



## STATE OF NEW JERSEY

In the Matter of Judy Bellamy,  
Mercer County Corrections Center

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket No. 2022-828  
OAL Docket No. CSV 8859-21

ISSUED: AUGUST 2, 2023

The appeal of Judy Bellamy, County Correctional Police Officer, Mercer County Corrections Center, 25 working day suspension, on charges, was heard by Administrative Law Judge Edward J. Delaney, Jr. (ALJ), who rendered his initial decision on June 23, 2023. Exceptions were filed on behalf of the appellant and a reply to exceptions was filed on behalf of the appointing authority.

Having considered the record and the ALJ's initial decision, and having made an independent evaluation of the record, including a thorough review of the exceptions, the Civil Service Commission (Commission), at its meeting on August 2, 2023, adopted the ALJ's Findings of Facts and Conclusions and his recommendation to uphold the 25 working day suspension.

As indicated above, the Commission has thoroughly reviewed the exceptions filed in this matter and finds most do not require extensive comment. Nevertheless, the Commission makes the following comments. In her exceptions, the appellant argues that the charges should be dismissed as she alleged that the appointing authority did not follow the Attorney General's Internal Affairs Policy and Procedures as required at the departmental level. Essentially, the appellant argues that these violations deprived her of due process and thus, the charges should be dismissed. The Commission rejects this argument. Even assuming, *arguendo*, the accuracy of the appellant's contentions, there is no basis to procedurally dismiss the charges. In this regard, procedural deficiencies at the departmental level which are not significantly prejudicial to an appellant are deemed cured through the *de novo* hearing received at the Office of Administrative Law (OAL). See *Ensslin v. Township of North Bergen*, 275 N.J. Super. 352, 361 (App. Div. 1994), *cert. denied*, 142 N.J. 446 (1995); *In re Darcy*, 114 N.J. Super. 454 (App. Div. 1971). In this case, any such alleged

deficiencies are not significantly prejudicial as the appellant had the full opportunity to defend herself against the proffered charges at the OAL hearing.

Similar to its assessment of the charges, the Commission's review of the penalty is also *de novo*. Prior to making its penalty determination, the Commission notes that it is not bound by the appointing authority's penalty schedule in determining the proper penalty. *See In the Matter of Gregory McDaniel*, Docket No. A-5583-02T2 (App. Div. May 24, 2004); *In the Matter of Leonard Wilson* (MSB, decided April 6, 2005); *In the Matter of Patricia Everingham* (MSB, decided March 13, 2003); *In the Matter of George Roskilly* (MSB, decided November 20, 2002). Further, in addition to its consideration of the seriousness of the underlying incident in determining the proper penalty, the Commission also utilizes, when appropriate, the concept of progressive discipline. *West New York v. Bock*, 38 N.J. 500 (1962). In determining the propriety of the penalty, several factors must be considered, including the nature of the appellant's offense, the concept of progressive discipline, and the employee's prior record. *George v. North Princeton Developmental Center*, 96 N.J.A.R. 2d (CSV) 463. It is settled that the theory of progressive discipline is not a "fixed and immutable rule to be followed without question." *See Carter v. Bordentown*, 191 N.J. 474 (2007). In this regard, the Commission emphasizes that a County Correctional Police Officer is held to a higher standard than a civilian public employee. *See Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), *cert. denied*, 47 N.J. 80 (1966). *See also, In re Phillips*, 117 N.J. 567 (1990).

Clearly, the appellant's misconduct in this matter warrants the suspension imposed. The appellant in this case was insubordinate and disrespectful to a superior officer. Such conduct cannot be tolerated in a paramilitary organization and is worthy of a major disciplinary suspension. Moreover, the appellant has a significant history or discipline, including major discipline, for similar and other types of employment issues. This history also supports the imposition of the 25 working day suspension. The appellant's actions in this matter fall well short of what is expected of a law enforcement employee and the penalty imposed, given the appellant's history of discipline, is neither disproportionate to the offenses nor shocking to the conscious.

