



ORDER

The Civil Service Commission finds that the action of the appointing authority in removing the appellant was not justified. The Commission therefore reverses that action and grants the appeal of George Meadows. The Commission further orders that the appellant be granted back pay, benefits, and seniority from the first date of separation until the date of reinstatement. The amount of back pay awarded is to be reduced and mitigated as provided for in *N.J.A.C. 4A:2-2.10*. Proof of income earned, and an affidavit of mitigation shall be submitted by or on behalf of the appellant to the appointing authority within 30 days of issuance of this decision.

The Commission further orders that counsel fees be awarded to the attorney for the appellant pursuant to *N.J.A.C. 4A:2-2.12*. An affidavit of services in support of reasonable counsel fees shall be submitted by or on behalf of the appellant to the appointing authority within 30 days of issuance of this decision. Pursuant to *N.J.A.C. 4A:2-2.10* and *N.J.A.C. 4A:2.12*, the parties shall make a good faith effort to resolve any dispute as to the amount of back pay and counsel fees. However, under no circumstances should the appellant's reinstatement be delayed pending resolution of any potential back pay or counsel fee dispute.

The parties must inform the Commission, in writing, if there is any dispute as to back pay or counsel fees within 60 days of issuance of this decision. In the absence of such notice, the Commission will assume that all outstanding issues have been amicably resolved by the parties and this decision shall become a final administrative determination pursuant to R. 2:2-3(a)(2). After such time, any further review of this matter shall be pursued in the Superior Court of New Jersey, Appellate Division.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 21<sup>ST</sup> DAY OF SEPTEMBER, 2022

*Dolores Gorczyca*

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Dolores Gorczyca  
Presiding Member  
Civil Service Commission

Inquiries  
and  
Correspondence

Nicholas F. Angiulo  
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 06059-21

AGENCY DKT. NO. 2021-1955

**IN THE MATTER OF GEORGE MEADOWS,  
CITY OF PATERSON, DEPARTMENT OF  
ECONOMIC DEVELOPMENT.**

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**Seth Gollin, Esq., AFSCME New Jersey Council 63, for appellant George Meadows pursuant to N.J.A.C. 1:1-5.4(a)(6)**

**Charles Festa, III, Esq., Assistant Corporation Counsel, for respondent City of Paterson**

Record Closed: June 28, 2022

Decided: August 12, 2022

BEFORE **SUSANA E. GUERRERO, ALJ:**

**STATEMENT OF THE CASE**

Appellant, George Meadows (Meadows or appellant), a principal planner with the City of Paterson's Department of Economic Development (the City or respondent) appeals his removal due to his alleged inability to perform his duties resulting from his statutory blindness, which, as the respondent asserts, makes him unemployable as a principal planner.

### **PROCEDURAL HISTORY**

The City served Meadows with a Final Notice of Disciplinary Action (FNDA) dated June 10, 2021, for having violated N.J.A.C. 4A2-2.3(a)(3) for his inability to perform his duties. His removal had an effective date of January 21, 2020, the date of the Preliminary Notice of Disciplinary Action (PNDA).

The New Jersey Civil Service Commission (the Commission) transmitted the matter to the Office of Administrative Law (OAL), where it was filed on July 19, 2021, for determination as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. After the initial prehearing conference scheduled for August 16, 2021 was adjourned, a conference was held on September 2, 2021, at which time the appellant requested that the hearing be scheduled once the OAL resumed in-person hearings. At the time, and through the spring of 2022, hearings were only being conducted by Zoom due to the COVID-19 pandemic. Conferences were subsequently held to discuss the status of the matter, and the status of returning to in-person hearings, and during a telephone conference on March 15, 2022, an in person hearing was scheduled for June 28, 2022. The hearing took place at the OAL on June 28, 2022, and the record closed at the conclusion of the hearing.

### **FACTUAL DISCUSSION AND FINDINGS OF FACT**

Meadows testified on his own behalf and Michael Deutsch (Deutsch) testified on behalf of the City. Based on the testimony the witnesses provided, and my assessment of its credibility, together with the documents the parties submitted, and my assessment of their sufficiency, I **FIND** the following as **FACT**:

Meadows was hired as a Principal Planner for the City in 2012. On or around 2018, his eyesight began to deteriorate and he is now statutorily blind. He does not dispute that he is statutorily blind but asserts he is able to continue to perform his duties as a Principal Planner with certain accommodations.

