STATE OF NEW JERSEY

In the Matter of Kodi Pollock, South Woods State Prison, Department of Corrections

CSC DKT. NO. 2022-909
OAL DKT. NO. CSR 09309-21

FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

ISSUED: JULY 20, 2022

The appeal of Kodi Pollock, Senior Correctional Police Officer, South Woods State Prison, Department of Corrections, removal, effective October 5, 2021, on charges, was heard by Administrative Law Judge Jeffrey R. Wilson (ALJ), who rendered his initial decision on June 23, 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 July 20, 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 Kodi Pollock.

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 20TH DAY OF JULY, 2022

Deirdré L. Webster Cobb

Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Nicholas F. Angiulo
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
P. O. Box 312
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Attachment

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION
SUMMARY DECISION
OAL DKT. NO. CSR 09309-21
AGENCY DKT. NO. N/A
2022-909

IN THE MATTER OF KODI POLLOCK,
SOUTH WOODS STATE PRISON.

Louis M. Barbone., Esq., for appellant, Kodi Pollock (Jacobs and Barbone, P.A., attorneys)

Andy Jong, Deputy Attorney General, for respondent, South Woods State Prison (Matthew J. Platkin, Attorney General of New Jersey, attorney)

Record Closed: June 10, 2022 Decided Date: June 23, 2022

BEFORE **JEFFREY R. WILSON**, ALJ:

STATEMENT OF THE CASE

Appellant, a Senior Correctional Police Officer (SCPO), appeals her removal effective October 5, 2021. The respondent, South Woods State Prison (SWSP) alleges that based upon an investigation conducted by the Special Investigation Division (SID), the appellant was engaged in an unduly familiar relationship with a former inmate. It is alleged the SID investigation revealed that she engaged in a sexual relationship with a former inmate, including the exchange of explicit and graphic nude photos and sexual text messages. It is further alleged that search warrants revealed the appellant concealed various contraband items, including a controlled dangerous substance, in the areas of the housing unit at SWSP that were under her control. Finally, it is alleged the appellant

admitted in her SID interview to having an unduly familiar relationship with a former inmate and failing to report the interactions as required by the New Jersey Department of Corrections (DOC) policy.

PROCEDURAL HISTORY

The appellant filed a timely appeal of the removal and requested a hearing before the Office of Administrative Law (OAL). The appeal was perfected on October 20, 2021, and transmitted to the OAL, where it was filed on November 4, 2021, as a contested case. N.J.S.A. 52:14B-1 to 15 and N.J.S.A. 52:14F-1 to 13. The case was assigned to the undersigned on November 19, 2021, and delivered to his Atlantic City Office on November 23, 2021. Peremptory hearing dates were scheduled for January 14, January 20, and January 27, 2022.

On December 22, 2021, the appellant and the agency agreed to a postponement/delay of the hearing dates before the 181st calendar day mandated by N.J.S.A. 40A:14-201(a). Pursuant to N.J.S.A. 40A:14-201(b)(4), the hearing dates were adjourned and the calendar days that accrue during the postponement/delay shall not be used in calculating the date upon which the appellant is entitled to receive her base salary pending a final determination on his appeal.

The respondent filed the within motion for summary decision on March 21, 2022. (R-1.) The appellant filed her response in opposition of the within motion for summary decision on May 7, 2022. (A-1.) The respondent file its reply brief on June 9, 2022.

FACTUAL DISCUSSION AND FINDINGS

The following facts of this case are not in dispute; therefore, I **FIND** as **FACT**:

The appellant was hired in 2016 as an SCPO at SWSP, assigned to H1-2L and H1-2R, second shift. In March 2021, the SID commenced an investigation after receiving information from two confidential informants that the appellant passed on messages to an inmate from a former inmate, E.B. Pursuant to communications information orders,

the investigators obtained the appellant's E.B.'s cellular telephone call detail records from the telephone carrier, which detailed approximately 249 to/from phone calls. By way of communications data warrants, the investigators extracted over 10,180 text messages that were sent between the appellant and E.B. between September 12, 2020, and December 15, 2020.

