



STATE OF NEW JERSEY

In the Matter of Jimmy Mercado,
Pennsauken, Police Department

CSC Docket No. 2024-1124
OAL Docket No. CSR 13243-23

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

ISSUED: DECEMBER 18, 2024

The appeal of Jimmy Mercado, Police Officer, Pennsauken, Police Department, removal, effective June 13, 2023, on charges, was heard by Administrative Law Judge William T. Cooper, III (ALJ), who rendered his initial decision on November 15, 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 and reply, the Civil Service Commission (Commission), at its meeting on December 18, 2024 adopted the ALJ's Findings of Facts and Conclusions of Law and his recommendation to uphold the removal.

The Commission makes the following comments. As indicated above, the Commission has thoroughly reviewed the exceptions filed in this matter and finds them unpersuasive. The main contention in the exceptions was that the appointing authority did not sustain its burden of proof, especially regarding the untruthfulness charge, and otherwise, the ALJ's credibility determination were in error. The Commission rejects these contentions.

Regarding credibility, in his initial decision, the ALJ stated:

Here, the statements of Officers Coffey, Perez, Pacana, and Cruz are consistent in that each of the officers admitted that a number of officers had been hanging out at the FOP hall watching the NFL draft instead of attending to their duties. This fact is corroborated by: GPS records that confirm the vehicles assigned to officers were stationary for long periods of time in the vicinity of the FOP hall; the missing patrol

logs for the officers of the overnight shift; the fact that the BWC for those same officers were not utilized on calls; and the fact that calls requesting police assistance went unanswered.

The appellant admitted in his interview that he did not answer either the disturbance call or the burglar alarm call because he was disregarded by Officer Cruz and he was not feeling well and "was in and out of the bathroom." However, Officer Cruz admitted that he did not respond to the disturbance complaint as directed to do so by dispatch and further admitted that he did not disregard the appellant from this call as they were both present at the FOP hall.

The appellant's explanation that he was "not feeling well" and was "in and out of the bathroom" is not credible. If the appellant was so ill that he was required to remain at the FOP hall for approximately five hours, then he was required to notify his supervisor that he was too ill to respond to calls. He did not do this. Further, his claims that he was disregarded by Officer Cruz ring false in light of Officer Cruz's statement that he did not disregard the appellant and that both of them remained at the FOP hall instead of responding to either the disturbance call or the burglar alarm call. Also, instead of following proper communication practice, the appellant failed to notify dispatch that he had been disregarded on either of the calls and was available in case he was needed for other service calls. Lastly, when compelled to recreate his missing patrol log, the appellant failed to note that he remained at the FOP hall for approximately five hours. Instead, in an effort to cover up his loafing at the FOP hall, the appellant fabricated activity to make it seem as if he was active while on duty.

I cannot accept the appellant's explanation as to his failure to respond to calls as credible.

The Commission agrees with the ALJ's determinations which were substantially based on his above assessment of the credibility of the testimony of the witnesses and the evidence in the record. In this regard, the Commission acknowledges that the ALJ, who has the benefit of hearing and seeing the witnesses, is generally in a better position to determine the credibility and veracity of the witnesses. *See Matter of J.W.D.*, 149 N.J. 108 (1997). "[T]rial courts' credibility findings . . . are often influenced by matters such as observations of the character and demeanor of the witnesses and common human experience that are not transmitted by the record." *See also, In re Taylor*, 158 N.J. 644 (1999) (quoting *State v. Locurto*, 157 N.J. 463, 474 (1999)). Additionally, such credibility findings need not be explicitly enunciated if the record as a whole makes the findings clear. *Id.* at 659 (citing *Locurto, supra*). The Commission appropriately gives due deference to such determinations. However, in its *de novo* review of the record, the Commission has the authority to reverse or

modify an ALJ's decision if it is not supported by sufficient credible evidence or was otherwise arbitrary. See *N.J.S.A. 52:14B-10(c)*; *Cavalieri u. Public Employees Retirement System*, 368 *N.J. Super.* 527 (App. Div. 2004). The Commission finds no persuasive evidence in the appellant's exceptions or the record to demonstrate that the ALJ's credibility determinations, or his findings and conclusions based on those determinations, were arbitrary, capricious or unreasonable. Accordingly, the Commission adopts the findings and conclusions made therefrom.

The appellant also argues that the penalty of removal is too harsh. The Commission disagrees. Similar to its assessment of the 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). Even when a law enforcement officer does not possess a prior disciplinary record after many unblemished years of employment, the seriousness of an offense may nevertheless warrant the penalty of removal where it is likely to undermine the public trust. In this regard, the Commission emphasizes that a law enforcement 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).

In his initial decision, the ALJ found:

The testimony reflects that appellant does not have a lengthy disciplinary record; however, his failure to answer calls that he was dispatched to on April 28, 2022, is a serious offense, and the penalty should reflect the same. Further, the appellant failed to admit to his failure to answer the calls he was dispatched to, and that he was at the FOP hall for approximately five hours. Instead of admitting to loafing, the appellant attempted to cover up the time he spent at the FOP hall with a fabricated patrol log.

Accordingly, I **CONCLUDE** that the sustained charges are sufficiently egregious to warrant the termination of appellant from his position as a police officer.

In this matter, the Commission agrees with the ALJ that the appellant's infractions are egregious and finds that they are inimical to what the public expects from a law enforcement officer, who is held to a higher standard. Moreover, in this matter, not only did the appellant ignore his duties, of significant concern is that he compounded this dereliction of duty by fabricating an excuse, in an attempt to hide such dereliction. This lack of veracity is significantly problematic and cannot be countenanced in any public employee and especially not a law enforcement employee. As such, a penalty less than removal would serve to undermine the public trust. Accordingly, the Commission finds the penalty of removal neither disproportionate to the offense nor shocking to the conscious.

ORDER

The Civil Service Commission finds that the action of the appointing authority in removing the appellant was justified. The Commission therefore upholds that action and dismisses the appeal of Jimmy Mercado.

