STATE OF NEW JERSEY

In the Matter of J.P., Lacey Township Police Department	:	**FINAL ADMINISTRATIVE ACTION OF THE CHAIRPERSON OF THE CIVIL SERVICE COMMISSION**
CSC Docket No. 2025-2447	:	Request for Interlocutory Review

ISSUED: May 27, 2025

Lacey Township, represented by Armando V. Riccio, Esq., requests interlocutory review of the May 2, 2025 order of Administrative Law Judge Dean J. Buono (ALJ) in *J.P.*[1] *v. Lacey Township Police Department,* CSC Docket No. 2025-952, OAL Docket No. CSR 16310-24, pursuant to *N.J.A.C.* 1:1-14.10(a).

In a letter dated May 19, 2025, the parties were informed that the appointing authority'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 Police Officer, appealed his removal effective April 30, 2024, on charges. The appellant was served with a Final Notice of Disciplinary Action, removing him on charges of neglect of duty; failure to perform duties; conduct unbecoming a public employee; and other sufficient cause. Specifically, the appointing authority asserted that the appellant had lied during the process of obtaining a temporary restraining order (TRO) and his later Internal Affairs (IA) interview; lied about accessing a certain police report; and failed to report to the Lacey Township Police Department a number of domestic violence incidents with one M.B. The case was transmitted to the Office of Administrative Law (OAL) for a hearing.

[1] As the charges relate to a domestic violence matter, records of which are subject to confidentiality, initials are used in this decision.

At the OAL, the appointing authority filed a motion for summary decision on the charges. The appointing authority maintained that the below were undisputed material facts.

The appellant was involved in an intimate relationship with M.B. from approximately May 2021 to August 2022. After M.B. applied for a TRO before the Superior Court against the appellant, the appellant applied for a TRO against M.B. on October 22, 2022. As part of that process, the appellant filed with the court a certified complaint that asserted various forms of violence he contended were committed by M.B. against him as the basis for obtaining a TRO. Shortly after the appellant filed his certified complaint, he provided sworn testimony before a court hearing officer.

The appointing authority stated that the appellant alleged in his certified complaint that on September 4, 2022, M.B. stole his wallet with his identification inside and kept it for two weeks. Under sworn oath, the appellant also testified before the court hearing officer: "On September 4th she stole my wallet which had my Police ID in it, my military CAC card, my license, my -- anything that I owned, she had, and she kept that in her possession for approximately like a week and a half, two weeks maybe." During the appellant's IA interview, he again affirmed his allegation that M.B. stole his wallet and contents. The appellant added to his claim that she stole it from his bedroom or kitchen. However, later during his IA interview, the appellant backtracked from his certified complaint, sworn testimony before the court, and earlier IA interview statements when he recanted those representations by stating "I'm not saying that she stole it" and "I'm not accusing her of stealing my wallet . . ." During the time his police identification and driver's license were misplaced, the appellant worked multiple shifts in violation of department policy. At no point did the appellant report his wallet, police identification card, or driver's license stolen.

The appointing authority stated that on August 14, 2022, the appellant accessed a report related to a case matter concerning an incident that led to an emergency psychiatric evaluation of M.B. On August 9, 2023, the appellant was asked during his IA interview if he had ever seen a report related to that case matter. The appellant stated that he never saw the report. The system log revealed that the appellant had accessed the report on August 14, 2022, at 23:24:55 hours. P.S., a Police Captain, was able to identify the appellant's log-in user identification, tie it to accessing the report, and identify the designation "R" indicating that the appellant had reviewed the report. The login page shows a warning to use for only official police purposes.

The appointing authority stated that the appellant alleged within the certified complaint that on August 14, 2022, M.B. followed him around town in a motor vehicle. The appellant certified: "[Appellant] states [M.B.] was under the influence at the time." His subsequent sworn testimony to the court went further: " . . . she was stalking me the entire night while she was drunk on prescription meds. She had

cocaine in her system . . ." During the appellant's IA interview, he confirmed his contention was that M.B. was under the influence of "alcohol" at the time, that "she was out drinking all day" and that it was "late and she was drinking the whole time" she was driving around. Shortly after, the appellant once again changed his statement:

> S.D., Police Lieutenant: All right. So she's following you around after the game, she's driving drunk, she hit your car.
>
> Appellant: I don't know if she's driving drunk, I know she was -- she ingested some sort of alcohol throughout that day and at the game didn't – didn't actually see her doing any of that. But, yeah, I mean, she's got something in her system.
>
> S.D.: Okay.
>
> P.S.: Before you told us she was under the influence; definitely under the influence, right?
>
> Appellant: Of something, yes, sir.
>
> P.S.: Okay.