A search of the areas of the housing unit H1-2R that were under the appellant's supervision revealed various contraband items, including food items in her uniform jacket, vehicle keys, and other items that were not originally from the facility. The investigators also found several items in the appellant's locker that inmates were unauthorized to possess, namely: a small plastic bag containing an unknown powder-like substance, a set of beard trimmers, and inmate manufactured immersion heaters. Two more inmate manufactured immersion heaters were found in the Officer's podium bundled in a sock. The key to the locker was on the appellant's key ring that was seized directly from her during the searches. A drug analysis report provided by the New Jersey State Police Office of Forensic Sciences identified the powder-like substance seized from the appellant's locker as Buprenorphine (Suboxone), a schedule III controlled dangerous substance.

On March 23, 2021, and September 8, 2021, the SID investigators conducted video recorded interviews with E.B. and he appellant, respectively. They questioned E.B. about his interactions with the appellant, and questioned the appellant about her interactions with E.B., her employment with the DOC, and her training on departmental policies.

During his interview, E.B. stated that he was assigned to housing unit H1-2R at SWSP, where he served as the "head runner"[1] until his release on August 29, 2020. For several years, the appellant, his former housing unit officer, would bring him food – "other than jail food." While he was the "head runner," E.B. maintained regular communication with the appellant, which included discussions about "home stuff" and each other's

[1] The "head runner" is akin to a porter who hangs around the housing unit, cleaning and doing whatever else the officer needs him to do.

children. Prior to E.B.'s release from custody, the appellant gave him her cellular phone number so they could keep in touch. He indicated that he stored the appellant's phone number under a different name in his phone because of his wife.

During her interview, the appellant initially denied being familiar with E.B. In downplaying her familiarity with E.B., she told the investigators that a former inmate contacted her unexpectedly to inquire about getting into business with her father and that she gave him her father's telephone number. She did not know how the former inmate got her number, but said it is possible he overheard her conversations with her coworkers about her father's business. She stated that she only spoke to him a couple times and "didn't think anything of it" and did not report the interaction to departmental authorities because "[she] didn't think it was anything you had to report." She knew that she could have asked her union representatives, training department, or the SID whether the incident was reportable. During the interview, the appellant confirmed her cell phone number as that matching the number utilized to secure the communications information orders and communications data warrants.

When questioned about the 249 phone calls with E.B., the appellant said only "simple conversations" took place between her and the E.B., whom she said she remembered only as "E". During the interview, the appellant identified E.B. as "E". She denied any romantic relationship between her and E.B., other than "he tried flirting, flirting, but that was it, there was like nothing to it." She denied that the two had ever met, but believed she provided him her home address. She admitted to discussing her daughter with E.B. She denied discussing events that occurred in the prison with E.B. or speaking over her cell phone with him while she was on the job. As the interview continued, the appellant stated that she and Blanton talked on the phone a lot, a couple hours throughout the day. She admitted her initial statement to the investigators was false.

The appellant confirmed that she texted with Blanton. She stated that the texts could have been more than the phone calls. She told the investigators that she sent Blanton a picture of herself in her bra and underwear. She didn't remember how many times she sent pictures of herself in undress. She stated that she asked E.B. to perform sexual acts on her and that they discussed performing sexual acts on one another.

The appellant stated that she saved E.B.'s number under the name "Alene". She indicated that "Alene". was E.B.'s wife and that she would talk to the appellant sometimes. The appellant explained that "Alene" wanted to get involved and that "Alene" wanted to partake in the relationship the appellant had with E.B.

Telephone records confirmed the appellant and E.B. were in a relationship that involved solicitation of gifts, sexual favors, a pecuniary relationship related to an unidentified business arrangement, disclosure of confidential and exclusive departmental related information, and photos taken from inside SWSP. One message extracted from E.B.'s phone that he sent on October 28, 2020, to a recipient named "Nikki": states:

> E.B.: No one im talking 2 this girl but its complicated lol shes in a relationship she's a correction officer I've known her 4 like 4yrs things just got type serious like 1yr and a half ago [sic].

