

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 2ND DAY OF JUNE, 2021

Deirdre' L. Webster Cobb

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Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSR 11577-19

AGENCY REF. NO. n/a 2020-426

**IN THE MATTER OF KHALID NASH, ESSEX
COUNTY DEPARTMENT OF CORRECTIONS.**

Frank P. Arleo, Esq. for appellant Khalid Nash (Arleo & Donahue, LLC)

Jill Caffrey, Esq. Assistant County Counsel, for respondent Essex County
Department of Corrections

Record Closed: May 4, 2021

Decided: May 6, 2021

BEFORE DANIELLE PASQUALE, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Khalid Nash ("appellant" or "Officer Nash") appeals from the decision of Essex County Department of Corrections ("the County") to remove him from his position as a corrections officer at the Essex County Jail on charges of incompetence, inefficiency or failure to perform duties, N.J.A.C. 4A:2-2.3(a)(1); conduct unbecoming a public employee N.J.A.C. 4A:2-2.3(a)(6); Neglect of Duty, N.J.A.C. 4A:2-2.3(a)(7); other sufficient cause N.J.A.C. 4A:2-2.3(a)(7); as well as Violation of Department Policies and Procedures, which include alleged violations regarding the corrections officer role in the visitor lobby, as well as attendance control which are outlined specifically below. In addition, he was then charged on a subsequent date with having contraband in the jail; an offense for

which was sustained several times in his progressive discipline history. Appellant asserts that either the charges are not proved, or rather that the punishment of removal is unwarranted as his progressive discipline should not amount to a removal if the instant charges are upheld.

A Preliminary Notice of Disciplinary Action (PNDA) dated December 4, 2018 was issued to Nash concerning the alleged incidents of the incompetence, inefficiency, failing to perform duties, conduct unbecoming, neglect of duty and other sufficient cause for leaving his post in the visit lobby to leave the premises after signing in as outlined in detail below stemming from a November 1, 2018 incident. A supplemental PNDA was issued on March 13, 2019 regarding the charges related to contraband and lying surrounding same which was also issued to appellant which allegedly occurred on March 7, 2019. A Final Notice of Disciplinary Action (FNDA) dated July 24, 2019, was issued to Nash sustaining all charges and ordering his removal effective March 14, 2019.

The appellant requested a hearing and filed his appeal with the Office of Administrative Law (OAL), pursuant to N.J.S.A. 40A:14-202(d). Nash filed his appeal with the OAL on August 13, 2019.

The matter was originally assigned to me on August 26, 2019. After conferencing the case, it was then adjourned at the request of the Appellant's attorney due to a death in the family. As a result, and in the normal course, a waiver letter of back pay was received on October 11, 2019 waiving the requirement that Officer Nash be restored to pay status if a final determination is not rendered in 180 days.¹ I set the case down for hearing which was heard in one day on November 25, 2019. Post-hearing submissions were received on January 22, 2020. The COVID-19 Pandemic hit after the post-hearing submissions were received. During the shutdown there was understandably no correspondence to this Tribunal from either party, regarding expected replies due to everyone's inability to get to their offices and not yet being set up to work remotely. I

¹ Due to the COVID-19 Public Health Emergency and the State of Emergency, Governor Murphy issued Executive Order 127 which relaxed deadlines. That was utilized for some of the submissions and exhibits that the parties had to gather as noted above. However, since the record closed upon my request after receiving the final stipulations of fact, E.O. 127 is not necessary for this Initial Decision.

waited and then e-mailed both parties on July 9, 2020 to inquire if they would be filing replies or if I could proceed with the decision. At that point, neither party chose to submit a reply or update this Tribunal on any other relevant information. However, upon attempting to close the record; I could not view the video evidence due to Information Technology (IT) security concerns and thus the parties agreed to send stipulations and any relevant video evidence in proper format. In November I received stipulations and a few relevant still shots of the video for after a conference. I required further clarification as the stipulations did not answer crucial facts I needed to find, so I held another conference. After receiving the revised stipulations in February 19, 2021, I continued to wait for replies that were to accompany same. On May 3, 2021, I contacted the parties since I had two different sets of stipulated facts and still no corresponding replies. In order to get closure on the case, on May 4, 2021, I confirmed with parties I would use the most-recent version of the Stipulated Facts in the Decision and as they declined the replies, as the parties agreed to this, I accordingly closed the record.

ISSUES PRESENTED

Should the disciplinary charges outlined below against Officer Nash be upheld and if so, is removal the appropriate penalty.

CHARGES AND SPECIFICATIONS

Preliminary Notice of Disciplinary Action Dated December 4, 2018:

Charges:

N.J.A.C. 4A:2-2.3(a)(1) Incompetence, inefficiency or failure to perform duties;

N.J.A.C. 4A:2-2.3(a)(6) Conduct unbecoming a public employee;

N.J.A.C. 4A:2-2.3(a)(7) Neglect of duty;

N.J.A.C. 4A:2-2.3(a)(12) Other sufficient cause;

Violation of Department policies and procedures:

PS.CUS.006.24 Corrections Officer-Visit Lobby;
PS.ADM.003 Attendance Control

Violations of Department Rules and Regulations:

- 1:2.33 Neglect of Duty;
- 3:1.23 Knowledge of the Laws and Regulations
- 3:2.8 Relief
- 3:2.16 Leaving Assignment
- 3:10.5 Truthfulness

Specifications: On November 12, 2018, Captain Pulitano completed an investigation revealing that Officer Khalid Nash violated Departmental Rules and Regulations, Department Policy, and 4A Statutes.

Specifically, on November 9, 2018 Sergeant Conway reported that on Thursday November 1, 2018 Officer Nash was observed arriving to work at approximately 0959 hours. He then contacted Lieutenant Nathaniel Richardson to check in for duty. This call would indicate that Officer Nash was going directly to his post to begin his scheduled tour. However, Officer Nash immediately left the grounds (violating policy) and did not return for a half an hour. He was not properly relieved, nor did he inform his supervisor or Master Control he was off his post. He did not assume his post until 1033 hours, and yet failed to submit a late for duty slip which is in violation of the Department Rules and Regulations.

