



STATE OF NEW JERSEY

In the Matter of Ricky Muse
 Central Reception and Assignment
 Facility, Department of Corrections

FINAL ADMINISTRATIVE ACTION
 OF THE
 CIVIL SERVICE COMMISSION

CSC DKT. NO. 2020-617
 OAL DKT. NO. CSR 14350-19

ISSUED: MAY 1, 2020

BW

The appeal of Ricky Muse, Senior Correctional Police Officer, Central Reception and Assignment Facility, Department of Corrections removal effective August 14, 2019, on charges, was heard by Administrative Law Judge Mary Ann Bogan, who rendered her initial decision on March 17, 2020. Exceptions were filed on behalf of the appellant and a reply to exceptions was filed on behalf of the appointing authority.

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 (Commission), at its meeting of April 29, 2020, 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 removing the appellant was justified. The Commission therefore affirms that action and dismisses the appeal of Ricky Muse.

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 29TH DAY OF APRIL, 2020



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher S. Myers
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
P. O. Box 312
Trenton, New Jersey 08625-0312

Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSR 14350-19

CSC Docket No. 2020-617

**IN THE MATTER OF RICKY MUSE,
CENTRAL RECEPTION AND ASSIGNMENT
FACILITY.**

Robert R. Cannon, Esq., for appellant Ricky Muse (Markman & Cannon, LLC,
attorneys)

Alexis Fedorchak, Deputy Attorney General, appearing for respondent Central
Reception and Assignment Facility (Gurbir S. Grewal, Attorney General of
New Jersey, attorney)

Record Closed: February 26, 2019

Decided: March 17, 2020

BEFORE **MARY ANN BOGAN, ALJ**:

STATEMENT OF THE CASE

Appellant Ricky Muse, a correction officer with respondent Central Reception and Assignment Facility (CRAF), appeals from disciplinary action removing him for N.J.A.C. 4A:2-2.3(a)(1), incompetency, inefficiency or failure to perform duties; N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee, and N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause: HRB 84-17 (as amended) (J-3): B2. Neglect of duty, loafing, idleness or willful failure to devote attention to tasks which could result in danger to persons or

property; C8. Falsification: Intentional misstatement of material fact in connection with work, employment application, attendance or any record, report, investigation or other proceeding; C11. Conduct unbecoming an employee; C17. Possession of contraband on State property or State vehicles; D7. Violation of administrative procedures and/or regulations involving safety and security; E.1 Violation of a rule, regulation, policy, procedure or administrative decision.

The allegation relating to these charges is that appellant was assigned to the Armory/South Front Door on third shift and was in possession of his cell phone while on post. Appellant was on a video phone call using an internet application, FaceTime. When questioned by the Special Investigations Division, he initially denied ever introducing a cell phone into the facility. Appellant later admitted to having his cell phone while on post inside a secure perimeter. Respondent asserts that his action violates the Law Enforcement Rules and Regulations, Standards of Professional Conduct, HRB 84-17 as amended, and several internal management procedures. He knowingly acted in a way that might reasonably be expected to create an impression of suspicion among the public that an officer might be engaged in conduct violative of public trust.

PROCEDURAL HISTORY

On June 14, 2019, the respondent issued a Preliminary Notice of Disciplinary Action setting forth charges for an incident that allegedly occurred on April 20, 2019. Appellant requested a departmental hearing, which was held on July 31, 2019, and August 7, 2019. On August 14, 2019, the respondent issued a Final Notice of Disciplinary Action (FNDA) sustaining the charges and removing the appellant, effective on a date to be determined. His appeal was filed at the Office of Administrative Law (OAL) on October 9, 2019 (N.J.S.A. 40A:14-202(d)) and heard on February 6, 2020.

