



**STATE OF NEW JERSEY**

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

In the Matter of Ebony Mullins-Gant,  
Essex County

CSC Docket No. 2023-1187

Interim Relief

**ISSUED:** January 18, 2023 (SLK)

Ebony Mullins-Gant, a County Correctional Police Sergeant with Essex County, represented by Luretha M. Stribling, Esq., petitions the Civil Service Commission (Commission) for interim relief of her immediate suspension.

By way of background, the record indicates that on September 7, 2021, Mullins-Gant was interviewed by Internal Affairs for allegations of conduct unbecoming, truthfulness and prohibited devices concerning an alleged incident. On September 17, 2021, Internal Affairs informed her that she was the target of an Administrative Investigation concerning a security complaint regarding her demeanor during an incident that occurred on June 29, 2021. On December 21, 2021, Mullins-Gant was served a Preliminary Notice of Disciplinary Action (PNDA) for violating various departmental rules and the administrative charges of conduct unbecoming a public employee and other sufficient cause. The specifications indicated that the Investigator concluded her investigation on November 29, 2021. Mullins-Gant was alleged to have used her cell phone in an area where cell phones were prohibited, bypassing the security check point, and witnesses saw her phone shuttering while taking pictures of the Master Control/Center Control. Further, she is alleged to have provided a false statement by claiming that she had her phone to call or text her husband. Additionally, in response to an inquiry by Essex County, Apple Support provided that the shuttering option on Mullins-Gant's cell phone was only available while using the camera application and was not available while making a phone call or texting.

In her request, Mullins-Gant presents that the charges against her had been delineated on September 7, 2021. However, she was not served with a PNDA until December 17, 2021. She notes that there was no criminal investigation or charges. Mullins-Gant claims that the service of the PNDA 90 days later violates *N.J.S.A.* 30:8-18.2, the 45-day rule, where a complaint needed to be filed within 45 days after the date which the person filing the complaint had obtained sufficient information to file the complaint. She states that a failure to comply with the 45-day rule requires dismissal of the complaint. Mullins-Gant provides that service of the PNDA needed to be filed by October 22, 2021, which was 45 days from September 7, 2021. Therefore, she believes that she has a clear likelihood of success on the merits. Additionally, Mullins-Gant indicates that she is in danger of immediate and irreparable harm as she is suffering a loss of income and has a family to support. She contends that Essex County would not suffer substantial injury if her request is granted as it would benefit from her employment. Finally, she argues that it is in the public interest that Essex County comply with the law.

In reply, Essex County, represented by Jeanne-Marie Scollo, Assistant County Counsel, provides that Mullins-Gant's request is untimely as an appeal must be filed within 20 days after the petitioner knew or should reasonably have known of the decision, situation, or action being appealed. It presents that Mullins-Gant was served the PNDA on December 21, 2021, and the instant request is nearly one year later. It states that an Internal Affairs investigation was conducted beginning September 17, 2021, regarding the reported Mullins-Gant's bypassing of a security checkpoint while using a cell phone. Witnesses provided statements indicating that she was using her cell phone in an area where cell phones were prohibited, she walked around or bypassed the Metro Sense Cell Scanner, the security checkpoint, and due to the appearance of her phone screen, the shuttering of the lens, and other factors, it was apparent that she was taking photographs. Additionally, Essex County presents that Mullins-Gant gave a statement on October 18, 2021, indicating that she did not recall bypassing the security checkpoint with her phone, although she did recall being in the area with her phone to call or text her husband. Further, it states that it received supplemental information from Apple Support on November 4, 2021. Essex County provides that at the conclusion of the Internal Affairs investigation, the findings were forwarded to the Office of the Director and the Disciplinary Unit on November 30, 2021.

Essex County argues that Mullins-Gant does not have a clear likelihood of success on the merits. It provides that case law and statutes indicate that the 45-day period does not start until the person filing the complaint has sufficient knowledge to file the complaint. Therefore, in this matter, the 45 days did not start until the Chief of Police (Director) had sufficient knowledge to bring the charges. Essex County contends that Mullins-Gant is not suffering any immediate or irreparable harm as the departmental hearing has been adjourned several times and was scheduled to

proceed on December 7, 2022, before she requested an adjournment. Nonetheless, it states that she continues to work. Moreover, Essex County and the public would be injured by granting her frivolous request.

In reply, Mullins-Gant states that the accusations against her were made by a subordinate who provided false information, which led to the investigation. She reiterates her argument that under the 45-day rule, since she was advised of the charges on September 7, 2021, the PNDA needed to be served by October 22, 2021. Mullins-Gant also argues that she is likely to succeed on the merits since cameras are located throughout the prison and there is no video footage of her engaging in the alleged actions. Additionally, the Officer at the security checkpoint indicated that she did not go by with her cell phone. Further, while a Lieutenant thought that she was taking a picture of Master Control, the Lieutenant was unsure. Therefore, she asserts that the witness statements were speculative. Mullins-Gant reiterates her arguments regarding the other factors for consideration in evaluating petitions for interim relief. Mullins-Gant believes that with regards to obtaining information to serve a PNDA, the determination of this is by the person conducting the investigation in Internal Affairs who is authorized to make a determination which will result in the writing of the PNDA. Mullins-Gant states that Essex County has the obligation to complete the investigation and serve the charge within 45 days of having sufficient information to serve the PNDA. She contends that Essex County must not be allowed to ignore the requirements set forth in *N.J.S.A. 30:8-18.2*, as well as the Attorney General's Internal Affairs Policies and Procedures. Mullins-Gants argues that the failure to serve the PNDA within 45 days must result in a dismissal of the charges.

## CONCLUSION

*N.J.A.C. 4A:2-1.1(b)* provides that unless a different time period is stated, an appeal must be filed within 20 days after either the appellant has notice or should reasonably have known of the decision, situation, or action being appeal.