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 18TH DAY OF DECEMBER, 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
Trenton, New Jersey 08625-0312

Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSR 13243-23

AGENCY DKT. NO. N/A

2024-1124

**IN THE MATTER OF JIMMY MERCADO,
PENNSAUKEN TOWNSHIP
POLICE DEPARTMENT.**

Christopher Ross, Esq., for appellant, Jimmy Mercado (Vigilante Law Firm)

Michael J. Dipiero, Esq., for respondent, Pennsauken Township Police
Department (Brown and Connery, LLP)

Record Closed: October 3, 2024,

Decided: November 15, 2024

BEFORE **WILLIAM T. COOPER III, ALJ:**

STATEMENT OF THE CASE

Jimmy Mercado (appellant) challenges his removal from his position as a Pennsauken Township police officer for violations of the Pennsauken Police Department Rules and Regulations relating to his failure to respond to calls on April 28, 2022.

PROCEDURAL HISTORY

On June 13, 2023, respondent, the Pennsauken Township Police Department (Department), served upon appellant a Preliminary Notice of Disciplinary Action (PNDA) charging him with multiple violations of the Pennsauken Police Department Rules and Regulations and conduct unbecoming a public employee. A departmental hearing was held, and on October 27, 2023, the respondent served upon appellant a Final Notice of Disciplinary Action (FNDA) sustaining the charges and removing him from respondent's employment with an effective date of June 13, 2023. The sustained charges were as follows:

- 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:2.3(a)(7)—Neglect of Duty,
- Pennsauken Police Department Rules and Regulations:
 - 3.2.8 Conduct Unbecoming a Police Officer (class 1 offense)
 - 3.3.3 Neglect of Duty (class 2 offense)
 - 3.4.6 False Reports (class 1 offense)
 - 3.3.8 Obedience to Laws, Regulations and Orders, 2 counts
 - 3.3.6 Performance of Duty (class 3 offense)
 - 3.3.1 Responsibilities (class 3 offense)
 - 3.4.1 Prohibited Activity on Duty—Section F “Loafing” (class 5 offense)
 - 3.8.8 Response to Calls (class 3 offense)
 - 3.8.7 Availability While on Duty (class 4 offense)
 - 3.2.4 Truthfulness (class 1 offense)

The specifications in support of the charges noted that:

On Thursday April 28, 2022, Officer Jimmy Mercado was working the nightwork shift into the morning hours of Friday

April 29, 2022. During this shift, Officer Mercado was assigned to the 3rd district on the south end of town. Officer Mercado was found to be stationary at the FOP hall, located in the 5th district, which is on the opposite end of town for an extended period of time (approximately 4 hours and 55 minutes). While stationary at the FOP hall, Officer Mercado was dispatched to two separate calls for service (Area Check-Disturbance Call & Burglar Alarm call) as an assist unit in the 6th district, which he failed to respond to and remained at the FOP hall. Officer Mercado also did not follow proper radio communications when he was dispatched to these calls for service. When Officer Mercado and the primary unit, Officer Cruz, were dispatched to the calls only one officer was answering for both units. Both officers failed to give their location upon being dispatched and remained on the calls until dispatch asked if they could clear for another assignment. During an administrative investigation interview, Officer Mercado confirmed he was at the FOP hall for an extended period of time because he didn't feel well and he "was in and out of the bathroom." Officer Mercado confirmed that he did not respond to the call for service concerning the "Area Check-Disturbance" because he was disregarded by Officer Cruz over the radio. Officer Mercado advised he may have been dispatched to the Burglar Alarm, but he was unsure if he responded and did not remember the call. Officer Mercado did not know if Officer Cruz responded to the calls and was unsure of his whereabouts. During the follow-up interview, Officer Mercado was confronted about the dispatch recordings. The recordings confirmed that Officer Mercado was dispatched to the calls for service and never responded and never disregarded over the radio. Officer Mercado recanted his story and advised he was disregarded by Officer Cruz in person. During the interviews, Officer Mercado was found to be untruthful. He first advised that he was disregarded over the police radio and then changed his story and advised he was disregarded in person; however, he already advised that he was unaware of Officer Cruz's whereabouts and could not recall if Officer Cruz responded to the call.

Officer Mercado was also dispatched as an assist unit to another call for service (Removal) in the 6th district just after midnight. Officer Mercado was again the assist unit to Officer Cruz. After receiving the call, Officer Mercado remained at the FOP hall. The complainant called back 15 minutes later, advising the dispatch that he was still waiting for police response. Officer Mercado did not remember being dispatched to the call nor did he remember responding. He also did not recall anyone disregarding him from this call.

Dispatch recordings confirmed that he was in fact dispatched to this call, but GPS records confirmed he did not respond to the call. Officer Mercado left the FOP hall several minutes after he was dispatched to the call and responded straight to police headquarters, without responding to the call. Officer Mercado did not activate his BWC for any of these calls.

On November 2, 2023, appellant timely appealed the FNDA, and it was filed by the Office of Administrative Law (OAL) as a contested case on November 21, 2023. N.J.S.A. 52:14 B-1 to -15; N.J.S.A. 52:14 F-1 to -13.

On January 2, 2024, the appellant waived his rights under N.J.A.C. 4A:2-2.13(g) to the issuance of a Final Agency Decision within 180 days of his appeal. (J-1.)

A hearing was conducted on June 26, 2024. Closing statements were received from the parties on August 28, 2024. However, the record remained open to obtain the password to the thumb drive containing the taped interviews of appellant. The password was received on October 3, 2024, and the record closed.

FACTUAL DISCUSSION

Testimony

For Respondent

Detective Anthony Angelone (Angelone) is a detective in the Internal Affairs Unit of the Pennsauken Police Department. Angelone testified that he was assigned to complete appellant's investigation. He explained that the case had undergone a review with the Camden County Prosecutor's Office and was returned to the Department approximately six months later after the Prosecutor determined there was no criminality. Angelone testified that this entire investigation began due to a civilian complaint for a noise disturbance on April 28, 2022. The civilian reported that she never witnessed an officer arrive to the scene.