FACTUAL DISCUSSION

Davin A. Borg (Borg) is the administrative major at the New Jersey State Prison. He has been employed by the New Jersey Department of Corrections (DOC) since 1999. His current duties include responsibility for disciplinary matters, policies, and daily

operations. Correction officers are held to a higher standard of conduct both on and off duty. This standard is imposed in order to maintain public trust. Borg explained that CRAF is the intake unit for all county male inmates. All employees are provided with the Law Enforcement Personnel Rules and Regulations manual, which governs all law-enforcement personnel who work as correction officers and sets forth the expectation of conduct. The appellant was serving as a senior correction officer at the time of the incident and had received a copy of the manual and understood that he was expected to read, understand, and adhere to all policies and procedures. In particular, appellant acknowledged his receipt of PSM 001.017, Prohibition of Personally Owned Electronic Communication Devices within Designated Area of NJ DOC Correctional Facilities (R-10), and the policy statement Prohibition of Electronic Communication Devices within Designated Areas of NJ DOC Correctional Facilities (J-9). Borg concluded that appellant violated the Law Enforcement Rules and Regulations, Standards of Professional Conduct, and several internal management procedures, including the prohibition against electronic devices in secure areas. (J-4; J-10; J-11.)

Borg underscored that correction officers are held to a higher standard of conduct. Appellant is expected to "lead by example," and "shall not act or behave . . . to the officer's discredit, or the discredit of the department." Borg pointed out that appellant directly violated the prohibition against the "use or posses[sion] of any electronic communication device in the secured perimeter or other designated areas of a correctional facility." In addition, officers are expected to become familiar with the Department's policy regarding electronic communication devices. This rule, which makes clear that streaming of videos creates a safety issue, is in place because the use of an electronic communication can create a serious security breach and interfere with the proper operation of the facility. In addition, the use of an electronic communication can interfere with the operation of the essential monitoring of inmates' conversations, when necessary.

The prohibition against cell-phone use is also a part of CRAF Internal Management Procedure (IMP) # 505 (page 5, number 10), which states, "[t]he possession of cell phone, radios, television, computer games, or any other unauthorized equipment is prohibited."

Appellant violated other policies and procedures when he took time away from his essential duties to participate in a prohibited activity. Appellant also failed to "devote [his] [] full attention to [his] [] assignments to ensure that all duties are performed in accordance with current rules and regulations," and "failed to promptly obey any lawful order."

In addition, appellant did not follow policies and procedures when he "withheld . . . information" during the investigatory interview and "intentionally omit[ted] or misrepresent[ed] facts or information known to [] him."

Borg explained that correction officers are law-enforcement officers and hold police powers. Administrative Order 010.001, Standards of Professional Conduct, provides at Section III, Policy:

Employees of the Department of Corrections hold a special position of trust as public employees. Because the Department of Corrections is a law enforcement agency, employees must meet an enhanced standard of personal conduct and ethical behavior which shall hold the respect and confidence of the citizens of the State. Whether on or off duty, the individual conduct of Department employees reflects upon the employee and, in some circumstances, upon the Department of Corrections and the State of New Jersey.

[J-5.]

This section addressed the higher standard of conduct both on duty and off duty. Appellant violated the standard of conduct when he conducted himself in a manner that was unbecoming an employee when he streamed a video during the FaceTime call. The policy specifically states that violations of this policy shall be grounds for disciplinary action.

The Internal Management Procedure general information policy makes clear that contraband is any item found in the possession of or under the control of an inmate which is not authorized for retention or receipt. The policy defines the "inner security perimeter" as the area of a correctional facility beyond the entry-point metal detector and/or where

after passing through a door, security gate, or other entranceway, a person will have direct access to the inmates housed or held within that facility. (J-6.)

Borg also stated that appellant failed to clear the view scan detector when he was on his way to his assigned location. In doing so, he failed to follow the internal management procedures for entering and exiting the facility, which set forth specific protocols for ingress and egress. (J-7; J-8.)

