the expert's report and related testimony would be limited in scope, confined to existing evidence and appropriate cross examination would be available. The appellant adds he would be amenable to any scheduling decision the OAL deems necessary, including short deadlines, and the like.

Moreover, he indicates that the funding issue and the ALJ's comments show that this was not gamesmanship. The appellant claims that the OAL has previously addressed a similar issue in *McGhee v. New Jersey Transit*, OAL Dkt No. NJT10450-19 (2020), when it ruled to allow the addition of an expert witness after the deadline indicated by the ALJ. Furthermore, the appellant argues that he is not attempting to engage in trickery or unfair litigation practices. Rather, he asserts that he is just

reacting to the ALJ's prejudicial comments made before the first day of hearings began.

In response, the appointing authority, represented by Christopher Chiacchio, DAG, argues that despite the appellant indicating on two occasions that he would most likely retain a use of force expert, he never submitted any hearing exhibits of his own nor included an expert witness as part of the discovery process. The appointing authority indicates that on May 14, 2026, the ALJ issued a prehearing order indicating that discovery was complete and that any discovery concerns needed to be addressed with the ALJ within 10 days. Additionally, the appointing authority maintains that on May 27, 2026, at the beginning of the hearing and before the parties went on the record, the ALJ advised the parties that she reviewed the Joint Exhibits and asked whether there had been any settlement discussions. The appointing authority states that the ALJ made no other inferences or suggestions regarding the merits of the case. It was at that time that the appellant made an oral motion to hire an expert. The ALJ, upon hearing the motion and objections, denied the motion. The appointing authority argues that the appellant has not shown good cause exists to grant interlocutory review as indicated in *In Re Uniform Procedure Rules*, 90 N.J. 85, 100 (1982) where interlocutory review may be granted "only in the interest of justice or for good cause shown." The appointing authority contends that the appellant's purported reason for hiring an expert on the first day of the hearing is unfounded as the ALJ did not make any inferences on the merits of the case. Further, it contends that the appellant has failed to argue that grave damage or injustice would occur if he could not retain an expert. The appointing authority also asserts that untimely requests to retain an expert have consistently been rejected by courts in this State. It maintains that *Onello v. Isla*, 2019 WL 166300 (App. Div. January 10, 2019) was very similar to the instant matter where a litigant failed to identify an expert during discovery and attempted to identify an expert on the first day of trial. The expert was denied because permitting the expert would be akin to trial by ambush. The appointing authority adds that in *O'Donnell v. Ahmed*, 363 N.J. Super 44 (App. Div. 2003), an expert report was denied four days before trial.

Furthermore, the appointing authority argues that the New Jersey Supreme Court has emphasized that interlocutory relief is reserved for situations where failure to intervene could cause some grave damage or injustice. *See Brundage v. Estate of Carambio*, 195 N.J. 575,599 (2008). It adds that in *Brundage, supra*, the Court cautioned against the concept of granting interlocutory relief when it may result in piecemeal litigation. In this regard, it asserts that the hearing in the present matter has already commenced. Thus, it argues that adjourning the hearing to allow the appellant to hire an expert witness would be the definition of piecemeal litigation, which the courts disfavor.

In reply, the appellant argues that denying the instant request would not only prevent him from presenting the best possible case to the OAL and the Commission,

but if an appeal is necessary, it will prevent him from having a complete record for appellate review.

CONCLUSION

Initially, *N.J.A.C.* 4A:1-3.2(b)3 provides, in part, that the Chairperson, on behalf of the Commission shall, between meetings of the Commission, review requests for interlocutory review of an order or ruling by an ALJ. Therefore, since the matter could not be presented at the June 10, 2026, Commission meeting and a decision must be issued no later than June 15, 2026, pursuant to *N.J.A.C.* 1:1-14.10(e), this matter is being reviewed by the Chairperson prior to the next Commission meeting on July 1, 2026.