Captain Henkel began to investigate the complaint but ultimately assigned Lieutenant Brian May, the night work watch commander, to investigate the matter further. Lt. May located a trip log authored by Officer Cruz, which indicated that he responded and cleared the call. Lt. May also attempted to locate body worn camera (BWC) videos but was unsuccessful. Angelone advised that officers are required to activate their BWCs upon being dispatched to a call. Lt. May also reviewed Track Star and realized both Officer Cruz and the appellant were stationary in the area of 855 Engard Avenue for an extended period of approximately five hours. This location is known to the Department because the Fraternal Order of Police Labor Council (FOP) owns a house at that location used as the local hall.

Angelone testified that the FOP hall is equivalent to a "clubhouse" where officers are able to take meal and bathroom breaks, as well as spend time when they are off duty. Angelone testified that April 28, 2022, was the night of the NFL draft. He further testified that there is no reason why an officer would be at the FOP hall for five hours during a twelve-hour shift.

Angelone testified that Lt. May was unable to locate daily trip sheets (patrol logs) for the shift in question. Officer Mercado was working the overnight shift from April 28, 2022, at 7:00 p.m. until April 29, 2022, at 7:00 a.m. Angelone testified regarding the Track Star Global Positioning System (GPS) report and indicated that vehicle 206 was operated by Mercado during the shift in question. According to the report, vehicle 206 remained idle at the FOP hall, 855 Engard Avenue, from approximately 7:50 p.m. until 12:45 a.m. Angelone testified that when the GPS does not pick up movement for a long period of time, it registers the car as stationary and indicates same on the report.

Angelone interviewed appellant as part of his investigation. The appellant stated that he was not feeling well during this shift and that he was in and out of the restroom for a majority of the night. Angelone explained that officers get paid leave time and are able to utilize that time to call out sick. According to Angelone, the appellant was dispatched to the disturbance complaint at 3738 Schleicher Avenue. The Computer Aided Dispatch (CAD) records indicate the call was completed at 11:22 p.m. However, the appellant

never appeared at the scene. Angelone testified that Mercado claimed he was disregarded by Officer Cruz.

Angelone also noted that the appellant was dispatched to the burglar alarm complaint at 6504 Rt. 130. The appellant indicated he was also disregarded from this call in-person and therefore did not attend this call. However, Angelone testified that the CAD report notes do not indicate that the appellant was disregarded from either of the calls, and the GPS records placed him at the FOP hall during these times. The appellant indicated he did not know whether Officer Cruz responded to the calls after disregarding him even though they were both in the FOP hall together.

According to Angelone, officers are required to respond to a call immediately after being dispatched. Angelone stated that he did not believe Mercado was honest in answering that he did not know whether Officer Cruz responded to the call because the layout of the FOP hall would have allowed him to see Officer Cruz leave, or at a minimum, he should have heard the door open and close.

Angelone also interviewed Sergeant Kearn (Kearn), the overnight shift supervisor. Sgt. Kearn told him "He was unaware of any issue that the appellant and Cruz were not responding to calls," and that all officers were acknowledging communications when being dispatched to calls. Kearn also stated that to the "best of his knowledge," the officers had submitted their daily patrol logs at the conclusions of their shifts; however, this is unconfirmed because "supervisors don't normally check the patrol logs until their next shift." Kearn was unaware that the patrol logs were missing until Lt. May brought it to his attention several days later.

Once Kearn was informed of this, he requested that all the officers for the shift submit replacement logs. Angelone testified that the appellant indicated he recreated his daily patrol log using a combination of memory and referring to the Department's Record Management System (RMS). Angelone further testified that appellant did not indicate he spent approximately five hours at the FOP hall. Instead, appellant's patrol log indicated he spent twenty-five minutes at the FOP hall for a latrine break and then returned for a thirty-minute break. Moreover, appellant indicated that he responded to the burglar alarm

call at 6504 Rt. 130, although he confirmed during his interview that he did not. Angelone testified as to the importance of the daily patrol logs, as they are official records of the Department.

In addition to the appellant, Angelone also interviewed other officers who had worked the same overnight shift with the appellant: Officers Cruz, Coffey, Perez, and Pacana. All of the officers claimed that they had submitted trip sheets upon completion of their shift, but the trip sheets have somehow gone missing. Each officer admitted to being ordered to recreate the trip sheet.

For Appellant:

No witnesses called.

FINDINGS

Credibility

For testimony to be believed, it must not only come from the mouth of a credible witness, but it also must be credible. It must elicit evidence that is from such common experience and observation that it can be approved as proper under the circumstances. See Spagnuolo v. Bonnet, 16 N.J. 546 (1954); Gallo v. Gallo, 66 N.J. Super. 1 (App. Div. 1961). A credibility determination requires an overall assessment of the witness' story in light of its rationality or internal consistency and the manner in which it "hangs together" with other evidence. Carbo v. United States, 314 F.2d 718, 749 (9th Cir. 1963). Also, "the interest, motive, bias, or prejudice of a witness may affect his credibility and justify the [trier of fact], whose province it is to pass upon the credibility of an interested witness, in disbelieving his testimony." State v. Salimone, 19 N.J. Super. 600, 608 (App. Div.), certif. denied, 10 N.J. 316 (1952) (citation omitted).

A trier of fact may reject testimony because it is inherently incredible, or because it is inconsistent with other testimony or with common experience, or because it is

overborne by other testimony. Congleton v. Pura-Tex Stone Corp., 53 N.J. Super 282, 287 (App. Div. 1958).

In this matter, the testimony of Angelone was straightforward, detailed, and generally uncontested by appellant. I accept him as credible.