After reviewed Video Surveillance of the Visit Area, Sgt. Conway observed Officer Nash entering the visit lobby at 0958 hours. He then uses extension 6246 to contact extension 7831, letting Lt. Richardson know he was reporting for duty. At 1001:59 hours Officer Nash was observed exiting the Main Visit Lobby walking down the ramp and leaving in a black Range Rover. At 1029:38 hours Officer Nash is once again observed walking up the ramp from the parking lot to the Main Visit Entrance. At approximately 1032:40 hours via video footage from elevator (S10) Officer Nash is observed reporting to his area of assignment (level 4 non-contact visits). Officer Nash then exits the elevator at 1033:36 hours on level 4.

The incident is in direct violation of the above-mentioned departmental policies, procedures and 4A statutes.

Accordingly, the interest of the Department would be best served by this employee's removal as a result of the above violations.

Supplemental Preliminary Notice of Disciplinary Action dated March 13, 2019

Further, on March 8, 2019, Sergeant Zapata completed an investigation revealing that Officer Khalid Nash violated Departmental Rules and Regulations, Departmental Policy, and 4A Statutes.

Specifically, on March 7, 2019 Captain Pulitano reported that he observed Officer Nash utilize his cell phone in the Officers Dining area, and then proceed directly to his work assignment without first returning his cellphone to his locker. A cellphone is considered contraband within the secure perimeter of the facility.

Captain Pulitano then ordered Lieutenant Pires to report to his office with Officer Nash's cell phone number. At approximately 0926 hours Captain Pulitano dialed *67 then Officer Nash's cell phone number and zoomed the camera in on Officer Nash. Officer Nash first feels his pocket, then goes to his wrist and answers his phone through his watch. He verbalized either "hello" or "Yo" twice, which Lt. Pires witnessed, then the Captain hung up the phone. He then order[ed] Lt. Pires to send a relief to Officer Nash's pod and have him escorted to Internal Affairs. Lt. Pires ordered Sgt. Crawford to escort Officer Nash from the pod straight to Internal Affairs without making any stops.

Captain Pulitano ordered the video of the incident from Security Maintenance and confirmed what he saw on the video, then he proceeded to Internal Affairs to meet Officer Nash. When he arrived at Internal Affairs, he saw Officer Nash sitting in a room with Sgt. Crawford monitoring him. He then called Officer Nash's cell phone and again he fumbled through his pocket. Captain Pulitano then explained to Officer Nash that's why you're up here to which Officer Nash untruthfully replied, "I just got my cell phone". Sgt. Crawford confirmed that Officer Nash did not make any stops and it would have been impossible for him to retrieve his cell phone.

Then, while in front of his PBA representative Herbert Hamlin, Officer Nash emptied his pockets as ordered by Captain Pulitano. Officer Nash's pockets contained gloves, a nail clipper, papers, cigarettes (contraband), and a cell phone (contraband). Investigator Pomponio took pictures of everything along with Officer Nash's smart watch (contraband), which he was wearing, and which was connected to his cell phone.

Officer Nash shows a pattern of violating the Essex County Department of Corrections Policies and Procedures as he has been disciplined in the past for having possession of his smartphone (contraband) on multiple occasions.

The incidents above are in direct violation of the aforementioned departmental policies, procedures, and 4A statutes. Therefore, this employee's immediate suspension and ultimate removal is necessary to maintain the safety, health, order and/or effective operation of the Essex County Department of Corrections.

Per the supplemental PNDA, Nash was also immediately suspended on March 14, 2019.

On July 24, 2019, the County issued a Final Notice of Disciplinary Action ("FNDA"). The FNDA sustained all of the charges within the PNDA and removed Nash from employment.

FACTS

Petitioner Nash, and respondent, the Essex County Department of Corrections, stipulate as to the following facts (as to the November 1, 2018 incident) in this case as thus I **FIND** them as facts in the instant matter:

1. Nash arrived for his shift just prior to 10:00 a.m. and checked in with the desk officer.
2. When Nash entered the building at the time, he was wearing his uniform pants and a jacket. It is unknown whether he was wearing his uniform shirt.
3. Nash then left the building and did not return until approximately 10:28 a.m.
4. When Nash re-entered the building he encountered Sgt. Conway in the lobby, who questioned him on his tardiness.
5. When Nash re-entered the building, he was wearing his uniform pants and a jacket. It is unknown whether he was wearing his uniform shirt.
6. Corrections Officers are not permitted to walk through the secured perimeter of the jail without being in full uniform (both a uniform shirt and uniform pants).

Accordingly, and based upon due consideration of the testimonial and documentary evidence presented at the hearing, and having had the opportunity to observe the demeanor of the witnesses and assess their credibility, I **FIND** the following **FACTS**:

A. Summary of Testimony

THE NOVEMBER 1, 2018 INCIDENT

Trial Testimony of Sgt. John Conway

Sergeant John Conway (“Conway” or “Sgt. Conway”) has been employed by the County of Essex Department of Corrections (“The County” or “Essex County DOC” or “Essex County Jail”) for approximately twenty (20) years. Prior to being promoted to Sergeant, Conway served as a corrections officer for fifteen (15) years himself. On November 1, 2018, Conway was assigned to inmate services, which includes inmate visits at the Essex County Jail. As a Sergeant in charge of inmate services, his duties included supervising the officers assigned to those areas. Sergeant Conway was Officer Nash’s direct supervisor when Nash was assigned as a non-contact visit officer. Conway testified credibly that Nash’s duties as a non-contact visit officer included escorting civilian visitors to the area where the inmates would have their visits. Nash’s hours were 10:00 a.m. to 6:00 p.m., which corresponded with the jail’s visiting hours. While under his supervision on the date in question, Sgt. Conway wrote Officer Nash up for leaving the facility without authorization.

Specifically, on November 1, 2018, Conway recalled seeing Nash in the public visitor lobby at approximately 10:30 a.m., which he testified convincingly was at least 35-40 minutes past the time that Nash was required to be at his post. Because of this, Conway approached Nash that morning and asked him if he had filled out a “late slip” as required by protocol. Nash advised Conway that he had already “checked in” and was already there for work.

Conway further explained that because Nash worked an "off shift" he would have to call his shift commander to let the commander know he was there for duty, as there is no roll call for a 10:00 a.m. to 6:00 p.m. shift. Conway also stated that as per policy, any officer, including Nash, is supposed to report fifteen (15) minutes prior to the start of their shift which would have been 9:45 a.m. Conway indicated that on the date in question, he confirmed with Lieutenant Richardson that Nash did "check in" for work as Nash indicated. However, because Conway felt that Nash did not report/check in at his post when he was supposed to, Conway received permission to review the security videos to see if Nash actually did check in for work in accordance with County protocols.