Deutsch is the Director of the Division of Planning and Zoning, which is in the City's Department of Economic Development. Deutsch was initially hired by the City as a Principal Planner, and was promoted to his current position in 2016. At all relevant times, the Division of Planning and Zoning consisted of Deutsch, the Division's Director; Meadows, the only Principal Planner; and clerical staff which usually consisted of one individual who would answer the telephone, type and provide other clerical support for the Division. At times, other clerical support employed within the Department would provide support for Division staff.

As a Principal Planner, Meadows participated in the development and support of the City's master and redevelopment plans. As the Civil Service job description states, that role is intended primarily to guide government policy for the assurance of orderly and coordinated development of the City's land areas or portions thereof. The job of Principal Planner is considered an upper management position.

In or around September 2018, Meadows had laser surgery on his eyes. When he returned to work after the surgery, he continued to have blurred vision due at least in part to drops he was using. There was an administrative change at the Department at the time, and Meadows was asked by the new Department Director to provide an outline of projects he was working on, and of his responsibilities. Meadows described the meeting as hostile, and when Meadows told the Director that he needed clerical assistance to type up the requested information, the Director told Meadows that he was probably not fit for duty if he was unable to see. The typing assistance Meadows requested was never provided, and Meadows contacted the Personnel Department to inquire about the City's policy on providing accommodations.

Following the meeting with the Department Director, Meadows met with Ms. Debra Hannibal (Hannibal), the City's Assistant Personnel Director. Hannibal instructed him to undergo a fitness-for-duty examination, and to leave the building following their meeting.

On September 24, 2018, a few days after his meeting with Hannibal, and at the City's direction, Meadows underwent a fitness-for-duty examination with Saveren Scannapiego, M.D., a physician at the Immedicenter. About three weeks later, Hannibal

sent Meadow a letter, dated October 19, 2018, stating that due to “an undue hardship resulting from your required accommodations, the City of Paterson did not have the capacity for your return to work restrictions (assistance with typing, reading, ambulation, commuting to and from work, as well as an assistant to accompany you to monthly meetings.” Since Meadows indicated that his condition was or could be temporary, the City also decided to have him re-evaluated by an ophthalmologist at a later date. The letter also indicates that Meadows would be placed on an administrative leave effective September 24, 2018. This letter does not reference any recommendations, reports or opinions by Dr. Scannapiego following the September 24, 2018 examination, and the record does not contain any report from Dr. Scannapiego following this fitness-for-duty examination.

Hannibal authored another letter, dated February 15, 2019, in which she indicates that Meadows was examined again by Dr. Scannapiego on November 7, 2018, and that his evaluation determined that Meadows’ condition was permanent and that he could not perform his essential job functions without accommodations. In the letter, she also informs Meadows that the City “does not have the capacity to accommodate . . . [his] required return-to-work restrictions,” and that his paid administrative leave will end effective February 22, 2019. Hannibal did not testify at the hearing to explain the basis for the City’s determination that it lacks the capacity to accommodate Meadows. Deutsch, the City’s only witness, did not handle Meadows’ request for accommodations, and played no apparent role in requesting, reviewing or processing the fitness-for-duty evaluations. Moreover, the record is inconclusive as to whether Meadows was even examined by Dr. Scannapiego on November 7, 2018, or any time after September 24, 2018, as Meadows testified that he was only examined once by Dr. Scannapiego in 2018, and the City did not rebut this testimony.

In March 2019, Meadows applied for temporary disability due to “visual impairment-glaucoma.”

By letter dated September 4, 2019 sent to the City, Omar Mobin-Uddin, M.D., Meadows’ glaucoma specialist who had been treating him since June 2019, wrote that Meadows is “mentally capable of handling his employment affairs as long as he has

accommodations for reading, writing and typing . . .” Hannibal responded by letter dated January 17, 2020, in which she informs Meadows that “as a result of . . . [his] inability to perform duties,” he was suspended effective January 17, 2020, and that the City would be seeking his removal. A PNDA was attached to Hannibal’s letter, with Specifications and a letter dated December 19, 2019 from Dr. Scannapiego. The same Specifications and the December 19, 2019 letter from Dr. Scannapiego were also attached to the FNDA. In the December 19, 2019 letter/report, Dr. Scannapiego opined that “due to his statutory blindness . . . [Meadows] is unemployable as of the present and in the foreseeable future.” This letter/report containing Dr. Scannapiego’s opinions references only one examination of Meadows, on November 8, 2018—more than one year prior to the date of the letter—which Meadows denies occurred, and it does not identify any additional information considered in concluding that he “feels” Meadows is unemployable. The City relies, at least in part, on Dr. Scannapiego’s letter in terminating Meadows’ employment.