In addition to his testimony, Angelone's detailed investigation report was admitted into evidence as R-1. The notes regarding the interviews of the other officers who were also working the overnight shift with appellant are revealing:

- Officer John Coffey admitted during his interview that "he and other officers were in and out" of the FOP hall "all night long." He could not recall all of the officers who were present but noted that Officer Pacana, Officer Cruz, and appellant were there as well. (R-1 at 0046.)
- Officer Eddie Perez admitted that he was at the FOP hall for his lunch and bathroom breaks. He recalled other officers present during the shift but could not recall who was present or if those who were present were watching the NFL draft. (R-1 at 0048.)
- Officer Zachary Pacana admitted that he was at the FOP hall from approximately 9:07 p.m. to 10:30 p.m., explaining that he had taken "his meal break and most likely a bathroom break." He also admitted "that all of the officers working that shift were in and out of the FOP hall all night." He acknowledged that the officers were watching the NFL draft. (R-1 at 0049.)
- Officer Cruz admitted that he was at the FOP hall from approximately 9:39 p.m. to 1:06 a.m. He could not recall which officers were present but believed the "whole platoon" was present. Cruz also admitted that he did not respond to the disturbance complaint as directed to do so by dispatch. Cruz further admitted that he did not disregard the appellant from this call as they were both present at the FOP hall. (R-1 at 0054.) Cruz could not recall if the appellant was feeling ill during the time at the FOP hall or if he had been in the bathroom. At the conclusion of

his interview, Cruz apologized for his actions and took full responsibility for not responding to the calls.

- Appellant was provided with a copy of his patrol log for April 28 to 29, 2022, but complained that he was forced to submit this document because the original had been lost. When advised that his vehicle was stationary from 9:50 p.m. to 12:45 a.m., he indicated that he “didn’t feel well and was in and out of the bathroom.” (R-1 at 0050.) When questioned about the disturbance dispatch at 10:43 p.m., he advised that he was disregarded by Officer Cruz, who was the primary unit on that call. (R-1 at 0050.) When questioned about the burglar alarm dispatch at 11:18 p.m., he stated that he could not remember his whereabouts during that dispatch but recalled the disturbance call because he was disregarded. Upon completion of his interview, the appellant complained that he was forced to recreate his trip log and may have not used accurate information but insisted that his original trip sheet had the exact times he was at the FOP hall. (R-1 at 0051.)

The statements of Officers Coffey, Perez, Pacana, and Cruz contained in Exhibit R-1 are hearsay. The general rules of evidence promulgated by the Office of Administrative Law (OAL) do not require strict compliance with the New Jersey Rules of Evidence. N.J.A.C. 1:1-15.1 to -15.12. Hearsay evidence,¹ although inadmissible under the New Jersey Rules of Evidence unless an exception is met, is admissible in an administrative proceeding. N.J.R.E. 802; N.J.A.C. 1:1-15.5. “Hearsay evidence which is admitted shall be accorded whatever weight the judge deems appropriate taking into account the nature, character and scope of the evidence, the circumstances of its creation and production, and, generally, its reliability.” N.J.A.C. 1:1-15.5(a).

However, N.J.A.C. 1:1-15.5(b), also known as the residuum rule, provides that hearsay alone cannot be used as the sole basis for the ultimate finding of facts or making a legal determination. N.J.A.C. 1:1-15.5(b). “Some legally competent evidence must exist to support each ultimate finding of fact to an extent sufficient to provide assurances

¹ Hearsay is defined as “a statement that: the declarant does not make while testifying at the current trial or hearing; and a party offers in evidence to prove the truth of the matter asserted in the statement.” N.J.R.E. 801(c).

of reliability and to avoid the fact or appearance of arbitrariness.” N.J.A.C. 1:1-15.5(b).. The residuum rule was first discussed in Weston v. State, where the Court explained that “[h]earsay may be employed to corroborate competent proof, or competent proof may be supported or given added probative force by hearsay testimony,” but in the final analysis, there must be a residuum of competent evidence in the record. Weston v. State, 60 N.J. 36, 51 (1972). If a statement constitutes an “exception” to the hearsay rule, then it will be treated as competent evidence when considered in determining a finding of fact. New Jersey Racing Comm'n v. D'Elegance, RAC 07747-00, Initial Decision (Jan. 14, 2004), adopted, Exec. Dir. (Feb. 23, 2004), <http://njlaw.rutgers.edu/collections/oal/>. If the evidence does not fall under an exception, then it is still admissible, but the proponent would have to abide by the residuum rule, and the judge would have discretion to exclude the evidence. Ibid.

Here, the statements of Officers Coffey, Perez, Pacana, and Cruz are consistent in that each of the officers admitted that a number of officers had been hanging out at the FOP hall watching the NFL draft instead of attending to their duties. This fact is corroborated by: GPS records that confirm the vehicles assigned to officers were stationary for long periods of time in the vicinity of the FOP hall; the missing patrol logs for the officers of the overnight shift; the fact that the BWC for those same officers were not utilized on calls; and the fact that calls requesting police assistance went unanswered.

The appellant admitted in his interview that he did not answer either the disturbance call or the burglar alarm call because he was disregarded by Officer Cruz and he was not feeling well and “was in and out of the bathroom.” However, Officer Cruz admitted that he did not respond to the disturbance complaint as directed to do so by dispatch and further admitted that he did not disregard the appellant from this call as they were both present at the FOP hall.

The appellant’s explanation that he was “not feeling well” and was “in and out of the bathroom” is not credible. If the appellant was so ill that he was required to remain at the FOP hall for approximately five hours, then he was required to notify his supervisor that he was too ill to respond to calls. He did not do this. Further, his claims that he was disregarded by Officer Cruz ring false in light of Officer Cruz’s statement that he did not

disregard the appellant and that both of them remained at the FOP hall instead of responding to either the disturbance call or the burglar alarm call. Also, instead of following proper communication practice, the appellant failed to notify dispatch that he had been disregarded on either of the calls and was available in case he was needed for other service calls. Lastly, when compelled to recreate his missing patrol log, the appellant failed to note that he remained at the FOP hall for approximately five hours. Instead, in an effort to cover up his loafing at the FOP hall, the appellant fabricated activity to make it seem as if he was active while on duty.

I cannot accept the appellant's explanation as to his failure to respond to calls as credible.