Another text conversation between the appellant, who saved E.B.'s number under the name "Alene", and E.B., who saved the appellant's number in his phone as "Mark", proved their relationship.

> Appellant: I don't get what scares you though.. because you like me? like your scared to keep going. your scared of where I work. like what do you mean [sic].
>
> E.B. What you dnt want to keep going or smthing if you dnt knw anything else you should kbw that I want to go ALL the way so why would you say that do you want to keep going kodi b honest with me im not nick so u dnt have 2 protect my feelings just b real with me pls DO YOU WANT TO KEEP GOING [sic].
>
> Appellant: yes I do. thats what I thought that you were saying thats why you were scared [sic].
>
> E.B.: No im so not scared of that i think out chemistry is sublime girl i told u long ago u have my heart and I meant that I just want you to b totally comfy with me put aside thise insecurities because you dnr need them with me i truly HONESTY thinkbur amazing from head to toe and everything in between [sic].

> And im not just talking about our business ventures i want 2 keep goung with every aspect of our relationship how about u [sic].
>
> Appellant: oh okay thats awesome. and heck yes I want to continue with both and do everything. you know im down with you [sic].

In another text exchange on December 4, 2020, the two discussed E.B. giving the appellant money.

> Appellant: I have NOOo money like forreal
>
> and I have to get oil for my house like I wlnt be able to do it. im telling you that [sic].
>
> E.B. U will even if I have 2 send u sm money 4 the time being
>
> Appellant: that cash app takes like a week to go to my bank
>
> E.B.: Wtf well i MOST certainly plan on being there b4 a week
>
> U still wrk double 2morrow despite that bullship note they dropped [sic].

There were several sexually explicit messages between the appellant and E.B., including a significant number of self-images sent from the appellant and instructions on the sexual acts she was requesting of E.B. A conversation on November 5, 2020, states:

> E.B.: Can i eat ue asshole 2 tomorrow mrning [sic].
>
> Appellant: eat my pussy
>
> E.B.: U gonna let me [sic].
>
> Appellant: hell yeah

Another text message exchange, dated September 26, 2020, discusses the sharing of naked pictures.

> Appellant: you had to send that. im horny… you suck lol.
>
> E.B.: You horny shit thats an understatement I stay hornet 4 you my love [sic].
>
> Appellant: I want some
> especially yours
>
> E.B.: Hes just being all lazy and shit [sic].
>
> Appellant: he needs to be hard and in me
>
> E.B.: Im trying to wake his ass up so you can see the stiff diving board send me a puck if that pussy spread open too go in ur bathroom and take it if u have to pls I promise I will delete it afterwards
> Mr lazy man over here lmao[sic].
>
> Appellant: Promise you will delete. Put it on your kids. you know I get nervous [sic].

The appellant also exchanged messages with E.B. while she was at work, as revealed in the following text conversation on December 5, 2020.

> E.B.: I love u sooo much kodi rose send me a pic RIGHT NOW pls and thank u [sic].
>
> Appellant: at work eating Chinese [Pollock attached a picture of herself in her work uniform and eating a meal].
>
> E.B.: get it
> I fucking love it ur the best lo u sweetness how do u still have ur phone [sic].
>
> Appellant: I brought it in lmao [sic].

The appellant also discussed and shared several pictures of her daughter with E.B. In a September 21, 2020, text conversation, the appellant shared a picture of a CoComelon Doll[2] that she wanted E.B. to get her daughter for Christmas.

> E.B.: Got it about 2 look 4 it nw ANYTHING 4 baby a word up [sic].
>
> Appellant: thanks [heart emoji]
> your awesome. its no rush on it seriously. because I was trying to get it for christmas [sic].
>
> E.B.: Okay I found it im about 2 order it now fuck Christmas where am I sending it [sic].
>
> Appellant: idk it dont matter. either your hosue and when we meet I can get it [sic].

