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STATE OF NEW JERSEY

In the Matter of
Donald Cotner
Edna Mahan Correctional Facility
Department of Corrections

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

CSC DKT. NO. 2014-235
OAL DKT. NO. CSV 10907-13

ISSUED: December 17, 2014 PM

The appeal of Donald Cotner, a Senior Correction Officer with Edna Mahan Correctional Facility for Women, Department of Corrections, 120 working day suspension, on charges, was heard by Administrative Law Judge Sarah G. Crowley, who rendered her initial decision on November 21, 2014. Exceptions were filed on behalf of the appellant.

Having considered the record and the Administrative Law Judge's initial decision, and having made an independent evaluation of the record, the Civil Service Commission, at its meeting on December 17, 2014, accepted and adopted the Findings of Fact and Conclusion as contained in the attached Administrative Law Judge's initial decision.

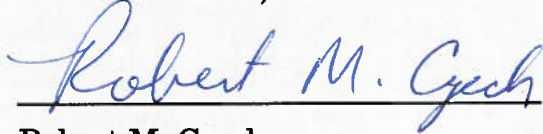
ORDER

The Civil Service Commission finds that the action of the appointing authority in suspending the appellant was justified. The Commission therefore affirms this action and dismisses the appeal of Donald Cotner.

Re: Donald Cotner

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
DECEMBER 17, 2014

A handwritten signature in blue ink, reading "Robert M. Czech", is written over a horizontal line.

Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals
and Regulatory Affairs
Civil Service Commission
Unit H
P. O. Box 312
Trenton, New Jersey 08625-0312

attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSV 10907-13

AGENCY DKT. NO. 2014-235

**IN THE MATTER OF DONALD
COTNER, EDNA MAHAN
CORRECTIONAL FACILITY,
DEPARTMENT OF CORRECTIONS.**

James R. Zazzali, Jr., Esq., for appellant (Zazzali, Fagella, Nowak, Kleinbaum & Friedman, attorneys)

Kathleen Asher, Esq., for respondent, pursuant to N.J.A.C. 1:1-5.4(a)(2)

Record Closed: October 17, 2014

Decided: November 21, 2014

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

STATEMENT OF THE CASE

Appellant, Donald Cotner, a Corrections Officer at Edna Mahan Correctional Facility (EMCF), appeals a 120 day suspension for conduct unbecoming a public employee, violation of New Jersey Department of Corrections (NJDOC) policy prohibiting discrimination, harassment or hostile environment in the workplace, and other sufficient cause. The appointing authority contends that Officer Cotner made

inappropriate comments to several women in violation of the policy prohibiting discrimination, harassment or hostile environment in the workplace, conduct unbecoming a public employee, and other sufficient cause. Officer Cotner denies having made any such inappropriate conduct.

PROCEDURAL HISTORY

On May 7, 2013, the respondent issued a Preliminary Notice of Disciplinary Action. Following a hearing, respondent issued a Final Notice of Disciplinary Action on July 7, 2013, sustaining the charges and imposing a 120 day suspension. The appellant requested a hearing and the matter was filed at the Office of Administrative Law (OAL), on August 1, 2013, to be heard as a contested case. N.J.S.A. 52:14B-1 to 15 and 14F-1 to 13. The matter was heard on June 27, 2014, and September 5 and 8, 2014. The parties submitted post-hearing submissions on October 17, 2014, and the record closed on that date.

SUMMARY

Appellant is a Senior Correction Officer (SCO) assigned to Edna Mahan Correctional Facility (EMCF). He has worked in that capacity for twenty-four (24) years. He was posted at the guard house at the front gate of EMCF at the time when the allegations surrounding this disciplinary action arose. Officer Cotner was responsible for checking in residents, who come from other facilities for medical or other services at EMCF. The residents are escorted to the front gate by counselors from other agencies.

