



STATE OF NEW JERSEY

**DECISION OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Rhonda Harland,
Judiciary, Vicinage 4-Camden
County

Request for Interim Relief

CSC Docket No. 2018-2905

ISSUED: JULY 23, 2018

(HS)

Rhonda Harland, a Senior Probation Officer with the Judiciary, Vicinage 4-Camden County, represented by Edward H. Kerwin, Esq., petitions the Civil Service Commission (Commission) for interim relief of her immediate suspension, commencing on March 9, 2018, pending a departmental hearing.

By way of background, the appointing authority issued the petitioner a Preliminary Notice of Disciplinary Action (PNDA) on March 8, 2018, charging her with conduct unbecoming a public employee and other sufficient cause. Specifically, it was alleged that on March 6, 2018, the petitioner purposely prevented or attempted to prevent a public servant from lawfully performing an official function by means of an independently unlawful act, specifically by refusing a lawful order to open the door after being told five times. It was further alleged that SWAT teams had descended upon the petitioner's home to arrest another individual who was inside her home at the time. As a result, the petitioner was arrested and charged with obstructing the administration of law or other governmental function in violation of *N.J.S.A. 2C:29-1A*, a disorderly persons offense. The PNDA indicated that the petitioner was immediately suspended from duty effective March 9, 2018, proposed a penalty of removal, and advised her that if she desired a departmental hearing on the charges, she was required to notify the appointing authority within 10 business days. The departmental hearing was adjourned until after the petitioner's municipal court matter regarding the disorderly persons offense charge has been heard; that matter was originally scheduled for May 15, 2018 but was rescheduled to June 13, 2018.

In this request for interim relief, the petitioner contends that the appointing authority's "drastic" decision to immediately suspend her without pay was premature and lacked a sufficient basis as it did not provide police statements, warrants or video that would support a finding that she did not fully cooperate with the police. She notes that she cannot be immediately suspended pursuant to *N.J.A.C.* 4A:2-2.5(a)2 since she was charged with a disorderly persons offense, not a crime. The petitioner states that she has many years of service without any prior discipline and can continue to perform her duties without impacting the order or effective direction of her work unit. Further, she submits that the appointing authority's action has caused her substantial hardship as she supports her two children and two grandchildren. In addition, the petitioner notes that her disorderly persons offense charge does not support an indefinite suspension pursuant to *N.J.A.C.* 4A:2-2.7. She requests that the appointing authority be ordered to reinstate her with back pay.

In response, the appointing authority, represented by Susanna J. Morris, Esq., states that as a Probation Officer, the petitioner is an officer of the court charged with enforcing court orders and counseling, supporting and acting as a role model for probationers. The appointing authority relates that as the Adult Community Service Officer, the petitioner's primary duties center on criminal defendants who have been ordered to perform community service. In performing this work, she first ensures that after defendants are sentenced, they report to probation offices to review and sign the Standard Conditions of Probation. In addition, she monitors these defendants to make sure that they appear and perform their assigned community service work. In the course of her work, she has frequent interactions with the defendants as well as contact with employees of municipal courts and community service worksites. The appointing authority states that it was notified of the petitioner's arrest the day it occurred and immediately recognized that given her position in the organization, her continued employment would negatively impact the order and effective direction of public services and impugn the integrity of the Judiciary. It maintains that as a Senior Probation Officer, the petitioner is held to a heightened performance standard. In this regard, a Probation Officer represents law and order and must present an image of personal integrity and dependability in order to have the respect of the public. The appointing authority questions how it can require that defendants under the petitioner's supervision comply with lawful orders if she herself is charged with refusing to do so. It urges that this petition be denied. In support, the appointing authority submits various exhibits, including reports from the law enforcement agencies involved in the events of March 6, 2018.

CONCLUSION

N.J.A.C. 4A:2-1.2(c) provides the following factors for consideration in evaluating petitions for interim relief:

1. Clear likelihood of success on the merits by the petitioner;
2. Danger of immediate or irreparable harm;
3. Absence of substantial injury to other parties; and
4. The public interest.

However, it must initially be emphasized that the role of the Commission at this stage in the proceedings is not to adjudicate the merits of the charges. Rather, the sole issue before the Commission at this juncture is whether the appointing authority presented a valid basis to immediately suspend the petitioner pursuant to *N.J.S.A.* 11A:2-13 and *N.J.A.C.* 4A:2-2.5. *N.J.S.A.* 11A:2-13 and *N.J.A.C.* 4A:2-2.5(a)1 provide that an employee may be suspended immediately without a hearing if the appointing authority determines that the employee is unfit for duty or is a hazard to any person if allowed to remain on the job or that an immediate suspension is necessary to maintain safety, health, order or effective direction of public services. In this matter, there is no dispute that the petitioner was arrested and charged with obstructing the administration of law or other governmental function. The appointing authority contends that in light of the petitioner's arrest and the nature of her duties as a Senior Probation Officer, her continued employment would negatively impact the order and effective direction of public services and impugn the integrity of the Judiciary. The Commission agrees. In this regard, Probation Officers "perform services for the judiciary essential to the fair and efficient administration of justice." *Passaic County Probation Officers' Asso. v. County of Passaic*, 132 *N.J. Super.* 247, 251 (Ch. Div. 1975). Probation Officers, like municipal Police Officers, hold highly visible and sensitive positions within the community and the standard for an employee includes good character and the image of utmost confidence and trust. *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). Thus, in this matter, the conduct with which the petitioner is charged is at odds with the basic duties of a Probation Officer. Clearly, the continued employment of a Senior Probation Officer charged with obstructing the administration of law or other governmental function would negatively impact the effective direction of public services and would impugn the integrity of the Judiciary. As such, the Commission finds that the appointing authority possessed a valid basis for immediately suspending the petitioner, pending a departmental hearing on the merits of the disciplinary charges.¹

Additionally, the petitioner has not shown that she is in danger of immediate or irreparable harm if this petition is not granted. While the Commission sympathizes with her situation, the harm that she is suffering is financial in nature

¹ It is noted that there is no basis for the petitioner's *indefinite* suspension as she was charged with a disorderly persons offense, not a crime. *See N.J.A.C.* 4A:2-2.7. Nevertheless, for the reasons discussed, there was a basis for the petitioner's *immediate* suspension pursuant to *N.J.A.C.* 4A:2-2.5(a)1 regardless of the fact that the petitioner was not charged with a crime.

and, as such, can be remedied by the granting of back pay should she ultimately prevail.

Finally, the petitioner has failed to show that her reinstatement at this time is in the public interest. In this case, it is detrimental to the public interest for the Judiciary to employ a Senior Probation Officer charged with obstructing the administration of law or other governmental function. Accordingly, there is no basis for interim relief in this matter.

ORDER

Therefore, it is ordered that the petitioner's request for interim relief be denied.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 18TH DAY OF JULY, 2018



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