### ORDER

The Civil Service Commission finds that the action of the appointing authority in suspending the appellant was justified. The Commission therefore upholds that action and dismisses the appeals of Judy Bellamy.

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 2<sup>ND</sup> DAY OF AUGUST, 2023

*Allison Chris Myers*

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Allison Chris Myers  
Chairperson  
Civil Service Commission

Inquiries  
and  
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Attachment



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

OAL DKT. NO. CSV 8859-21  
AGENCY DKT NO. 2022-828

**IN THE MATTER OF JUDY BELLAMY,  
MERCER COUNTY CORRECTIONS CENTER.**

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**Arthur J. Murray, Esq.**, for appellant, Judy Bellamy (Alterman & Associates, LLC, attorneys)

**Michael Anthony Amantia**, Assistant County Counsel, for respondent, Mercer County Corrections Center (Paul R. Adezio, Mercer County Counsel, attorney)

Record Closed: May 16, 2023

Decided: June 23, 2023

BEFORE **EDWARD J. DELANOY, JR.**, Deputy Director & ALAJ:

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

Appellant Judy Bellamy, a County Correction Police Officer for the respondent Mercer County Corrections Center ("MCCC" or "Mercer"), appeals the decision of Mercer suspending her for twenty-five working days. On March 4, 2020, Mercer issued a Preliminary Notice of Disciplinary Action setting forth the charges and specifications as N.J.A.C. 4A:2-2.3(a)(1), Incompetency, inefficiency, or failure to perform duties; 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; N.J.A.C. 4A:2-2.3(a)(2), Insubordination; and N.J.A.C. 4A:2-2.3(a)(7), Neglect of duty. Charges were also brought for violating Mercer County Table of Offenses and Penalties C4 Verbal Abuse of a Patient, Client, Resident or Employee; C9 Insubordination - Intentional disobedience or refusal to accept a reasonable order, assaulting or resisting authority, disrespect, or use of insulting or abusive language to a supervisor, Step 3; B1 Neglect of duty, loafing, idleness, or willful failure to devote attention to tasks which would not result in causing danger to persons or property, Step 2; C7 Fighting or creating a disturbance on county property, Step 1; C8 Falsification - intentional misstatement of material fact in connection with work, employment, application, or in any record, report, investigation, or other proceeding, Step 1; and D6 Violation of administrative procedures, and/or regulations involving safety and security, Step 2, SOP 004, 238. (R-1.)

A departmental hearing was held on July 29, 2021, and on September 17, 2021, a Final Notice of Disciplinary Action was issued suspending appellant for twenty-five days based upon N.J.A.C. 4A:2-2.3(a)(2), Insubordination; 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. In addition, appellant was guilty of Mercer County Table of Offenses and Penalties C9 Insubordination - Intentional disobedience or refusal to accept a reasonable order, assaulting or resisting authority, disrespect, or use of insulting or abusive language to a supervisor, Step 3; C7 Fighting or creating a disturbance on county property, Step 1; and D6 Violation of administrative procedures, and/or regulations involving safety and security, Step 2, SOP 004, 238. (R-17.)

Appellant then requested a hearing, and the matter was transmitted to the Office of Administrative Law (OAL), where it was filed on October 27, 2021. The hearing was held on March 21, 2023. Timely post hearing submissions were received on behalf of appellant and respondent, and accordingly on May 16, 2023, the record closed.

At issue is whether respondent has proven the charges by a preponderance of credible evidence, and if proven, whether the twenty-five-day suspension was justified and reasonable.

## FACTUAL DISCUSSION

### Testimony

**Darlene Jiovanny** is a lieutenant at Mercer, and as such, is a supervisor of Officer Bellamy. Jiovanny has been with Mercer for sixteen years, beginning as an officer, then moving to sergeant in 2016, and lieutenant in 2020.