On April 1, 2012, Christina Santiago, a counselor from Volunteers of America (VOA), was bringing a resident to the EMCF. She was greeted at the gate by Officer Cotner. She alleges that he made several inappropriate comments to her. Ms. Santiago reported this inappropriate conduct, which led to an investigation, which was conducted by Kristina P. Gonzales, an investigator for the Department of Corrections (DOC), Equal Employment Division. Her investigation revealed that several other

women, in similar positions also reported inappropriate conduct by Officer Cotner. Officer Cotner has denied the allegations.

TESTIMONY

For respondent:

Christina Santiago, an employee of VOA, had a job that required her to transport clients from VOA in Camden to the EMCF for appointments. She testified that she would walk the clients up to the guard house, sign them in, and then wait for them. Ms. Santiago testified that on April 1, 2013, when she was taking residents to EMCF, Cotner was at the gate. When she approached the entrance, he said to her "mmm... I'm going to get in trouble with you." She testified that she did not respond to his comments, but he continued to make inappropriate comments. She testified that he said "they sent this little Barbie up here," referring to her, and "you're young but you're still going to get me in trouble." Ms. Santiago testified that she went and waited in the van because she felt uncomfortable. She stated that Officer Cotner came and opened the door to the van and startled her. She testified that he never reprimanded her for waiting in the van or for leaving the premises.

Ms. Santiago reported Officer Cotner's behavior to her boss, Ms. White and her supervisor, Ed Jordan, when she returned to her office. She was later asked to speak to an investigator, Kristina Gonzalez, and to prepare a written statement about the incident. She denied being asleep, but stated that she may have shut her eyes while waiting in the van. She testified that she did not collaborate with anyone or receive any assistance in preparing her statement. She identified her statement, which was marked as R-4.

Ms. Kathleen (Kate) Lind, an employee of VOA testified that her position at VOA in the summer of 2012 required her to transport women to the EMCF for appointments. She testified that she would wait for them and return them to VOA. She

testified that Cotner was the guard on duty at EMCF when she transported residents to the facility. Ms. Lind testified that he asked her for her identification when she arrived at the gate, and commented that it was a "hot" picture. She testified that he asked her about her tattoos and her engagement ring, and said something like, "if he doesn't treat you right." She testified that his comments made her feel very uncomfortable, so she went and waited in the van. Ms. Lind testified that she reported the incident to her boss and was asked to prepare a statement. She denied that she collaborated with anyone in preparing her statement, which was identified as R-3. She denied being reprimanded by Cotner for waiting in the van or for leaving the premises.

Dorene Mitchell, an employee at the Bo Robinson Correctional Facility in Trenton, New Jersey, testified that she was responsible for transporting women residents to the EMCF for various services, and she was familiar with Officer Cotner. She testified that he was rude and nasty and did not allow her to use the bathroom at the facility. She testified that he made inappropriate comments to her about being "hot." Ms. Mitchell testified that she was uncomfortable with his statements and tried to stay away from him. Ms. Mitchell stated that she would go back to her vehicle and wait for the clients and go across the street to use the bathroom at the ShopRite rather than go up to the guard house. She testified that Cotner never reprimanded her for violating any rules. She testified that she did not report his behavior but prepared the written statement after Ms. Gonzalez questioned her about the incident. She testified that she does not know the other women who complained about him and did not collaborate with anyone in the preparation her report, which was identified as R- 11.

Stephanie Reyes was also an employee for the VOA in Camden, New Jersey. She testified that she had problems with Officer Cotner making rude and inappropriate comments to her when she took residents to the EMCF. She testified that Cotner said to her that "he knew that sexy ass of yours from a mile away" and "I love when they send your ass up here." He asked her if she was married and if she had any kids. He also made a comment about liking Latin females. She testified that he commented about the residents "busting out of their shirts" and having "sexy Victoria Secret things

on under there.” She testified that she saw how upset Christina Santiago was when she came back from EMCF, and when she heard it was about inappropriate behavior by a corrections officer at EMCF, she knew it was Cotner. She testified that she did not report the behavior, because she did not want any trouble. She testified that she tried to ignore him and stay away from him. She spoke to Ms. Gonzalez and prepared a statement regarding the incident. (R-2.) She denied having assistance from anyone in preparing her statement.