Findings

I **FIND** that appellant was employed as a police officer for the Department. I **FIND** that on April 28, 2022, the appellant was on duty, working the overnight shift from 7:00 p.m. to April 29, 2022, at 7:00 a.m. I **FIND** that the appellant was dispatched to a disturbance complaint at 10:43 p.m. on April 28, 2022, and that he failed to respond to that location. I **FIND** that the appellant was dispatched to a burglar alarm complaint at 11:18 p.m. on April 28, 2022, and he failed to respond to that location. I **FIND** that the appellant was assigned patrol vehicle 206 and that this vehicle was idle at the FOP hall, 855 Engard Avenue, for approximately five hours, from 7:50 p.m. until 12:45 a.m. I **FIND** that the appellant was not disregarded by Officer Cruz or any other officer from responding to the disturbance call or the burglar alarm call. I **FIND** that the appellant was untruthful because he fabricated his patrol logs for activity occurring on April 28, 2022, and April 29, 2022, in an effort to conceal that he was at the FOP hall for approximately five hours while on duty.

LEGAL ANALYSIS AND CONCLUSIONS

Two issues must be addressed in this matter: first, whether respondent has proven the charges identified in the FNDA by a preponderance of the evidence, and second, if any of the charges have been proven, what is the appropriate penalty to be imposed?

Civil service employees' rights and duties are governed by the Civil Service Act and regulations promulgated pursuant thereto. N.J.S.A. 11A:1-1 to 11A:12-6; N.J.A.C. 4A:1-1.1. The Act is an important inducement to attract qualified people to public service and is to be liberally applied toward merit appointment and tenure protection. Mastrobattista v. Essex Cnty. Park Comm'n, 46 N.J. 138, 147 (1965). However, consistent with public policy and civil-service law, a public entity should not be burdened with an employee who fails to perform his or her duties satisfactorily or who engages in misconduct related to his or her duties. N.J.S.A. 11A:1-2(a). A civil-service employee who commits a wrongful act related to his or her duties, or gives other just cause, may be subject to major discipline, including removal. N.J.S.A. 11A:2-6; N.J.S.A. 11A:2-20; N.J.A.C. 4A:2-2.2. The general causes for such discipline are set forth in N.J.A.C. 4A:2-2.3(a).

This matter involves a major disciplinary action brought by the respondent against the appellant. An appeal to the Civil Service Commission requires the OAL to conduct a hearing de novo to determine the appellant's guilt or innocence as well as the appropriate penalty if the charges are sustained. In re Morrison, 216 N.J. Super. 143 (App. Div. 1987). Respondent has the burden of proof and must establish by a fair preponderance of the credible evidence that appellant was guilty of the charges. Atkinson v. Parsekian, 37 N.J. 143 (1962). Evidence is found to preponderate if it establishes the reasonable probability of the fact alleged and generates a reliable belief that the tendered hypothesis, in all human likelihood, is true. See Loew v. Union Beach, 56 N.J. Super. 93, 104 (App. Div. 1959), overruled on other grounds, Dwyer v. Ford Motor Co., 36 N.J. 487 (1962).

This case is particularly sensitive because it involves a law enforcement official.

[A] police officer is a special kind of public employee. His primary duty is to enforce and uphold the law. He carries a service revolver on his person and is constantly called upon to exercise tact, restraint, and good judgment in his relationship with the public. He represents law and order to the citizenry and must present an image of personal integrity and dependability in order to have the respect of the public.

[Moorestown v. Armstrong, 89 N.J. Super. 560, 566 (App. Div. 1965), certif. denied, 47 N.J. 80 (1966).]

Based upon the appellant's conduct, he has been charged with violations of 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; and N.J.A.C. 4A:2-2.3(a)(7), Neglect of Duty. Appellant has additionally been charged with violations of the Department rules and regulations as follows: 3.2.8 Conduct Unbecoming a Police Officer (class 1 offense); 3.3.3 Neglect of Duty (class 2 offense); 3.4.6 False Reports (class 1 offense); 3.3.8 Obedience to Laws, Regulations and Orders—2 counts (penalty based upon the gravity of offense); 3.3.6 Performance of Duty (class 3 offense); 3.3.1 Responsibilities (class 3 offense); 3.4.1 Prohibited Activity on Duty—Section F "Loafing" (class 5 offense); 3.8.8 Response to Calls (class 3 offense); 3.8.7 Availability While on Duty (class 4 offense); and 3.2.4 Truthfulness (class 1 offense).

1. N.J.A.C. 4A:2-2.3(a)(1) Incompetency, Inefficiency or Failure to Perform Duties

Pursuant to N.J.A.C. 4A:2-2.3(a)(1), an employee may be subject to discipline for: incompetency, inefficiency or failure to perform duties.

In general, incompetency, inefficiency, or failure to perform duties exists where the employee's conduct demonstrates an unwillingness or inability to meet, obtain or produce effects or results necessary for adequate performance. Clark v. New Jersey Dep't of Agric., 1 N.J.A.R. 315 (1980). Incompetence means that an individual lacks the ability or the qualifications to perform the duties required of him or her. Rivera v. Hudson Cnty. Dep't of Corr., CSR 06456-16, Initial Decision (October 24, 2016) <https://njlaw.rutgers.edu/collections/oal/>, adopted, CSC (November 28, 2016).

Here, on April 28, 2022, the appellant, while on duty, failed to respond to two calls for service: a disturbance call made at 10:43 p.m. and a burglar alarm call made at 11:18 p.m. When these calls were transmitted, the appellant was in the FOP hall, and he failed to respond to either call. The appellant's vehicle was stationary at the FOP hall location from 7:50 p.m. until 12:45 a.m. for approximately five hours.

Applying the regulations to the facts of this matter, I **CONCLUDE** that appellant's actions constitute a failure to perform duties, and the charge of N.J.A.C. 4A:2-2.3(a)(1) is hereby **SUSTAINED**.

2. N.J.A.C. 4A:2-2.3(a)(6) Conduct Unbecoming a Public Employee

Pursuant to N.J.A.C. 4A:2-2.3(a)(6), an employee may be subject to discipline for: conduct unbecoming a public employee.

