



STATE OF NEW JERSEY

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

In the Matter of Lyreshia Bonds,
Judiciary, Middlesex Vicinage 8

CSC Docket No. 2021-1334

Request for Interim Relief

ISSUED: MAY 3, 2021 (SLK)

Lyreshia Bonds, a Probation Officer with the Judiciary, Middlesex Vicinage 8 (Vicinage), represented by Desha L. Jackson, Esq., petitions the Civil Service Commission (Commission) for interim relief regarding her immediate suspension.

By way of background, in October 2016, Bonds reported to her superiors a potential conflict involving her nephew and his case was transferred to Union County. However, in September 2017, the case was transferred back to Middlesex County and the Judge issued an order stating that Bonds was to refrain from accessing any systems or information regarding her nephew’s case and refrain from discussing those matters with any individuals involved in the case or its proceedings. Further, in January 2019, a superior sent her notice instructing her not to discuss the matter. Thereafter, in September 2019, Bonds was assigned to complete a Pre-Sentence report on her nephew and she notified her supervisor and the matter was re-assigned. Additionally, there was a subsequent court order ordering Bonds to not discuss the matter and a superior again reminded Bonds not to discuss the matter. However, on February 3, 2021, during a virtual court hearing for Bonds’ nephew, the Judge indicated that he could hear Bonds, who sat next to her sister while her sister was testifying. To alleviate concerns, Bonds was also put on camera. Thereafter, the Vicinage immediately suspended Bonds on February 26, 2021, as it alleged that Bonds’ prompting of her sister’s testimony violated various administrative rules as well as department policy to avoid actual or apparent impropriety and actual or apparent conflicts of interest. Subsequently, Bonds’ former counsel responded arguing that there was no basis for an immediate suspension and requested a hearing

concerning her immediate suspension. Additionally, Bonds argued that she should be immediately reinstated with pay prior to such hearing and the issuance of a Preliminary Notice of Disciplinary Action (PNDA). However, the Vicinage determined that Bonds should be immediately suspended without pay effective March 2, 2021, for coaching her sister during the testimony in violation of two court orders and direction from her superiors that she should not discuss the matters with any individuals. Thereafter, it indicated that Bonds would be serviced with a PNDA.

In her request, Bonds argues that her immediate suspension does not meet the standards under *N.J.A.C.* 4A:2-2.5(a)1 and (b) as she asserts that there is no evidence that her actions threatened the safety, health, order or effective direction of public services. Bonds indicates that there is no allegation that she used her position as a Probation Officer to interfere with the matter. She asserts that her support of her family during a Court proceeding does not violate her employment or the Court Orders. Bonds argues that immediate suspensions are only to be imposed in limited circumstance when absolutely necessary to prevent a legitimate threat to the public. Therefore, she believes that the immediate suspension without pay prior to a hearing was an abuse of the Vicinage's discretion. She notes that her duties are not impacted by the allegations as she did not neglect her duties or use her position to access systems regarding her nephew's case and her most recent performance review was favorable. Bonds cites cases to support her position that the Commission should reverse the Vicinage's actions as they are arbitrary and capricious. She reiterates that she informed her superiors about the potential conflict twice, so she questions how the Vicinage could have concerns about her ability to follow rules. Bonds emphasizes that the Court Orders did not state that she could not support her family members, she simply attended her nephew's hearing on her day off, and states that she never talked about the case and only provided emotional support. She asserts that her being charged with a non-criminal charge is below the standard for an immediate suspension without pay. Bonds notes that the disciplinary hearing is scheduled for April 21, 2021.¹ Bonds believes that the subject action was taken for more nefarious reasons like race and retaliation for her complaints about her rights being violated and she indicates that she is suing the Vicinage in federal court regarding these issues. She notes that she was not even interviewed prior to the charges so she questions the integrity of the investigation.

Bonds also demands a Loudermill Hearing. *See Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985). She states that "some kind of hearing" is required prior to the discharge of an employee who has a constitutional protected property interest in her employment. Therefore, she claims that a pre-termination hearing is required. She presents that the opportunity to defend against allegations is a right and not a privilege. She further argues that *N.J.A.C.* 4A:2-2.5 does not overrule her Loudermill rights. She presents that even where no constitutional violations are

¹ The record does not indicate as to whether this hearing took place as scheduled.

found, Courts have relied on the existence of some pre-determination opportunity to respond.