The appellant never reported M.B. to local authorities despite his claims that she was driving under the influence and even though he claimed she caused a motor vehicle accident.

The appointing authority stated that according to the appellant's certified complaint and court testimony, he was subjected to 14 incidents involving physical contact, threats, and destruction of property. At certain points during the appellant's IA interview, he claimed that he did not report the incidents of domestic violence because he was embarrassed. The appellant never reported any of the alleged incidents of domestic violence that occurred between himself and M.B. to the Lacey Township Police Department as required by departmental policy and Attorney General Guidelines. During his IA interview, the appellant admitted that he should have reported each incident to the department. One domestic violence incident took place on February 14, 2022 in a hotel room at the Hard Rock Hotel and Casino in Atlantic City, which resulted in a broken picture frame. The appellant covered up the damage by disposing of the glass in his luggage and a hallway trash can and never reported the damage to the hotel.

In response, the appellant, represented by Frank C. Cioffi, Esq., submitted an affidavit in which he certified to the following. He and M.B. "went through multiple incidents that would qualify as . . . incidents of domestic violence." In his interview

with the court, he referenced approximately 18 different incidents that occurred with M.B. between January 7, 2022 and October 20, 2022. Specifically regarding August 14, 2022, the appellant "[w]ithout specifically seeing her do it, . . . assumed [M.B.] was consuming alcohol . . ." When asked by S.D. and P.S. what "under the influence" in his TRO referenced, he told them that statement was based on M.B. admitting that she had cocaine in her system the night of August 14, 2022. The appellant "did not contact the police or EMTs." Concerning accessing the August 14, 2022 police report, when he was asked by P.S., "did [he] ever see the report," he thought P.S. was referring to the supplemental incident report created on September 20, 2022 after M.B. provided a statement to the Lacey Township Police Department. The appellant never saw that September 20, 2022 supplement. Regarding the September 4, 2022 incident and his wallet:

> [M.B.] told me that she had my wallet so that I could keep in contact with her.
>
> I do not know exactly how the wallet came into [M.B.]'s possession but somehow it did and [M.B.] failed to return my wallet to me for a period of approximately two weeks.
>
> In response to a question from [P.S.], I did clarify that [M.B.] did not steal my wallet in the sense that she came into either my house or my car with the intent of stealing my wallet.
>
> Rather, I told the Court during my TRO application that [M.B.] stole my wallet because she had my wallet and my belongings contained within it for a period of two weeks before returning it.

Regarding the February 14, 2022 incident, the appellant "did not report the broken picture frame to the hotel." The hotel kept his credit card on file for any incidental charges or damages.

The appellant contended that credibility issues remained because there was a dispute concerning whether he intentionally made any misstatement of material fact.

In reply, the appointing authority argued that the appellant's claim that he "assumed" M.B. had been consuming alcohol was belied by the record, which showed how the appellant was fully aware of his repeated assertions that M.B. was under the influence of *alcohol* while operating a motor vehicle. For example, he asserted in his IA interview that M.B. was "out drinking all day" and that "she was drinking the whole time" she was driving around. Also, in the appointing authority's view, the appellant's claim that M.B. was under the influence of cocaine directly contradicts his various statements that she had been *drinking* throughout the day along with his statement that she was under the influence of alcohol, not drugs. More troubling, per

the appointing authority, his affidavit established his continued lack of candor as he claimed he had, in fact, *assumed* M.B. was "under the influence" when he certified to, and subsequently swore under oath before, the court to such allegations.

Regarding the August 14, 2022 police report, the appointing authority maintained that at no point did P.S. or S.D. mention the supplemental incident report created over a month later on September 20, 2022. Instead, S.D. discusses with the appellant the August 14, 2022 incident:

> S.D.: Yeah. This was -- the incident was August 14th. I don't know how soon after he came.
>
> Appellant: I can't -- I don't remember.
>
> S.D.: [M.H., Police Officer] comes to your house and says, hey, man, what's she doing? What's going on? I'm gonna get in trouble, pretty much?