Meadows has never had any negative job reviews with the City, nor has he ever been reprimanded or disciplined. There is no evidence that Meadows was unable to complete his job duties prior to being placed on leave in September 2018. He has not returned to work since that time.

### Charges

The June 10, 2021 FNDA, charging the appellant with violation of N.J.A.C. 4A:2-2.3(a)(3) – Inability to perform duties, lists the following as the incidents giving rise to the charges:

1. On, or about, September 24, 2018, George Meadows (hereinafter “Meadows”) was examined by a physician at the Immedicenter in Totowa, New Jersey to determine his Fitness-for-Duty and he was having issues related to his vision.
2. The report received by the City of Paterson (hereinafter “City”), from the Immedicenter, stated that Meadows disclosed that his condition was temporary and he expected recovery of his vision three (3) weeks. Further, the report stated that Meadows would be unable to

function in his role as Principal Planner without several accommodations.

3. Meadows was informed that the City did not have the capacity to accommodate the required return-to-work restrictions which included assistance with typing, reading, ambulation, commuting to and from work, as well as an assistant to accompany him to meetings.
4. As an accommodation, Meadows was . . . placed on administrative leave with pay beginning on September 24, 2018; this leave ended on February 22, 2019.
5. While Meadows was on leave, the City determined to have Meadows re-evaluated by an ophthalmologist to determine when he would return to work.
6. On November 7, 2018, Meadows was examined by Dr. Saveren Scannapiego. By letter dated December 19, 2019, Dr. Scannapiego opined that Meadows, "due to his statutory blindness . . . is unemployable as of the present and in the foreseeable future."

The FNDA attaches the aforementioned December 19, 2019 letter from Dr. Scannapiego to the Division of Personnel at the City in which Dr. Scannapiego concludes, following a November 8, 2018 examination, that he feels Meadows is unemployable.<sup>1</sup>

### Testimony

**Michael Deutsch** testified that he believes Meadows could not perform the essential duties of a Principal Planner due to his statutory blindness. He testified that his responsibilities include reviewing detailed plans, which only a trained planner could

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<sup>1</sup> In the letter referenced in the FNDA, Dr. Scannapiego notes that Meadows was under treatment for glaucoma; that he had a "mature cataract in the right eye and s/p cataract extraction on left eye" and [b]oth optic nerves were completely atrophic." He concludes in the letter that "due to his statutory blindness," he feels that Meadows is unemployable. Dr. Scannapiego writes that Meadows is "extremely limited in his life activities and can only perform his job through his sense of hearing. He will require assistance in navigating the building of employment on his own and would be a danger to himself and anyone assisting him in case of an emergency." While I FIND that Meadows is statutorily blind, and therefore has a disability, I afford no weight to Dr. Scannapiego's opinions as reflected in the December 19, 2019 letter because his opinions constitute uncorroborated hearsay, as he did not testify at the hearing; the record is inconclusive as to when he examined Meadows; and it is unknown what, if any, other records or information (concerning Meadows' employment or medical condition) he considered in rendering his opinions. The fact that Dr. Scannapiego's letter was inexplicably issued more than a year after allegedly evaluating Meadows also raises questions.



effectively do, and conducting site inspections. His testimony consisted primarily of responses to leading questions that asked whether a Principal Planner with impaired vision could perform the "Examples of Work" listed in the Civil Service Job Specifications for Principal Planner, and whether those "Examples of Work" could be effectively performed by Meadows with the assistance of basic, non-licensed or non-professional, clerical staff. For each "Example of Work," Deutsch simply responded that "in his opinion," Meadows could not perform this work because he is legally blind. He testified that, in order to effectively perform his duties, Meadows would require the assistance of another Principal Planner due to the detailed and technical nature of the work, and that the City could not reasonably accommodate Meadows because the City is unable to hire a second Principal Planner simply to assist Meadows.

While Deutsch also opined that Meadows was given every reasonable accommodation possible to assist him in doing his job, when asked specifically what accommodations were provided, it became clear that none were offered to Meadows by the City.