Furthering his inquiry, Conway reviewed the videos of the parking lot (cameras 224 and 216), the ramp leading into the facility (camera 209), the actual visitor lobby (camera 256) and the elevators that the officers ride to get to their posts (camera 178). The videos all begin at 9:00 a.m. on November 1, 2018. Conway saw Nash walking up the visitor entrance lobby ramp at 9:58 a.m. and then walk into the building and around to the back of the officers' desk where he got on the telephone to speak to the shift commander. Conway also pulled the recording of the phone call, in which he heard Nash tell his lieutenant that he was reporting for duty. This is consistent with what Lt. Richardson told Sgt. Conway about Officer Nash checking in on time, and consistent with the reports submitted without objection into evidence.

Upon reviewing the videos, Conway confirmed that he then saw Nash walk back around the desk, exit the facility, walk down the ramp towards the parking lot and eventually drive out of the parking lot at 10:02 a.m. This corresponding video evidence was presented clearly and consistently, supporting Conway's testimony and thus it is highly credible, showed little emotion and was professional and I **FIND** it as fact.

Conway then confirmed that Nash did not call anyone to tell them that he was leaving the facility. He testified convincingly and in a straightforward way, that proper protocol would have been for Nash to call the lieutenant or Conway for relief of his post before leaving. Conway then saw Nash come back up the entrance ramp at 10:29:42 a.m. on camera 209. Nash re-entered the building at 10:29:46 a.m. Conway did not see

Nash actually report to his post until 10:34:20 a.m. During the hearing, this tribunal watched the surveillance videos contemporaneously with Sgt. Conway's testimony and his account is entirely supported by said videos. His testimony was candid, professional, and is supported by the documentary and video evidence. His testimony in this regard is highly credible and, I **FIND** it as fact in this matter.

During Conway's investigation of the November 1 incident, he continued that after reviewing the videos he reported the incident to his immediate supervisor, Captain Pulitano, and wrote a memo which is in evidence and marked as R-3. Conway further explained that as a result Nash violated PS.ADM.003 Attendance Control (R-4), PS.CUS.003.24 (R-5), and the County Rules and Regulations (R-6) by arriving late to his post and failing to get relief/approval to leave the facility. Those rules and regulations are spelled out clearly in those exhibits. Conway summarized Nash's infractions as leaving the shift commander of the facility under the impression that he was on his post and that visits were underway or "running". However, Conway continued clearly and convincingly, there is only one officer assigned per building and because Nash was not on his post, visits could not occur in the building he was assigned to until he returned to his post at 10:32 a.m. and thus, I so **FIND**.

On cross examination, Sgt. Conway convinced me that he did not believe Nash's explanation after being approached with his version of events. Specifically, he recalled Nash telling him that he had spilled coffee on his shirt or that he needed to go get another shirt. Conway further explained that if Nash or anyone needed to go to the employee's locker room, they would have no reason to go outside the building as they could get there from the inside. However, he noted (as subsequently stipulated by the parties above), that if an employee did not have their uniform on, they could not go through the secured perimeter of the jail to get to the locker rooms, further supporting Conway's version of events which was that no issue of spilling coffee on his uniform was brought to his attention on the day of the November 1, 2018 incident, and thus I so **FIND**. I **FURTHER FIND** that this is consistent with the facts stipulated by the parties above that Nash was wearing uniform pants and a jacket with no conclusion as to whether he was wearing his uniform shirt. In short, I **FIND** he was wearing his uniform.

During the hearing, Sgt. Conway was direct, professional, dispassionate and notably not rehearsed, and thus highly credible. All of Conway's trial testimony was bolstered by the videos he researched before bringing to his superiors, and then fully explained to the court. To that end, the videos were authenticated and then spoke for themselves in support of Conway's accounting of Officer Nash's whereabouts on the date and time in question. Bluntly, he was not at his post when he should have been and did not notify anyone of his need to leave his post to get a clean shirt or for any other reason, and thus I so **FIND**.

In addition, it is of note that Sgt. Conway did not draft the charges for Officer Nash, rather just investigated the matter fully and reported those findings to his superiors. Again, the videos show Conway's version of events to be accurate down to the second, as shown on the time counter of the surveillance videos. In fact, it appeared that he gave Officer Nash the benefit of the doubt, even though he found it odd that he claimed he was not in uniform. I believed Conway 100 percent when he stated that he did not recall Nash saying anything about spilled coffee and having to retrieve a clean shirt, and thus I so **FIND**. He certainly did not recall anything nor was questioned about whether Nash was carrying a dirty shirt as alleged on Nash's direct examination later on.

Trial Testimony of Sergeant Michael Radice

As of the date of the hearing, Sergeant Michael Radice ("Radice") was employed by the County as a sergeant in charge of discipline. He has worked for the County for sixteen (16) years and upon information and belief is still working in said capacity. As of the time of his testimony he served as a sergeant for five years (5) and a sergeant in discipline for one (1) year and three (3) months. As a sergeant in discipline, Radice's job responsibilities and duties included keeping all the employee's disciplinary files and processing the paperwork for employees' disciplines. Radice testified directly and professionally that he is familiar with Nash because he has served him with disciplines in the past. It should be noted that he did not appear to have a personal stake in the outcome due to the prior disciplines as that was part and parcel to his daily responsibilities, which added to his credibility.

To that end, he continued directly that on December 5, 2018, when Radice served Nash with his PNDA in evidence as (J1-b), Nash told Radice that he knew Conway did not believe Nash's side of the story. Radice relayed that according to Nash, he spilled coffee on his uniform shirt and had come back to the jail to get his shirt. In order to verify Nash's story, Radice testified that he then pulled Nash's finger scan ID and video footage from the front door to the jail where officers and civilians enter and the hallway going towards the gun locker room and the officer's locker room. A "finger scan" is how many of the secured doors at the jail open. Radice testified as we watched that footage in court. He explained, and we could see that he did not see Nash on any of the videos he pulled going into the entrance Nash claimed he did to retrieve and/or launder his shirt. He noted that he also did not find any record of him finger scanning in and out of the jail that day. Radice continued that because there is a possibility that Nash could enter the locker rooms without being caught on camera or the finger scans Radice discussed his findings with Nash for an explanation. During this discussion, Sgt. Radice testified convincingly that Nash admitted to Radice that he did not come back to the jail for a shirt as he previously insisted and told Conway, and rather went to Pilot, a place across the street, for coffee instead.