Borg explained that the DOC Disciplinary Action Policy, Human Resources Bulletin 84-17, Table of Offenses, provides a penalty range for the charges of conduct unbecoming an employee and violation of a rule, regulation, policy, procedure, order, or administrative decision, from an official written reprimand up to removal. (J-3.) This wide variation of penalties is dependent upon the conduct of the individual. Borg indicated that removal is appropriate even for a first offense of neglect of duty which could result in danger to persons or property. Falsification, specifically, intentional misstatement of material fact in connection with work, and conduct unbecoming would be cause for removal for a first infraction in certain circumstances. Possession of contraband, which is considered to be items that employees are not allowed to have while on duty, can also be cause for removal on a first offense. Violations pertaining to safety and security measures, and even general violations of rules, regulations or policy, can be cause for removal. All employees are familiar with these policies and the penalties associated with the violations. Appellant's disciplinary history was taken into consideration when determining the appropriate penalty.

Quiana Whitmore (Whitmore), senior investigator, was assigned to investigate this matter after she was informed by a confidential informant that appellant brought a cell phone into the secure perimeter of CRAF on April 20, 2019. The informant provided photographs showing the appellant on a FaceTime call while working at his assigned location, the Armory/South Front Door. (J-14.) It was confirmed that appellant entered the Armory/South Front Door without clearing the view scan detector as he stated. (J-15.) Whitmore prepared a report after completing the investigation. (R-12.)

During the investigatory interview, the appellant initially denied bringing a cell phone into the facility. It was not until after the appellant was confronted with the photograph of himself on FaceTime that he admitted to bringing his cell phone inside a secure area.

Whitmore provided a videotaped interview during her testimony at the hearing, wherein the appellant initially denied ever bringing a cell phone into the facility. (J-13.)

Ricky Muse, appellant, began working at CRAF in 2007. His responsibilities included ensuring the safety of inmates and civilians, and the orderly operation of the institution.

Appellant acknowledged that he was on a video call using the internet application FaceTime while on duty assigned to Armory/South Front Door. In an effort to explain his conduct, appellant testified that this assignment location was not his usual assigned location. Instead, at least three times each week he was assigned to a non-secure area post where he was expected to keep his cell phone with him, particularly when he drove "the rover." On certain days he drove "the rover" for part of the day and had his cell phone with him; then, before he transitioned to his next post, which generally was the outside Tower post, he properly stored his cell phone in his assigned locker. In an effort to downplay any risk associated with his FaceTime call, appellant stated that the phone call did not last too long. He also testified that the interview in which he initially denied having his cellular phone on his person was conducted almost two months after the day of the incident, and although he initially did not recall the incident, after being shown a photograph of him on the video call he readily admitted his conduct.

Appellant testified that to his knowledge the Armory/South Front Door assignment was not located in a secure position, although he understood that he was expected to properly store his phone in his locker before arriving there.

The appellant agrees that a penalty should be issued for his action but argues that removal is not warranted. Appellant was very remorseful and promised that this conduct would not happen again. He urged that consideration be given to the "usual discipline" given to persons who were found to have cell phones on their person against

departmental policy. He explained that some colleagues have been issued reprimands or issued a minor discipline. He recognizes that the use of a cell phone could create a safety issue for CRAF; however, here, a safety risk did not occur, and none of the inmates viewed the video or witnessed him on the call. Further, he has maintained a clean disciplinary record since a prior disciplinary action involving an incident on or around July 11, 2012.

LEGAL ANALYSIS

The Civil Service Act, N.J.S.A. 11A:1-1 to -12.6, governs a public employee's rights and duties. The Act is an important inducement to attract qualified personnel to public service and is to be liberally construed toward attainment of merit appointments and broad tenure protection. Mastrobattista v. Essex Cty. Park Comm'n, 46 N.J. 138, 147 (1965). The Act sets forth that State policy is to provide appropriate appointment, supervisory, and other personnel authority to public officials so they may execute properly their constitutional and statutory responsibilities. N.J.S.A. 11A:1-2(b). However, consistent with public policy and civil-service law, a public entity should not be burdened with an employee who fails to perform his or her duties satisfactorily or who engages in misconduct related to his or her duties. N.J.S.A. 11A:1-2(a). To carry out this policy, the Act authorizes the discipline (and termination) of public employees. N.J.S.A. 11A:2-6.

