



## STATE OF NEW JERSEY

In the Matter of Jason Rogers,  
Trenton, Department of Public Works

CSC DKT. NO. 2021-429  
OAL DKT. NO. CSV 10566-20

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

ISSUED: MAY 18, 2022

The appeal of Jason Rogers, Security Guard, Trenton, Department of Public Works, removal, effective October 20, 2020, on charges, was heard by Administrative Law Judge Susan L. Olgiati (ALJ), who rendered her initial decision on April 5, 2022. No exceptions were filed.

Having considered the record and the ALJ's initial decision, and having made an independent evaluation of the record, the Civil Service Commission, at its meeting of May 18, 2022, accepted and adopted the Findings of Fact and Conclusion as contained in the attached ALJ'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 Jason Rogers.

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 18<sup>TH</sup> DAY OF MAY, 2022

*Deirdre L. Webster Cobb*

Deirdre L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Allison Chris 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. CSV 10566-20

AGENCY DKT. NO. N/A

2021-429

**IN THE MATTER OF JASON ROGERS,  
CITY OF TRENTON, DEPARTMENT OF  
PUBLIC WORKS.**

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**Seth M. Gollin, Esq.**, for Jason Rogers, appellant

**John Harrington, Esq.**, for City of Trenton, Department of Public Works,  
respondent (Trimboli & Prusinowski, attorneys)

Record Closed: January 7, 2022

Decided: April 5, 2022

BEFORE **SUSAN L. OLGATI, ALJ**:

**STATEMENT OF THE CASE**

Appellant, Jason Rogers, a former security guard for the City of Trenton, Department of Public Works, appeals the determination of the respondent, City of Trenton, Department of Public Works (respondent or the City) removing him from employment based on a disciplinary charge of conduct unbecoming a public employee. The incident giving rise to the disciplinary charge is a September 18, 2020, incident in which it is alleged that Rogers was observed on video lifting up the dress of a co-worker as she walked up the stairs. Appellant denies any improper conduct.

### **PROCEDURAL HISTORY**

On or about October 7, 2020, appellant was served with a Final Notice of Disciplinary Action (FNDA), charging him with Conduct Unbecoming a Public Employee, N.J.A.C. 4A:2-2.3(a) (6) relating to the September 2020 incident. Appellant filed a timely appeal, and on November 4, 2020, the matter was transmitted to the Office of Administrative Law for a hearing as a contested case. N.J.S.A. 52:14-1 to -15 and N.J.S.A. 52: 14F-1 to -13.

Hearing dates scheduled in April 2021 were adjourned at the request and consent of the parties. In May 2021, the City filed a motion to admit additional documents relating to recently discovered notes of the investigator who investigated the incident. On June 1, 2021, following oral argument on the motion, I issued an oral ruling granting the motion in part and denying it in part by allowing the City to introduce the notes for purpose of refreshing the investigator's recollection. The investigator was permitted to testify to the actions she took during the investigation and the City was permitted to introduce testimony and documentary evidence relating to information provided to the investigator by witness T.W.<sup>1</sup> during the course of the investigation. I further ruled that the testimony of another witness, E.J., would not be permitted as the subject matter of the proposed testimony was beyond the scope of the FNDA filed against Rogers. Finally, I ruled that the City would not be permitted to expand the scope of the charges against the appellant beyond what was contained in the FNDA and its related documents. The hearing in this matter was heard on June 22 and September 23, 2021, via Zoom (remote video platform) due to on-going restrictions relating to the COVID-19 pandemic. The record closed on January 7, following receipt and review of the hearing transcript and written summations. Under an Order of Extension, the time to file this Initial Decision was extended to April 8, 2022.

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<sup>1</sup> Initials are used herein to protect the privacy of several witnesses.

