



**STATE OF NEW JERSEY**

In the Matter of S.J., Boonton

**DECISION OF THE  
CIVIL SERVICE COMMISSION**

CSC Docket No. 2025-2426

Request for Stay

**ISSUED: September 10, 2025 (HS)**

Boonton, represented by Anthony G. LoBrace, Esq., petitions the Civil Service Commission (Commission) for a stay of *In the Matters of S.J., Boonton* (CSC, decided March 19, 2025), which granted S.J.'s request for enforcement in part, pending the outcome of its appeal to the Superior Court, Appellate Division.

As background, on October 18, 2022, the appointing authority immediately suspended S.J. with pay and presented him with a Preliminary Notice of Disciplinary Action (PNDA) indicating administrative charges of insubordination; conduct unbecoming a public employee; neglect of duty; other sufficient cause; misconduct, *N.J.S.A. 40A:14-147*; violating police department rules and regulations; and violating duty assignment and overtime procedures. On February 8, 2023, S.J. was criminally charged with computer criminal activity, *N.J.S.A. 2C:20-25e*; theft by unlawful taking or disposition, *N.J.S.A. 2C:20-3a*; tampering with public records or information, *N.J.S.A. 2C:28-7a(3)*; and falsifying or tampering with records, *N.J.S.A. 2C:21-4a*, crimes of the second, third, or fourth degrees. Thus, on February 10, 2023, the appointing authority immediately suspended S.J. without pay and presented him with another PNDA proposing an indefinite suspension. On that same date, the appointing authority also issued S.J. the following correspondence:

As you are aware, you were previously suspended with pay on October 18, 2022 in response to the PNDA dated October 18, 2022. However, this memorandum puts you on notice that your suspension is being modified to a suspension without pay in response to being charged with

crimes of the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> degree. Specifically, on February 8, 2023 you were charged with *N.J.S.A. 2C:20-25e*, *N.J.S.A. 2C:20-3a*, *N.J.S.A. 2C:28-7a(3)*, and *N.J.S.A. 2C:21-4a*. Your continued suspension is necessary to maintain safety, health, order, and effective direction of public services and you are unfit for duty. This notice shall also serve as written notification of why the suspension is sought in compliance with *N.J.A.C. 4A:2-2.5(b)*. This suspension shall be indefinite pending the disposition of your criminal charges.

S.J. did not request a hearing on the February 10, 2023 PNDA. On February 21, 2023, the appointing authority presented S.J. with a Final Notice of Disciplinary Action (FNDA) imposing an indefinite suspension pending criminal charges, effective February 10, 2023. On May 30, 2024, the court dismissed the criminal charges without prejudice and further ordered that pursuant to *N.J.S.A. 2C:52-6*, an order of expungement shall be granted pursuant to this dismissal for “all records and information related to the arrest.” On June 5, 2024, the Attorney General’s Office of Public Integrity and Accountability (OPIA) indicated that it “fully intend[ed] to proceed with criminal charges against [S.J.]” On June 14, 2024, the appointing authority issued correspondence stating that S.J. would “remain[ ] suspended without pay pending additional criminal charges. Additionally, [S.J.] no longer possesses his [law enforcement] license as it has been suspended [by the Police Training Commission (PTC)].”

S.J. petitioned for interim relief of his indefinite suspension. The Commission determined that it was appropriate for the appointing authority to immediately and indefinitely suspend S.J. on February 10, 2023 pending the disposition of criminal charges. However, the record reflected that on June 3, 2024, the appointing authority received notice that the court had dismissed the criminal complaint that was the basis for S.J.’s indefinite suspension.<sup>1</sup> The Commission noted that upon dismissal of the criminal charges, an employee is entitled to immediate reinstatement to employment following an indefinite suspension or prompt service of any remaining administrative charges upon which the appointing authority wishes to base disciplinary action. See *N.J.A.C. 4A:2-2.7(b)1*. Even when an employee is ultimately removed on administrative disciplinary charges, the employee may be awarded back pay for any undue delay on the appointing authority’s part for the period between dismissal of the criminal charges and service of a PNDA setting forth any remaining administrative charges. To determine otherwise would be contrary to *N.J.A.C. 4A:2-2.7(a)2*, which purpose is to keep public employees from being held in limbo indefinitely even after being exonerated in a criminal proceeding. Thus, the Commission deemed the appointing authority’s inaction from June 3, 2024 onward

