



## STATE OF NEW JERSEY

In the Matter of Keystone Dufrene,  
East Jersey State Prison,  
Department of Corrections

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

CSC Docket No. 2023-2128  
OAL Docket No. CSV 03335-23

**ISSUED: SEPTEMBER 25, 2024**

The appeal of Keystone Dufrene, Senior Correctional Police Officer, East Jersey State Prison, Department of Corrections, 30 working day suspension, on charges, was heard by Administrative Law Judge Jude-Anthony Tiscornia (ALJ), who rendered his initial decision on August 29, 2024. Exceptions were filed on behalf of the appointing authority.

Having considered the record and the ALJ's initial decision, and having made an independent, *de novo* evaluation of the record, including a thorough review of the exceptions, the Civil Service Commission (Commission), at its meeting on September 25, 2024, did not adopt the ALJ's recommendation to modify the 30 working day suspension to a 10 working day suspension. Rather, the Commission upheld the 30 working day suspension.

Regarding the charges, the ALJ found:

Respondent's witnesses credibly testified, and I **CONCLUDE** that appellant's conduct in failing to keep the cell doors properly secured constituted a violation of applicable procedures and regulations which, in turn, compromised the safety and security of the inmates and staff of the facility. I further, **CONCLUDE** that the verbal interaction between Dufrene and Iglesias while on the wing on at the time of the incident was hostile and mutually disrespectful, but does not rise to a cause for discipline.

Upon its *de novo* review, the Commission agrees that the appellant's failure to secure cell doors compromised the safety and security of the inmates and staff. It also agrees

that the verbal interaction between the appellant and his supervisor was “hostile” and “disrespectful.” However, the Commission disagrees with the ALJ that the interaction was not worthy of discipline.

In this regard, the underlying charges specifically included violation of a policy prohibiting “disrespectful or use of insulting or abusive language to supervisor.” Clearly, the appellant violated this policy. While the ALJ seems to conclude that since the interaction was “mutually” hostile and disrespectful, the appellant is somehow absolved of responsibility. The Commission disagrees. The appellant’s supervisor, a Correctional Police Sergeant, initiated the interaction based on the appellant’s failure to properly secure cells. The appellant’s disrespectful response in that regard to his supervisor is certainly worthy of discipline.

Regarding the penalty, 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 ALJ apparently placed significant weight in his recommendation to reduce the penalty on his conclusion that the appellant should not have been penalized for his inappropriate interaction with his supervisor. As the Commission does not agree with the ALJ in that regard, it similarly does not agree with the recommendation to modify the suspension. The ALJ’s minimization of the overall incident in question is concerning. As he stated, the initial infraction of not properly securing the cells, “compromised the safety and security of the inmates and staff of the facility.” This infraction alone is worthy of significant sanction. The appellant thereafter compounded that infraction by being disrespectful to his supervisor. Accordingly, the Commission finds no basis to impose a penalty lesser than the 30 working day suspension originally imposed.<sup>1</sup> This suspension should

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<sup>1</sup> The Commission notes that the appellant’s disciplinary history, in his five years of service prior to the current infraction, included a five-working day suspension in 2020. This prior discipline also would support the imposition of a progressively higher penalty for the current infractions. Regardless, based

serve to sufficiently warn the appellant that any future misconduct will lead to progressively higher disciplinary penalties.

ORDER

The Civil Service Commission finds that the action of the appointing authority in suspending the appellant was justified. The Commission therefore upholds the 30 working day suspension.

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 25<sup>TH</sup> DAY OF SEPTEMBER, 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

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on the nature and seriousness of the current infractions, the 30 working day suspension imposed would be appropriate even without regard to the appellant's prior history.



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

**INITIAL DECISION**

OAL DKT. NO. CSV 03335-23

AGENCY DKT. NO. 2023-2128

**KEYSTONE DUFRENE, EAST JERSEY  
STATE PRISON, DEPARTMENT OF  
CORRECTIONS.**

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**Robert R. Cannan, Esq.,** for appellant Keystone Dufrene (Law Office of Markman  
& Cannan, attorneys)

**Michele C. Sebastiano, Esq.<sup>1</sup>,** for respondent East Jersey State Prison

Record Closed: August 27, 2024

Decided: August 29, 2024

**BEFORE JUDE-ANTHONY TISCORNIA, ALJ:**

**STATEMENT OF THE CASE**

New Jersey Department of Corrections (NJDOC or department) Correctional Police Officer Keystone Dufrene (appellant or Dufrene) appeals a 30-day working suspension issued on March 17, 2023, due to Dufrene's alleged misconduct.

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<sup>1</sup> Attorney Lujana Lee, Esq., appeared at the hearing for the respondent.