## **FACTUAL DISCUSSION AND FINDINGS**

### **Undisputed Facts:**

The following facts have been stipulated to by the parties or have been, based on my review of the testimony and documentary evidence in the record, otherwise deemed to be undisputed:

1. Jason Rogers was initially hired as a full-time employee of the City of Trenton, as a laborer in the Department of Public Works, effective May 2, 2005. Stipulation of Fact #1.
2. Jason Rogers was appointed as a security guard effective August 21, 2015. This position is also within the Department of Public Works. Stipulation of Fact #2.
3. The City of Trenton has a policy prohibiting sexual harassment in the workplace and had such a policy in place at the time of all relevant events in this matter. Stipulation of Fact #3
4. On March 2, 2018, the City's policy strictly prohibiting sexual harassment in the workplace was brought directly to Mr. Rogers' attention. Stipulation of Fact #4.
5. On August 6, 2018, the City's policy strictly prohibiting sexual harassment in the workplace was again brought directly to Mr. Rogers' attention when he received a warning from the Director of Public Works regarding communications with other employees in the workplace. This warning is part of Mr. Rogers' disciplinary record as an employee of the City. Stipulation of Fact #5, See also R-13.
6. This warning was issued to Mr. Rogers pursuant to an investigation regarding allegations of improper sexual behavior. R-13.
7. On May 16, 2019, Mr. Rogers received a written warning for having given false testimony in a department discipline hearing concerning charges against another

employee. This written warning is part of Mr. Rogers' disciplinary record as an employee of the City. Stipulation of Fact #6, See also, R-14.

8. In September 2020, Rogers was serving as the acting supervisor of security for the Department of Public Works.
9. Rogers was suspended without pay on September 23, 2020, after a Loudermill hearing<sup>2</sup> attended by his union representative. Rogers did not request a departmental hearing on the disciplinary charges dated September 28, 2020. Stipulation of Fact #7.
10. The suspension was based on a charge of conduct unbecoming a public employee resulting from the September 18, 2020 incident involving T.W. See R-4 at 0006.
11. Rogers was removed from employment with the City effective October 20, 2020. See R-4 at 0002.

**Testimony:**

The following is a summary of the relevant and material testimony given at hearing.

**For respondent:**

T.W. has been an employee of the City of Trenton since October 2015. She works in the Department of Public Works, Division of Public Property.<sup>3</sup> Her office was in the basement of City Hall. Rogers' office was directly across the hall from hers. She and Rogers grew up in the same neighborhood and knew each other before T.W. started working for the City. T.W. considered Rogers like an older brother. T.W. and Rogers would occasionally drive to work together and would have lunch together.

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<sup>2</sup> A hearing that is part of the due process afforded public employees by providing them with an opportunity to hear and respond to disciplinary charges, and to refute any conclusions reached by the employer prior to termination or suspension without pay. See Caldwell v. N.J. Dep't of Corr., 250 N.J. Super. 592, 613, 595 A.2d 1118 (App. Div. 1991) (quoting Loudermill, 470 U.S. at 546).

<sup>3</sup> At the time of the OAL hearing, T.W. was on a medical leave of absence.

Rogers referred to T.W. as "Boo-Boo." She understood this to be an inappropriate term of endearment. She, at times, referred to him as "Yogi." On one occasion, Rogers sent her an "application" for a position in her life. T.W. did not invite this or encourage a romantic relationship with Rogers. Rogers also referred to her daughter as his daughter, and he told others that her daughter was his. She did not feel comfortable with this but she "let it go."

T.W. further described the September 18, 2020, incident. She and Rogers were alone in the basement. It was the end of the day; she had just clocked out of work and was heading home. She was wearing a long white dress. The dress went down to her ankles and had slits on the side. She wore leggings under it. She was carrying her purse and her lunch bag which was usual for her. Rogers was walking close behind her as they went up the stairs. She told him he did not have to be so close, it was "awkward." He moved back a little. When she turned the second flight of stairs, she felt "air" on the top part of her buttock. She saw that the bottom of her dress was in Rogers' hand and it was elevated. When she saw her dress in his hand, she swatted it from his hand. She was angry. She asked why he would do something like that.

T.W. did not express to Rogers any safety concerns due to the length of her dress. He said nothing to her about tripping or falling. She did not stumble on the stairs. Once T.W. was upstairs, she paused near the security desk to transfer her purse to the other arm. Rogers offered to help her there, but did not offer to help her in the stairwell.

She did not tell anyone about the incident over the weekend. On Monday morning, Rogers made a comment to her about attending a cigar event over the weekend without him. She did not respond to him but felt that he had disrespected her by lifting her dress. She told supervisor, Kim Porter about the incident. Shortly thereafter, she received a call to go see Wahab Onitiri, Director of the Department of Public Works.