Sgt. Radice's testimony was consistent with the video footage played during the hearing, all of which confirm to the minute that Conway and Radice's trial testimony was not only outright credible, but confirmed by objective video evidence, and thus I **FIND** it as **FACT**.

Khalid Nash's Testimony as to November 1, 2018 Incident

Officer Nash testified on his behalf regarding the November 1, 2018 incident. He explained that he worked at the Essex County Department of Corrections for eighteen (18) years. Nash testified as the Sergeants did, that he was scheduled to work the 10:00 a.m. to 6:00 p.m. shift working non-contact visits. He testified that he was allowed to change his shift from the 2:00 p.m. to 10:00 p.m. general assignment post due to his seniority and childcare issues but he did not. Nash testified that he is the primary childcare provider of his two children since the mother of his daughter died. This portion

of his testimony was forthright and largely undisputed and thus I **FIND** it as **FACT** in this matter.

On November 1, 2018, Officer Nash said he checked in with Desk Lieutenant Richardson "a little before 10:00 a.m." Then he explained that he did not immediately report to his post at non-contact visits, because he left the visitor's lobby. He claimed that prior to coming to work that day, he:

attended the Pilot, directly across the street from the jail at which time while coming back to work from the Pilot I had spilled coffee on my shirt. It wasn't a major ordeal, but I just knew I wanted to rectify the situation prior to going to my post. I knew I couldn't do that at the time and still be on time without check in with the lieutenant, so I decided to check in with the Lieutenant first and then tried to resolve the issue.

Next, he claimed that he returned to his vehicle and drove over to the Officers' entrance located in another part of the facility which housed the officers' locker room to see if he had a clean shirt in the locker. Nash testified that he chose this course of action, rather than access the locker room through the Visitor's Lobby, because as Sgt. Conway testified previously Departmental Procedure mandates that officers cannot be in the jail facility if they are not properly in uniform. Nash testified that by going through the Employee Entrance he could eventually access the Employees' Locker Room by going through the Officers' Dining Room ("ODR") kitchen.

Then Nash testified, quite unconvincingly, that he did not have a clean shirt available in his locker, so he tried to clean the shirt with Febreze. He testified that that is what he uses when the shirt gets "a little warn". It should be noted that he never mentioned taking the shirt off in the car or at all at this point in his testimony.

In an effort to support his version of events concerning his trip to the Locker Room, he offered Request for Leave Slips (P-1) marked for identification at hearing and now in evidence with consent. Nash testified that he took the slips from his locker while he was in the locker room and submitted them to Scheduling which were stamped on the same date and time. He noted that he went to the bathroom, where there was a sink and a little

hand dryer. His accounting then becomes unclear as to whether he actually attempted to wash the shirt or whether he used Febreze as a source of stain treating the shirt. This version was wholly unbelievable as he explained he was going to apply the Febreze and "kind of let that kind of simmer it." If I believed that he even went to that area rather than drive to the Pilot, perhaps soap and water would be believable to clean a stain; the Febreze description appeared to be a red herring as did his alleged visit to the locker at all. Furthermore, he never stated in his narrative that he ever took his shirt off, or where or when until suggested on Direct later on. I noted throughout Nash's testimony that he was rambling, forgetful, changing his story, evasive and giving a false narrative to this Tribunal.

Nash then claimed he finished attempting to clean the shirt in the bathroom near the locker room, then went to his locker, and he "thinks" he went back the same way through the ODR and back out the front, jumped in his car and came right back to the visitor's lobby where the day began. He is unclear about whether he used the finger scan. Nash stated he returned to the Visitor's Lobby shortly before 10:30 a.m. and encountered Sergeant Conway, making no mention of his shirt ever being off or in his hand. Nash claimed in response to his attorney that he still had his shirt off when he explained to Conway where he was coming from and was ordered to put his shirt on. This is the first time his testimony included him ever taking the shirt off and Conway does not mention anything of the sort in his straightforward testimony. As such, I did not believe Nash's version of events.

On Direct, Nash described the request for leave slips that he "noticed" in his locker room and retrieved when he went for the shirt that he never located. He testified that this was proof that he was in that area and not off the premises at the time in question. This version of events was not convincing at all. In fact, when I asked him a question about the time stamped on the slip, he noted it was 2:36 p.m. He explained that was the time he got it out of his locker that morning. As it turns out, his slips proved less of an alibi and more evidence of ECC's version of events. His testimony in this regard was completely untruthful, and thus I so **FIND**.

Finally, Nash testified that when he is assigned to the non-contact inmate visits post, visitors do not start to arrive until approximately 10:30 a.m. since they have to first go through a security check and then receive numbered slips to coordinate their visits. Nash testified that between 10:00 a.m. - 10:30 a.m. it is common for officers to go to the ODR, their car and other locations within the facility.

On Direct, he floundered on whether he had a shirt on or off, where or if he took it off, or whether what he had on was enough to walk through the facility. He stated that he could have gone up to his post with the wet shirt, but he chose to drive around for a clean shirt otherwise he "would have been walking around with an unprofessional looking shirt." To make matters murkier, counsel suggested on Direct when he saw Conway upon returning to the lobby, he asked: "I'm sorry, you're carrying your shirt at this point?" However, I noted during the hearing that he never said he took his shirt off until that suggestive question was posed well into his Direct testimony. Rather, he said he tried to freshen it up and then stated that he could not walk through because he did not have a uniform on.

In response to the court's questions as the factfinder, he floundered again and contradicted his testimony about the shirt. He stated for the first time, that he took the shirt off to clean it in the locker room. After being unable to answer where he took his shirt off; only with clarification by Mr. Arleo was he able to state the location was his car because "Once I got in my car I was back out of the shirt. I wasn't going to dispose of my shirt while on the grounds like that. Once I got back in my car I took the shirt off." He explained unconvincingly that this all occurred before he drove over to the locker room for the attempted laundering. I was notably concerned by Mr. Nash's unresponsive answers, noting several times that he was not answering my questions. In fact, I noted throughout his testimony that I believed he was very disingenuous. In fact, when I asked how he dried the shirt, he explained that he was "literally under the hand dryer trying to dry the shirt", which would not have been necessary if he was still holding it in his hand as he claimed during this line of questioning.