The conversation is about M.H.'s concerns that the August 14, 2022 report is "too vague." The appellant testified that he does not remember M.H. saying anything about the report being too vague. The appointing authority emphasized that *then*, P.S. asks the appellant whether he saw the report:

> P.S.: Did you ever see the report?
>
> Appellant: No.

The appointing authority maintained that the appellant's response was clearly directed at the specific question as to whether he reviewed the August 14, 2022 report, and there was no mention of the September 20, 2022 supplemental report.

Turning to the appellant's wallet, the appointing authority noted that the appellant had affirmatively and repeatedly stated that M.B. stole it and even speculated as to where she stole it from, claiming that she may have gone into his truck and stole his wallet or that she stole it from either his bedroom or his kitchen. In the appointing authority's view, the subsequent backpedaling further established the appellant's untruthfulness regarding his allegations against M.B. To the appointing authority, it was significant that despite his representations regarding from where M.B. stole his wallet, the appellant admitted in his affidavit that he does not know how M.B. came into possession of his wallet.

The appointing authority contended that the appellant largely relied on wholly self-serving "spin" that did not raise a genuine issue of material fact. It argued that honesty is considered a fundamental prerequisite of being a law enforcement officer,

and the appellant here engaged in multiple misrepresentations. Moreover, the appellant did not even attempt to contravene the evidence establishing his ongoing concealment of 14 to 18 incidents of domestic violence and the theft of his identification, which alone warrant upholding his dismissal.

In his order, the ALJ denied the motion for summary decision, determining that the appellant had challenged the material issue of his intent and that the matter should proceed to an evidentiary hearing.

In the instant request for interlocutory review, received May 9, 2025, the appointing authority contends that the ALJ was "drawn off track" by the appellant's assertions as to his claimed intent, which, in turn, resulted in an erroneous denial of summary decision because the appellant's intent was not a necessary element of the infractions in question. It argues that merely relying upon any fact in dispute or subjective beliefs does not create a genuine issue of material fact. The appointing authority insists that the appellant engaged in numerous instances of untruthfulness, as well as concealment and destruction of evidence, each of which fall within the standard of conduct unbecoming as well as the general misconduct standard of *N.J.S.A.* 40A:14-147. It also highlights the law enforcement officer's obligation to be truthful, particularly during an internal affairs interview, under the Attorney General's Internal Affairs Policy and Procedures. The appointing authority maintains that the appellant made statements in his IA interview and in his certified complaint and testimony to the court that are so mutually contradictory that both cannot be true. Even accepting his representations as true, the appellant repeatedly ignored his duty to report 14 to 18 instances of domestic violence; M.B.'s operation of a vehicle under the influence and use of illegal substances; and his lack of a driver's license or his police identification for two weeks while he continued working. The appellant also knowingly filed a certified TRO application and provided sworn testimony in connection with it but failed to report the domestic violence events to the Lacey Township Police Department even at that point. Additionally, the appointing authority urges that the appellant's conduct is severe enough to warrant removal without the application of progressive discipline.

In response, the appellant reiterates his arguments from his response to the summary decision motion.

CONCLUSION

Initially, *N.J.A.C.* 4A:1-3.2(b)3 provides, in part, that the Chairperson, on behalf of the Civil Service Commission (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 May 21, 2025 Commission meeting and a decision must be issued no later than May 29, 2025 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 June 11, 2025.

Upon a review of the record, the Chairperson finds that the appointing authority'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. 1:1-12.5(b) provides that a motion for summary decision may be granted:

> if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law. When a motion for summary decision is made and supported, an adverse party in order to prevail must by responding affidavit set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding.

See also, Brill v. Guardian Life Insurance Co., 142 *N.J.* 520 (1995).

In the instant matter, the appellant has not demonstrated that there is a genuine issue as to any *material* fact. The following is undisputed in the record:

- The appellant's account relative to M.B.'s possession of his wallet shifted. Specifically, when applying for the TRO, he stated that M.B. stole the wallet. In his IA interview, he added that she stole it from his bedroom or kitchen. However, later in the IA interview, he indicated that he was not saying that she stole it and that he was not accusing her of stealing the wallet. In his affidavit opposing the summary decision motion, the appellant indicated that he did not know exactly how the wallet came into M.B.'s possession.