Kristina P. Gonzalez, an Investigator for the Equal Employment Division (EED) of NJDOC, conducted the investigation into the allegations made against Officer Cotner. Ms. Gonzalez is responsible for investigating violations of DOC’s policy against discrimination in the workplace and has been employed by DOC for approximately ten years. She testified that the DOC has a policy which prohibits discrimination in the workplace. A written copy of the policy is provided to each employee when they commence employment. (R-6.) Officer Cotner received a copy of the policy and signed an acknowledgment of receipt of the policy on September 1, 2006. (R-7.) The policy provided in relevant part:

“It is a violation of this policy to engage in sexual (or gender-based) harassment of any kind including hostile work environment, quid pro quo harassment or same-sex harassment. For the purposes of this policy, sexual harassment is defined as the Equal Employment Opportunity Commission guidelines, as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature . . .”

Ms. Gonzalez testified that on or about April 2, 2012, she received a report of a violation of the policy by Officer Cotner, and began her investigation into these allegations. Ms. Gonzalez interviewed Ms. Santiago, as well as her boss, Ms. White, and her supervisor, Mr. Jordan. Ms. Gonzalez testified that Ms. White and Mr. Jordan confirmed that Ms. Santiago was visibly upset when she returned from EMCF on April 1, 2012, when she reported the inappropriate conduct of Officer Cotner to them.

Ms. Gonzalez testified that Ms. Santiago reported to her that several other women had had similar experiences with Mr. Cotner, which led to her interview with Ms. Reyes and Ms. Lind. She requested that they prepare reports regarding the incidents. Ms. Gonzalez testified that she interviewed all of the witnesses separately and did not assist them in the preparation of their reports. Ms. Gonzalez's final interview was with Dorene Mitchell, who worked at the Bo Robinson Correctional Facility in Trenton, New Jersey.

Ms. Gonzalez testified that she reviewed the history of disciplinary infractions for Officer Cotner. She testified that he had been charged with infractions of the policy against discrimination on two prior occasions. Ms. Gonzalez testified that she does not determine the appropriate discipline, but prepares a report and gives it to the Director's Office. She stated that the Director's Office makes the final determination regarding discipline.

Leila Lawrence is the Assistant Director of EED at DOC. Ms. Lawrence manages the staff, reviews investigations, issues decisions and reviews appeals. She is also the ethics officer for the DOC. She assigns matters for investigations and reviews the reports of investigations. She testified that she is familiar with the policy prohibiting discrimination in the work place, and identified the NJDOC policy which was in place at the time of the offense. (R-6.) Ms. Lawrence testified that she spoke to all of the witnesses regarding the matter except for Ms. Santiago and was present at the department hearing. She testified that she saw no evidence of any collusion between the witnesses. She found Officer Cotner's comments and behavior were a violation of the policy against discrimination and constituted conduct unbecoming of a public employee.

Ms. Lawrence testified that she reviewed the report of the investigation done by Ms. Gonzalez and determined the appropriate discipline for the offenses. The offenses charged against Officer Cotner are set forth in the DOC Table of Offenses. (R-8.) Specifically, Officer Cotner was charged with the following violations under Section C of

the Table of Offenses: Section C-11 - "conduct unbecoming an employee;" Section C-31 - "racial and /or sexual harassment, discrimination and/or hostile environment in the workplace; and "other sufficient cause."

Ms. Lawrence testified that that this was Officer Cotner's second C-31 charge. A prior C-31 had been converted to a C-11 offense. In that case, NJDOC found that the conduct had in fact occurred and there was a violation of the policy. However, they found that it was not severe and pervasive, so it was downgraded to a C-11 charge. Thereafter in 2006, an additional C-31 charge was brought for similar behavior and a sixty (60) day suspension was sought. After a departmental hearing, Officer Cotner was found guilty of violating the policy against discrimination, harassment or hostile environments in the workplace, but the penalty was reduced to a fifteen (15) day suspension. Ms. Lawrence testified that due to the serious nature of the current offenses, and the similar nature of the past two offenses, a substantial penalty was appropriate, and not inconsistent with the table of offenses, which permit anything from thirty (30) days to removal.