Additionally, Bonds argues that she is likely to succeed on the merits because the facts do not support her immediate suspension without pay or substantiate the ultimate disciplinary charges. She notes that she has been employed as a Probation Officer since January 2012 without any prior disciplinary history. Bonds asserts that she has acted with integrity as she alerted her superiors about her nephew's involvement in court proceedings twice. Further, she contends that she has not violated the Court Orders. Bonds reiterates that she did not coach her sister's testimony and only attended her nephew's proceeding to provide support. She questions why the Court transferred the matter back to Middlesex County when it knew she worked there and she questions how the Prosecutor's Office prepares to stand against her when it knew that she was the one who signaled that there was a conflict in the first place. Further, she presents that the Judge did not ask her to recuse herself from the hearing. Additionally, Bonds denies the allegations in the Judiciary's memo where it was claimed that her sister said that she was telling her to just respond "yes" or "no" during her testimony. She believes that the denial of a Loudermill hearing should be sufficient grounds to reinstate her with back pay and interest. Bonds asserts that she is suffering immediate and irreparable harm as she is responsible for two minor children and her property rights were deprived without a hearing and notice. Further, the Vicinage will not suffer harm if she is reinstated as her February 2021 performance evaluation indicated satisfactory performance. Bonds states that these actions have caused her substantial injury and she presents that it is in the public interest not to deprive individuals of their due process rights. Bonds questions how it is in the public's interest to keep her out of work when the Vicinage cannot prove the charges, no crime has been committed, she has no disciplinary history, she never acted in unethical manner concerning her nephew and she was the one who raised the conflict, the charges are unrelated to her duties, and no one she works with knows about her attending her nephew's proceedings.

In response, the Vicinage, represented by Susanna J. Morris, Esq., presents that Bonds received yearly training on its Code of Conduct (Code). The Code indicates that its employees should avoid actual or apparent impropriety and actual or apparent conflicts of interest. It states that her failure to abide by the Code erodes the public's trust in the Judiciary. The Vicinage presents that at the February 3, 2021 hearing, Bonds violated the Code, disobeyed two court orders, a directive from the Trial Court Administrator and the hearing judge, which led to it no longer trusting her and for it seeking her immediate suspension with the intent to seek her removal. It highlights that the September 2017 Court Order which transferred Bonds' nephew's proceedings back to Middlesex County, specifically states that she shall "refrain from discussing the within matters with any individuals involved in the case or its processing." Further, on January 4, 2019, the Trial Court Administrator instructed Bonds to refrain from discussing this matter with any individuals involved

in the case, or its processing. Further, there were other communications with the Vicinage where Bonds acknowledged the Court Orders and directive to not discuss the matter. Additionally, after a subsequent motion to transfer Bonds' nephew's matter out of Middlesex County, on September 9, 2019, there was another Court Order indicating that "the reporting staff member shall refrain from discussing the within matters with any individuals involved in the case or its processing." Moreover, there were additionally communications between Bonds and her superior reminding her of the restraint.

Thereafter, on February 3, 2021, the Vicinage presents that Bonds' nephew's hearing took place. It asserts that despite three orders to have no discussions with individuals involved in the case, Bonds repeatedly did so throughout the hearing as indicated by a review of CourtSmart, and the Zoom court session recording, which was live-streamed to the public. The Vicinage indicates that at 11:27 a.m. and 11:41 a.m., Bonds can be heard whispering to her sister, during her sister's testimony. Thereafter, the Assistant Prosecutor interjected, Bonds identified herself, and the Judge indicated that "you cannot help her with her answers," and Bonds' sister stated that Bonds was not helping her, just instructing her to say "yes" or "no." The Judge then advised Bonds that her directing her sister was inappropriate. Further, the Judge gave Bonds' sister the choice of having Bonds sit with her on camera or in another room, and Bonds' sister chose to have Bonds "on screen together." However, despite the Judge's direct order to Bonds, she continued to whisper to her sister and Bonds' sister admitted that she did talk to her about her leg hurting. Additionally, the Vicinage presents that there were other times where Bonds can be seen on camera having periodic conversation with her sister during the hearing. It reiterates that the hearing was lived-streamed for the public to view Bonds' actions.

The Vicinage argues that Bonds' petition does not meet the standards for interim relief. It presents cases that Probation Officers are held to a heightened performance standard, like a Police Officer. It asserts that Bonds is unlikely to prevail on the merits because her petition disregards that she ignored two court orders, instructions from the Trial Court Administrator, and most significantly, the hearing Judge's instructions. The Vicinage argues that Bonds' actions evidence an utter failure of personal integrity and trustworthiness. Further, it asserts that Bonds is not suffering immediate harm as any financial harm suffered could be remedied by the granting of back pay if she prevails. Lastly, the Vicinage argues that the public interest would be harmed if she were to remain in her position while her discipline proceeds as this would negatively affect internal working relations in her division as Bonds cannot be trusted based on her repeated violations of Court Orders, internal directives, and the hearing Judge's instructions.