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

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

*N.J.S.A. 11A:2-13* and *N.J.A.C. 4A:2-2.5(a)* provide that an employee may be suspended immediately and prior to a hearing when the employee has been formally charged with certain crimes or where it is determined that the employee is unfit for duty or is a hazard to any person if permitted to remain on the job, or that an

immediate suspension is necessary to maintain safety, health, order or effective direction of public services.

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

A person shall not be removed from employment or a position as a County Correctional Police Officer, or suspended, fined or reduced in rank for a violation of the internal rules and regulations established for the conduct of employees of the county corrections department, unless a complaint charging a violation of those rules and regulations is filed no later than the 45th day after the date on which the person filing the complaint obtained sufficient information to file the matter upon which the complaint is based. A failure to comply with this section shall require a dismissal of the complaint. The 45-day time limit shall not apply if an investigation of a County Correctional Police Officer for a violation of the internal rules and regulations of the county corrections department is included directly or indirectly within a concurrent investigation of that officer for a violation of the criminal laws of this State; the 45-day limit shall begin on the day after the disposition of the criminal investigation. The 45-day requirement in this section for the filing of a complaint against a County Correctional Police Officer shall not apply to a filing of a complaint by a private individual.

Initially, it is noted that Mullins-Gant's request is untimely. The record indicates that she previously filed a request for interim relief for this matter making the same arguments that she is making in the current matter. In response, this agency sent an April 19, 2022, letter explaining why her request was without merit and indicating that it considered the matter closed. The subject request was postmarked November 22, 2022, which was well after 20 days from when she knew or should have known that she should have requested that the matter be re-opened if she disagreed with this agency's action. *See In the Matter of Joe Moody, Jr.* (CSC, decided January 15, 2020). Additionally, the fact that she filed a new request, as opposed to requesting that the prior request be re-opened, did not relieve her of her obligation to timely make this request. It is also noted that Essex County's immediate suspension of Mullins-Gant was appropriate as the allegations involve an incident where she was alleged to have engaged in conduct which jeopardized the security of a correctional facility.

Regarding the merits, the Commission finds that Mullins-Gant's reliance on the "45-day rule" is misplaced. A review of the PNDA in this matter indicates that in addition to charging her with violations of internal rules, Essex County also charged her with *N.J.A.C.* 4A:2-2.3(a)6, conduct unbecoming a public employee, and *N.J.A.C.* 4A:2-2.3(a)12, other sufficient cause. Therefore, since Mullins-Grant was also charged with administrative charges, the 45-day rule under *N.J.S.A.* 30:8-18.2 was not applicable since it only applies in situations where there are only charges for

violating internal rules and regulations. *See e.g., Hendricks v. Venettone*, Docket No. A-1245-91T5 (App. Div. October 29, 1992); *In the Matter of Bruce McGarvey v. Township of Moorestown*, Docket No. A-684-98T1 (App. Div. June 22, 2000). *See e.g., McElwee V. Borough of Fieldsboro*, 400 N.J. Super. 388 (App. Div. 2008). *See also, In the Matter of Christopher Mercardo* (CSC, decided April 18, 2012); *In the Matter of Claudy Augustin* (MSB, decided April 23, 2008). *See also, In the Matter of James Cassidy* (MSB, decided August 12, 2003); *In the Matter of Steven Palamara* (MSB, decided April 10, 2002). Additionally, even if the statute applied, the PNDA clearly indicates that the investigation into the alleged misconduct concluded on November 29, 2021. As such, that is the *earliest* date the person filing the complaint, the Director, could have had sufficient knowledge to bring forth charges. As the PNDA was issued 22 days later, on December 21, 2021, there is no violation.

Moreover, the information provided in support of the instant petition does not demonstrate a clear likelihood of success on the merits. A critical issue in any disciplinary appeal is whether or not the petitioner's actions constituted wrongful conduct warranting discipline. The Commission will not attempt to determine such a disciplinary appeal on the written record without a full plenary hearing before an Administrative Law Judge who will hear live testimony, assess the credibility of witnesses, and weigh all the evidence in the record before making an initial decision. Likewise, the Commission cannot make a determination on whether the petitioner's potential final disciplinary penalty is appropriate without the benefit of a full hearing record before it. Since Mullins-Gant has not conclusively demonstrated that she will succeed in having the underlying charges dismissed as there are material issues of fact present in the case, she has not shown a clear likelihood of success on the merits. Also, as Essex County indicates that Mullins-Gant continues to work, there is no danger of immediate or irreparable harm.<sup>1</sup> Further, Essex County would be severely harmed if it was not afforded the opportunity to complete the disciplinary process and, similarly, it is in the public's best interest if the disciplinary process is allowed to be completed.

## ORDER

Therefore, it is ordered that Ebony Mullins-Gant's petition for interim relief be denied.

This is the final administrative action in the matter. Any further review should be pursued in a judicial forum.

---

<sup>1</sup> The record is unclear if Mullins-Gant is currently working and on the payroll as Essex County indicates as Mullins-Gant states that she is suffering a loss of income and has a family to support. Regardless, if she is not working, the harm she would be suffering while awaiting the outcome of the disciplinary process is financial in nature which can be remedied by the granting of back pay should she prevail in her appeal.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 18<sup>TH</sup> DAY OF JANUARY, 2023

*Allison Chris Myers*

---

Allison Chris Myers  
Acting Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Nicholas F. Angiulo  
Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312  
Trenton, New Jersey 08625-0312

c: Ebony Mullins-Gant  
Luretha M. Stribling, Esq.  
Jacqueline Jones  
Jeanne-Marie Scollo, Assistant County Counsel  
Records Center