"Conduct unbecoming a public employee" is an elastic phrase which encompasses conduct that adversely affects the morale or efficiency of a governmental unit or that has a tendency to destroy public respect in the delivery of governmental services. Karins v. City of Atl. City, 152 N.J. 532, 554 (1998); see also In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960). It is sufficient that the complained-of conduct and its attending circumstances "be such as to offend publicly accepted standards of decency." Karins, 152 N.J. at 555 (quoting In re Zeber, 156 A.2d 821, 825 (1959)). Such misconduct need not necessarily "be predicated upon the violation of any particular rule or regulation but may be based merely upon the violation of the implicit standard of good behavior which devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct." Hartmann v. Police Dep't of Ridgewood, 258 N.J. Super. 32, 40 (App. Div. 1992) (quoting Asbury Park v. Dep't of Civil Serv., 17 N.J. 419, 429 (1955)). Suspension or removal may be justified where the misconduct occurred while the employee was off duty. In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960).

Here, on April 28, 2022, the appellant, while on duty, failed to respond to two calls for service, a disturbance call made at 10:43 p.m. and a burglar alarm call made at 11:18 p.m. When these calls were transmitted, the appellant was in the FOP hall, and he failed to respond to either call. The appellant's vehicle was stationary at the FOP hall location from 7:50 p.m. until 12:45 a.m. for approximately five hours. Further, when the appellant was ordered to recreate his patrol logs for April 28, 2022, he was untruthful because he fabricated his patrol logs for activity occurring on April 28, 2022, and April 29, 2022, in

order to conceal the fact that he was at the FOP hall for approximately five hours while on duty.

Applying the regulations to the facts of this matter, I **CONCLUDE** that appellant's actions constitute unbecoming conduct, and the charge of N.J.A.C. 4A:2-2.3(a)(6) is hereby **SUSTAINED**.

3. N.J.A.C. 4A:2-2.3(a)(7) Neglect of Duty

There is no definition in the New Jersey Administrative Code for neglect of duty, but the charge has been interpreted to mean that an employee has failed to perform and act as required by the description of their job title. Neglect of duty can arise from an omission or failure to perform a duty and includes official misconduct or misdoing, as well as negligence. Generally, the term "neglect" connotes a deviation from normal standards of conduct. In re Kerlin, 151 N.J. Super. 179, 186 (App. Div. 1977). Neglect of duty implies nonperformance of some official duty imposed upon a public employee, not merely commission of an imprudent act. Rushin v. Bd. of Child Welfare, 65 N.J. Super. 504, 515 (App. Div. 1961). Neglect of duty is predicated on an employee's omission to perform, or failure to perform or discharge, a duty required by the employee's position and includes official misconduct or misdoing as well as negligence. Clyburn v. Twp. of Irvington, CSV 07597-97, Initial Decision (September 10, 2001), adopted, Merit System Board (December 27, 2001), <http://njlaw.rutgers.edu/collections/oal/>; see Steinel v. Jersey City, 193 N.J. Super. 629 (App. Div.), certif. granted, 97 N.J. 588 (1984), aff'd on other grounds, 99 N.J. 1 (1985).

Here, on April 28, 2022, the appellant, while on duty, failed to respond to two calls for service, a disturbance call made at 10:43 p.m. and a burglar alarm call made at 11:18 p.m. When these calls were transmitted, the appellant was in the FOP hall, and he failed to respond to either call. The appellant's vehicle was stationary at the FOP hall location from 7:50 p.m. until 12:45 a.m. for approximately five hours while the appellant was on duty.

Applying the regulations to the facts of this matter, I **CONCLUDE** that appellant's actions constitute a neglect of his duty, and the charge of N.J.A.C. 4A:2-2.3(a)(7) is hereby **SUSTAINED**.

4. Pennsauken Police Department Rules and Regulations

A. 3.2.8 Conduct Unbecoming a Police Officer (class 1 offense)

Pursuant to this regulation, conduct unbecoming a police officer is defined as any improper conduct which tends to destroy the public respect or confidence in the police department, or which adversely affects the morale or efficiency of the police department.

Here, on April 28, 2022, the appellant, while on duty, failed to respond to two calls for service, a disturbance call made at 10:43 p.m. and a burglar alarm call made at 11:18 p.m. When these calls were transmitted, the appellant was in the FOP hall, and he failed to respond to either call. The appellant's vehicle was stationary at the FOP hall location from 7:50 p.m. until 12:45 a.m. for approximately five hours while the appellant was on duty.

Applying this regulation to the facts of this matter, I **CONCLUDE** that appellant's actions constitute unbecoming conduct, and the charge is hereby **SUSTAINED**.

B. Neglect of Duty (class 2 offense)

Pursuant to this regulation, neglect of duty is defined as such: failure to take appropriate action on the occasion of a crime, disorder, or other action or condition deserving of police attention or any other omission by an employee which represents an abandonment of one's duties, obligations, or assignment is neglect of duty and will subject that employee to discipline.

Here, on April 28, 2022, the appellant, while on duty, failed to respond to two calls for service, a disturbance call made at 10:43 p.m. and a burglar alarm call made at 11:18 p.m. When these calls were transmitted, the appellant was in the FOP hall, and he failed

to respond to either call. The appellant's vehicle was stationary at the FOP hall location from 7:50 p.m. until 12:45 a.m. for approximately five hours while the appellant was on duty.

Applying this regulation to the facts of this matter, I **CONCLUDE** that appellant's actions constitute a neglect of duty, and the charge is hereby **SUSTAINED**.

C. 3.4.6 False Reports (class 1 offense)

Pursuant to this regulation, employees shall not knowingly submit written or oral communications that are fabricated, factually inaccurate, or intentionally misleading and that could lead to an investigation or prosecution of any person for a crime, offense or violation of a departmental rule, regulation, policy, procedure, etc.

While I have found that appellant was untruthful because he fabricated his patrol logs regarding his activities while on duty on April 28, 2022, and April 29, 2022, that action did not lead to an investigation or prosecution of another person. Therefore, I **CONCLUDE** that appellant's actions did not constitute a violation of section 3.4.6, and the charge is hereby **DISMISSED**.