On Cross Examination Nash was asked to explain in his own words why he did not go through the jail to get to his locker, to which he responded "[B]ecause I wasn't in proper

uniform". He explained a proper uniform would be "one in good condition." He was not paying attention to the questioning as he was distracted by looking at previous exhibits. When pressed if there was a policy that says you cannot enter the jail in your uniform if it is not in "good condition" he stated he was not familiar with all the jail's policies and could not state specifically what this policy stated. He continued on cross that "poor condition" for him meant that it was unsuitable because he spilled coffee on his shirt. He noted that the shirt was navy blue. When asked why he did not tell his supervisor that he had to leave his post he responded, "I was clear that I'd be back at my post prior to my 10:30 visits taking place."

When asked if his shift started at 10:00 a.m. why he did not need to report to his post then, he noted that he was not required to because even if he works non-contact visits "there's not even a guarantee of exactly where my post is in non-contact visits." This is in direct contrast to the policies and procedures in evidence. He explained that the officers decide amongst themselves once the officers get together what area of non-contact visits they cover. He explained having to cover for officers with less experience. Then he testified "so for me to have to report to a specified location that hasn't been determined yet, I would be falsifying information."

He answered that four (4) officers were working that area; they all start at 10:00 a.m. and he described that they had to determine amongst themselves who worked in which non-contact visitor area. This colloquy on cross examination is instructive as to the quality of Nash's self-interested and contradictory testimony:

Q: Those four other officers are the ones you're figuring out where you're going to work with?

A: Yes

Q: When do their shifts start?

A: Same time, 10 a.m.

Q: And none of you are required to get there until 10:30?

A: No, that's not---what I said---what I said was the visits aren't allowed to come upstairs until 10:30. As long as we're aware of where we need to be in our location by 10:30 normally that's how it goes. There's no sergeants in that area. Our normal sergeant at the time he works five other locations besides visits. We pretty much supervise ourselves. If somebody's

late for example ... I could easily end up having to work two areas. There's never a relief sent up there, never, we can never call and ask for help.

Later on, during cross...

Q: Okay. So then at 10:30, when you got there that day what was your job?

A: I really don't recall. I don't even remember where I worked that day. That wasn't a concern of mine to pay attention to exactly where I worked that day.

Appellant Khalid Nash is a man with life experience and father who has been employed as a Corrections Officer by ECC for eighteen (18) years as of the time of the hearing. Prior to the instant matter, appellant received countless progressive disciplines both major and minor. All of which include lateness, insubordination, absent without leave, conduct unbecoming, attendance violations, and contraband violations. His explanations for why he left the premises do not make sense, his testimony is inconsistent, and he never described taking the shirt off at any time until it was first suggested to him on Direct. He had a hard time answering my questions and it affected his credibility in that he had rambling explanations to simple questions like the finger scan and the shirt removal. In addition, he was distracted and looking at exhibits instead of answering questions on cross examination. Perhaps most damning is that he testified the time leave slips were stamped at the time he went to his locker that morning. Rather, they are stamped at 2:36 p.m. which is also when he claimed he submitted them for approval, in the morning after going to his locker. In short, both things cannot be true, and the time stamp directly contradicts his prior testimony.

In short, his testimony is full of material inconsistencies. In addition, Nash has worked there too long with too many prior disciplines of this nature to make his story plausible. In fact, he should have known that reporting to his post on time or informing his desk lieutenant of the alleged uniform situation would have resolved the issue of any potential lateness, or coverage and be the more professional choice. When I asked if he considered, with his long history of similar disciplines, if he thought reporting the uniform

issue would have been prudent; or using a closer bathroom in order to be at his post earlier to help assign the locations within non-contact visits. He went into an entire story about rubbing the shirt with a napkin which again was clearly untruthful. In addition, he added that he had been going to the ODR for about eight years after check-in and he stated, "I can't tell you how many times I've done that very same thing." He also admitted that in retrospect with his most-recent discipline prior to the ones at bar, that perhaps taking a ride off the premises or even to drive over to ODR was not a great idea. To that end, I cannot give Officer Nash's testimony much weight at all as to his version of the November 1, 2018 incident. I **FIND** that he was supposed to check in by 9:45 a.m. and did not check in until 9:58 a.m. Then he left when he was supposed to be at his post by 10:00 a.m. and did not get there until after 10:30 a.m. I also **FIND** that the story about cleaning the shirt was not believable and that the time approval slips that he relied so heavily upon which he said were stamped when he came back from the locker that morning, were stamped at 2:36 p.m. over four (4) hours later. Lastly, I **FIND** that if the uniform was an issue, that the proper protocol, as supported by the credible documentary and testimonial evidence, would be to tell his Desk Lieutenant before leaving so that he would not violate the policy.

THE MARCH 7, 2019 INCIDENT

Captain Joseph Pulitano (Ret.)

Captain Joseph Pulitano, Ret. ("Pulitano") was employed by the County from 1994 to May of 2019. At the time he testified, he served as a captain for the last eleven (11) years. As a captain, Pulitano was in charge of inmate services, where he was familiar with Nash as an officer who fell under his supervisory umbrella. Pulitano specifically recalled an incident involving Nash that occurred on March 7, 2019. At the time, Pulitano explained he was in the officer's dining room, where he noticed Officer Nash exit to go and assume his position without securing his cellphone in the locker room. After returning to his office, Pulitano called master control, which is where all the cameras are monitored, to find out where Nash had gone. Pulitano learned that Nash had gone to Building 2, Level 1 to start his reliefs. Because Pulitano thought that Nash never put his phone away, he began looking for him on the cameras, where he found him on the "E" pod. He then

asked Lieutenant Antonio Pires to bring him Nash's cellphone number and to serve as a witness. With Pires present, Pulitano called Nash's cellphone and saw Nash fumble in his pockets, pick up the call on his smart watch and answer "yo" or "hello". Pulitano also had the video footage pulled of Nash answering his phone at 9:27am (R-7). Pulitano then had Nash escorted to Internal Affairs where he was made to empty out his pockets on video (R-8). Nash was found to have contraband including: his cell phone, his smart watch, a handcuff key, nail clippers and cigarettes. Pulitano then wrote a report (R-9), which recommended Nash for disciplinary charges. Pulitano further explained that Nash violated the contraband policy (R-10) and Rules and Regulations - 3:10.5 truthfulness (R-6). As Captain Pulitano's testimony was also professional and straightforward and completely corroborated by the evidence showing Nash answering the phone and responding exactly as he described above, I **FIND** his testimony entirely credible and as **FACT** in this case. Furthermore, the exhibits referenced above, highlight the policies that Nash is alleged to have violated and they are clear in that phones are contraband and cannot be on an officer's person. As such, I **FIND** that between the clear rules and regulations and policies of the ECC are well-known to Officer Nash due to his training, experience and notably voluminous progressive discipline for similar offenses and the corresponding counseling and training that took place to attempt to rectify the situation to no avail.