- During the time his police identification card and driver's license were misplaced, the appellant worked multiple shifts contrary to department policy.

- The appellant did not report his police identification card or driver's license misplaced to the department.

- The appellant accessed and reviewed the August 14, 2022 police report.

- The appellant told IA that he did not access the August 14, 2022 police report. The IA interviewers were not referring to the September 20, 2022 supplement.

- The appellant's account relative to M.B.'s being under the influence shifted. Specifically, he told the court that she was under the influence of cocaine. Before IA, he initially stated that she was under the influence of alcohol. Later in his IA interview, he indicated that he had not actually seen M.B. drinking.

- The appellant never reported that M.B. had been driving under the influence or had caused a motor vehicle accident.

- The appellant did not report to the department the multiple domestic violence incidents in which he was involved with M.B. over a period of months.

- Concerning the February 14, 2022 domestic violence incident at the Hard Rock Hotel and Casino, the appellant did not report the resulting damage to the hotel.

As such, given the appellant's untruthfulness, failures to report, and other misconduct, there is sufficient support in the record to establish the charges, for which the appellant's intent is not a material consideration.

Furthermore, it is noted that the penalty in a disciplinary matter is reviewed by the Commission *de novo*. It is well established that where the underlying conduct is of an egregious nature, the imposition of a penalty up to and including removal is appropriate, regardless of an individual's disciplinary history. *See Henry v. Rahway State Prison*, 81 *N.J.* 571 (1980). It is settled that the theory of progressive discipline is not a "fixed and immutable rule to be followed without question." Rather, it is recognized that some disciplinary infractions are so serious that removal is appropriate notwithstanding a largely unblemished prior record. *See Carter v. Bordentown*, 191 *N.J.* 474 (2007). Even when a law enforcement officer does not possess a prior disciplinary record after many unblemished years of employment, the seriousness of an offense may nevertheless warrant the penalty of removal where it is likely to undermine the public trust. In this regard, the Commission emphasizes that a law enforcement officer is held to a higher standard than a civilian public employee. *See Moorestown v. Armstrong*, 89 *N.J. Super.* 560 (App. Div. 1965), *cert. denied*, 47 *N.J.* 80 (1966). *See also, In re Phillips*, 117 *N.J.* 567 (1990). In this case, it is clear that the only appropriate penalty for the appellant's misconduct is removal.

The appellant's infractions, which include those going to his veracity, are egregious and inimical to what the public expects from a law enforcement officer, who is held to a higher standard. They "go to the heart of [the appellant's] capacity to function appropriately" in his position. *See Cosme v. E. Newark Twp. Comm.*, 304 *N.J. Super.* 191, 206 (App. Div. 1997). Removal is neither disproportionate nor shocking to the conscience.[2]

Therefore, it is appropriate to grant interlocutory review and reverse the ALJ's order denying the appointing authority's request for summary decision. In doing so, the Chairperson grants the appointing authority's request for summary decision and finds that its action in removing the appellant was justified. As such, the appeal regarding the removal is hereby denied, and this constitutes the final administrative action in this matter.

ORDER

Therefore, the appointing authority's request for interlocutory review is granted and the ALJ's May 2, 2025 order is reversed.

It is further ordered that the appeal regarding the removal is denied. Upon receipt of this decision, the ALJ shall return the entire file to the Commission.

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 27TH DAY OF MAY, 2025

Allison Chris Myers

Allison Chris Myers
Chairperson
Civil Service Commission

[2] This would be the case even if the Commission were only to consider those facts that the appellant did not attempt to dispute in response to the motion for summary decision: his working multiple shifts while his police identification and driver's license were misplaced; his not reporting his police identification or driver's license misplaced to the department; his not reporting that M.B. was driving under the influence or had caused a motor vehicle accident; and his not reporting to the department the multiple domestic violence incidents in which he was involved over a period of months. These acts and omissions are sufficiently egregious in themselves to support removal.

Inquiries
and
Correspondence

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

c: Armando V. Riccio, Esq.
Frank C. Cioffi, Esq.
ALJ Dean J. Buono
Clerk, OAL Trenton
Division of Appeals and Regulatory Affairs
Records Center