Upon a review of the record, the Chairperson finds that the appellant's request for interlocutory review should be granted, and the order of the ALJ should be reversed. *See, e.g., In the Matter of Ivette Arce, Department of Corrections* (CSC, decided September 6, 2017) (Commission granted interlocutory review and reversed the ALJ's denial of the appointing authority's motion for summary decision in a major discipline appeal); *In the Matter of Sabrina Cheng, Catastrophic Illness in Children Relief Fund* (CSC, decided June 9, 2010).

N.J.A.C. 1:1-15.1(c) states:

(c) Parties in contested cases shall not be bound by statutory or common law rules of evidence or any formally adopted in the New Jersey Rules of Evidence except as specifically provided in these rules. All relevant evidence is admissible except as otherwise provided herein. A judge may, in his or her discretion, exclude any evidence if its probative value is substantially outweighed by the risk that its admission will either:

1. Necessitate undue consumption of time; or
2. Create substantial danger of undue prejudice or confusion.

In the present case, the appellant seeks to introduce an expert witness not previously indicated in discovery. The appellant claims that the need for the expert witness was precipitated by the ALJ's alleged comments before the beginning of the trial. The appointing authority argues that there were no such comments made by the ALJ. There is no way for the Chairperson to determine what was actually said at this time. However, what is not disputed was the reason given by the ALJ for the denial. The appellant asserts that the motion was denied by the ALJ because the witness list had already been provided and the hearings had already been scheduled. The appointing authority did not provide any arguments or evidence to dispute this assertion. In this regard, the parties have forwarded emails and a Notice of Hearing from the OAL that an additional three days of hearing were requested by the ALJ

and are to be scheduled for late September and October 2026. Thus, the need to schedule additional days to accommodate the late addition of an expert witness does not appear to be a valid reason to deny the appellant's motion. Moreover, for the same reasons, the appointing authority's argument of piecemeal litigation is unpersuasive.

Regarding whether the witness should be added or whether it would be prejudicial, the appellant argues that in administrative hearings, the relaxed standards of evidence admissibility allow for his addition of an expert. He contends that the appointing authority has not shown that his motion to add an expert witness on the first day of hearings was done to mislead, surprise or prejudice. In this regard, the appointing authority has not made such arguments in the present matter. The appointing authority's arguments have centered around case law indicating that the late addition of experts or expert reports are generally denied. It relied on matters such as *Onello* and *O'Donnell, supra*. These cases indicate that the motions to include expert witnesses after the discovery deadline were denied to avoid surprise to the opposing party.

The appellant has also relied on case law to argue that the expert witness should be introduced. The appellant has relied on *McGhee, supra*, to argue that expert witnesses have been introduced after the discovery date. The difference between the cases relied upon by the appellant and the appointing authority are that in *McGhee*, that matter was heard at OAL while the cases cited to by the appointing authority were not. As indicated in *N.J.A.C. 1:1-15.1(c)*, the rules for admitting evidence are more relaxed at OAL than in a trial court. Accordingly, the case law presented favors the admission of the expert witness.

In reviewing whether the expert testimony is relevant, *N.J.A.C. 1:1-15.9(b)* provides that if a witness is testifying as an expert, testimony of that witness in the form of opinions or inferences is admissible if such testimony will assist the judge to understand the evidence or determine a fact in issue. In the instant matter, the expert witness goes to the heart of the case in examining the evidence as to whether excessive force was utilized by the appellant. This testimony would clearly be relevant. Additionally, as indicated above, the appointing authority has not argued or shown that allowing the introduction of the expert witness at this time was done to mislead, surprise, or prejudice.

Therefore, it is appropriate to grant interlocutory review and reverse the ALJ's order denying the appellant's request to introduce an expert witness.

ORDER

Therefore, the appointing authority's request for interlocutory review is granted and the ALJ's May 25, 2026 order is reversed.

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

DECISION RENDERED BY THE
CHAIRPERSON OF THE
CIVIL SERVICE COMMISSION ON
THE 12TH DAY OF JUNE, 2026



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