Khalid Nash's Testimony as to the March 7, 2019 Incident

Nash again testified in his own defense. He testified that on the subject date, he was scheduled to work the 6:00 a.m. to 2:00 p.m. general assignment shift. He testified that while in the ODR at 9:00 a.m. he was attempting to pay personal bills by using applications on his cell phone. While doing so, he discovered that he did not have his wallet and became panicky. After attempts to find his wallet failed and realizing that he was now late to go to his post, he went to Master Control to receive his assignment and, in his haste, did not go to the locker room to secure his cell phone. Nash introduced an Xfinity cable bill (P2) showing that he made a payment by credit card on March 7, 2019, confirming his testimony that he was attempting to pay personal bills on that date. Nash

testified he did not use his cellphone after arriving at his post and only answered it after Pulitano called him.

I believe the part of his testimony as supported by P-2 that he was paying his bills and perhaps did not leave himself enough time to return the phone and maybe he did not use it, except he answered it as I saw him do on the video, and thus I **FIND** he had the phone and all of the rest of the contraband listed in the report including gloves, a nail clipper, papers, cigarettes and his cell phone. His testimony was rambling. He stated he did not even know where to report because he was so involved with his personal business. In this regard, I believe him. It is clear that he prioritized his personal affairs yet again over his job responsibilities which are outlined for everyone's safety including his own. We have all had to juggle work and home life, but his posts and reliefs are there for safety reasons and to facilitate the proper operation of the jail. Again, his progressive discipline for this particular offense is loaded with such prior incidents as recent as an incident on October 18, 2018, just a few weeks prior where he was recommended for a 120-day suspension. Nash pled guilty in December 2018 and received a 5-day suspension with a probationary period of 60 days where he could not be late for duty, or he would receive immediate 2-day suspension without pay and that "it may also be included in future disciplinary charges." J-2. There has been corrective action taken by his employer countless times to no avail, and thus I so **FIND**. More to the point, I **FIND** that Nash knew better and chose to prioritize his personal choice to have his phone and not his job. I **FIND** that he knew better due to his initial training, in-service training, and at least seven (7) attempts at counseling all noted in detail in the binder that houses his progressive discipline history and training. His version of "chaos" and his noted inability to get to his locker, was at best, a bad excuse and worse, disingenuous; and thus, I so **FIND**.

B. Factual Discussion-Credibility

A trier of fact may reject testimony because it is inherently incredible, or because it is inconsistent with other testimony or with common experience, or because it is overborne by other testimony. Congleton v. Pura-Tex Stone Corp., 53 N.J. Super. 282, 287 (App. Div. 1958).

Due to the contradictory testimony presented by the County's witnesses and Nash, the resolution of the charges against Nash requires that I make credibility determinations with regard to the critical facts. The choice of accepting or rejecting the witnesses' testimony 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 must be credible in itself. It must elicit evidence that is from such common experience and observation that it can be approved as proper under the circumstances. See Spagnuolo v. Bonnet, 60 N.J. 546 (1974); Gallo v. Gallo, 66 N.J. Super. 1 (App. Div. 1961). A credibility determination requires an overall assessment of the witness's 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 (9th Cir. 1963). A factfinder "is free to weigh the evidence and to reject the testimony of a witness even though not 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 observe the demeanor of the witnesses and the corresponding consistent video testimony, it is my view that Sergeants Conway and Radice as well as Retired Captain Joseph Pulitano were highly credible. Their testimony was clear, truthful and their investigation was not speculative, but rather completely thorough and fully documented before any charges were lodged against Nash. Their testimony regarding both incidents was clear and concise and corroborated by the video evidence as reviewed in detail at the hearing during their testimony and as noted in their reports, and thus I **FIND** their versions as fact in this matter as to both incidents at bar.

In contrast, I **FIND** the testimony of Officer Nash to be wholly incredible. He admits to entering around 9:58 a.m., not 9:45 a.m. and then recounted a wholly unbelievable story about the retrieval/cleaning of the uniform shirt. In fact, if he did have a uniform problem, he knew from his long history of similar infractions and subsequent suspensions and training that the only option was to approach a superior and get his shift covered. The version that is more believable is when Officer Radice asked Nash and he admitted

to leaving the premises to go to Pilot to get coffee rather than go up to this post, and thus I so **FIND**. The video evidence presented was comprehensive and the witnesses for ECC were professional and dispassionate corroborating and explaining credibly what they showed regarding Nash being off premises on November 1, 2018 and answering a phone while on his unit with additional contraband. It did not appear that they did not like Officer Nash, but rather they had to report what they observed and confirmed by their research as part of their supervisory responsibilities, and I thus I **FIND** them to be highly credible witnesses. Furthermore, I do not doubt that Officer Nash was doing his bills as he said and maybe he forgot the phone, however he had so many priors and attempts to train him to rectify it, that it simply is not feasible that he forgot but rather consciously continued his pattern of behavior. Regardless, it does not matter as he was run through an enormous amount of in-service training regarding same and had recently been suspended for the same offense. Again, Nash answered the phone as we watched along on the video coverage. All the contraband listed in the report was present on the video including the phone.

In summary, as to November 1, 2018, I **FIND** that he checked in late, left the premises to get coffee and then used the excuse of going to his locker to retrieve a shirt. This is not borne out by any other credible evidence in this case. In addition, I **FIND** that on March 7, 2019, he had his phone and the other listed contraband as corroborated by the video footage and supporting documentary evidence. I **FIND** that officer Nash did submit the slips that day at 2:36 p.m. and that was likely when he went to his locker if it all. I **FIND** that the offenses themselves in a vacuum are not grounds for removal, but when coupled with the voluminous progressive discipline for both major and minor offenses; they show a pattern of just ignoring the policies and procedures of the ECC.