D. 3.3.8 Obedience to Laws, Regulations, and Orders (two counts—penalty based on gravity of offense)

Regulation 3.3.8 states that; "Employees shall obey all laws, ordinances, rules and regulations, policies and procedures, general orders, written directives and verbal orders of superiors of the department as applicable."

Here, on April 28, 2022, the appellant was ordered to respond to two calls for service, a disturbance call made at 10:43 p.m. and a burglar alarm call made at 11:18 p.m. When these calls were transmitted, the appellant was in the FOP hall, and he failed to respond to either call. The appellant's vehicle was stationary at the FOP hall location from 7:50 p.m. until 12:45 a.m. for approximately five hours while the appellant was on duty.

Applying this regulation to the facts of this matter, I **CONCLUDE** that appellant's actions constitute a failure to obey laws, regulations, and orders, and the charge is hereby **SUSTAINED**.

E. 3.3.6 Performance of Duty (class 3 offense)

Regulation 3.3.6 states that; "Employees shall give suitable attention to the performance of duty and shall perform their duties as required or directed by law, departmental rule, regulation, policy, procedure or lawful order of a superior officer. All lawful duties required by competent authority shall be performed as promptly as directed, notwithstanding the employee's general assignment of duties and responsibilities."

Here, on April 28, 2022, the appellant, while on duty, failed to respond to two calls for service, a disturbance call made at 10:43 p.m. and a burglar alarm call made at 11:18 p.m. When these calls were transmitted, the appellant was in the FOP hall, and he failed to respond to either call. The appellant's vehicle was stationary at the FOP hall location from 7:50 p.m. until 12:45 a.m. for approximately five hours.

Applying the regulations to the facts of this matter, I **CONCLUDE** that appellant's actions constitute a failure to perform duties, and the charge is hereby **SUSTAINED**.

F. 3.3.1 Responsibilities (class 3 offense)

Regulation 3.3.1 states that; "Members of the department are always subject to duty, and they shall at all times respond to the lawful orders of superior officers and other proper authorities, as well as calls for assistance from citizens. Proper police action must be taken whenever required. The administrative delegation of the enforcement of certain laws and ordinances to particular subdivisions of the department does not relieve members of other subdivisions from the responsibility of taking prompt, effective police action within the scope of those laws and ordinances when the occasion so requires. Members assigned to special duties are required to take proper action outside the scope of their specialized assignment when necessary."

Here, on April 28, 2022, the appellant, while on duty, failed to respond to two calls for service, a disturbance call made at 10:43 p.m. and a burglar alarm call made at 11:18 p.m. When these calls were transmitted, the appellant was in the FOP hall, and he failed to respond to either call. The appellant's vehicle was stationary at the FOP hall location from 7:50 p.m. until 12:45 a.m. for approximately five hours.

Applying the regulations to the facts of this matter, I **CONCLUDE** that appellant's actions constitute a failure to respond to a call for assistance from citizens, and the charge is hereby **SUSTAINED**.

G. 3.4.1 Prohibited Activity on Duty—Section F “Loafing” (class 5 offense)

Pursuant to this regulation, employees who are on duty are prohibited from engaging in activities which are not directly related to the lawful performance of their official duties, specifically; [f] Recreational reading (except on meal breaks), loafing, or idling.

Here, on April 28, 2022, the appellant, while on duty, failed to respond to two calls for service, a disturbance call made at 10:43 p.m. and a burglar alarm call made at 11:18 p.m. When these calls were transmitted, the appellant was in the FOP hall, and he failed to respond to either call. The appellant's vehicle was stationary at the FOP hall location from 7:50 p.m. until 12:45 a.m. for approximately five hours.

Applying the regulations to the facts of this matter, I **CONCLUDE** that appellant's actions constitute prohibited activity, and the charge is hereby **SUSTAINED**.

H. 3.8.8 Responses to Calls (class 3 offense)

Pursuant to this regulation, “[M]embers shall respond without unnecessary delay to all calls for police assistance from citizens and other members. Members shall answer all calls directed to them unless otherwise directed by a supervisory officer.”

Here, on April 28, 2022, the appellant, while on duty, failed to respond to two calls for service, a disturbance call made at 10:43 p.m. and a burglar alarm call made at 11:18 p.m. The appellant was not disregarded by Officer Cruz or any other officer from responding to the disturbance call or the burglar alarm call. When these calls were transmitted, the appellant was in the FOP hall, and he failed to respond to either call. The appellant's vehicle was stationary at the FOP hall location from 7:50 p.m. until 12:45 a.m. for approximately five hours.

Applying the regulations to the facts of this matter, I **CONCLUDE** that appellant's actions constitute a failure to respond to calls, and the charge is hereby **SUSTAINED**.

I. 3.8.7 Availability While on Duty (class 4 offense)

Pursuant to this regulation, "[E]mployees while on duty shall not conceal themselves except for some police purposes. They shall be immediately and readily available to the public during duty hours. Members shall not allow friends, family or unauthorized personnel to accompany them on any assignment without proper authorization."

Here, on April 28, 2022, the appellant, while on duty, failed to respond to two calls for service, a disturbance call made at 10:43 p.m. and a burglar alarm call made at 11:18 p.m. When these calls were transmitted, the appellant was in the FOP hall, and he failed to respond to either call. The appellant's vehicle was stationary at the FOP hall location from 7:50 p.m. until 12:45 a.m. for approximately five hours.

Applying the regulations to the facts of this matter, I **CONCLUDE** that appellant's actions constitute unavailability while on duty, and the charge is hereby **SUSTAINED**.

J. 3.2.4 Truthfulness (class 1 offense)

Pursuant to this regulation, "[A]ll employees are required to be truthful at all times whether testifying under oath or when not under oath and while reporting, and answering questions posed by superior officers and/or internal affairs investigations."

