



STATE OF NEW JERSEY

In the Matter of Quarri Anderson,
Hillside, Department of Public Works

CSC DKT. NO. 2024-1871
OAL DKT. NO. CSV 04663-24

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

ISSUED: NOVEMBER 27, 2024

The appeal of Quarri Anderson, Laborer 1, Hillside, Department of Public Works, 60 working day suspension, on charges, was heard by Administrative Law Judge Patrice E. Hobbs (ALJ), who rendered her initial decision on October 10, 2024. Exceptions were filed on behalf of the appellant and a reply 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 of November 27, 2024, accepted the ALJ's Findings of Fact and Conclusions and her recommendation to uphold the 60 working day suspension.

In his exceptions, the appellant argues that the penalty was too severe and not in line with the tenets of progressive discipline. The Commission disagrees. Similar to its review of the underlying charges, the Commission's review of the penalty is *de novo*. 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. However, it is well established that where the underlying conduct is of an egregious nature, the imposition of a penalty up to and including removal is appropriate, regardless of an individual's disciplinary history. *See Henry v. Rahway State Prison*, 81 N.J. 571 (1980). It is settled that the theory of progressive discipline is not a "fixed and immutable rule to be followed without question." Rather, it is recognized that some disciplinary infractions are so serious that removal is

appropriate notwithstanding a largely unblemished prior record. *See Carter v. Bordentown*, 191 N.J. 474 (2007).

In this matter, the Commission agrees with the ALJ that the 60 working day suspension is appropriate. In this regard, the ALJ acknowledged that Anderson had no previous disciplinary history, however, she found:

Anderson failed to listen to his supervisor on four separate occasions and therefore Anderson was clearly insubordinate. His animated language, tone, and defiance toward his supervisors was clearly conduct unbecoming a public employee . . . Anderson's work performance was clearly substandard and demonstrated complete disrespect for his job, his supervisors, DPW and the Township of Hillside

Anderson argues that a suspension for sixty days, when he has no prior discipline, and for such minor misconduct, is excessive. However, here, there was damage to the sprayer, the possibility that others could have been injured by the improperly secured sprayer, and the horrendous paint job that was not acceptable to even Anderson himself. Such insubordinate, insolent, and careless conduct with blatant disregard for public property is sufficient to warrant at least a sixty-day suspension.

The Commission finds the ALJ's assessment of the extent of the misconduct to be an accurate representation of the facts. Moreover, given the extent of the misconduct, and especially given that there was the potential for injury to others, a severe sanction is warranted, notwithstanding the appellant's lack of a prior disciplinary history. As such, the Commission finds that the 60 working day suspension is neither disproportionate to the offenses nor shock to the conscious and should serve as sufficient warning to the appellant that any future misconduct may lead to more severe disciplinary action up to removal from employment.

ORDER

The Civil Service Commission finds that the action of the appointing authority in suspending the appellant was justified. The Commission therefore upholds the 60 working day suspension and dismisses the appeal of Quarri Anderson.

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 27TH DAY OF NOVEMBER, 2024

Allison Chris Myers

Allison Chris Myers
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

OAL DKT. NO. CSV 04663-24

AGENCY DKT NO. 2024-1871

**IN THE MATTER OF QUARRI ANDERSON,
TOWNSHIP OF HILLSIDE, DEPARTMENT
OF PUBLIC WORKS.**

Christa Lamia, Esq., for petitioner Quarri Anderson (Mets Schiro & McGovern,
LLP, attorneys)

Edward Kologi, Esq., for respondent Township of Hillside, Department of Public
Works (Kologi Simitz, attorneys)

Record Closed: October 3, 2024

Decided: October 10, 2024

BEFORE **PATRICE E. HOBBS, ALJ**:

STATEMENT OF THE CASE

Appellant, Quarri Anderson (Anderson), a laborer with the Township of Hillside, Department of Public Works (DPW) was suspended for sixty days because he was insolent and insubordinate toward his supervisor, defied his work orders, was careless and reckless with equipment, and performed his job tasks with blatant, reckless disregard for public property. Must the discipline stand? Yes. Public employees who are reckless with public property are subject to major discipline under N.J.A.C. 4A:2-2.3.

PROCEDURAL HISTORY

On June 8, 2023, a Preliminary Notice of Disciplinary Action (PNDA) charged Anderson with violations of N.J.A.C. 4A:2-2.3(a)(6) (Conduct unbecoming a public employee), N.J.A.C. 4A:2-2.3(a)(6) (Insubordination), N.J.A.C. 4A:2-2.3(a)(1) (Failure to Perform Duties), and N.J.A.C. 4A:2-22.5(a)(1) (Immediate suspension to maintain safety, health, order or effective direction of the public). On February 26, 2024, DPW issued an FNDA sustaining all charges. On April 2, 2024, the case was transmitted from the Civil Service Commission to the Office of Administrative Law (OAL) for a hearing as a contested case under N.J.S.A. 52:14B-1 to-15 and N.J.S.A. 52:14F-1 to-13. On May 24, 2024, a prehearing telephone conference was held. The case was scheduled for a hearing on June 7, 2024. However, due to scheduling conflicts, a second prehearing conference was held on May 24, 2024. On October 3, 2024, a hearing was held, and on that date, I closed the record.