During her interview, the appellant told the investigators that her responses were truthful and accurate "to the best of her knowledge." However, when the investigators provided her the cellular phone records, which contradicted her account of what happened, she admitted that she was untruthful. She downplayed her relationship with E.B. until she was presented evidence that contradicted her statement.

The appellant indicated that she understood the DOC Standards of Professional Conduct: Staff/Inmate Over-Familiarity policy (ADM.010.004), particularly Section III. She also understood behaviors denoted by departmental policy, such as engaging in business ventures, exchanging gifts, committing to personal relationships and discussing exclusive and confidential information with former or currently incarcerated persons, as prohibited. The appellant was exposed to over-familiarity policies through prior matters and her training, but chose to maintain the relationship with E.B.

The appellant was served with a Preliminary Notice of Disciplinary Action on September 22, 2021. She waived her right to a departmental hearing, and a Final Notice

[2] A CoComelon Doll is a highly detailed plush doll inspired by JJ, a popular character from the educational YouTube series, **CoComelon!.**

of Disciplinary Action was served on October 4, 2021. The following charges were sustained:

1. N.J.A.C. 4A:2-2.3(a)(6) Conduct unbecoming a public employee.
2. N.J.A.C. 4A:2-2.3(a)(12) Other sufficient cause.
3. HRB 84-17:C-2 Selling or possession of alcoholic beverages or controlled dangerous substances while on State property and/or on duty.
4. HRB 84-17:C-8 Falsification: Intentional misstatement of material fact in connection to work, employment application, attendance, or in any record, report, investigation or other proceeding.
5. HRB 84-17:C-10 Divulging confidential information without proper authority.
6. HRB 84-17:C-11 Conduct unbecoming a public employee.
7. HRB 84-17:C-30 Use possession or sale of any controlled dangerous substance (custody).
8. HRB 84-17:D-4 Improper or unauthorized contact with inmate – undue familiarity with inmates, parolees, their families, or friends.
9. HRB 84-17:D-7 Violation of administrative procedures and/or regulations involving safety and security.
10. HRB 84-17; E-1 Violation of a rule, regulation, policy, procedure, order, or administrative action.

The appellant has a prior thirty-day suspension for violation of N.J.S.A. 4A:2.3(a)12 Other Sufficient Cause, more specifically, violation of HRB 84-17 (as amended, Safety and Security Precautions D.7 – violation of administrative procedures and/or regulations involving safety and security.)

LEGAL ANALYSIS AND CONCLUSIONS

N.J.A.C. 1:1-12.5(b) provides that a motion for summary decision may be granted if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party

is entitled to prevail as a matter of law. See also Brill v. Guardian Life Ins. Co., 142 N.J. 520 (1995). The opposing party must submit responding affidavits showing that there is indeed a genuine issue of material fact, which can only be determined in an evidentiary proceeding, and that the moving party is not entitled to summary decision as a matter of law. Failure to do so, entitled the moving party to summary judgment. Id. at 520. Moreover, even if the non-moving party comes forward with some evidence, the courts must grant summary judgment if the evidence is "so one-sided that [moving party] must prevail as a matter of law." Id. at 536. If the non-moving party's evidence is merely colorable, or is not significantly probative, summary judgment should not be denied. See Bowles v. City of Camden, 993 F. Supp. 255, 261 (D.N.J. 1998). However, "the court must grant all the favorable inferences to the non-movant." Brill v. Guardian Life Ins. Co.,142 N.J. at 536.

Here, the appellant is charged with conduct unbecoming a public employee pursuant to N.J.A.C 4A:2-2.3(a)(6). "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 v. City of Atl. City, 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).