For appellant:

Correction Officer Edward Richline testified that he is a corrections officer at EMCF and has known Officer Cotner for eighteen years. He was on duty on April 1, 2012, when the incident occurred with Ms. Santiago. He testified that he went up to the guard house to relieve Officer Cotner, so he could check on someone in a parked vehicle. He testified that Officer Cotner told him a truck driver had reported that someone in the parking lot may have been in distress. He testified that Officer Cotner was not allowed to leave his post at the guard house without getting back up. Officer Richline testified that Officer Cotner went to the parking lot and when he returned, he advised him that one of the VOA workers was asleep in her van. Officer Richline testified that he did not witness any interaction between Officer Cotner and Ms. Santiago.

Major Allen Tompkins testified that he has been employed by DOC for twenty-five (25) years, and holds the rank of Major. Major Tompkins testified that he has worked with Officer Cotner since 2008, but he is not his supervisor. He testified that Officer Cotner is a very conscientious employee and takes his job very seriously. He testified that he received a call from Officer Cotner on the day in question, advising that he had found one of the VOA employees asleep in their van. He testified that they have the ability to counsel outside employees on the rules, but they are not employees of the EMCF. Major Tomkins testified that falling asleep in the van could present a security risk as some of the inmates work outside the secure perimeter. However, he advised Officer Cotner that he did not have to prepare a report of the incident. He did not observe any of the interactions between Officer Cotner and Ms. Santiago.

Officer Donald Cotner testified on his own behalf. He confirmed that he was working at EMCF on April 1, 2012, and that he was the guard on duty at the gate house. He testified that it was his responsibility to check visitors in and out. Outside contractors, such as VOA and Bo Robinson, would bring clients to EMCF for various services. His responsibilities were to make sure they had proper identification and to check the residents in and out. He testified that he would advise visitors that the clients had to wear proper attire when coming to the facility and that non-state issued undergarments were not permitted. If they were visible, he would have to advise them that they were not permitted in the facility.

Officer Cotner testified that he advised vendors that they were not permitted to use the bathroom when there were residents in the holding cell, and that the vendors were not permitted to leave the site or to leave for extended periods of time as they needed them to be there when their clients were ready to leave. Office Cotner stated that the women may not have liked his serious demeanor about the rules and that he often had to correct them when they violated the rules. He testified that he had to repeatedly reprimand them for leaving the facility or sleeping in their vehicles. However, he conceded that he never reported any of the violations. Officer Cotner testified that he recalled when Ms. Santiago was at the facility that day in April. He testified that a

delivery driver reported that someone in a van may have been in distress. He testified that this is why he went to the van to check. He testified that he knocked hard on the window before he opened the door. He testified that she appeared to be sleeping and was startled when he opened the door. He testified that the reason that he did this was to make sure she was alright and to advise her that sleeping in the van with the ignition on was a security risk. Officer Cotner denied making any inappropriate comments to Ms. Santiago, Ms. Lind, Ms. Reyes or Ms. Mitchell.

FINDINGS OF FACT

In view of the contradictory testimony presented by appellant and all of the respondent witnesses, the resolution of the charges against Officer Cotner requires that I make a credibility determination with regard to the critical facts. The choice of accepting or rejecting the witnesses' testimony or credibility rests with the finder of facts. 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 has to be credible in itself. 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 in light of its rationality, internal consistency and the manner in which 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 Ms. Santiago, Ms. Reyes, Ms. Mitchell and Ms. Lind were truthful and

credible. Their testimony was consistent with the written statements that they provided after the events which gave rise to the charges against Officer Cotner. They all testified that they did not discuss, collaborate or have assistance in the preparation of their reports. There was no evidence of improper motive, and I dismiss any suggestions that there was any collaboration among the witnesses. Moreover, contrary to the suggestion of counsel, it is not reasonable to expect that someone would report such conduct or fabricate these allegations. I found the testimony of respondent's witnesses to be sincere, credible and entirely consistent with their written statements.