### **PROCEDURAL HISTORY**

A Final Notice of Disciplinary Action (FNDA) was issued on March 17, 2023, and personally served on Dufrene on March 20, 2023. The following sustained charges were contained therein: N.J.A.C. 4A:2-2.3(a) 6 conduct unbecoming a public employee; 12. Other sufficient cause. HRB 84-17, as amended; (B-2) Neglect of Duty, loafing, idleness or willful to devote attention to tasks which could result in danger to persons or property. (B-8) Serious mistake due to carelessness which may result in danger and/or injury to persons or property. (C-9) Insubordination; Intentional disobedience or refusal to accept order, assaulting or resisting authority, disrespectful or use of insulting or abusive language to supervisor. (C-11) Conduct unbecoming an employee. D-7 Violation of administrative policy, procedure, order, or administrative decision.

The above referenced PNDA was appealed to the Civil Service Commission on March 22, 2023. The matter was transmitted as a contested case to the Office of Administrative Law (OAL) on April 14, 2023. A plenary hearing was conducted on September 18, 2023, and September 23, 2023. The record was kept open pending submission of transcripts and closing arguments. Closing arguments were received on August 27, 2024, at which time the record was closed.

### **Factual Discussion and Findings of Fact**

Dufrene is employed as a correctional police officer at the East Jersey State Prison. On March 30, 2022, Dufrene was acting in his capacity as an officer assigned to oversee the prisoners housed in 3 Wing 2 Tier (3W-2 T), which is a housing unit at the prison. Sergeant Luis Iglesias (Iglesias), while acting in his capacity as Dufrene's supervisor on the same date, conducted an unannounced wing tour. During the tour, Iglesias observed Dufrene leaving certain cell doors unsecured and unattended, which he immediately determined was against proper protocol, as unsecured cell doors could potentially place the inmates and prison staff in danger.

Specifically, at 19:00 hours, Iglesias entered the wing overseen by Dufrene, and saw that Dufrene was at the desk while multiple inmates were loitering on the tier, with one going in and out of a cell. Iglesias, then, noticed that there were six (6) or seven (7) cell doors unsecured in the front area of the tier. When Dufrene noticed Iglesias enter the unit, he started securing the doors.

As Iglesias passed the catwalk area of the wing, he asked Dufrene why he had so many cell doors unsecured, but Iglesias could not clearly hear Dufrene's response, so Iglesias instructed the appellant to meet him at the desk. When the two met at the desk, Dufrene informed Iglesias that the cell doors were unsecured because he was "running the phones". This is a process by which inmates are allowed to access a public phone, which is located on the tier outside the cells. Dufrene then told Iglesias that he was making his job harder by telling him to secure the cell doors. Sergeant Iglesias told the appellant to write up a special report regarding the incident.

At the hearing, Iglesias testified, and **I FIND**, that Dufrene was responsible for letting inmates out of the cell in certain circumstances, such as accessing the telephone, shower, lavatory, kiosk, chapel, or to go to the law library, to get their meals, get water or if they have a pass. Dufrene is, then, responsible, when the inmate returned, to place the inmate back in his cell, and secure the cell door.

At the hearing, Iglesias further testified, and **I FIND**, that his interaction with Dufrene upon questioning Dufrene's work practice was less than cordial, and that Dufrene's response to Iglesias' inquiry was delivered with an elevated level of animus. I also **FIND**, based on the testimony of both Dufrene and Iglesias, that the general tenor of the interaction was combative from the inception, and while Dufrene's reaction to Iglesias may have been disrespectful, it does not rise to conduct unbecoming a corrections officer.

Both Dufrene and his supporting witness, Officer Julian Egoavil, (a former co-worker of Dufrene and current municipal police officer) testified that having multiple cell doors

open at the same time was common practice, as it made such tasks as "running phones" easier to accomplish. Notwithstanding this testimony, I **FIND** that while having multiple cell doors open at once may be common practice, it is against proper protocol and thus, grounds for discipline.

### **Credibility Determination**

Respondent NJ Department of Corrections presented Lieutenant Brian Tennant, Sergeant Luis Iglesias and Lieutenant Brian Boyle. Dufrene testified on his own behalf and also presented the testimony of Officer Julian Egoavil. I **FIND** all witnesses to have testified credibly.

### **Legal Discussion and Conclusions of Law**

Appellant's rights and duties are governed by laws including the Civil Service Act and accompanying regulations. A civil service employee who commits a wrongful act related to his or her 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 burden of persuasion is on the agency in enforcement proceedings to prove a violation of administrative regulations. Cumberland Farms, Inc. v. Moffett, 218 N.J. Super 331, 341 (App. Div. 1987).