LEGAL ANALYSIS AND CONCLUSIONS

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; N.J.A.C. 4A:2-2.3. In an appeal from such discipline, the appointing authority bears the burden of proving the charges upon which it relied by a

preponderance of the competent, relevant, and credible evidence. N.J.S.A. 11A:2-21; N.J.A.C. 4A:2-1.4(a); Atkinson v. Parsekian, 37 N.J. 143 (1962); In re Polk, 90 N.J. 550 (1982). The evidence must be such as to lead a reasonably cautious mind to a given conclusion. Bornstein v. Metro. Bottling Co., 26 N.J. 263 (1958). Therefore, the tribunal must "decide in favor of the party on whose side the weight of the evidence preponderates, and according to the reasonable probability of truth." Jackson v. Del., Lackawanna and W. R.R. Co., 111 N.J.L. 487, 490 (E. & A. 1933). For reasonable probability to exist, the evidence must be such as to "generate belief that the tendered hypothesis is in all human likelihood the fact." Loew v. Union Beach, 56 N.J. Super. 93, 104 (App. Div. 1959). Preponderance may also be described as the greater weight of credible evidence in the case, not necessarily dependent on the number of witnesses, but having the greater convincing power. State v. Lewis, 67 N.J. 47 (1975).

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 liberally construed toward attainment of merit appointments and broad tenure protection. Essex Council No. 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. 1972); Mastrobattista v. Essex Cnty. Park Comm'n, 46 N.J. 138, 147 (1965). The Act states 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). To carry out this policy, the Act authorizes the discipline and termination of public employees.

N.J.A.C. 4A:2-2.3(a) provides that a public employee may be subject to major discipline for various offenses. The burden of proof is always on the appointing authority in disciplinary matters to show that the action taken was justified. N.J.S.A. 11A:2-21; N.J.A.C. 4A:2-1.4(a). The employee's guilt of the charge(s) must be established by a preponderance of the competent, relevant, and credible evidence. Atkinson v. Parsekian, 37 N.J. 143 (1962); In re Polk License Revocation, 90 N.J. 550 (1982). Precisely what is needed to satisfy the standard must be decided on a case-by-case basis. The evidence must be such as to lead a reasonably cautious mind to the given conclusion. Bornstein v. Metropolitan Bottling Co., 26 N.J. 263, 275 (1958). Preponderance may also be described as the greater weight of the credible evidence in the case, not necessarily

dependent on the number of witnesses, but having the greater convincing power. State v. Lewis, 67 N.J. 47, 49 (1975). Credibility, or, more specifically, credible testimony, in turn, must not only proceed from the mouth of a credible witness, but it must be credible in itself, as well. Spagnuolo v. Bonnet, 16 N.J. 546, 554–55 (1954). 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); West New York v. Bock, 38 N.J. 500 (1962).

I **CONCLUDE** that the County has proven by far more than a preponderance of the competent, relevant, and credible evidence that Nash both left his post without reporting it and without getting coverage for same on November 1, 2018, and then also brought contraband into the jail on March 7, 2019 and lied about all of the above. In addition, I **CONCLUDE** that his remarkable and extensive progressive discipline history included many of the current offenses in the past including N.J.A.C. 4A:2-2.3(a)(1); conduct unbecoming a public employee N.J.A.C. 4A:2-2.3(a)(6); Neglect of Duty, N.J.A.C. 4A:2-2.3(a)(7); other sufficient cause N.J.A.C. 4A:2-2.3(a)(7): as well as Violation of Department Policies and Procedures, which include alleged violations regarding the corrections officer role in the visitor lobby, as well as attendance control which are outlined specifically above. In addition, prior to the March 7, 2019 incident he was charged with having contraband in the jail; an offense for which was sustained several times in his progressive discipline history. (See J1-J29)

Chronic conduct is conduct that continues over a long time or recurs frequently. Good v. N. State Prison, 97 N.J.A.R.2d (CSV) 529, 531. “Excessive” is defined as “exceeding a normal, usual, reasonable, or proper limit.” American Heritage Dictionary 638 (3d ed. 1992); also see Rios v. Paterson Hous. Auth., CSV 3009-02, Initial Decision (August 1, 2005), adopted, Comm’r (September 13, 2005), <<http://njlaw.rutgers.edu/collections/oal/search.shtml>>. “Just cause for dismissal can be found in habitual tardiness or similar chronic conduct.” W. New York v. Bock, 38 N.J. 500, 522 (1962). While a single instance may not be sufficient, “numerous occurrences over a reasonably short space of time, even though sporadic, may evidence an attitude of indifference amounting to neglect of duty.” Ibid. “There is no constitutional or statutory right to a government job. Our laws, as they relate to discharges or removal, are designed

to promote efficient public service, not to benefit errant employees.” State-Operated Sch. Dist. of Newark v. Gaines, 309 N.J. Super. 327, 334 (App. Div. 1998).

When determining the appropriate penalty to be imposed, the Board must consider an employee’s past record, including reasonably recent commendations and prior disciplinary actions. Bock, 38 N.J. 500 (1962). Depending on the conduct complained of and the employee’s disciplinary history, major discipline may be imposed. Id. at 522–24. Major discipline may include removal, disciplinary demotion, suspension or fine no greater than six months. N.J.S.A. 11A:2-6(a); N.J.S.A. 11A:2-20; N.J.A.C. 4A:2-2.2; N.J.A.C. 4A:2-2.4. A system of progressive discipline has evolved in New Jersey to serve the goals of providing employees with job security and protecting them from arbitrary employment decisions. The concept of progressive discipline is related to an employee’s past record. The use of progressive discipline benefits employees and is strongly encouraged. The core of this concept is the nature, number and proximity of prior disciplinary infractions evaluated by progressively increasing penalties. It underscores the philosophy that an appointing authority has a responsibility to encourage the development of employee potential.

Here, Nash argues that the appellants’ misconduct was applied more harshly to him as his brief notes “an unwritten policy exists that permits officers to check in and actually start their shift late as long as the visitors have not arrived.” In short, he argues “it would be manifestly unfair to punish Nash for this alleged infraction based upon an unenforced attendance policy.” I completely disagree as the progressive discipline for Nash includes at least twenty-nine (29) offenses all that address lateness, attendance, insubordination, conduct unbecoming, where he received in-service training and counseling, in an attempt to rectify his repeat violations of established policy. Thus, this is evidence that the attendance policy is not only enforced but has been enforced with Office Nash since 2011.

Under the circumstances, major discipline is the appropriate discipline, and I am persuaded that removal is required as I have yet to see a case with this extensive a progressive discipline history including repeat similar offenses listed in the instant matter.