On February 9, 2020, Jiovanny was shift commander, working the 11:00 p.m. to 7:00 a.m. overnight shift. At 0510 hours, Jiovanny asked Bellamy to write a report because Bellamy had attempted to have a nurse change an inmate status from a Q15 to a one-to-one, without first consulting with a supervisor. Such a change could dramatically affect an inmate's housing privilege, clothing, etc. This was a procedure that was not to be done at the officer level, but rather by the medical department through a specific chain of command. Upon being requested to prepare a report, Bellamy responded with a laugh and said, "Are you serious?"

The incident began at 0533 hours, when Jiovanny heard Bellamy scream over the radio, "I am using the bathroom." At 0533 hours, Jiovanny heard a radio broadcast from Sergeant Frascella, who told Jiovanny that Bellamy needed to be escorted out of the building. At that time, Jiovanny, along with Sergeant Grier, proceeded to the medical area where Bellamy was located. When Jiovanny walked into the medical unit, she heard Bellamy screaming, "Fxxx you, I am sick of this shit, you Fxxx with me all the time." Jiovanny advised Bellamy to leave but she did not. Instead, she continued to scream. Eventually, Bellamy left medical and proceeded to her unit in Star PC. Jiovanny again told Bellamy that she needed to leave, and that Bellamy needed to draft a report of the incident. (R-2.)

**Tomaine Grier** is a sergeant at Mercer, and as such, is a supervisor of Officer Bellamy. Grier has been with Mercer for twenty years, beginning as an officer, then moving to sergeant in 2013. On February 9, 2020, Grier was working the 11:00 p.m. to 7:00 a.m. overnight shift. During that shift, Sergeant Frascella contacted Grier and inquired if Bellamy had asked about having the status of an inmate changed in Star PC.

Grier responded that Bellamy had not discussed this with her. At 0535 hours, Grier heard Frascella over the radio, requesting that Bellamy be removed from the building. Grier proceeded to medical, and when she entered, she saw Frascella and Bellamy. Bellamy was yelling and upset. Grier told her to calm down and she did. Jiovanny asked Bellamy to leave, so they exited medical. Grier told Bellamy to retrieve her personal property. Grier prepared an incident report. (R-3.)

**Chad Frascella** is a sergeant at Mercer, and as such, is a supervisor of Officer Bellamy. Frascella has been with Mercer for thirteen years, beginning as an officer, then moving to sergeant in 2019. On February 9, 2020, Frascella was working the 11:00 p.m. to 7:00 a.m. overnight shift. During that shift, Frascella went into the medical unit where he saw Bellamy conversing with Monica from the nursing staff. They were discussing changing an inmate's status. Bellamy was requesting a slip, but this is something that an officer must not do, as medical staff must be involved. The inmate was on a close watch status. Bellamy was working overtime on her day off. She was tasked with being a one-to-one relief officer. A change of watch status can deprive the inmate of many things, and Bellamy did not discuss the issue of changing the inmate's status with Frascella.

At 0530 hours, Frascella went back to Monica because he needed her report regarding the status change. At that time, Bellamy was in the nurse's station. Bellamy came out of the bathroom and into the nurse's station, and she started yelling at Frascella. She asked Frascella, "Do I need permission to take a piss now?" Bellamy was hostile, aggressive, loud, irate and disrespectful. Bellamy was told to leave medical, but she disobeyed. Bellamy told Frascella, "Fxxx this. Fxxx you. I'm not leaving." At that time, Frascella got on the radio and requested that Jiovanny have Bellamy leave the building. Jiovanny and Grier responded to the scene and escorted Bellamy out. (R-4.)

**Judy Bellamy** began employment with Mercer in 2001. During that time, and until February 2020, Bellamy had three prior disciplinary matters, not involving time and/or attendance. In 2012, she was counseled for violation of a rule, regulation or policy. Later in 2012, Bellamy received five days suspension for insubordination. In

2015, Bellamy received ten days suspension for sleeping on duty and neglect of duty. (R-14.)

