



## STATE OF NEW JERSEY

In the Matter of Nicolo Caldarola,  
Motor Vehicle Commission

CSC Docket No. 2024-1312

OAL Docket No. CSV 00105-24

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

ISSUED: APRIL 30, 2025

The appeal of Nicolo Caldarola, Automotive Mechanic, Motor Vehicle Commission, removal, effective November 8, 2023, on charges, was heard by Administrative Law Judge Allison Friedman (ALJ), who rendered her initial decision on March 18, 2025. Exceptions were filed by 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, which the Civil Service Commission (Commission) finds wholly unpersuasive, at its meeting on April 30, 2025, adopted the ALJ's Findings of Facts and Conclusions of Law and her recommendation to uphold the removal.

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 Nicolo Caldarola.

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 30<sup>TH</sup> DAY OF APRIL, 2025

*Allison Chris Myers*

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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. CSV 00105-24

AGENCY DKT. NO. 2025-1312

**IN THE MATTER OF NICOLO CALDAROLA,  
MOTOR VEHICLE COMMISSION.**

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**Nicolo Caldarola**, appellant, pro se

**Kevin Sangster**, Deputy Attorney General, for respondent (Matthew J. Platkin,  
Attorney General of New Jersey, attorney)

Record Closed: February 4, 2025

Decided: March 18, 2025

BEFORE **ALLISON FRIEDMAN**, ALJ:

**STATEMENT OF THE CASE**

Appellant, Nicolo Caldarola, an auto mechanic with respondent, the New Jersey Motor Vehicle Commission (MVC), failed to maintain his Automotice Service Excellence (ASE) certification, which is a prerequisite for his job, refused to answer inquiries about the certifications, and other appropriate supervisor requests. Must Caldarola be terminated? Yes. Termination of a public servant is appropriate for neglect of duty and insubordination when the infractions are continuous and progressive discipline has not been effective. In re Herrmann, 192 N.J. 19, 31 (2007).

### **PROCEDURAL HISTORY**

On July 11, 2023, a Preliminary Notice of Disciplinary Action (PNDA) was served, a departmental hearing was held, and Caldarola was notified of his indefinite suspension without pay. (R-1 at 017-9.) Respondent charged appellant with inability to perform duties, insubordination, conduct unbecoming a public employee, neglect of duty, and other sufficient cause (violation of a policy or procedure). (Ibid.) The charges arose from two specifications: failure to maintain his ASE A8 certification, and receiving traffic tickets while using a State car on April 11, 2023. (Ibid.)

On November 8, 2023, Caldarola received the Final Notice of Disciplinary Action (FNDA) terminating his employment. The charges on the FNDA were identical to the charges on the PNDA with one added specification for a car accident that had occurred while Caldarola was operating a State car at the MVC facility. (R-1 at 013-4.)

On November 29, 2023, Caldarola filed his appeal with the Civil Service Commission.

On December 20, 2023, the Civil Service Commission transmitted the case to the Office of Administrative Law, where on December 26, 2023, it was filed as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -23.

On October 9, 2024, the MVC filed a motion for summary decision. On November 13, 2024, I denied the motion. I held the hearing on November 18, and December 11, 2024. On February 4, 2025, closing briefs were received and the record was closed.

## **FINDINGS OF FACT**

### **I. Caldarola failed to meet his job requirements because he failed to maintain his ASE certifications.**

As an auto mechanic with the MVC, Caldarola must maintain all required ASE certifications. (R-2 at 066; R-3 at 068.) Additionally, an auto mechanic must be capable of creating, recording, and certifying the inducements on covert vehicles. (R-3 at 069.) An inducement is a condition created on covert vehicles used for the purpose of quality assurance (40 C.F.R. § 51.363) that will prevent a vehicle from passing a New Jersey enhanced emissions test. Caldarola knew that he was required to maintain his ASE certifications to be qualified to remain in his position at the MVC. Caldarola acknowledged this requirement during the course of his employment, as well as the requirement to keep his supervisor informed of his certified status. (R-3 at 071; R-12 at 142.)