Accordingly, I **FURTHER CONCLUDE** that the penalty of removal is the only one available to Essex County or the undersigned in this matter as the numerous previous minor and major disciplines, respective suspensions and corresponding training and counseling did not rectify his behavior. In fact, the most-recent discipline occurred just prior to and even after the incidents before this Tribunal.

ORDER

For the reasons set forth above, it is **ORDERED** that except for the charge of violation of N.J.A.C. 4A:2-2.3(a)(3) – Inability to Perform Duties, all other charges entered on the FNDA, dated July 24, 2019, by the respondent, Essex County Department of Corrections, against the appellant, Khalid Nash, are hereby **SUSTAINED**. The charge of violation of N.J.A.C. 4A:2-2.3(a)(3), is hereby **DISMISSED**.

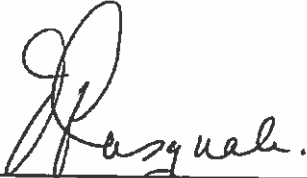
I further **ORDER** that the action of the appointing authority removing the appellant from his position as a Corrections Officer, effective March 14, 2019, due to the aforementioned upheld charges and overwhelming and consistent progressive discipline is hereby **AFFIRMED**.

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, MERIT SYSTEM PRACTICES AND LABOR RELATIONS, 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.

May 6, 2021
DATE



DANIELLE PASQUALE, ALJ

Date Received at Agency: May 6, 2021

E-Mailed to Parties: May 6, 2021

lr

APPENDIX

LIST OF WITNESSES

For Appellant:

Officer Khalid Nash, Appellant

For Respondent:

Sgt. John Conway, ECC

Sgt. Michael Radice, ECC

Captain Joseph Pulitano, ECC

LIST OF EXHIBITS IN EVIDENCE

Respondent's Exhibits:

- R-1 CD – Visitor's Parking 11/1/18 0900-1130
- R-2 CD - Visitor's Lobby & Elevator 11/1/18 0900-1130
- R-3 Sgt. Conway Memo, 11/9/18
- R-4 PS.ADM.003 Attendance Control
- R-5 PS.CUS.006.24 Corrections Officer- Visit Lobby
- R-6 Rules and Regs:
- R-7 1:2.33 Neglect of Duty;
- R-8 3:1.23 Knowledge of the Laws and Regulations
- R-9 3:2.8 Relief
- R-10 3:2.16 Leaving Assignment
- R-11 3:10.5 Truthfulness
- R-12 Video - 19-021 2E1 Left
- R-13 Video - Interview room
- R-14 Capt. Pulitano Memo, 3/7/19
- R-15 P.S.CUS.046 Contraband and Search of Inmates-Detainees

Appellant Nash's Exhibits:

- P-1 Request for Leave Slips, 11/1/2018
- P-2 Xfinity Bill

Nash Discipline History/Joint Exhibits:

- J-1. 7/24/2019 Final Notice of Disciplinary Action ("FNDA"), Contraband and various offenses, Removal
 - a. 3/13/19 Supplemental Preliminary Notice of Disciplinary Action ("PNDA") (3 pgs.)
 - b. 12/4/18 PNDA (4 pgs.)
- J-2. 6/17/2019 FNDA - Contraband, 30 Days
 - a. 11/13/18 PNDA (3 pgs.)
- J-3. 12/15/2018 Lateness, 3 Days (2 pgs.)
- J-4. 6/5/2018 Attendance, Counseling
- J-5. 5/10/2018 Insubordination - Medical Certification, Official Written Reprimand ("OWR")
- J-6. 5/9/2018 FNDA - Contraband, 12 Days
 - a. 1/19/18 PNDA
- J-7. 5/4/2018 Insubordination - Medical Certification, OWR
- J-8. 5/2/2018 Lateness, OWR
- J-9. 5/2/2018 Insubordination - Medical Certification, OWR
- J-10. 3/15/2018 Lateness, 3 Days
- J-11. 2/12/2018 Lateness, OWR
- J-12. 1/22/2018 FNDA - Contraband, 8 Days
 - a. 9/12/17 PNDA
- J-13. 12/8/2017 Lateness, Counseling
- J-14. 7/26/2017 Attendance, Counseling
- J-15. 12/22/2016 Attendance, Counseling
- J-16. 9/26/2016 Attendance, Counseling
- J-17. 6/9/2016 Attendance, OWR
- J-18. 6/9/2016 Insubordination - Medical Certification, OWR

- J-19. 2/11/2016 Leaving Assigned Area without Permission, 5 Days
- J-20. 2/15/2016 Medical Certification, OWR
- J-21. 2/11/2016 Conduct Unbecoming, 5 Days
- J-22. 7/23/2015 Absent without Leave ("AWOL"), OWR
- J-23. 7/22/2014 Sick without Pay ("SWOP"), 5 Days
- J-24. 8/22/2013 SWOP, OWR (2 pgs.)
- J-25. 8/15/2013 Lateness, OWR (2 pgs.)
- J-26. 6/25/2013 Attendance, Counseling
- J-27. 4/17/2013 Lateness, Counseling
- J-28. 12/27/2012 SWOP, OWR
- J-29. 11/4/2011 FNDA - Neglect of Duty, 30 Days
- a. 11/3/11 PNDA (2 pgs.)

Nash Training History/Joint Exhibits:

- J-30. New Officer Orientation Program, 2/1/06 (Department Rules & Regulations; Contraband) (2 pages)
- J-31. Department Rules & Regulations Registration, 8/19/08
- J-32. In-service Training, 5/24/13 (Post Orders & Availability of Policies)
- J-33. Policy Acknowledgement, 7/15/13 (Post Orders)
- J-34. In-Service Training, 11/15/13 (Department Rules & Regulations) (2 pages)
- J-35. In-Service Training, 10/16/14 (Post Orders Refresher & Contraband) (2 pages)
- J-36. Policy Acknowledgement, 11/10/14 (Post Orders)
- J-37. In-Service Training, 6/4/15 (Department Rules & Regulations; Post Orders) (2 pages)
- J-38. In-Service Training, 7/27/16 (Department Rules & Regulations) (2 pages)
- J-39. In-Service Training, 6/29/17 (Department Rules & Regulations) (3 pages)
- J-40. In Service Training, 12/14/17 (Post Orders; Availability of Policies) (2 pages)
- J-41. In Service Training, 11/30/18 (Post Orders, Availability of Policies) (2 pages)