In contrast, I did not view Officer Cotner's testimony as credible. It is not credible that he said nothing to all of these witnesses, who independently reported inappropriate comments of a sexual nature. Contrary to Officer Cotner, these witnesses have no personal interest in the outcome of this proceeding. Having had the opportunity to observe all of the witnesses and their demeanor, I find that the testimony of Officer Cotner was not credible.

Accordingly, I **FIND**:

1. On various occasions between the spring of 2012 and the summer of 2013, Officer Cotner made inappropriate comments to Christina Santiago, Doreen Mitchell, Stephanie Reyes, and Kathleen Lind.
2. The comments made by Officer Cotner were of a sexual nature and violated the NJDOC's policy prohibiting discrimination, harassment or hostile environments the workplace; constituted conduct unbecoming and other sufficient cause.

LEGAL DISCUSSION AND CONCLUSION

The Civil Service employees' rights and duties are governed by the Civil Service Act, N.J.S.A. 11A:1-1 to 12.6. The Act is an important inducement to attract qualified personnel to public service and is to be liberally construed toward attainment of merit

appointment and broad tenure protection. See Essex Council Number 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. 1971); Mastrobattista v. Essex County Park Commission, 46 N.J. 138, 147 (1965). The Act also recognizes that the public policy of this State is to provide public officials with appropriate appointment, supervisory and other personnel authority in order that they may execute properly their constitutional and statutory responsibilities. N.J.S.A. 11A:1-2(b).

Conduct unbecoming a public employee is an elastic phrase, which encompasses conduct that adversely affects the morale or efficiency of a governmental unit or that has a tendency to destroy public respect in the delivery of governmental services. Karins v. City of Atlantic City, 152 N.J. 532, 554 (1998); see also In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960). It is sufficient that the complained-of conduct and its attending circumstances "be such as to offend publicly accepted standards of decency." Karins, supra, 152 N.J. at 555 (quoting In re Zeber, 156 A.2d 821, 825 (1959)). 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) (quoting Asbury Park v. Dep't of Civil Serv., 17 N.J. 419, 429 (1955)).

Unbecoming conduct has also been defined as any conduct which adversely affects the morale or efficiency of the department or which has a tendency to destroy public respect for employees and confidence in the operations of government services. Hartmann v. Police Department of Ridgewood, 258 N.J. Super. 32, 40 (App. Div. 1992). The Merit System Board and its predecessor and now successor, the Civil Service Commission, and the courts have generally held that law enforcement officers are held to a higher standard than the conduct unbecoming employees because discipline is invoked. Correction officers are law enforcement officers to which this higher standard applies.

The standard of behavior for police and correction officers is set higher than that of other civil service employees, meaning that infractions will lead to major discipline of officers than otherwise may not have warranted severer discipline for some other position. See Moorestown Township v. Armstrong, 89 N.J. Super. 560, 566 (App. Div. 1965). When applied to correction officers, a charge of conduct unbecoming can 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. In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960); Bowden v. Bayside State Prison, 268 N.J. Super. 301 (App. Div. 1993).

This matter involves a major disciplinary action brought by the respondent appointing authority against appellant. An appeal to the Civil Service Commission requires the OAL to conduct a de novo hearing to determine the employee's guilt or innocence, as well as the appropriate penalty if the charges are sustained. In re Morrison, 216 N.J. Super. 143 (App. Div. 1987). The appointing authority has the burden of proof and must establish by a fair preponderance of the credible evidence that the employee was guilty of the charges. Atkinson v. Parsekian, 37 N.J. 143 (1962); In re Polk Licence Revocation, 90 N.J. 550 (1980). Evidence is found to preponderate if it establishes that the tendered hypothesis, in all human likelihood, is true. See Loew v. Union Beach, 56 N.J. Super. 93, 104 (App. Div. 1959), overruled on other grounds, Dwyer v. Ford Motor Co., 36 N.J. 487 (1962).