The basis for the charge of conduct unbecoming a public employee includes the appellant's unduly familiar relationship with inmates. At all relevant times, the appellant was an SCPO at SWSP. On September 8, 2021, the appellant provided an audio-video recorded statement during which she admitted to engaging in several sexually charged conversations with E.B., including soliciting the former inmate to perform sexual acts on

her. Additionally, she sent him pictures of herself in various stages of undress. The nature of their conversations also included a potential illegal business venture, soliciting money from E.B., gifts for the appellant's child, and discussions of confidential information at SWSP. During her interview, the appellant was evasive and untruthful until confronted with the information extracted from the communication information orders and communication data warrants.

As a corrections officer, appellant is held to a higher standard of conduct. The public respects officers for discovering, reporting, and championing the truth in circumstances of wrongdoing and while they are satisfying their duties. Pursuant to the Law Enforcement Personnel Ruled and Regulations, Article III, Section 3:

> No officer shall act or behave, either in an official or private capacity, to the officer's discredit, or to the discredit of the Department. Officers are public servants twenty-four hours a day and will be held to the law enforcement higher standard both on and off-duty.

The Law Enforcement Personnel Ruled and Regulations, Article III, Section 4 clearly states:

> No officer shall become unduly familiar with inmates who are incarcerated, on community release, or on parole status, within one year of the completion or vacating of all court imposed sentences or while the former inmate is under any form of criminal justice jurisdiction.
>
> An officer shall report all prior relationships with inmates or parolees in writing to the Administrator or his or her designee.

Moreover, the DOC maintains a specific policy prohibiting personal relationships with inmates under its supervision and former inmates for a period of one year after their official date of release. Section (III)(A)(1) of Policy Number, ADM.010.004, the Standards of Professional Conduct: Staff/Inmate Over Familiarity policy states, in pertinent part, that:

> New Jersey Department of Corrections staff, both custody and civilian, <u>shall not</u>:

a. Establish a personal relationship with inmates, probationers, or parolees unless they are related to the inmate by family.

b. Engage in sexual contact of any type with an inmate or any offender under the supervision of the NJDOC.

c. Establish a personal or professional relationship (such as, but not limited to, a commercial partnership, employer/employee relationship) with an inmate under supervision of the NJDOC or with any former inmate (ex-offender) who has been released from the custody of the NJDOC after the completion or vacating of all court-imposed sentence(s) for a period of one (1) year from the official date of release or while the former inmate is under any form of criminal justice jurisdiction.

Pollock admitted she was trained and familiar with the DOC policies against undue familiarity. She started a relationship with E.B while he was incarcerated at SWSP, under her supervision, and she continued that relationship after he was released. As the telephone records show, the appellant and E.B. started communicating by telephone two weeks subsequent to his release from SWSP.

Appellant's conduct in this unduly familiar relationship and her evasiveness to investigators adversely affected the morale or efficiency of a governmental unit and would tend to destroy public respect in the delivery of governmental services. The appellant's actions were violative of her obligations in a position of public trust. It offended publicly accepted standards of respect and decency. No circumstances existed to warrant or justify appellant's conduct. Moreover, no circumstances existed justifying her relationship with E.B.

Therefore, I **CONCLUDE** that the appellant's behavior did rise to a level of conduct unbecoming a public employee and undue familiarity with an inmate and his family, in violation of N.J.A.C. 4A:2-2.3(a)(6), HRB 84-17:C-11 and HRB 84-17:D-4. I **CONCLUDE** that respondent has met its burden of proof on these issues. Furthermore, I **CONCLUDE** that the appellant's initial denials and evasiveness during her investigative interview were violative of HRB 84-17:C-8.

I **CONCLUDE** that the appellant's behavior by divulging confidential information regarding an officer's assault and sending E.B. a picture of herself while at work is violative of HRB 84-17:C-10. Furthermore, I **CONCLUDE** that the appellant's subject behaviors clearly were in violation of administrative regulations and procedures involving safety and security. Accordingly, I **CONCLUDE** that respondent has met its burden of proof on violations of HRB 84-17:D-7 and HRB 84-17:E-1.