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<sup>1</sup> The appointing authority indicated that even assuming, *arguendo*, the criminal charges were not refiled, it would proceed with an additional notice of disciplinary action seeking S.J.’s removal based on the conduct that gave rise to the criminal complaint, which would similarly subject him to an unpaid suspension.

improper and awarded a limited back pay remedy. Specifically, the Commission ordered that S.J. receive back pay from June 3, 2024 until the appointing authority reinstated him; reissued the October 18, 2022 PNDA and converted the immediate suspension with pay to an immediate suspension without pay, if applicable; or issued a new immediate suspension/PNDA setting forth any and all remaining administrative charges. *See In the Matter of S.J., Boonton* (CSC, decided October 16, 2024).

The appointing authority requested reconsideration of the Commission's October 16, 2024 decision, while S.J. sought enforcement of it. The Commission determined that reconsideration was not justified. In that regard, the suspension of S.J.'s law enforcement license and generalized concerns over wasting taxpayer resources could not justify S.J.'s continued unpaid suspension. The Commission already indicated in the prior decision that the appointing authority was not strictly being ordered to reinstate S.J. to active law enforcement duties. The prior decision was also clear in noting S.J.'s Civil Service rights at this juncture. Specifically, upon dismissal of criminal charges, an employee is entitled to immediate reinstatement to employment following an indefinite suspension or prompt service of any remaining administrative charges upon which the appointing authority wishes to base disciplinary action. Further, the employee may be awarded back pay for any undue delay on the appointing authority's part for the period between dismissal of the criminal charges and service of a PNDA setting forth any remaining administrative charges. The appointing authority's position that the disciplinary hearing will go forward only when certain vital documents required as evidence are released by the Attorney General's Office was similarly untenable. The criminal charges were dismissed. Continuing to keep S.J. in limbo when his Civil Service rights were clear, *see N.J.S.A. 11A:2-13, N.J.A.C. 4A:2-2.7(a)2, and N.J.A.C. 4A:2-2.7(b)1*, could not be sanctioned. Accordingly, the appointing authority had not met the standard for reconsideration as it had not shown that a clear material error has occurred or presented new information that would change the outcome. Thus, the Commission granted S.J.'s request for enforcement in part, ordering the appointing authority to immediately provide S.J. with back pay from June 3, 2024 until it reinstates him; reissues the October 18, 2022 PNDA and converts the immediate suspension with pay to an immediate suspension without pay, if applicable; or issues a new immediate suspension/PNDA setting forth any and all remaining administrative charges. The Commission also noted its power to assess compliance costs and fines against an appointing authority, including all administrative costs and charges, as well as fines of not more than \$10,000, for noncompliance or violation of Civil Service law or rules or any order of the Commission. *See In the Matter of S.J., Boonton* (CSC, decided March 19, 2025).

Thereafter, the appointing authority filed an appeal with the Appellate Division on April 9, 2025.

In the instant matter, filed April 17, 2025, the appointing authority maintains that due to the suspension of his law enforcement license, S.J. was rendered unfit for duty as a law enforcement officer. It relates that it did not come back into possession of the documents and information necessary for S.J.'s departmental hearing on the October 18, 2022 PNDA until, at the earliest, April 2025. Further, it is unable to reissue disciplinary charges in connection with the conduct alleged in the February 10, 2023 PNDA until such time as the Morris County Prosecutor's Office advises of its findings, conclusions, and recommendations concerning such conduct.

The appointing authority argues that it can meet all requisite stay factors.