Applying the law to the facts, I **CONCLUDE** that the respondent has proven the following charges by a preponderance of the credible evidence: appellant engaged in conduct which constituted a violation of the policy prohibiting discrimination, harassment or hostile environment in the workplace and conduct unbecoming an employee. This conclusion is based on the inappropriate comments made by appellant to Christina Santiago, Kathleen Lind, Stephanie Reyes and Doreen Mitchell. Appellant's comments were all of a sexual nature made to women visiting the EMCF.

PENALTY

Once a determination is made that an employee has violated a statute, regulation or rule concerning his employment, the concept of progressive discipline must be considered. With respect to the discipline, under the precedent established by Town of West New York v. Bock, supra, courts have stated, "[a]lthough we recognize that a tribunal may not consider an employee's past record to prove a present charge, West New York v. Bock, Id. at 523, "that past record may be considered when determining the appropriate penalty for the current offense." In re Phillips, 117 N.J. 567, 581 (1990). Ultimately, however, "it is the appraisal of the seriousness of the offense which lies at the heart of the matter." Bowden v. Bayside State Prison, 268 N.J. Super. 301, 305 (App. Div. 1993), certif. denied, 135 N.J. 469 (1994).

In the instant matter, the appointing authority considered not only the nature of the charges, but the number of offenses and Officer Cotner's disciplinary history. Officer Cotner's disciplinary record included two prior offenses of a similar nature. He was charged with violating this policy against discrimination on two separate occasions. Probable cause for discipline was found and imposed on both occasions. The charges in 2000, for violating the policy against discrimination in the workplace were downgraded from a C-31, to a violation of C-9 and C-11, which resulted in a five day suspension. Ms. Mitchell testified that they found that the conduct had in fact occurred but was not severe and pervasive in that case, and therefore, they downgraded the offense. In 2006, another violation of the policy against discrimination (C-31) was sustained. Due to the nature of the offenses and the seriousness of the charges, I **CONCLUDE** that a significant penalty is appropriate. In this matter, the penalty of 120 days is consistent with the concept of progressive discipline and the applicable table of offenses.

Based on the foregoing, I **CONCLUDE** that the 120 days suspension was proper and is sustained.

ORDER

I **ORDER** that the action of the appointing authority in imposing a 120 days suspension is **AFFIRMED** and the appeal is **DENIED**.

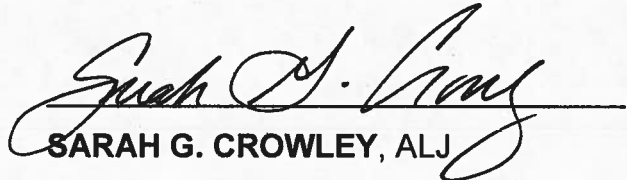
I hereby **FILE** my initial decision with the **CIVIL SERVICE COMMISSION** for consideration.

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.

November 21, 2014

DATE


SARAH G. CROWLEY, ALJ

Date Received at Agency:

November 21, 2014

Date Mailed to Parties:

November 21, 2014

SGC/cb

APPENDIX

WITNESSES

For appellant:

Officer Edward Richline

Major Alan Tomkins

Officer Donald Cotner

For respondent:

Kathleen (Kate) Lind

Dorene Mitchell

Stephanie Reyes

Kristina Gonzalez

Leila Lawrence

Christina Santiago

EXHIBITS

For appellant:

None

For respondent:

- R-1 Final Notice of Disciplinary Action, dated July 3, 2013 and Preliminary Notice of Disciplinary Action, dated May 6, 2013
- R-2 Statement of Stephanie Reyes, dated April 22, 2013
- R-3 Statement of Kathleen (Kate) Lind, dated April 22, 2013
- R-4 Statement of Christina Santiago, dated April 22, 2013
- R-5 Report of Ed Jordan, dated April 4, 2013

- R-6 NJDOC Policy Prohibiting Discrimination in the Workplace
- R-7 Policy receipt form signed by SCO Cotner
- R-8 NJDOC Human Resources Bulletin 84-17
- R-9 Work History of Donald Cotner
- R-10 Investigation Report of Kristina Gonzalez, dated April 23, 2013
- R-11 Report of Dorene Mitchell, dated April 22, 2013