FINDINGS OF FACT

Based upon the testimony the parties provided, and my assessment of its credibility, together with the documents the parties submitted, and my assessment of their sufficiency, I **FIND** the following **FACTS**:

Anderson has been a laborer at DPW for thirteen years and has never been disciplined. His hours are from 7:30 a.m. to 3:30 p.m. with a half hour for lunch. Laborers are allowed to work through lunch and leave at 3:00 p.m. Employees who do not clock out at the end of their shift collect overtime, even though overtime must be pre-approved. Greg Basara and Anderson have always had a cordial, respectful working relationship.

On May 24, 2023, Anderson's supervisor, Basara, advised him that he should report to the time clock every day at 7:30 a.m. to receive his daily assignments. Anderson was not at the time clock but was in the maintenance department, between fifty to one hundred feet away. When Basara confronted Anderson, Anderson was verbally abusive and insubordinate, and he refused to complete his daily logs. Anderson stated that the

more senior laborer completes the logs for the entire crew, and since he was not the more senior laborer, he was not required to complete a daily log.

On May 25, 2023, Anderson failed to report to the time clock for his daily assignments. Again, Anderson was not at the time clock. Anderson was verbally abusive and insubordinate to Basara. Anderson's task for that day was to install commemorative flags for Memorial Day. He was in the bucket attachment of an aerial truck and was approximately twenty-five feet above ground. Basara told Anderson that he was installing the flags in the wrong direction and instructed him to correct it. Anderson responded to Basara in an insolent tone, "I'm not listening to you Greg." Anderson admitted it was not the proper way to speak to his supervisor. At the end of the workday, Anderson failed to timely clock out. Basara went to Anderson and told him to clock out immediately, which Anderson did.

On May 30, 2023, Anderson was notified by Acting Supervisor Ken Finzi, Jr. to water the soccer field and paint the traffic control box. Anderson did turn on the sprinklers for the soccer field, but he did not immediately paint the traffic control box. Once he had turned on the sprinklers, he contacted Captain Benjamin Niewinski of the Hillside Police Department. The reason Anderson contacted Niewinski was because he wanted to confirm that black paint was permitted on the traffic control box as he had heard otherwise. Anderson admitted that Niewinski was not his supervisor, and the proper protocol would have been to paint the box as directed. Anderson did eventually paint the traffic control box, but it was not done in a timely manner, and the task took several hours longer than it should have. In doing so, Anderson defied a direct order from his supervisor and wasted resources.

On June 6, 2023, Basara assigned Anderson to paint the curbs. Anderson requested to use the sprayer and Basara stated that the proper way to paint the curbs is with a roller. Anderson refused to use the roller and insisted on using the spray machine. Director Anthony Russomano contacted Anderson and told him to use the roller to paint the curbs. Anderson also defied Russomano and refused to use the roller. Painting the curbs with a roller required the use of a foam roller and a large paint can. Painting the curbs with the sprayer required using a 300–350 pound spray machine, loading it onto a

trailer and tying it down with heavy straps. It was easier but less accurate to use the sprayer to paint curbs. Anderson believed that he should have been on light duty at the time—but that is contrary to pushing and pulling a heavy machine up and down a trailer and tightly securing it with heavy straps. Basara, Finzi, and Russomano denied receiving any medical notes for light duty.

When Anderson finished painting, he loaded the sprayer back onto the trailer and secured it with the heavy straps. As he was returning to the yard, the sprayer fell to the ground near others. The sprayer was damaged, and paint spilled in the parking area. Anderson stated that the reason the sprayer fell was because the straps had rotted from the heat, not because he failed to secure the sprayer properly, but Anderson threw the straps away before Basara could inspect them.

On June 7, 2023, Basara went to inspect the area that Anderson had painted with the sprayer and took photographs. (R-1 - R-6.) Anderson painted not only the curbs with the bright yellow paint but also the road adjacent to the curb, the concrete above the curb, the drainage grates, the grass, and parts of the crosswalk. Anderson did not show any care or diligence in performing his daily task. Anderson admitted that he did not do a proper job painting the curbs and his work was not acceptable.

CONCLUSIONS OF LAW

The Civil Service Act (The Act) and regulations promulgated under the Act govern the rights and duties of a civil service employee. N.J.S.A. 11A:1-1 to 11A:12-6; N.J.A.C. 4A:2-1.1 to 4A:2-6.2. A civil service employee who commits a wrongful act related to his or her duties or who gives other just cause may be subject to major discipline. N.J.S.A. 11A:2-6; N.J.A.C. 4A:2-.2.2.