First, the appointing authority maintains that it has a clear likelihood of success on the merits concerning the back pay award, emphasizing that under PTC law, "[a] person *shall not be employed as a law enforcement officer . . . in this State unless the person holds a valid, active license as a law enforcement officer. . . ,*" and one of the PTC's implementing regulations entitled "Obligation to terminate, suspend, or refuse employment" prohibits law enforcement units from knowingly employing any unlicensed person as a law enforcement officer. *See N.J.S.A. 52:17B-67.1 and N.J.A.C. 13:1-11.8(b)*. Here, the PTC suspended S.J.'s license from May 21, 2024<sup>2</sup> to January 13, 2025, during which time his license expired as of December 31, 2024. In light of S.J.'s continued suspension as a result of the October 18, 2022 and February 10, 2023 PNDAs and his resulting inability to complete the PTC's required trainings, the appointing authority insists that it was and remains unable to provide an accurate certification in support of S.J.'s renewal of his license.

Where an individual is not eligible to even be employed as a Police Officer, the appointing authority proffers, he likewise should not be entitled to compensation for his nonperformance of police duties during the period of such ineligibility. The appointing authority points to *Anthes v. Clinton Twp.* (Docket No. HNT-L-454-24) (Law Div. January 6, 2025), where the court denied a Police Officer's application for reinstatement to his position and back pay for the period of his unpaid suspension where the officer's license had been suspended by the PTC. On the officer's motion for reconsideration of that decision, the court (in another vicinage) upheld the earlier decision, concluding that *N.J.S.A. 52:17B-67.1* and *N.J.S.A. 40A:14-149.1* should be read in harmony and finding that "it would be illogical to restore [the officer] to pay status as a law enforcement officer . . . when he would not be permitted to work as a

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<sup>2</sup> The PTC's suspension notice stated, among other things:

In accordance with *N.J.A.C. 13:1-16.2*, a hearing regarding an immediate suspension is limited to the issue of whether or not the public interest would best be served by immediately suspending the law enforcement license, pending a plenary hearing on the charges. Arguments contesting the underlying charges that serve as the basis for the immediate suspension will not be heard as the [PTC]'s jurisdiction extends only to whether or not the law enforcement license shall be issued, suspended, or revoked pursuant to the [licensure law].

law enforcement officer based on *N.J.S.A. 52:17B-67.1*.” *Anthes v. Clinton Twp.* (Docket No. MRS-L-50-25) (Law Div. March 7, 2025). The appointing authority contends that while the Civil Service laws and regulations may require that an officer be reinstated to his position and potentially entitled to back pay following dismissal of criminal charges, such laws and regulations do not address the circumstance of returning an officer to work or affording him back pay where he fails to hold a license required for his continued employment. The appointing authority insists that to require it to compensate S.J. in the form of back pay for any period of time during which he was appropriately suspended from his work and legally precluded from functioning as a uniformed law enforcement officer under the PTC laws and regulations constitutes a patently unfair result. Even if the back pay award is permitted to stand, such award should at least be further limited to only providing back pay beginning on January 13, 2025, the date on which S.J.’s license was reinstated by the PTC, rather than beginning on June 3, 2024, at which time he could not be employed as a law enforcement officer.

The appointing authority states that there is a dearth of case law or regulatory guidance under the PTC’s laws; however, it insists, analogous legal authorities such as those involving public school teachers or unemployment compensation support its position. For example, it argues that had S.J. been terminated from his employment for being without a required license and thereafter sought unemployment benefits, his application would have presumably been denied under *N.J.A.C. 12:17-9.10(a)*. It is a dubious result, per the appointing authority, that, in such circumstances, the State and/or the appointing authority would not be required to compensate S.J., but the appointing authority is somehow being compelled to provide such compensation for a period of time where his license was suspended due to his own improper conduct.

The appointing authority insists that S.J.’s suspensions under the October 18, 2022 and February 10, 2023 PNDAs were in accordance with *N.J.A.C. 4A:2-2.5*, and the suspension under the October 18, 2022 PNDA remains validly in effect.

Second, requiring that S.J. be compensated during any period in which he is legally prohibited from functioning in his position would impose a significant financial hardship in requiring the appointing authority to expend funds that could be diverted to other public purposes.

Third, no new, substantial injury will befall S.J. in the event that the Commission grants a stay; such grant would simply preserve the present status quo until the Appellate Division opines on the appointing authority’s appeal. It is implausible to suggest that S.J.’s nonreceipt of compensation will constitute an injury to him where he does not possess the required license.