T.W. told Mr. Onitiri about the incident. She also told Onitiri that this was not the first time that Rogers had done something like this. She told Onitiri about a prior unreported incident in which Rogers groped her right buttock cheek and said it was soft

like "Charmin." After the meeting with Onitiri, T.W. completed an Incident Report. R-7. T.W. did not want to get Rogers fired she "just wanted him to stop."

Later, T.W. reviewed the video of the September 2020 incident, with City attorney, Jacqueline Abdur-Razak. T.W. shared that this was not the first time that Rogers did inappropriate things. She provided Abdur-Razak with prior text messages between she and Rogers.

T.W. testified that she also told union representative, Ramona Thomas about prior problems of inappropriate/unwanted gestures from Rogers. T.W. asked Thomas to speak with Rogers.

**Wahab Onitiri**, is the director of Public Works for the City. He has held this position for approximately four years and has worked for the City for twenty-eight years. Onitiri found Rogers to be a good employee. He had no negative opinion of Rogers.

Onitiri learned of the September 18, 2020, incident from T.W. She was crying when she came to talk with him. She explained what happened. Onitiri was shocked at what T.W. reported. He asked her to put the incident in writing. T.W. also mentioned that there were numerous exchanges of provocative messages from Rogers. She had not previously reported the other incidents to him.

After the meeting with T.W., Onitiri obtained security camera recordings of the incident. He reviewed a portion of the video and observed Rogers lift up T.W.'s dress and then run backwards. After reviewing the video, Onitiri determine his findings were inconclusive. However he concluded that T.W.'s complaint was warranted, and that further investigation was needed. As a result, he prepared a memo to John Morelli, of the City's Law Department, summarizing T.W.'s complaint and requesting further investigation. R-6.

Jacqueline Abdur-Razak, an attorney from the Law Department was assigned to investigate the matter. Onitiri explained to Abdur-Razak that his findings were inconclusive because he saw only a portion of the video. He did not initially see what



T.W. was referring to about Rogers raising up her dress. After reviewing the video with Abdur-Razak, Onitiri saw that Rogers had lifted the dress as T.W. alleged. He found T.W.'s account of the incident to be credible.

**Jacqueline Abdur-Razak**, is the former assistant city attorney who was assigned to investigate the September 2020 incident. Abdur-Razak's employment with the City began in March 2020 and ended in April 2021. Prior to beginning her investigation, she reviewed the Onitiri memo (R-6) and the incident report prepared by T.W. R-7.

Abdur-Razak also viewed the video of the incident. The video showed Rogers lifting T.W.'s dress like she had reported. Abdur-Razak, interviewed T.W. before T.W. saw the video. T.W. described what occurred during the incident. Her description matched the video. T.W. advised that she had been the victim of Rogers' sexual harassment for some time. T.W. said she was afraid of Rogers but was pleasant to him so he would not harm her. During the course of the investigation, T.W. provided Abdur-Razak with text messages from Rogers that had a sexual connotation.

T.W. advised Abdur-Razak that she reported Rogers' behavior to union representative Ramona Thomas.

As part of the investigation, Abdur-Razak also met Rogers and his union representative Ramona Thomas. Before Abdur-Razak asked any questions, Thomas offered that Rogers was nice and was nice to T.W. Abdur-Razak asked Rogers about the incident. He originally said that nothing had happened. After he reviewed the video, he explained that T.W. almost fell and he caught her. He explained that T.W.'s dress was dragging. He lifted it so she would not fall. Abdur-Razak questioned Rogers what he was doing when his hand was lifted up in the air. He said he was asking T.W. if she wanted him to carry anything or to carry her skirt. Abdur-Razak did not find Rogers' explanation credible. It did not make sense and was not consistent with the video. Rogers then said something like, "I really messed up, didn't I."

Abdur-Razak prepared a summary report of her investigation, concluding that there was evidence of a "Hostile Work Environment" with respect to T.W.'s complaint and that Rogers' conduct violated City policy--among other things. R-11.

On cross-examination, Abdur-Razak acknowledged that Rogers' purported statement that he "really messed up" did not appear in her notes.