On February 9, 2020, Bellamy worked overtime on a day which she would normally have been off. As a result, she was fatigued. She was a one-to-one relief officer which meant that she relieved those officers who were doing a one-to-one constant watch of an inmate. She was working in Star PC, the protective custody unit. In that unit, the mental health department determines the status of an inmate. One of the inmates had just been removed from the medical unit to Star PC. The officer who Bellamy was relieving asked her if there was a change in the status of the inmate. On her break, Bellamy went to the break area where she met with nurse Monica. They discussed the inmate's status change. Monica told Bellamy to come to the medical unit with her, and they would check. As Monica was checking on the status of the inmate, Frascella came through the unit. Bellamy was not asking Monica to change the status of the inmate. As Frascella was coming back to the unit, nurse Monica told Bellamy that there had been no status change at that time. Frascella began to yell at Bellamy. She walked away and returned to the Star PC unit where she told the officer there that there had been no change in the inmate's status.

During that same shift, at 0510 hours, Jiovanny was giving job assignments. At that time, Jiovanny told Bellamy that she needed an incident report regarding changing of the inmate status. Bellamy told Jiovanny, "Are you serious?" Jiovanny said, "Very." Bellamy responded that she would do a report. (R-5.) Before Bellamy wrote this report, a second incident occurred with Frascella. Bellamy used the medical unit bathroom, which to her knowledge is allowed, and for which there are no regulations prohibiting such use. Before using the bathroom, she entered medical and yelled to an officer in medical, "I'm going to the bathroom." The phone rang, and Jiovanny was asking Frascella why Bellamy was in the medical unit. Bellamy proceeded to the bathroom, and as she came out, she walked toward the garbage pail and threw out some paper. She asked Frascella if he was there to see her, and he told her that she had no business being there. Frascella told her to go in the back to use the bathroom, and Frascella proceeded to yell at her. She began to yell back. She turned to walk away and asked Frascella to please stop yelling in her ear. She agreed that it was not



appropriate for her to yell at her superior. At that time, Frascella got on the radio and stated that Bellamy needed to be escorted out. Jiovanny and Grier appeared and walked her back to the exit area. Bellamy admitted that she cursed, but she said it was not at Frascella, rather, it was about the incident. She agreed it was not appropriate to curse. Bellamy went home, and later filled out her report. Bellamy agreed that she deserved discipline, but that it should not be twenty-five days. Her reaction was inappropriate, but she didn't intend to be disrespectful. She reacted and she later apologized to the staff. Bellamy agreed that her language was vulgar, but she stated that she never directed the words, "Fxxx you" at Frascella. She was trying to remove herself from the situation.

### **FINDINGS OF FACT**

Given that the witnesses have different versions of the events surrounding the incident herein, it is my obligation and responsibility to weigh the credibility of the witness in order to make a determination. Credibility is the value that a fact finder gives to a witness's testimony. The word contemplates an overall assessment of a witness's story in light of its rationality, internal consistency, and manner in which it "hangs together" with other evidence. Carbo v. United States, 314 F.2d 718, 749 (9th Cir. 1963). Credible testimony has been defined as testimony that must proceed from the mouth of a credible witness and must be such as common experience, knowledge, and common observation can accept as probable under the circumstances. State v. Taylor, 38 N.J. Super. 6, 24 (App. Div. 1955) (quoting In re Perrone's Estate, 5 N.J. 514, 522 (1950)). In assessing credibility, the interests, motives or bias of a witness are relevant, and a fact finder is expected to base decisions of credibility on his or her common sense, intuition or experience. Barnes v. United States, 412 U.S. 837, 93 S. Ct. 2357, 37 L. Ed. 2d 380 (1973). Credibility does not depend on the number of witnesses and the finder of fact is not bound to believe the testimony of any witness. In re Perrone's Estate, 5 N.J. 514.