A civil-service employee who commits a wrongful act related to his or her duties, or gives other just cause, may be subject to major discipline. N.J.S.A. 11A:2-6; N.J.S.A. 11A:2-20; N.J.A.C. 4A:2-2.2. The general causes for such discipline are set forth in N.J.A.C. 4A:2-2.3(a). In appeals concerning major disciplinary actions, the burden of proof is on the appointing authority. N.J.A.C. 4A:2-1.4(a). The standard of proof in administrative proceedings is a preponderance of the credible evidence. In re Polk License Revocation, 90 N.J. 550 (1982); Atkinson v. Parsekian, 37 N.J. 143 (1962). The preponderance may be described as the greater weight of credible evidence in a case, not necessarily dependent on the number of witnesses, but having the greater convincing power. State v. Lewis, 67 N.J. 47 (1975). Both guilt and penalty are redetermined on appeal from a determination by the appointing authority. Henry v. Rahway State Prison, 81 N.J. 571 (1980); W. New York v. Bock, 38 N.J. 500 (1962).

As a correction officer, appellant is held to a higher standard of conduct than ordinary public employees. In re Phillips, 117 N.J. 567, 576–77 (1990). Correction officers represent “law and order to the citizenry and must present an image of personal integrity and dependability in order to have the respect of the public.” Township of Moorestown v. Armstrong, 89 N.J. Super. 560, 566 (App. Div. 1965), certif. denied, 47 N.J. 80 (1966).

The respondent has sustained the charges for N.J.A.C. 4A:2-2.3(a)(1), incompetency, inefficiency or failure to perform duties; N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee; and N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause: HRB 84-17 (as amended): B2. Neglect of duty, loafing, idleness or willful failure to devote attention to tasks which could result in danger to persons or property; C8. Falsification: Intentional misstatement of material fact in connection with work, employment application, attendance or any record, report, investigation or other proceeding; C11. Conduct unbecoming an employee; C17. Possession of contraband on State property or State vehicles; D7. Violation of administrative procedures and/or regulations involving safety and security; E.1 Violation of a rule, regulation, policy, procedure or administrative decision.

As to the charge of incompetency, inefficiency, or failure to perform duties, in violation of N.J.A.C. 4A:2-2.3(a)(1), the Administrative Code does not define these grounds for disciplinary action. However, case law has determined that incompetence is a “lack of the ability or qualifications necessary to perform the duties required of an individual,” and “[a] consistent failure by an individual to perform his/her prescribed duties in a manner that is minimally acceptable for his/her position.” Sotomayer v. Plainfield Police Dep’t, CSV 9921-98, Initial Decision (December 6, 1999) (citing Steinel v. City of Jersey City, 7 N.J.A.R. 91 (1983); Clark v. New Jersey Dep’t of Agric., 1 N.J.A.R. 315 (1980)), adopted, MSB (January 24, 2000), <http://njlaw.rutgers.edu/collections/oal/>. “Inefficiency” has been defined as the “quality of being incapable [of doing] or indisposed to do the things required of an officer” in a timely and satisfactory manner. Glenn v. Twp. of Irvington, CSV 5051-03, Initial Decision (February 25, 2005), adopted in part, modified in part, MSB (May 23, 2005), <http://njlaw.rutgers.edu/collections/oal/>. It was appellant’s

duty to observe and obey all laws, rules, regulations, and orders of the Department. Instead, he conducted himself in a manner that created a serious risk of harm to CRAF, his colleagues, and the inmates. Accordingly, he did not uphold the integrity of the facility and he was inefficient in his duties. I **CONCLUDE** that the preponderance of the credible evidence demonstrates that respondent has met its burden of proof on the charge of incompetency, inefficiency, or failure to perform duties.

Conduct unbecoming a public employee has been interpreted broadly as conduct that adversely affects the morale or efficiency of a governmental unit or that has a tendency to destroy public respect for governmental employees and confidence in the delivery of governmental services. Karins v. City of Atl. 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, 152 N.J. at 555 (quoting In re Zeber, 156 A.2d 821, 825 (1959)). Such misconduct need not “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)).