On April 28, 2023, Peter Ziemba, Caldarola's supervisor, emailed Caldarola asking for a copy of his ASE certificates. (R-4 at 025.) In response, Caldarola informed Ziemba that the ASE A8 certification expired in May or June 2022 and that he had failed the exam in December 2022. (R-4 at 027.) On May 24, 2023, Ziemba again emailed Caldarola for a copy of his ASE certification. (R-4 at 026.) On May 25, 2023, Caldarola responded to Ziemba, explaining that he could not afford to retake the test and that the ASE website was not working so he could not comply with Ziemba's requests. (R-4 at 029.) On July 14, 2023, after notification of his indefinite suspension, Caldarola provided the required certifications. (P-24.)

### **II. Caldarola failed to obey his supervisor because he refused to provide him with copies of traffic tickets he received while using a State car.**

On April 11, 2023, Caldarola was using a State car and received traffic tickets while operating the car. At Caldarola's first opportunity he informed Ziemba that he had received only one ticket. (R-5 at 019.) Ziemba repeatedly asked for a copy of the ticket, which Caldarola refused to provide. (*ibid.*) Ultimately, Paul Brady, the human-resource-relations supervisor, whose responsibility was to determine if any policy violations had occurred, had to direct James Clifford, chief investigator of the MVC, to research the

tickets and any resulting court action. The investigation disclosed that Caldarola had received two tickets and pleaded guilty to only one ticket. The tickets were for delaying traffic and for failure to obey signs. Brady also learned that Caldarola had pled guilty to the ticket for delaying traffic. (R-5 at 020; R-6.)

**III. Caldarola did not cause the accident or violate MVC policy regarding reporting the accident on June 23, 2023.**

On June 23, 2023, Caldarola was driving a State car through the inspection lane when the side-view mirror hit the elbow of Marcus Brigg, a fellow employee. Brigg had been standing in the lane, with his back to the car, not wearing a safety vest, while speaking with other employees. Richard Amate, who was seated a few feet away from Brigg, not speaking to anyone, heard Caldarola honk the horn prior to the car moving forward; he then saw the mirror fold in. Brigg, who does not typically work at that facility, described the environment as loud. Amate, who was assigned to that facility, described the environment as normal that day. No one reported the accident at the time. Caldarola did not seem to be aware that any accident had occurred. In fact, Brigg stated that no one even asked if he was okay. Only when Brigg began to feel pain did he report the accident.

**IV. Caldarola's significant history of prior discipline for insubordination and neglect of duty demonstrates an inability or unwillingness to change his actions, and supports termination.**

Caldarola has a history of both minor and major disciplinary suspensions while employed with the MVC. (R-11.) In October 2014, Caldarola was suspended for one day for unauthorized absence and failure to follow MVC policy. In March 2015, Caldarola served a three-day suspension for tardiness and failure to follow MVC policy. In September 2019, Caldarola served an eleven-day suspension for failure to follow MVC policy, insubordination, neglect of duty, and conduct unbecoming. In May 2021, Caldarola served a twenty-day suspension for idleness/loafing, insubordination, conduct unbecoming, and neglect of duty. In January 2022, Caldarola served a thirty-day suspension for failure to follow MVC policy, insubordination, conduct unbecoming, and workplace violence. In May 2022, Caldarola served a forty-five-day suspension for

insubordination and conduct unbecoming. In March 2023, Caldarola served a four-month suspension for conduct unbecoming, insubordination, tardiness, idleness, and failure to follow MVC policy. This disciplinary action is Caldarola's third for neglect of duty, sixth for insubordination, and seventh for failure to follow MVC policy.

### **CONCLUSIONS OF LAW**

A civil service employee may be subject to discipline, including removal, for insubordination, inability to perform duties, or neglect of duty. N.J.A.C. 4A:2-2.3(a)(2), (3), (7). The MVC policy defines "neglect of duty" as the failure to perform or complete tasks normally assigned by a supervisor and associated with the responsibilities of the position. (R-10 at 108.) The possible discipline for "neglect of duty" is either demotion or removal. (*Ibid.*) This charge goes hand in hand with the charge of inability to perform duties. The MVC policy specifically defines "inability to meet job requirements" as not maintaining required certifications. (R-10 at 108.) The possible discipline is either demotion or removal. (*Ibid.*) The MVC policy defines "insubordination" as a refusal to carry out an order, directive, or instruction, or resisting authority of one's supervisor. (R-10 at 112.) The possible discipline is either demotion or removal. (*Ibid.*)