The respondent's evidence was the testimony of Jiovanny, Grier, and Frascella. The respondent's position is that the appellant's actions warrant a twenty-five-day

suspension. Appellant had a responsibility to refrain from this type of action. The altercation was sufficiently egregious as to require the twenty-five-day suspension.

Bellamy disagreed with the testimony of Frascella. She stated that she was not asking Monica to change the status of the inmate. She said that Frascella first began to yell at Bellamy, and that she never directed the words, "Fxxx you" at Frascella.

However, the respondent's witnesses were corroborative of each other and the documentary evidence. The witnesses were credible, and they thoroughly related the events of that day to the degree that they could recall. They admitted if they could not properly recall, or if they did not know an answer.

As such, after hearing the testimony of the witnesses, and considering all the documentary reports and other exhibits in evidence, I make the following **FINDINGS OF FACT**: On February 9, 2020, Frascella was working the 11:00 p.m. to 7:00 a.m. overnight shift. During that shift, Frascella went into the medical unit where he saw Bellamy conversing with Monica from the nursing staff. They were discussing changing an inmate's status. Bellamy was requesting a slip, but this is something that an officer must not do, as medical staff must be involved. The inmate was on a close watch status. Bellamy was working overtime on her day off. She was tasked with being a one-to-one relief officer. A change of watch status can deprive the inmate of many things, and Bellamy did not discuss the issue of changing the inmate's status with Frascella.

At 0530 hours, Frascella went back to Monica because he needed her report regarding the status change. At that time, Bellamy was in the nurse's station. Bellamy came out of the bathroom and into the nurse's station, and she started yelling at Frascella. She asked Frascella, "Do I need permission to take a piss now?" Jiovanny heard Bellamy scream over the radio, "I am using the bathroom." Bellamy was hostile, aggressive, loud, irate and disrespectful. Bellamy was told to leave medical, but she disobeyed. Bellamy told Frascella, "Fxxx this. Fxxx you. I'm not leaving." At that time, Frascella got on the radio and requested that Jiovanny have Bellamy leave the building. When Jiovanny walked into the medical unit, she heard Bellamy screaming, "Fxxx you, I

am sick of this shit, you Fxxx with me all the time.” Jiovanny advised Bellamy to leave but she did not. Instead, she continued to scream. Grier also responded to the scene, and Bellamy eventually calmed down. Jiovanny and Grier escorted Bellamy out.

Jiovanny asked Bellamy to write a report because Bellamy had attempted to have a nurse change an inmate status from a Q15 to a one-to-one, without first consulting with a supervisor. Such a change could dramatically affect an inmate’s housing privilege, clothing, etc. This was a procedure that was not to be done at the officer level, but rather by the medical department through a specific chain of command. Upon being requested to prepare a report, Bellamy responded with a laugh and said, “Are you serious?”

### **CONCLUSIONS OF LAW**

Appellant’s rights and duties are governed by laws including the Civil Service Act and the regulations promulgated thereunder. A civil service employee who commits a wrongful act related to his employment, may be subject to discipline, and that discipline, depending upon the incident complained of, may include a suspension or removal. N.J.S.A. 11A:1-2, 11A:2-6; 11A:2-20; N.J.A.C. 4A2-2.

The Appointing Authority shoulders the burden of establishing the truth of the allegations by preponderance of the credible evidence. Atkinson v. Parsekian, 37 N.J. 143, 149 (1962). Evidence is said to preponderate “if it establishes the reasonable probability of the fact.” Jaeger v. Elizabethtown Consolidated Gas Co., 124 N.J.L. 420, 423 (Sup. Ct. 1940) (situation omitted). Stated differently, the evidence must “be such as to lead a reasonably cautious mind to a given conclusion.” Bornstein v. Metropolitan Bottling Co., 26 N.J. 263, 275 (1958). See Lowe v Union Beach, 56 N.J. Super. 93, 104 (App. Div. 1959).