**Steven Ponella** is the personnel officer for the City. He has held this position since 2008. T.W. and Rogers were both in the Public Works Department. Ponella reviewed the video of the September 2020 incident. Rogers lifted T.W.'s skirt "quite high." There did not appear to be any justification for his actions. Ponella believed the incident to be quite serious and he agreed that further investigation was warranted.

The City has had an anti-sexual harassment policy that has been in effect since 1998. The policy was updated in 2018. Ponella believed Rogers' actions violated of the City's anti-sexual harassment policy. Based on the severity of the incident, Ponella agreed with the recommendation to terminate Rogers' employment. He did not see anyway Rogers could be returned to his job. Rogers was responsible for safety within the Department and he violated that trust.

**For appellant:**

**Jason Rogers** testified that he had a friendly relationship with T.W. They knew each other before he began working for the City. They regularly had lunch together and people referred to them as "Yogi" and "Boo-Boo," which he explained to be a reference to cartoon characters who stole picnic baskets and ate together.

Concerning the September 2020 incident, Rogers testified that while they were in the basement hallway, he told T.W. that he did not want her to trip and fall. He asked her if she wanted him to help her with her skirt or with the "stuff" in her hand. T.W. felt the wind on the back of her leg. "I did not do it on purpose, I did not do it with any malice, I did not do it to harm anybody. I was trying to help [T.W.]" T2:49: 5-7. When T. W. turned and started walking up the next steps, she stumbled and "the skirt inadvertently went up." Id. at 11-15.

Thereafter, they both started laughing. T.W. said it was “not funny.” He started laughing because she almost fell but did not get hurt. He believed they had a friendly relationship. Once they arrived at the first floor he again pointed down and told her to get her dress because he did not want her to fall. As they were leaving T.W. was smiling and they were having a regular conversation.

On cross-examination, when asked about his testimony that T.W. had asked him to hold her skirt, Rogers acknowledged that he was calling her a “liar.”

Rogers did not admit to doing any anything inappropriate, “[t]o be completely honest, I don’t because I was only trying to help somebody that I thought was a friend. Now laughing at them stumbling, that might be interpreted as inappropriate but all—all I can do is be honest with you all. My job is on the line, I got seventeen years with the City.” T2 66:23-67:2.

### CREDIBILITY

In evaluating evidence, it is necessary for me as the finder of fact to assess the credibility of the witnesses. This requires an overall assessment of the witness’s story in light of its rationality or 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). “Testimony to be believed must not only proceed from the mouth of a credible witness but must be credible in itself,” in that “[i]t must be such as the common experience and observation of mankind can approve as probable in the circumstances.” In re Perrone, 5 N.J. 514, 522 (1950).

A trier of fact may reject testimony as “inherently incredible” when “it is inconsistent with other testimony or with common experience” or “overborne” by the testimony of other witnesses. Congleton v. Pura-Tex Stone Corp., 53 N.J. Super. 282, 287 (App. Div. 1958). “The interest, motive, bias, or prejudice of a witness may affect his credibility and justify the [trier of fact], whose province it is to pass upon the credibility of an interested witness, in disbelieving his testimony.” State v. Salimone, 19 N.J. Super. 600, 608 (App. Div.), certif. denied, 10 N.J. 316 (1952) (citation omitted).

As to the credibility of the witnesses, I accept the City's witnesses as credible.

T.W.'s explanation of the September 2020 incident was reasonable and consistent, not only with her prior statements to the investigating attorney, but also with the video of the incident which clearly shows Rogers lifting her dress high into the air. T.W. was visibly upset during portions of her testimony and her emotions appeared to be genuine and without exaggeration. Thus, I accept her explanation of the incident as credible and reliable.

Wahab Onitiri's testimony was also credible. His testimony regarding his actions taken upon learning of the incident and the conclusions reached was reasonable and appeared to be without any improper motivation or bias.

The testimony of Abdur-Razak concerning the investigation, including her actions taken and the information provided to her, was also reasonable.

Finally, the testimony of Steven Ponella regarding the City's anti-sexual harassment policy, the investigation into subject incident, and the resulting discipline was also straightforward and reasonable.