Finally, appellant has also been charged with violating N.J.A.C. 4A:2-2.3(a)(12), "other sufficient cause." Other sufficient cause is an offense for conduct that violates the implicit standard of good behavior that devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct. As detailed above, the appellant's conduct was such that she violated this standard of good behavior. As such, I **CONCLUDE** that the respondent has met its burden of proof on this issue. I **CONCLUDE** that appellant's actions violated N.J.A.C. 4A:2-2.3(a)(12).

PENALTY

In assessing the propriety of the penalty in any civil service disciplinary action, the primary concern is the public good. George v. North Princeton Developmental Center, 96 N.J.A.R.2d (CSV) 463 (1996). Factors to be considered are the nature of the offense, the concept of progressive discipline, and the employee's prior record. As noted above, a law-enforcement officer is held to higher standard of conduct than other employees, and is expected to act in a responsible manner, honestly, and with integrity, fidelity, and good faith. In re Phillips, 117 N.J 567, 576 (1990); Reinhardt v. E. Jersey State Prison, 97 N.J.A.R.2d (CSV) 166.

The principle of incremental, or progressive, discipline does not need to be applied in every disciplinary setting, particularly when the misconduct "is unbecoming to the employee's position or renders the employee unsuitable for continuation in the position, or when application of the principle would be contrary to the public interest." In re Hermann, 192 N.J. 19, 33 (2007). New Jersey courts have repeatedly concluded that, even in the absence of a prior disciplinary record, removal may be imposed if the charges

are serious enough in nature. Ibid.; Henry v. Rahway State Prison, 81 N.J. 571 (1980). While one error, even a serious one, does not necessarily require the ultimate penalty of removal, in cases involving correctional facilities, the evaluation of the seriousness of the offenses and the degree to which such offenses subvert discipline are matters peculiarly within the expertise of the corrections facilities. Bryant v. Cumberland County Welfare Agency, 94 N.J.A.R.2d (CSV) 369.

Progressive discipline is required in those cases where an employee is guilty of a series of offenses, none of which is sufficient to justify removal. Harris v. North Jersey Developmental Center, 94 N.J.A.R.2d (CSV) (1994). Progressive discipline does not apply, however, where, as here, the offense committed is in itself sufficient to warrant removal. See also, In re Herrmann, 192 N.J. 19 (2007); In re Carter, 191 N.J. 474 (2007). "While one error, even a serious one, does not necessarily require the ultimate penalty of removal, in cases involving correctional facilities, the evaluation of the seriousness of the offenses and the degree to which such offenses subvert discipline are matters peculiarly within the expertise of the corrections facilities." Dario Ruiz v. DOC, 2018 N.J. CSC LEXIS 596, *18 (citing Bryant v. Cumberland County Welfare Agency, 94 N.J.A.R.2d (CSV) 369).

The policy prohibiting unduly familiar relationships between any DOC staff, custody or civilian, and inmates or parolees is crucial to maintaining the safety and security of the prison system. Bowden v. Bayside State Prison, 268 N.J. Super. 301 (App. Div. 1993). "Undoubtedly, undue familiarity with either the convicts or their friends and relatives can ultimately lead to disastrous consequences when human frailties are factored into the equation." Ventola v. N. State Prison, 97 N.J.A.R.2d (CSV) 408.

The danger of improper or unauthorized contact between DOC staff and inmates is well established. See Bowden, 268 N.J. Super. at 306 (senior corrections officer removed for playing cards with an inmate for cigarettes); Naylor v. Adult Diagnostic & Treatment Center, 2013 N.J. AGEN LEXIS 237, *17 (senior corrections officer removed for exchanging phone calls and letters with inmate); In re Register, 2016 N.J. Super. Unpub. LEXIS 814 (April 12, 2016) (senior corrections officer removed for sending letters of a romantic and sexual nature to an inmate); Simmons v. NJ State Prison, 94 N.J.A.R.2d

(CSV) 561 (1994) (licensed practical nurse removed for having a relationship with a parolee and attempting to conceal their friendship).