Appellant initially argues in its closing brief, in Points two through six, that all charges should be dismissed because respondent was mandated to follow the New Jersey Attorney General Guidelines as to Internal Affairs and failed to do so. In particular, that respondent failed to send a “target letter,” failed to properly interview

witnesses and record those interviews, failed to provide basic due process, and failed to follow procedures and Internal Affairs guidelines regarding investigations.

Unfortunately, these arguments, having been raised for the first time in the appellant's closing brief, are not timely. Appellant's allegations involve factual questions about how the investigation was conducted. No factual proofs about these allegations were raised at the hearing. Appellant did not call witnesses to provide testimony concerning these allegations. Appellant may have raised these issues in pre-trial motions for dismissal or summary decision but failed to do so. As such, because these allegations require fact-finding, these allegations cannot be addressed at this time, when all testimony has been completed and the record closed. Therefore, the allegations raised by appellant concerning respondent's mandate to follow the New Jersey Attorney General Guidelines as to Internal Affairs and its failure to do so, are rejected and dismissed.

As to the charge of "Insubordination" under the Administrative Code, Black's Law Dictionary 802 (7th Ed. 1999) defines insubordination as a "willful disregard of an employer's instructions" or an "act of disobedience to proper authority." Webster's II New College Dictionary (1995) defines insubordination as "not submissive to authority; disobedient." Such dictionary definitions have been utilized by courts to define the term where it is not specifically defined in contract or regulation.

"Insubordination" is not defined in the agreement. Consequently, assuming for purposes of argument that its presence is implicit, we are obliged to accept its ordinary definition since it is not a technical term or word of art and there are no circumstance indicating that a different meaning was intended.

[Ricci v. Corporate Express of the East, Inc., 344 N.J. Super. 39, 45 (App. Div. 2001) (citation omitted).]

Importantly, this definition incorporates acts of non-compliance and non-cooperation, as well as affirmative acts of disobedience. Thus, insubordination can occur even where no specific order or direction has been given to the allegedly insubordinate person. Insubordination is always a serious matter, especially in a paramilitary context. "Refusal

to obey orders and disrespect cannot be tolerated. Such conduct adversely affects the morale and efficiency of the department.” Rivell v. Civil Serv. Comm’n, 115 N.J. Super. 64, 72 (App. Div.), certify. denied, 59 N.J. 269 (1971).

Bellamy argues that as soon as she was ordered to stop yelling, that she did so, and therefore cannot be guilty of Insubordination under the Administrative Code. I disagree. Bellamy’s use of foul language, as well as her smirking attitude when asked to write a report, and asking, “Are you serious?”, are affirmative acts of disrespect and disobedience. This type of behavior cannot be tolerated. As such, I **CONCLUDE** that appellant’s conduct was insubordinate under the Administrative Code.

As to the charge of “Conduct Unbecoming a Public Employee,” the law is well established. “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 Atlantic City, 152 N.J. 532, 554 (1998); see 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, 398 Pa. 35, 43, 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)).

Conduct unbecoming is grounds for discipline under N.J.A.C. 4A:2-2.3(a)(6). The New Jersey Supreme Court noted that the phrase “unbecoming conduct” is an elastic one that has been defined as “any conduct which adversely affects . . . morale or efficiency . . . [or] which has a tendency to destroy public respect for municipal employees and confidence in the operation of municipal services.” Karins, 152 N.J. at 554. A finding of misconduct need not “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, 258 N.J. Super. at 40.

Here, appellant concedes that her actions on February 9, 2020, violated this charge. As such, I **CONCLUDE** that appellant’s conduct was unbecoming a public employee.

The charge of violating N.J.A.C. 4A:2-2.3(a)(11), other sufficient cause, is based on an allegation of a violation of a rule, regulation, policy, procedure, order or administrative decision. 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. Appellant committed an act that violated this standard of good behavior. As such, I **CONCLUDE** that appellant’s behavior does fit this charge.