The appellant challenges the charge of conduct unbecoming sustained in the FNDA. The allegation relating to this charge is that appellant was in possession of his cell phone while on his post and used the internet application FaceTime while on his post. Even more, during the investigatory interview, the appellant initially denied that he ever brought his cell phone into a secure area. Appellant, a senior correction officer, is expected to adhere to a higher standard of conduct, and instead he subjected the facility to a risk of serious harm. These actions do not meet the standard of conduct expected of correction officers. Accordingly, I **CONCLUDE** that the preponderance of the credible evidence demonstrates that respondent has met its burden of proof on the charge of conduct unbecoming a public employee.

“Other sufficient cause” is conduct that violates the implicit standard of good behavior that devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct. Asbury Park v. Dep’t of Civil Serv., 17 N.J. 419 (1955). Appellant conducted himself in a manner that violated standards of good behavior and the higher level of conduct that is expected of him as a law-enforcement officer. His actions were a clear violation of departmental policy and procedures. As such, I **CONCLUDE** that the preponderance of the credible evidence demonstrates that respondent has met its burden of proof on this charge.

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. W. New York v. Bock, 38 N.J. 500 (1962). However, 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. Henry v. Rahway State Prison, 81 N.J. 571 (1980); In re Herrmann, 192 N.J. 19, 33–34 (2007). Progressive discipline is not a “fixed and immutable rule to be followed without question.” Carter v. Bordentown, 191 N.J. 474, 484 (2007). Rather, it is recognized that some disciplinary infractions are so serious that removal is appropriate notwithstanding a largely unblemished record. Ibid. (Appellant also cites In re Stallworth, 208 N.J. 182, 195–96 (2011), and Feldman v. Irvington Fire Department, 162 N.J. Super. 177 (App. Div. 1978), to support progressive discipline, particularly consideration of the mitigating factors.)

The CRAF seeks to impose major discipline, namely, removal, on the appellant for violations of N.J.A.C. 4A:2-2.3(a)(1), incompetency, inefficiency or failure to perform duties; N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee; and N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause: HRB 84-17 (as amended): B2. Neglect of duty, loafing, idleness or willful failure to devote attention to tasks which could result in danger to persons or property; C8. Falsification: Intentional misstatement of material fact in connection with work, employment application, attendance or any record, report, investigation or other proceeding; C11. Conduct unbecoming an employee; C17.

Possession of contraband on State property or State vehicles; D7. Violation of administrative procedures and/or regulations involving safety and security; E.1 Violation of a rule, regulation, policy, procedure or administrative decision.

The CRAF relies principally on the seriousness of the conduct and its risk to safety, in addition to appellant's false and misleading statement regarding the incident when he was interviewed by Investigator Whitmore on May 30, 2019. The respondent urges that progressive discipline should not be utilized, and points to the policies and procedures that appellant failed to adhere to, and sets forth that termination is appropriate for this conduct, even though it's the first time appellant utilized his cell phone in this manner. The respondent also points out that the appellant's disciplinary history negates the possibility of progressive discipline, because the appellant's disciplinary history includes major discipline for misconduct that included the appellant providing false information. (R-2.)

The charges are particularly egregious, in that a law-enforcement officer is held to a higher standard of conduct than other employees, and is expected to act in a responsible manner, honestly, and with integrity, fidelity, and good faith. In re Phillips, 117 N.J. at 576; Reinhardt v. E. Jersey State Prison, 97 N.J.A.R.2d (CSV) 166.