Here, the appellant has a prior thirty-day suspension for violation of N.J.S.A. 4A;2.3(a)12, Other Sufficient Cause, more specifically, violation of HRB 84-17 (as amended, Safety and Security Precautions D.7 – violation of administrative procedures and/or regulations involving safety and security). DOC submits that the appellant's conduct is absolutely egregious and warrants her removal. She admitted having been engaged in a personal relationship with a former inmate in the facility where she worked, with conduct ranging from pursuing a business relationship with the former inmate, to engaging in a romantic relationship with the former inmate.

In the Matter of Brandi L. Hunt Mountainview Youth Correction Facility (CSC, decided February 22, 2019) dealt with a similar issue. Brandi Hunt was a thirteen-year veteran senior corrections officer. SID received information from a confidential information that Hunt was in an inappropriate relationship with inmate M.D. SID received subscriber information and telephone call records for Hunt. The records revealed that there were many (perhaps thousands) minutes of telephone calls and text messages between Hunt's telephone number and two telephone number associated with M.D. Communications between the two began the day that M.D. was paroled. ISID interviewed Hunt. After being informed that SID had obtained her telephone records, Hunt admitted to both texting and speaking with M.D. outside of work and that the calls were personal. Hunt admitted that a number of the calls on M.D.'s cell phone were placed to speak to M.D.'s girlfriend. She and M.D.'s girlfriend eventually developed a relationship and engaged in telephone sex on several occasions. Hunt had no prior disciplinary actions in her career. The ALJ found that the most appropriate penalty was removal. Hunt placed herself in a position where she could be compromised. There was a blatant disregard of the policies and procedures put in place by the DOC for her protection, the protection of her employers and the protection of her coworkers. Similarly, here, the appellant also placed herself in a position or compromise or extortion. There are voluminous calls and texts to E.B. These texts included sexual conversations, sexual images of the appellant, and confidential information of the correctional facility where the appellant worked. The

appellant jeopardized not only her own safety, but also the safety of her employer and colleagues.

Furthermore, the presence of Suboxone, a controlled dangerous substance, in the appellant's locker is an offense that, on its own, warrants her removal. Similarly, her conduct in violation of departmental rules and policies is in and of itself a cause for removal. Her other admitted violations, including her statement that she provided false information to investigators, are also enough to warrant removal

I have considered the appellant's discipline history and her length of employment with the DOC. However, based upon all the facts detailed above, I **CONCLUDE** that the appropriate penalty is removal.

ORDER

It is hereby **ORDERED** that the respondent's motion for summary decision is **GRANTED**.

It is hereby **ORDERED** that the following charges are **SUSTAINED**:

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

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

HRB 84-17:C-2 Selling or possession of alcoholic beverages or controlled dangerous substances while on State property and/or on duty.

HRB 84-17:C-8 Falsification: Intentional misstatement of material fact in connection to work, employment application, attendance, or in any record, report, investigation or other proceeding.

HRB 84-17:C-10 Divulging confidential information without proper authority.

HRB 84-17:C-11 Conduct unbecoming a public employee.

HRB 84-17:C-30 Use possession or sale of any controlled dangerous substance (custody).

HRB 84-17:D-4 Improper or unauthorized contact with inmate – undue familiarity with inmates, parolees, their families, or friends.

HRB 84-17:D-7 Violation of administrative procedures and/or regulations involving safety and security.

HRB 84-17; E-1 Violation of a rule, regulation, policy, procedure, order, or administrative action.

It is hereby **ORDERED** that the penalty of removal is **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. 40A:14-204.

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.

June 23, 2022
DATE

JEFFREY R. WILSON, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

JRW/tat

WITNESSES

For Appellant:

None

For Respondent:

None

EXHIBITS

For Appellant:

A-1 Appellant's submission in opposition to respondent's Motion for Summary Decision, filed May 7, 2022

For Respondent:

R-1 Respondent's Motion for Summary Decision, filed March 22, 2022

R-2 Respondent's reply brief, filed June 9, 2022