**George Meadows** asserts that the City used his disability as an excuse to terminate him, that he remains able to work if provided with accommodations for reading and writing, and that the physicians he saw opined that he could work with accommodations. Although Dr. Scannapiego's letter references ambulation and transportation needs, Meadows testified credibly that he never requested these accommodations, and the record is unclear whether these accommodations for ambulation and transportation are even needed to effectively perform his job as a Principal Planner. Meadows explained that for a year prior to September 2018, while his eyesight was failing and he was unable to drive, he secured his own rides to work and to the occasional site that he visited. He only requested assistance for reading and writing, which was never provided, and he maintains that he is able to handle the responsibilities of his job with clerical accommodations. While he also testified that this assistance may include the use of technology that assists with reading and typing for the visually impaired, there is no evidence that Meadows ever specifically requested this type of support; and there is no evidence that the City ever discussed or explored the use of this technology. In response to the concern that the plans he is required to review are detailed and

technical, Meadows testified that he is able to obtain the information he needs simply by asking a clerk questions about what appears on the plan. The City only reported to Meadows that they could not afford or provide him with accommodations.

Meadows testified credibly that his responsibilities changed based on the administration, and that much of the "Examples of Work" in the Civil Service job description do not pertain to him.<sup>2</sup> He has worked for the City through four different administrations, and he often worked independently of what the Division was doing whenever it was necessary to further the City's redevelopment plans. The redevelopment plans and master plan involve large areas of the City and neighborhoods. Meadows' duties did not involve inspecting dangerous buildings, as Deutsch testified, nor was he responsible for doing drawings or zoning reviews. Meadows testified that when he visited sites on occasion, he did so with others, and that he could continue to do so with his impaired vision.

Based on my review and consideration of the evidence, **I FIND** the following:

Meadows' job responsibilities as a Principal Planner include reading and writing; reviewing plans, which could be detailed and extensive; meeting with the public; reviewing documents, including ordinances, master and redevelopment plans, and making suggestions concerning these; and occasionally traveling to sites, typically with others, to participate in the review of the site. Without any accommodations, Meadows' is unable to read and write; review plans; travel to, and participate in site reviews/inspections due to his visual impairment. Meadows requested an accommodation for reading and writing, in the form of clerical support, which the City did not provide. The record is inconclusive as to whether the fitness-for-duty evaluation was appropriate and consistent with Meadows' job requirements, and the record does not establish that Meadows ever requested or requires from the City an accommodation for transportation or ambulation, as stated in Dr. Scannapiego's letter. The record does show that, to effectively perform the job of a Principal Planner, Meadows requires assistance with reading and writing, and

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<sup>2</sup> The Civil Service job description specifically notes that the examples of work listed in the job specification are for illustrative purposes only and that the position may not perform all duties listed in the job specification.

to occasionally participate in site visits. There is no evidence that the City made any attempt to accommodate Meadows' disability. The City has not demonstrated by a preponderance of the evidence that it is unable to provide Meadows with reasonable accommodations, or that Meadows could not be reasonably accommodated by providing him with clerical assistance for reading, typing and by accompanying him to the occasional site visit.

### **LEGAL ANALYSIS AND CONCLUSIONS**

Public employees' rights and duties are governed and protected by the provisions of the Civil Service Act, N.J.S.A. 11A:1-1 to 12-6, and the regulations promulgated pursuant thereto, N.J.A.C. 4A:1-1.1 to 10-3.2. However, public employees may be disciplined for a variety of offenses involving their employment, including the general causes for discipline as set forth in N.J.A.C. 4A:2-2.3(a). An appointing authority may discipline an employee for sufficient cause, including failure to obey laws, rules, and regulations of the appointing authority. N.J.A.C. 4A:2-2.3(a)(12). N.J.A.C. 4A:2-2.3(a)(3) provides that an employee may be subject to discipline for "inability to perform duties."

In disciplinary cases, the appointing authority has the burden of both persuasion and production and must demonstrate by a preponderance of the competent, relevant, and credible evidence that it had just cause to discipline the employee and lodge the charges. N.J.S.A. 11A:2-21; N.J.A.C. 4A:2-1.4(a); Atkinson v. Parsekian, 37 N.J. 143 (1962). Evidence is said to preponderate "if it establishes the reasonable probability of the fact." Jaeger v. Elizabethtown Consol. Gas Co., 124 N.J.L. 420, 423 (Sup. Ct. 1940) (citation omitted). The evidence must "be such as to lead a reasonably cautious mind to the given conclusion." Bornstein v. Metro. Bottling Co., 26 N.J. 263, 275 (1958).