As to the charge of C9 Insubordination - Intentional disobedience or refusal to accept a reasonable order, assaulting or resisting authority, disrespect, or use of insulting or abusive language to a supervisor, appellant concedes that her actions on February 9, 2020, violated this charge. However, appellant urges that this violation is not a “Step 2” violation. Bellamy concedes that she has a prior insubordination charge on her jacket. However, she argues that it is from 2012. When it comes to the past record of an employee, this court should only consider “. . . relevant past disciplinary events, which had occurred within a reasonable period of time prior to the offense being considered.” West New York v. Bock, 38 N.J. 500, 523 (1962). (Emphasis added). Bellamy’s gap of eight years in this matter should “break the scales” in terms of mitigation. Bellamy submits her admitted violation of C9 under CSV 08859-21 should be deemed a Step 1 violation which equates to a five-day suspension under MCCC’s Table of Offenses. Here, if appellant’s disciplinary history revealed no instances of issues since 2012, appellant’s argument might be persuasive. That is not the case here. Appellant has had multiple instances of disciplinary history since 2012. Therefore, there is no eight-year gap in appellant’s disciplinary history as argued by appellant. As such, I **CONCLUDE** that appellant’s conduct was insubordinate, step 2, under section C9.

As to the charge of C7, Fighting or creating a disturbance on county property, Step 1, appellant argues that she was not fighting. In addition, as to creating a disturbance on county property, while a disturbance may have taken place on February 9, 2020, Bellamy submits MCCC fell short in proving she “created” same. Bellamy was merely trying to use the bathroom. It was a bathroom she and other correctional police officers had previously used throughout their careers. It is plain and clear here that appellant’s actions created a disturbance on county property. As such, I **CONCLUDE** that appellant’s conduct did create a disturbance on county property under charge C7.

As to the charge of D6, Violation of administrative procedures, and/or regulations involving safety and security, Step 2, appellant urges that respondent submitted no proof or evidence at the hearing that Bellamy’s conduct involved, not alone violated an “administrative procedure involving safety or security” or an “administrative regulation involving safety or security.” In the absence of respondent identifying with specificity the “safety and security” element of an administrative procedure or an administrative regulation that Bellamy’s actions violated, this charge cannot be allowed to stand. Respondent has proven that appellant attempted to have medical staff alter a medical order by falsely telling nurse Monica that the slip needed to be changed. Bellamy was requesting a slip change, but this is something that an officer must not do, as medical staff must be involved. A change of watch status can deprive the inmate of many things, and Bellamy did not discuss the issue of changing the inmate’s status with Frascella. Therefore, appellant did violate administrative procedures, and/or regulations involving safety and security. As such, I **CONCLUDE** that appellant did violate administrative procedures, and/or regulations involving safety and security.

### **PENALTY**

If an action of C9 Insubordination - Intentional disobedience or refusal to accept a reasonable order, assaulting or resisting authority, disrespect, or use of insulting or abusive language to a supervisor, is found, then the appropriate discipline is found in the Mercer County Public Safety Table of Offense and Penalties - Correction Center (“Table”). (R-15.) This document calls for discipline of a fifteen-day suspension for a

second infraction. There is no discretion allowed in the document. Concepts of progressive discipline or discussions of a range of disciplines can be considered.

Regarding the charge of D6, Violation of administrative procedures, and/or regulations involving safety and security, Step 2, the appropriate discipline is found in the Table. This document calls for discipline ranging from three days suspension to removal for a second infraction. There is discretion allowed in the document. Concepts of progressive discipline or discussions of a range of disciplines can be considered.

As to the charge of C7, Fighting or creating a disturbance on county property, Step 1, the appropriate discipline is again found in the Table. This document calls for discipline ranging from five days suspension to removal for a first infraction. There is discretion allowed in the document. Concepts of progressive discipline or discussions of a range of disciplines can be considered.