Here, Caldarola acknowledged that he was required to maintain his ASE A8 certification and to allow his supervisor access to it. (R-12 at 142.) Caldarola failed to maintain the required certifications, allowing them to lapse for six months before he tried to correct the deficiency. After Caldarola failed the test in December 2022 he continued to fail to correct the deficiency. Additionally, Caldarola denied his supervisor access to his certifications, hiding the fact that he was not certified and unable to perform his job duties. Caldarola dodged his supervisor's inquiries with excuses, did not respond to emails, and withheld the information about his certifications, never taking any steps to obtain them. Caldarola's deficiency compromised the MVC's ability to ensure that the public's automobiles are being properly inspected. Caldarola knew that he had an obligation to report the lapse of his required certification status to his supervisors and yet he failed to until he was caught. Caldarola acted in this same manner in regard to his supervisor's request for a copy of the traffic ticket he was issued. Caldarola refused to produce the requested ticket and was not honest with his supervisor about the amount of

tickets he received, again to avoid discipline. Because Caldarola failed to maintain the required ASE A8 certification and to rectify his failure in a timely manner, and refused to produce the traffic tickets he had received, I **CONCLUDE** that Caldarola neglected his duty, was unable to perform his duties, and was insubordinate in violation of N.J.A.C. 4A:2-2.3(a)(2), (3), and (7).

When imposing penalties, State agencies have long considered progressive-discipline principles, which are based on the notion that "past misconduct can be a factor in the determination of the appropriate penalty for present misconduct." In re Herrmann, 192 N.J. at 29. Progressive discipline is applied to "support the imposition of a more severe penalty for a public employee who engages in habitual misconduct." Id. at 30. The MVC's progressive-discipline policy, consistent with case law, considers removal of an employee as a last result, to be used when previous efforts to correct the issue have failed. (R-10 at 092.) Here, Caldarola has an extensive history of prior discipline. Despite serving suspensions from one day to four months, Caldarola's pattern of insubordination continued. Caldarola neglected his duty, remaining ineligible to perform his job for almost a year, while he hid his lack of certification from his supervisor. I **CONCLUDE** that Caldarola's protracted neglect of duty and insubordination, after having served multiple suspensions for the same charges, supports termination as the appropriate discipline.

### **ORDER**

Given my findings of fact and conclusions of law, I **ORDER** that Caldarola be removed from his position of auto mechanic with the MVC.

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, 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.



March 18, 2025

DATE

\_\_\_\_\_  
ALLISON FRIEDMAN, ALJ

Date Received at Agency:

\_\_\_\_\_

Date Mailed to Parties:  
AF/kl

\_\_\_\_\_

**APPENDIX**

**Witnesses**

**For Appellant:**

Richard Amate

**For Respondent:**

Paul Brady

Peter Ziemba

Marcus Bragg

**Exhibits**

**For Appellant:\***

P-1	Letter from MVC dated July 7, 2023
P-2–P-3	Letter from MVC dated July 11, 2023
P-13–P-14	Email from Caldarola to Brady dated June 1, 2023, with attachment
P-27	ASE A8 certificate dated July 14, 2023
P-31–P-32	Receipts for paid motor vehicle violations from April 11, 2023
P-33–P-41	Witness statements from investigation of June 23, 2023, accident
P-48–P-57	Vehicle repair orders and MVC paperwork

\*Where appellant's offered exhibits were duplicates of respondent's, the respondent's exhibits were used.

**For Respondent:**

R-1	FNDA, November 8, 2023
R-2	Amended PNDA, July 11, 2023
R-3	PNDA, July 11, 2023
R-4	E-mail communications regarding ASE A8 certification

- R-5 Discipline for traffic tickets, May 2, 2023
- R-6 Traffic tickets, April 11, 2023
- R-7 State vehicle use circular, October 3, 2016
- R-8 Disciplinary action for accident, July 18, 2023
- R-9 Employee Injury Investigation
- R-10 MVC Policy/Procedure (Discipline) 400-3.01, revised January 3, 2011
- R-11 Prior Disciplinary History of Caldarola
- R-12 Caldarola's PARs, 2021–2023
- R-13 Email re accident notification, June 11, 2022