The appellant is charged with "Inability to perform duty," N.J.A.C. 4A:2-2.3(a)(3). There is no dispute here that Meadows is statutorily blind, and that he is unable to perform his job duties as a Principal Planner without certain accommodations. The City asserts that Meadows is unable to perform his duties, and must be terminated because it is unable to provide him with reasonable accommodations. Deutsch, the City's only witness, testified that in order to effectively perform his duties, Meadows requires the assistance

of another Principal Planner, which the City cannot accommodate and the hiring of which the Department of Community Affairs would unlikely approve. The preponderance of the evidence, however, does not demonstrate that Meadows requires the level of support that can only be provided by another Principal Planner. Meadows only requested clerical assistance for reading and writing, and while the record is inconclusive as to whether that is the only accommodation Meadows requires to effectively perform his job duties, the City has not sufficiently demonstrated that this accommodation is unreasonable or that Meadows requires more extensive accommodations that the City is unable to reasonably provide. When there is a disability and a request for an accommodation is made, the employing agency is then required to initiate an informal interactive process with the employee to "identify the potential reasonable accommodations that could be adopted to overcome the employees precise limitation resulting germ the disability." See Tynan v. Vicinage 13 of the Superior Court, 351 N.J. Super, 385, 400 (App. Div. 2002). The record herein contains no evidence that such an interactive process was ever initiated. The record simply shows that the City informed Meadows that it could not accommodate him.

While the FNDA asserts that the City did not have the capacity to accommodate the "required return-to-work restrictions," the record is inconclusive as to what these required restrictions are. The only clear required return-to-work restrictions are accommodations for reading and writing, and assistance when participating in the occasional site inspection/review. The American with Disabilities Act (ADA) requires that, when an individual's functional limitation impedes job performance, an employer must take steps to reasonably accommodate, and thus help overcome the particular impediment, unless to do so would impose undue hardship on the employer. See 29 C.F.R. § 1630.2(p). The City has failed to demonstrate by a preponderance of the evidence that it took such steps to accommodate Meadows or that to do so would impose an undue hardship on the City. I **CONCLUDE**, therefore, that the City has not met its burden of proof to demonstrate that the appellant is unemployable and has an inability to perform his duties as a Principal Planner.

**ORDER**

It is **ORDERED** that the charge of Inability to Perform Duties is hereby **REVERSED**, and that appellant be reinstated to his position as Principal Planner with the City.

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.

August 12, 2022  
DATE

  
SUSANA E. GUERRERO, ALJ

Date Received at Agency: August 15, 2022

Date Mailed to Parties: \_\_\_\_\_

jb

**APPENDIX**

**WITNESSES**

**For Appellant:**

George Meadows

**For Respondent:**

Michael Deutsch

**EXHIBITS**

**Joint:**

J-1 Final Notice of Disciplinary Action and a Preliminary Notice of Disciplinary Action with attachments

**For Appellant:**

A-1 Not in evidence

A-2 Letter from Debra Hannibal to George Meadows dated October 19, 2018

A-3 Not in evidence

A-4 Return to Work Medical Certification

A-5 Letter from George Meadows to Mayor Sayegh dated April 4, 2019

A-6 Letter from Dr. Omar Mobin-Uddin dated September 4, 2019

A-7 Not in evidence

A-8 Letter from George Meadows to Vaughn L. McCoy dated January 29, 2020

A-9 Letter from Dr. Omar Mobin-Uddin dated March 16, 2020

A-10 ADA Title I, II, V

A-11 Memo re EEO and Affirmative Action Complaints dated November 25, 2015

A-12 Letter from George Meadows to Judge Fenster dated April 13, 2021 and Harassment Complaint

A-13 COP Policy re American with Disabilities

A-14 Emails between George Meadows and Michael Deutsch from October 24-25, 2013

- A-15 Email and attachments dated September 9, 2015
- A-16 Job summary prepared by George Meadows
- A-17 Email from George Meadows to Pou dated August 31, 2015
- A-18 Email from George Meadows to Michael Deutsch dated September 8, 2015
- A-19 Not in evidence
- A-20 Email from George Meadows to Ruben Gomez dated January 17, 2018

For Respondent:

- R-1A Preliminary Notice of Disciplinary Action with Specifications and letter from Dr. Saveren Scannapiego dated December 19, 2019
- R-1B Letter from City of Paterson's BA to George Meadows delivering PNDA dated January 17, 2020
- R-1C Letter from Debra Hannibal to George Meadows dated February 15, 2019
- R-1D DC-1, Part II
- R-1E Letter from Debra Hannibal to Dr. Saveren Scannapiego dated August 21, 2019
- R-1F Job Specification for Principal Planner
- R-2 Weekly time sheet for August 7 and 8, 2017