Regarding her *Loudermill* rights, the Vicinage presents that the Court in *Loudermill* indicated that due process rights are notice and an opportunity to respond, either in person or in writing. In this matter, Bonds was served with a

Notice of Suspension which set forth the of the administrative and Code charges, as well as the evidence, and the notice provided her an opportunity respond, which she did through her former counsel's February 26, 2021 letter. As such, it contends that she was provided her full due process rights.

CONCLUSION

Pursuant to *N.J.A.C.* 4A:2-1.2(c), the standards to be considered regarding a petition for interim relief are:

1. Clear likelihood of success on the merits by the petitioner;
2. Danger of immediate or irreparable harm if the request is not granted;
3. Absence of substantial injury to other parties if the request is granted;
and
4. The public interest.

N.J.S.A. 11A:2-13 and *N.J.A.C.* 4A:2-2.5(a)1 provides that an employee may be suspended immediately and prior to a hearing where it is determined that the employee is unfit for duty or is a hazard to any person if permitted to remain on the job, or that an immediate suspension is necessary to maintain safety, health, order, or effective direction of public services.

N.J.A.C. 4A:2-2.5(b) provides, in pertinent part, where suspension is immediate, and is without pay, the employee must be apprised either orally or in writing, of why an immediate suspension is sought, the charges and general evidence in support of the charges and provided with sufficient opportunity to review the charges and the evidence in order to respond to the charges before a representative of the appointing authority. The response may be oral and in writing, at the discretion of the appointing authority.

In this matter, Bonds alleges that the appointing authority has not met the standard for an immediate suspension because she claims that there is no evidence that her actions threatened the safety, health, order or effective direction of public services. She asserts that her being charged with a non-criminal charge is below the standard for an immediate suspension without pay. Initially, it is noted that *N.J.A.C.* 4A:2-2.5(a)1 and (b) do not mandate criminal charges for an immediate suspension without pay. The appointing authority alleges that Bonds actions as described above violate administrative rules and its Code to avoid actual or apparent impropriety and actual or apparent conflicts of interest. Therefore, the Commission finds that it was appropriate for the Vicinage to immediately suspend Bonds as the alleged conduct has the potential to negatively impact the public trust in the Judiciary and affect internal working relations in her division. Further, the information provided in support of the instant petition does not demonstrate a clear likelihood of success on the merits. A critical issue in any disciplinary appeal is whether the petitioner's

actions constituted wrongful conduct warranting discipline. The Commission will not attempt to determine such a disciplinary appeal on the written record without a full plenary hearing before an Administrative Law Judge who will hear live testimony, assess the credibility of witnesses, and weigh all the evidence in the record before making an initial decision. Additionally, while the Commission is cognizant of Bonds' financial situation, the harm that she is suffering while awaiting the outcome of the administrative proceedings is financial in nature, and as such, can be remedied by the granting of back pay should she ultimately prevail. Moreover, given the serious nature of the disciplinary charges at issue, the public interest is best served by not having Bonds on the job pending the outcome of any such charges.

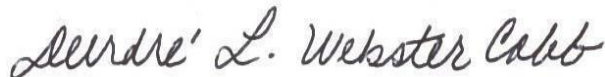
Regarding Bonds' claim that she was denied due process rights by not having a pre-determination hearing prior to her immediate suspension, neither *Loudermill*, *supra*, nor *N.J.A.C. 4A:2-2.5* require an in-person pre-termination hearing. Instead, the court indicated that the essential requirements of due process are notice and an opportunity to respond. In this matter, Bonds was served with a Notice of Suspension which set forth the charges, as well as the evidence, and the notice provided her an opportunity to respond, which she did through her former counsel's letter, which satisfies the requirements under both *N.J.A.C. 4A:2-2.5(b)* and *Loudermill*. Moreover, the record indicates that her departmental hearing was scheduled for April 21, 2021. Further, if the charges are sustained after the departmental hearing, and she receives a major discipline, upon her timely appeal of that action to the Commission, she will be afforded a hearing at the Office of the Administrative Law. Accordingly, Bonds' petition for interim relief is denied.

ORDER

Therefore, it is ordered that this petition be denied.

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 28th DAY OF APRIL, 2021



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