Here, on April 28, 2022, the appellant, while on duty, failed to respond to two calls for service, a disturbance call made at 10:43 p.m. and a burglar alarm call made at 11:18 p.m. When these calls were transmitted, the appellant was in the FOP hall, and he failed to respond to either call. The appellant's vehicle was stationary at the FOP hall location from 7:50 p.m. until 12:45 a.m. for approximately five hours. The appellant was not disregarded by Officer Cruz or any other officer from responding to either the disturbance call or the burglar alarm call. Finally, the appellant was untruthful because he fabricated his patrol logs for activity occurring on April 28, 2022, in an effort to conceal that he was at the FOP hall for approximately five hours while on duty.

Applying the regulations to the facts of this matter, I **CONCLUDE** that appellant's actions constitute untruthfulness, and the charge is hereby **SUSTAINED**.

PENALTY

Once it has been determined that a civil-service employee has violated a statute, regulation, or rule regarding their employment, progressive discipline is to be considered when imposing the penalty. West New York v. Bock, 38 N.J. 500 (1962); In re Stallworth, 208 N.J. 182, 195 (2011). When deciding the disciplinary penalty, the fact finder shall consider the nature of the charges sustained and the employee's past record. West New York, 38 N.J. at 523–24. The past record is said to encompass the employee's reasonably recent history of promotions or commendations on the one hand, and on the other hand, any "formally adjudicated disciplinary actions as well as instances of misconduct informally adjudicated . . . by having been previously called to the attention of and admitted by the employee." Id. at 524. Consideration should also be given to the timing of the most recently adjudicated disciplinary history. Ibid.

The theory of progressive discipline is not a fixed rule to be followed without question. In re Carter, 191 N.J. 474, 484 (2007). "[S]ome disciplinary infractions are so serious that removal is appropriate notwithstanding a largely unblemished prior record." Ibid. The question for the fact finder is whether the disciplinary action is so disproportionate to the offense, considering all circumstances, to shock one's sense of

fairness. Ibid. Removal has been upheld where the acts charged, with or without prior disciplinary history, have warranted imposition of the sanction. Id. at 485. Hence an employee may be removed, without regard to progressive discipline, if their conduct was egregious.

Here, respondent has brought and sustained charges of violations of N.J.A.C. 4A:2-2.3(a)(1), Incompetency, Inefficiency, and 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)(7) Neglect of Duty; and additionally the sustained violations of the Department's rules and regulations as follows: 3.2.8 Conduct Unbecoming a Police Officer (class 1 offense); 3.3.3 Neglect of Duty (class 2 offense); 3.3.8 Obedience to Laws, Regulations and Orders (penalty based upon gravity of offense); 3.3.6 Performance of Duty (class 3 offense); 3.3.1 Responsibilities (class 3 offense); 3.4.1 Prohibited Activity "Loafing" (class 5 offense); 3.8.8 Response to Calls (class 3 offense); 3.8.7 Availability While on Duty (class 4 offense); and 3.2.4 Truthfulness (class 1 offense).

The testimony reflects that appellant does not have a lengthy disciplinary record; however, his failure to answer calls that he was dispatched to on April 28, 2022, is a serious offense, and the penalty should reflect the same. Further, the appellant failed to admit to his failure to answer the calls he was dispatched to, and that he was at the FOP hall for approximately five hours. Instead of admitting to loafing, the appellant attempted to cover up the time he spent at the FOP hall with a fabricated patrol log.

Accordingly, I **CONCLUDE** that the sustained charges are sufficiently egregious to warrant the termination of appellant from his position as a police officer.

ORDER

It is hereby **ORDERED** that the charges of violations of 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)(7), Neglect of Duty; and additionally the violations of the Pennsauken Township Police Department's Rules and Regulations as follows: 3.2.8 Conduct Unbecoming a Police Officer (class 1 offense);

3.3.3 Neglect of Duty (class 2 offense); 3.3.8 Obedience to Laws, Regulations and Orders (penalty based upon gravity of offense); 3.3.6 Performance of Duty (class 3 offense); 3.3.1 Responsibilities (class 3 offense); 3.4.1 Prohibited Activity "Loafing" (class 5 offense); 3.8.8 Response to Calls (class 3 offense); 3.8.7 Availability While on Duty (class 4 offense); and 3.2.4 Truthfulness (class 1 offense), are **SUSTAINED**.

It is hereby further **ORDERED** that the charge of violation 3.4.6 False Reports is **DISMISSED**.

It is hereby further **ORDERED** that the Pennsauken Township Police Department's removal of appellant from his public employment is **AFFIRMED**.

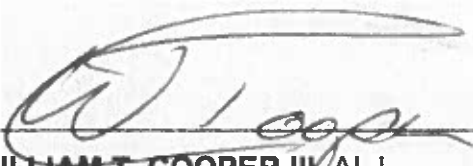
I hereby **FILE** my initial decision with the **CIVIL SERVICE COMMISSION** for consideration.

This recommended decision may be adopted, modified, or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify, or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 40A:14-204.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, DIVISION OF APPEALS AND REGULATORY AFFAIRS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, PO Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

November 15, 2024

DATE



WILLIAM T. COOPER III, ALJ

Date Received at Agency:

Date Mailed to Parties:

WTC/sg

APPENDIX

Witnesses

For Appellant:

None

For Respondent:

Det. Anthony Angelone

Exhibits

For Court:

- J-1 Waiver of rights dated 1/02/2024
- J-2 Written summation from respondent
- J-3 Written summation from appellant

For Appellant:

None

For Respondent:

- R-1 Detective Angelone Internal Affairs Report
- R-2 Track Star Trip Report: Unit 206
- R-3 Daily Officer Patrol Log/Trip Sheet 4/28/22
- R-4 Closed Incident Report (CAD notes)-Case #220015301
- R-5 Closed Incident Report (CAD notes)-Case #220015305
- R-6 Closed Incident Report (CAD notes)-Case #220015306
- R-7 Mercado Interview (video recording)
- R-8 Mercado follow up interview (video recording)
- R-9 Aladtec Schedule 4-28-22
- R-10 Pennsauken Police Department Rules and Regulations
- R-11 Mercado FNDA