Appellant seeks a reduction of the penalty from termination to suspension, based on the mitigating circumstances, urging that he would not conduct himself in this manner ever again, no one witnessed his misconduct, and there was no safety risk. Appellant is willing to execute a last-chance agreement. However, in the recent case In re Hotz, New Jersey Department of Corrections, No. A-0981-17T2 (App. Div. February 13, 2020), <https://njlaw.rutgers.edu/collections/courts/>, where a senior correction officer "blatantly lied in an interview about his knowledge of and involvement in the alleged abuse of an inmate," all other charges were not upheld, and the officer had an "otherwise largely unblemished work history," progressive discipline was not utilized for the officer. The court held that a correction officer "by the very nature of his job duties, is held to a higher standard of conduct than other public employees." The misconduct of lying during the interview was considered "egregious" and clearly warranted removal from such a "safety sensitive law enforcement position, regardless of his disciplinary history."

The court in In re Griffin, No. A-5042-09 (App. Div. November 4, 2011), <https://njlaw.rutgers.edu/collections/courts/>, upheld the Civil Service Commission's penalty of removal for a senior correction officer who was a nine-year employee with a generally positive record, when that officer brought a cell phone inside the secured perimeter and sent messages via text, even when there was "no nefarious purpose" and "no harm resulted," stating that "what matters is the safety of the public, the prison staff, and the prisoners." In sustaining the charge the Civil Service Commission explained that "[a] Senior Correction Officer . . . holds a highly visible and sensitive position within the community and the standard for an applicant includes good character and an image of utmost confidence and trust," and found that the officer subjected the correctional facility and the public to possible harm by bringing a cell phone into a secure facility. Correctional institutions are operated as paramilitary organizations, and, as such, rules and regulations are to be strictly followed. Maintenance of strict discipline is important in military-like settings such as police departments, prisons, and correctional facilities. Rivell v. Civil Serv. Comm'n, 115 N.J. Super. 64, 72 (App. Div.), certif. denied, 50 N.J. 269 (1971); City of Newark v. Massey, 93 N.J. Super. 317 (App. Div. 1967). Refusal to obey orders and disrespect of authority are not to be tolerated. Cosme v. Borough of E. Newark Twp. Comm., 304 N.J. Super. 191, 199 (App. Div. 1997).

I **CONCLUDE** that the action of the appointing authority removing appellant for his conduct on April 20, 2019, should be affirmed.

ORDER

I **ORDER** that the charges against the appellant for violations of N.J.A.C. 4A:2-2.3(a)(1) incompetency, inefficiency or failure to perform duties; N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee; and N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause: HRB 84-17 (as amended): B2. Neglect of duty, loafing, idleness or willful failure to devote attention to tasks which could result in danger to persons or property; C8. Falsification: Intentional misstatement of material fact in connection with work, employment application, attendance or any record, report, investigation or other proceeding; C11. Conduct unbecoming an employee; C17. Possession of contraband on

State property or State vehicles; D7. Violation of administrative procedures and/or regulations involving safety and security; E.1 Violation of a rule, regulation, policy, procedure or administrative decision, are **AFFIRMED**. The appeal is hereby **DISMISSED**.

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, P.O. 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.



March 17, 2020

DATE

MARY ANN BOGAN, ALJ

Date Received at Agency:

Date Mailed to Parties:

MAB/cb

APPENDIX

WITNESSES

For appellant:

None

For respondent:

Davin A. Borg

Quiana Whitmore

EXHIBITS

Jointly submitted:

- J-1 Final Notice of Disciplinary Action August 14, 2019
- J-3 HRB 84-17, as amended
- J-4 Law Enforcement Personnel Rules and Regulations
- J-5 Standards of Professional Conduct
- J-6 General Information
- J-10 Receipt Forms—Prohibition of Electronic Communication Devices within Designated Areas of NJ DOC Correctional Facilities
- J-11 Policy Receipt Checklist
- J-13 SCPO Muse SID interview video May 30, 2019
- J-14 Photographs of SCPO Muse dates April 20
- J-15 Video—CRAF lobby April 20, 2019

For appellant:

None

For respondent:

- R-2 Disciplinary History
- R-7 Security at Facility Entry Point/CP-1
- R-8 Armory/South Front Door Officer

- R-9 Prohibition of Electronic Communication Devices within Designated Areas of NJ DOC Correctional Facilities
- R-12 Special Investigations Division—Investigation Report