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 Dev. 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 In re Parlo, 192 N.J. Super. 247 (App. Div. 1983). However, where the charged dereliction is an act which, in view of the duties and obligations of the position, substantially disadvantages the public, good cause exists for removal. See Golaine v. Cardinale, 142 N.J. Super. 385 (Law Div. 1976), aff'd, 163 N.J. Super. 453 (App. Div. 1978); In re Herrmann, 192 N.J. 19 (2007). The question to be resolved is whether the discipline imposed in this case is appropriate.

Appellant has been suspended twenty-five days for her actions. Appellant has prior disciplinary action on her record. (R-14.) On May 17, 2021, appellant was given a five-day suspension for insubordination. On September 15, 2016, appellant was given a major suspension of eight days for lateness. On July 1, 2015, appellant was given a ten-day suspension for neglect of duty and sleeping on the job. On November 18,



2012, appellant was given a five-day suspension for insubordination. There are many other disciplinary actions for time and attendance matters.

However, the actions of an employee in the position of appellant is unacceptable, and a suspension is required. Whether the violation of insubordination by appellant is considered a first or second rule violation, a five-day suspension is permitted for a first offense. As to the charge of D6, Violation of administrative procedures, and/or regulations involving safety and security, Step 2, discipline ranging from three days suspension to removal is required for a second infraction. The charge of C7, Fighting or creating a disturbance on county property, calls for discipline ranging from five days suspension to removal for a first infraction. There is discretion allowed in the document.

Appellant has a substantial record of prior disciplinary history. I **CONCLUDE** that the action of the respondent in suspending appellant for twenty-five days is reasonable under the principle of progressive discipline, and I **AFFIRM** that suspension.

#### **DISPOSITION**

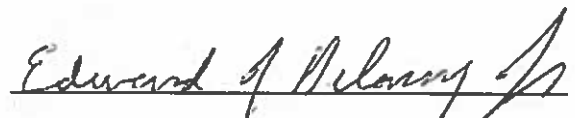
I **CONCLUDE** that the respondent has met its burden of proof and has established that appellant is guilty of all charges. Accordingly, I **CONCLUDE** that the suspension of appellant for twenty-five days from her position as a County Correction Police Officer was justified and warranted, and I **ORDER** that the action of the respondent 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. 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, MERIT SYSTEM PRACTICES AND LABOR RELATIONS, 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, 2023  
DATE

  
EDWARD J. DELANOY, JR., ALAJ

Date Received at Agency: \_\_\_\_\_

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

EJD/cb

**APPENDIX**

**WITNESSES**

**For appellant**

Judy Bellamy

**For respondent**

Darlene Jiovanny

Tomaine Grier

**EXHIBITS**

**For appellant**

None

**For respondent**

- R-1 Preliminary Notice of Disciplinary Action, dated March 4, 2020, amended June 16, 2021
- R-2 Incident Report, dated February 9, 2020: Lieutenant Jiovanny
- R-3 Incident Report, dated February 9, 2020: Sgt. Grier
- R-4 Incident Report, dated February 9, 2020: Sgt. Frascella
- R-5 Incident Report, dated February 9, 2020: Officer Bellamy
- R-6 Incident Report, dated February 9, 2020: Officer Mitchell
- R-7 Incident Report, dated February 9, 2020: Nurse Duoduwa (3:20am rpt)
- R-8 Incident Report, dated February 9, 2020: Nurse Duoduwa (5:30am rpt)
- R-9 Incident Report, dated February 9, 2020: Chizobs Anabarone
- R-10 Incident Report, dated February 9, 2020: Georgette Koomsom
- R-11 DVD: February 9, 2020 – 0300 to 0530
- R-12 Mercer County Corrections Center, Department of Public Safety Standards and Operating Procedures 004: Employee Handbook

R-13 Mercer County Corrections Center, Department of Public Safety  
Standards and Operating Procedures 238: Post Orders – Correction  
Officer (General)

R-14 Disciplinary History – Judy Bellamy

R-15 Mercer County Public Safety – Table Offenses

R-16 Not in Evidence

R-17 Final Notice of Disciplinary Action, dated September 17, 2021