The issues to be determined at the de novo hearing are whether Anderson is guilty of the charges brought against him and, if so, the appropriate penalty, if any, that should be imposed. Henry v. Rahway State Prison, 81 N.J. 571 (1980); W. New York v. Bock, 38 N.J. 500 (1962). Any suspension greater than five working days is considered a major disciplinary action, and the appointing authority bears the burden of proof. N.J.A.C. 4A:2-

1.4(a). The burden of proof is by a preponderance of the evidence, Atkinson v. Parsekian, 37 N.J. 143, 149 (1962), and the hearing is de novo, Henry v. Rahway State Prison, 81 N.J. 571, 579 (1980).

In this case, Anderson admits that he was not at the time clock but was between fifty to one hundred feet away in the maintenance department. Anderson admits that he spoke in an insolent tone to Basara and did tell his supervisor that he was not going to listen to him. Anderson stated he was justified in his actions because he felt that he was close enough to the time clock even though he was in the maintenance area, was installing the flags the correct way, and was uncertain whether the traffic box should have been painted black. Anderson chose to use the sprayer over the roller because it was easier for him. Anderson admitted that his job performance in painting the curbs was unacceptable.

Anderson was careless and showed blatant disregard for the tasks he was assigned. Anderson claimed he was on light duty at the time and painting with the sprayer was easier. While there was no documentation to support a claim of light duty, it defies logic that hauling a 300-350 pound sprayer up and down from a trailer and wheeling it around to paint curbs is lighter duty than painting with a simple roller and paint can.

Further, the bright yellow paint is highly visible and relatively permanent. He painted the curbs, the road, the concrete above the curb, the drainage grates, the grass, and parts of the crosswalk. In addition, he was reckless in securing heavy equipment causing it to fall to the ground close to other employees, risking serious injury to others, damaging the equipment, and spilling paint in the area.

Based on the discussion above, I **CONCLUDE** that DPW has established by a preponderance of the evidence that Anderson engaged in conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6), insubordination in violation of N.J.A.C. 4A:2-2.3(a)(6), and a failure to perform duties in violation of N.J.A.C. 4A:2-2.3(a)(1). The only remaining issue is to determine the penalty.

The Civil Service Commission (CSC) may increase or decrease the penalty, N.J.S.A. 11A:2-19, and the concept of progressive discipline guides that determination. In re Carter, 191 N.J. at 483–86. Thus, an employee's prior disciplinary record is inherently relevant to determining an appropriate penalty for a subsequent offense. Ibid. The past record includes a recent history of promotions or commendations as well as any other disciplinary actions or instances of misconduct. West New York v. Bock, 38 N.J. 500, 524 (1962). Consideration should also be given to the timing of the most recently adjudicated disciplinary history. Ibid. A past record, or lack thereof, cannot be used to prove or disprove a present charge. However, it can be used for guidance to determine the appropriate penalty. Ibid.

Progressive discipline may only be bypassed when the misconduct is severe, when it renders the employee unsuitable for continuation in the position, or when the application of progressive discipline would be contrary to the public interest. In re Herrmann, 192 N.J. 19, 33 (2007).

In this case, Anderson failed to listen to his supervisor on four separate occasions and therefore Anderson was clearly insubordinate. His animated language, tone, and defiance toward his supervisors was clearly conduct unbecoming a public employee. Anderson claims he has been commended by the Mayor and Business Administrator of Hillside but there was no evidence or testimony to support his claims. Anderson's work performance was clearly substandard and demonstrated complete disrespect for his job, his supervisors, DPW and the Township of Hillside. Anderson has never been disciplined in his thirteen years with DPW.

Anderson argues that a suspension for sixty days, when he has no prior discipline, and for such minor misconduct, is excessive. However, here, there was damage to the sprayer, the possibility that others could have been injured by the improperly secured sprayer, and the horrendous paint job that was not acceptable to even Anderson himself. Such insubordinate, insolent, and careless conduct with blatant disregard for public property is sufficient to warrant at least a sixty-day suspension.

Based on the above, I **CONCLUDE** that Anderson's actions warrant a suspension for sixty days.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that Anderson is **SUSPENDED** for sixty working days and that his appeal is **DISMISSED**.

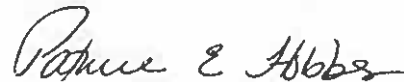
I hereby **FILE** my initial decision with the **CIVIL SERVICE COMMISSION** for consideration.

This recommended decision may be adopted, modified or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision under 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.

October 10, 2024

DATE



PATRICE E. HOBBS, ALJ

Date Received at Agency:

October 10, 2024

Date Mailed to Parties:

October 10, 2024

APPENDIX

WITNESSES

For Appellant:

Quarri Anderson

Alfredo DaSilva

For Respondent:

Greg Basara

Ken Finzi

Anthony Russomano

EXHIBITS

Joint:

J-1 Preliminary Notice of Disciplinary Action, dated June 8, 2023, and Final
Notice of Disciplinary Action, dated February 26, 2024

For Appellant:

None

For Respondent:

R-2 - R-6 Photographs, dated June 7, 2023

R-7 Incident Report, dated June 6, 2023