Regarding appellant's testimony, I do not accept his testimony as reasonable or reliable. His explanation of the incident and his contention that the dress "inadvertently went up" is directly contrary to the video in which he is seen raising his arm and lifting the dress high into the air. Similarly, his testimony that he was only trying to be helpful, that T.W. stumbled, and that she told him to "grab" her dress, simply does not ring true and is overborne by the credible testimony of T.W. Thus, I do not accept Rogers' testimony as credible.

#### **ADDITIONAL FINDINGS OF FACT**

Having had the opportunity to listen to the testimony of the witnesses and to observe their demeanor at hearing and further having considered the evidence in the

record, including the video of the September 2020 incident, I further **FIND** the following as **FACT**:

The video of the incident contains no sound.

The first portion of the video shows T.W. at the bottom of the stairwell with Rogers close behind her. T.W. has her purse on her right shoulder and she is carrying an object in her hand. Rogers appears to pick up the bottom of T.W.'s dress and lifts it slightly off the ground as T.W. and he begin walking up the first flight of stairs.

As T.W. begins to proceed up the next flight of stairs, she turns and looks back at Rogers who is still close behind. T.W. then looks at the bottom of her dress which is in Rogers' hand. T.W. then continues walking up the stairs and goes out of the camera's view.

Rogers then raises his hand up to and/or near his head, and in so doing lifts T.W.'s dress up high. Rogers then appears to quickly move backwards, away from T.W., and back down the stairs onto the landing.

He turns and faces the wall and then takes a few steps down the lower set of stairs. He appears to be laughing or smiling. Rogers then turns and continues back up the stairs and goes out of the camera's view.

The next part of the video shows T.W. walking in a hallway followed by Rogers who is initially at some distance from T.W.<sup>4</sup> As Rogers nears T.W., he appears to look down at her dress. T.W. also appears to be looking down/adjusting her dress at or around the level of her knee. T.W. appears to look up as Rogers passes her.

Jacqueline Abdur-Razak and Steven Ponella concluded that Rogers' action during the September 2020, violated the City's anti-sexual harassment policy.

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<sup>4</sup> The floor in the hallway in which they are walking appears to have COVID-19 distancing reminder stickers. Based on the floor stickers, the initial distance between Rogers and T.W. appears to be approximately six feet.

Under the City's Personnel Handbook, a violation of the anti-sexual harassment policy will subject an employee to disciplinary action, up to and including immediate discharge. R-18.

### **LEGAL ANALYSIS AND CONCLUSIONS**

At issue here is whether Rogers committed the violation alleged and if so, whether the penalty of termination is appropriate.

Appellants right and duties are governed by the Civil Service Act and accompanying regulations. N.J.S.A. 11A:1-1 to 12-6. A public employee protected by the Civil Service Act may be subject to major discipline for a wide variety of offenses connected to his/her employment. The general causes for such discipline are set forth in N.J.A.C. 4A:2-2.3(a). In an appeal from such discipline, the appointing authority bears the burden of proof to show that the action taken was appropriate. N.J.S.A. 11A:-2.21; N.J.A.C. 4A:2-1.4(a). The appointing authority must show by a preponderance of the competent, relevant, and credible evidence that the employee is guilty as charged. Atkinson v. Parsekian, 37 N.J. 143 (1962); In re Polk, 90 N.J. 550 (1982).

"Conduct unbecoming a public employee" is an elastic phrase, which encompasses conduct that adversely affects the morale or efficiency of a governmental unit or that has a tendency to destroy public respect 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 necessarily "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)).

Here, appellant is charged with conduct unbecoming a public employee based upon his actions during the September 18, 2020 incident in which he is observed on video lifting up the dress of co-worker T.W. Rogers' explanation of the incident wholly lacks credibility and is without justification. Rogers' actions not only violate the City's anti-harassment policy but also offend publicly accepted standards of decency and are of the sort that affect the morale and efficiency of a governmental unit and/or that tend to destroy public respect in the delivery of governmental services and/or respect for public employees. Appellant's arguments that the conduct was "contained within the four walls of the work place" and that "no members of the public were present during the incident" appears to misinterpret the standard and is unpersuasive. Additionally, the fact that Rogers believed T.W. to be his friend does not in any way excuse or justify his improper actions in the workplace. As a security guard and the acting supervisor of security, Rogers was responsible for the safety and security of the employees within the Department of Public Works, including T.W. His actions violated this responsibility and constitute conduct unbecoming a public employee.