The appointing agency must prove its case by a preponderance of the credible evidence. Atkinson v. Parsekian, 37 N.J. 143, 149 (1962). The evidence presented must be such as to lead a reasonably cautious mind to a given conclusion. Bornstein v. Metropolitan Bottling Co., 26 N.J. 263 (1958). The term preponderance may also be described as the greater weight of credible evidence in the case, not necessarily dependent on the number of witnesses, but having the greater convincing power. State v. Lewis, 67 N.J. 47, 49 (1975). Credibility must not only proceed from the mouth of a credible witness, but it must be credible in itself as well. Spagnuolo v. Bonnet, 16 N.J. 546, 554-55 (1954).

The conduct of the appellant is covered under the 3 Wing Housing Officers Internal Management Procedures (3-WHO) and NJDOC Law Enforcement Personnel Rules and Regulations (R&R). Respondent's witnesses credibly testified, and I **CONCLUDE** that appellant's conduct in failing to keep the cell doors properly secured constituted a violation of applicable procedures and regulations which, in turn, compromised the safety and security of the inmates and staff of the facility. I further, **CONCLUDE** that the verbal interaction between Dufrene and Iglesias while on the wing on at the time of the incident was hostile and mutually disrespectful, but does not rise to a cause for discipline.

### **PROGRESSIVE DISCIPLINE**

When appropriate, the concept of progressive discipline is used. West New York v. Bock, 38 N.J. 500 (1962). A review of appellants' work history showed a prior

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). We must also remember that "our laws, as they relate to discharges or removal, are designed to promote efficient public service, not to benefit errant employees. The welfare of the people as a whole, and not exclusively the welfare of the civil servant is the basic policy underlying our statutory scheme." State Operated School District of Newark v. Gaines, 309 N.J. Super. 327, 334 (App. Div. 1998).

In Henry, supra, at 579, the New Jersey Supreme Court recognized the importance of maintaining discipline in correctional facilities "[a]nd it recognized the danger which inheres when order and discipline are disrupted or destroyed in a prison." The Supreme Court in Henry took judicial notice that such facilities, if not properly operated, have a capacity to become tinderboxes. Ibid. (emphasis added).

"Once a determination is made that an employee has violated a statute, rule, regulation, etc. concerning his or her employment, the concept of progressive discipline



must be considered." West New York v. Bock, 38 N.J. 500 (1962). Progressive discipline is an elastic concept depending upon the facts of each case heard. The employees past record of service is to be considered in determining the penalty for the current specific offense. West New York, *supra*, at 523.

"The appraisal of the seriousness of [the Appellant's] offense and degree which such offenses subvert discipline...are matters peculiarly within the expertise of the corrections officials. The appraisal is subject to de novo review by the Merit System Board, *ibid*, but that appraisal should be given significant weight." Bodine v. Southwoods State Prison, OAL Docket No. 10121-2004 (May 24, 2005), reversed Merit System Board, Docket No. 2005-844 (July 27, 2005) *quoting* Bowden v. Bayside State Prison, 268 N.J. Super. 301, 306 (App. Div. 1993) *certif. denied*, 135 N.J. 469 (1994). In this case, the Office of Administrative Law is duty bound not to ignore the Department's professional appraisal of the severity of appellant's conduct. This practice would be in direct contravention to the Supreme Court's requirement that, in the Correctional setting, deference shall be given to the Departmental experts. Bowden, *supra*, at 305. Based on the forgoing, I conclude that the thirty-day suspension should be reduced to a ten-day suspension.

### **CONCLUSION**

Taking into consideration of the totality of circumstances as presented in the case at bar, and weighing all relevant credible evidence and testimony and in consideration of the above referenced principal of progressive discipline, the penalty against appellant should be reduced from a thirty (30) day suspension, to a ten (10) day suspension.

### **ORDER**

Accordingly, it is **ORDERED** that the disciplinary action entered in the Final Notice of Disciplinary Action of the New Jersey Department of Corrections imposing a thirty (30)

day suspension against Keystone Dufrene is hereby **AMMENDED AND REDUCED** to a ten (10) day suspension.

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, P.O. Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

August 29, 2024

DATE

  
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**JUDE-ANTHONY TISCORNIA, ALJ**

Date Received at Agency:

8/29/24

Mailed to Parties:

8/29/24

id

**APPENDIX**

**LIST OF WITNESSES**

**For Appellant:**

Officer Keystone Dufrene

Officer Julian Egoavil

**For Respondent:**

Lieutenant Brian Tennant

Sgt. Luis Iglesias

Lieutenant Brian Boyle.

**EXHIBITS**

**For Appellant:**

A-1 (P-1) Dufrene Special Custody Report

A-2 (P-2) Dufrene Special Custody Report

**For Respondent:**

R-1 PNDA, FNDA

R-2 Special Custody Report

R-2(a) Video with DVD Recoding

R-3 Internal Management Procedure

R-4 Training Summary Support

R-5 New Jersey Administrative Code and Human Resource Bulletin

R-6 Rules and Regulations

R-7 Disciplinary History, dated May 11, 2022