



**STATE OF NEW JERSEY**

**DECISION OF THE  
CIVIL SERVICE COMMISSION**

In the Matter of Charles Lawson,  
Essex County

CSC Docket No. 2021-1709

Request for Interim Relief

**ISSUED: JULY 2, 2021 (EG)**

Charles Lawson, County Correctional Police Officer with Essex County, represented by Luretha M. Stribling, Esq., petitions the Civil Service Commission (Commission) for interim relief of his immediate and indefinite suspension.

As background, the record indicates that the petitioner was hired as a County Correctional Police Officer in April 2011. The petitioner was issued a Preliminary Notice of Disciplinary Action (PNDA) dated May 12, 2021, charging him with incompetency, inefficiency or failure to perform duties, conduct unbecoming a public employee, neglect of duty and other sufficient cause. The appointing authority indicated that the petitioner was arrested on May 11, 2021 and charged with two 3<sup>rd</sup> degree criminal charges. Specifically, the petitioner was charged with knowingly engaging in conduct which created a substantial risk of death to another person and knowing making false entries with a purpose to defraud. No Final Notice of Disciplinary Action (FNDA) has been entered into the record by the parties.<sup>1</sup>

In the instant matter, the petitioner argues that pursuant to *N.J.S.A. 30:8-18.2* the charges were not properly brought forth within 45 days. The petitioner claims that in September 2018, he had a meeting with his prior counsel and two assistant prosecutors who indicated that an investigation had been conducted and that as a result they planned to bring charges against him. He did not hear back from the prosecutors until April 28, 2021. In this regard, the petitioner asserts that both the prosecutor and the appointing authority had sufficient evidence to bring

<sup>1</sup> The PNDA indicates that a hearing was scheduled for June 11, 2021.

forth charges in September 2018 and that charges would have to be filed with 45 days of this September 2018 meeting. In addition, the petitioner asserts that pursuant to *N.J.S.A. 30:8-18.2*, once the 45 day time period had passed, no administrative or criminal charges could be filed against him. The petitioner claims that he has a clear likelihood of success on appeal due to a violation of the 45 day rule. The petitioner also states that he will suffer irreparable harm due to his loss of income and his reputation would suffer. He also argues that other correctional police officers would lose faith in the system if his suspension was upheld as there was a clear statutory violation by the appointing authority. Further, the petitioner contends that it is in the public interest for the appointing authority to follow the rules and regulations. .

In reply, the appointing authority, represented by Jill Caffrey, Esq., Assistant County Counsel, maintains that that the petitioner has not shown a clear likelihood of success on the merits. It contends that the petitioner's contention that the charges in the May 12, 2021 PNDA had to be brought within 45 days is incorrect, as per *N.J.S.A. 30:8-18.2*, the 45-day time requirement does not begin until after the disposition of the criminal investigation. Additionally, it asserts that the petitioner has not proven that he will suffer immediate and irreparable harm. Further, the appointing authority argues that it would be a clear liability to the County and its operations to have a correctional police officer that allegedly engaged in criminal activity remain on duty. Finally, it claims that the public interest would be best serve by allowing the County to pursue the charges against the petitioner and allow for a departmental disciplinary hearing to occur after the criminal charges are disposed.

In response, the petitioner reiterates that the charges against him should have been brought within 45 days of the of the September 2018 meeting with the assistant prosecutors as the investigation was complete. The petitioner adds that he would also likely prevail on the merits of the criminal charges, as the incident of involving an inmate would not have occurred if the facility had been properly staffed and proper procedures were in place for dealing with inmates at risk. Finally, the petitioner requests that the administrative and criminal charges against him be dismissed.

## CONCLUSION

*N.J.S.A. 30:8-18.2* states the following:

A person shall not be removed from employment or a position as a county correctional police officer, or suspended, fined or reduced in rank for a violation of the internal rules and regulations established for the conduct of employees of the county corrections department, unless a complaint charging a violation of those rules and regulations is filed no later than the 45th day after the date on which the person filing the complaint obtained sufficient information to file the matter upon which the complaint is based. A failure to comply with this section shall

require a dismissal of the complaint. The 45-day time limit shall not apply if an investigation of a county correctional police officer for a violation of the internal rules and regulations of the county corrections department is included directly or indirectly within a concurrent investigation of that officer for a violation of the criminal laws of this State; the 45-day limit shall begin on the day after the disposition of the criminal investigation. The 45-day requirement in this section for the filing of a complaint against a county correctional police officer shall not apply to a filing of a complaint by a private individual.

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

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

In addition, *N.J.A.C.* 4A:2-2.7(a)2 provided that an appointing authority may impose an indefinite suspension to extend beyond six months where an employee is subject to criminal charges as set forth in *N.J.A.C.* 4A:2-2.5(a)2, but not beyond the disposition of the criminal complaint or indictment. *N.J.S.A.* 11A:2-13 and *N.J.A.C.* 4A:2-2.5(a) provide that an employee may be suspended immediately and prior to a hearing when the employee has been formally charged with certain crimes or 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.

Initially, the Commission notes that the petitioner's reliance on the "45-day rule" is misplaced. The "45-day rule" for a county correctional police officers as provided for in *N.J.S.A.* 30:8-18.2 states that the 45-day time limit shall not apply if an investigation of a county correctional police officer for a violation of the internal rules and regulations of the county corrections department is included directly or indirectly within a concurrent investigation of that officer for a violation of the criminal laws of this State. In the instant matter, there was clearly a criminal investigation which led to the petitioner arrested and charged with violations of the criminal law on May 11, 2021. As such, the 45 day time limit has not yet begun for the appointing authority to bring forth administrative charges, nor does it apply to the imposition of criminal charges. Further, while the petitioner has asked the Commission to dismiss both the administrative and criminal charges, the Commission has no authority to order the Prosecutor's Office to dismiss any criminal charge.

Moreover, 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 or not the petitioner has actually committed the alleged infractions. In this regard, the petitioner claims that the incident involving an inmate would not have occurred if the facility had been properly staffed and proper procedures were in place for dealing with inmates at risk. Nevertheless, the petitioner was arrested and charged with two 3<sup>rd</sup> degree criminal charges. The Commission will not attempt to determine the charges before the conclusion of the criminal proceedings. Furthermore, the petitioner has failed to show a danger of immediate or irreparable harm or how the public interest would be served by granting his request. In this regard, there are available mechanisms for relief, such as back pay in appropriate cases. Accordingly, under these circumstances, the record does not demonstrate a basis for granting interim relief.

### ORDER

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

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 30<sup>TH</sup> DAY OF JUNE, 2021

*Deirdre L. Webster Cobb*

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