Accordingly, for the above reasons, I **CONCLUDE** that respondent has demonstrated, by a preponderance of the credible evidence, that appellant's actions constitute conduct unbecoming a public employee, in violation of N.J.A.C. 4A:2-2.3(a)(6) and that the charge is sustained.

### **PENALTY**

Having determined that appellant committed the violation alleged, I must now determine the appropriate penalty to impose.

A civil service employee who commits a wrongful act related to his or her duties may be subject to major discipline. N.J.S.A. 11A:1-2(b), 11A:2-6, 11A:2-20; N.J.A.C. 4A:2-2.2, 2.3(a). This requires a de novo review of appellant's disciplinary action. In determining the appropriateness of a penalty, several factors must be considered, including the nature of the employee's offense, the concept of progressive discipline, and the employee's prior record. George v. N. Princeton Developmental Ctr., 96 N.J.A.R.2d (CSV) 463. Pursuant to West New York v. Bock, 38 N.J. 500, 523-24 (1962), concepts

of progressive discipline involving penalties of increasing severity are used where appropriate. See also In re Parlo, 192 N.J. Super. 247 (App. Div. 1983).

However, “[p]rogressive discipline is not a necessary consideration when reviewing an agency head’s choice of penalty when the misconduct is severe, when it is unbecoming to the employee’s position or renders the employee unsuitable for continuation in the position . . . .” In re Herrmann, 192 N.J. 19, 33 (2007).

Here, the charge against appellant has been sustained. The seriousness of appellant’s actions during the September 2020 incident along with his repeated denial of improper action, despite the video evidence to the contrary, warrant imposition of the major penalty of termination. Additionally, the penalty of termination is further warranted by appellant’s disciplinary history which includes a 2018 warning issued in connection with an investigation concerning alleged improper sexual behavior and a 2019 written warning for giving false testimony in department disciplinary hearing of another employee. Although these two prior incidents are minor disciplines, they are recent in time to the present matter. Further, the 2018 incident, like this matter, also involves conduct that implicates the City’s anti-sexual harassment policy while the 2019 incident concerns appellant’s trustworthiness.

As noted above, appellant’s actions fell far short of the responsibilities of his position as well as the publicly accepted standards of decency. Thus, the penalty of removal, is reasonable, appropriate, and consistent with the concept of progressive discipline.

Accordingly, I **CONCLUDE** that removal is the appropriate penalty and should be **AFFIRMED**.

### **ORDER**

I hereby **ORDER** that the charge against appellant is **SUSTAINED**. I further **ORDER** that respondent’s action removing appellant from his position of employment is **AFFIRMED** and appellant’s 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, 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.



April 5, 2022

DATE

\_\_\_\_\_  
SUSAN L. OLGIATI, ALJ

Date Received at Agency:

\_\_\_\_\_

Mailed to Parties:

\_\_\_\_\_

SLO/lam

### **LIST OF WITNESSES**

**For appellant:**

Jason Rogers

**For respondent:**

T. W.

Wahab Onitiri

Jacqueline Abdur-Razak

Steven Ponella

### **LIST OF EXHIBITS**

**For appellant:**

None

**For respondent:**

R-1 NA<sup>5</sup>

R-2 Loudermill Hearing Results, dated 9/24/2020

R-3 Disciplinary Action Form, effective 10/20/2020

R-4 FNDA, dated 10/7/2020

R-5 NA

R-6 Memorandum from Wahab Onitiri, dated 9/22/2020

R-7 Incident Report, dated 9/21/2020

R-8 Videos (2) – Security Footage from 9/18/2020

R-9 NA

R-10 NA

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<sup>5</sup> Not Admitted

R-11 Report by Jacqueline Abdur-Razak, dated 9/23/2020

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R-12 NA

R-13 Warning, dated 8/6/2018

R-14 Written Warning, dated 5/1/2019

R-15 NA

R-16 Answers to interrogatories, dated 12/17/2020

R-17 NA

R-18 Personnel Handbook

R-19 NA

R-20 Sexual Harassment Policy and Process/Procedure