Fourth, a stay would serve the public interest as taxpayers would not be required to compensate S.J. while reaping no benefit or services. A stay would also

allow the parties to remain in their current posture while the Appellate Division determines how the PTC's statutory and regulatory framework interacts with the Commission's legal requirements.

In response, S.J., represented by Matthew A. Peluso, Esq., initially takes issue with the appointing authority's citation to the decisions in *Anthes, supra*, because they are nonbinding unpublished decisions. *See R.* 1:36-3. He maintains that since he filed his case under New Jersey law in a New Jersey State administrative agency, his case must be decided under controlling New Jersey law. Concerning the stay factors, the appointing authority will not suffer any irreparable harm and there is no public concern at issue because it could potentially recoup any back pay awarded if successful on appeal. The appointing authority also cannot meet its burden of proving any likelihood of success on the merits because the Commission's decisions were based on clear and controlling law. In this regard, he proffers that the appointing authority has merely regurgitated the same arguments previously made unsuccessfully and has now taken a third bite at the apple. In his view, the appointing authority falsely claims that the October 18, 2022 PNDA is still legally valid and actionable despite the undisputed fact that the Commission has already twice ruled that if it wants to pursue administrative matters based on the allegations underlying the October 18, 2022 PNDA, or any "new" administrative charges based on separate allegations, it needed to issue him a new PNDA(s) for any such charges. Yet, per S.J., the appointing authority has voluntarily chosen not to issue any new PNDAs. S.J. further argues that the status of his law enforcement license is irrelevant to the validity and enforcement of this Commission's award of partial interim relief to him. And balancing the hardships favors him as he and his family are in severe financial crisis.

In support, S.J. submits a certification where he states that he observed his personnel and internal affairs file in the possession of the Boonton Police Department on January 21, 2025 and that it is concerning that the appointing authority is maintaining that it only received these items as of April 8, 2025. S.J. contends that the appointing authority is intentionally and strategically keeping him in limbo regarding not only his employment but also his 30-year law enforcement career for the specific purpose of continuing to place him and his family under severe financial and emotional distress. According to S.J., the appointing authority has made patently false allegations regarding its access to, and possession of, documents. Boonton, he notes, is a New Jersey Civil Service jurisdiction. Thus, all discipline against him in the past would have been reported to this agency via the County and Municipal Personnel System (CAMPS) and recorded for posterity. CAMPS is a web-based system that houses the employment information of local government employees. Prior to the now-dismissed charges at issue in this appeal, he had never been issued any major discipline, as defined by the Commission. And as for performance reviews, the appointing authority has been in possession of all his stellar performance reviews since August 2, 2023.

In reply, the appointing authority insists that the decisions in *Anthes, supra*, though unpublished, are on point and that a stay should be granted.

In reply, S.J. proffers that it is indisputable that the appointing authority has voluntarily refused to comply with *N.J.A.C. 4A:2-2.7(b)1* by both failing to pay him the back pay owed to him from June 3, 2024 (the date of the dismissal of the criminal charges) to October 16, 2024 (the date of the Commission's October 2024 decision), and by, concomitantly, not issuing any remaining administrative/disciplinary charges against him that may have hypothetically given it a legitimate basis to keep him from returning to his employment over the last year, depending on the new charges, and which in turn would have limited, lowered, and thus significantly mitigated, the amount of the partial back pay due to him under *N.J.A.C. 4A:2-2.7(b)1*. S.J. insists that at present, there is no PNDA or FNDA on which the appointing authority can rely to continue to prohibit his return to work and not pay him his salary pending any allegedly new charges. He maintains that he is now owed partial, interim back pay from June 3, 2024 to the present and continuing until the appointing authority issues any new or remaining charges that would justify keeping him suspended from work without pay. Given the voluntary choices that the appointing authority has made, it has no likelihood of successfully defeating the Commission's award of partial, interim back pay to him from June 3, 2024 to the date when it decides to issue any new or remaining administrative/disciplinary charges against him since, at the very least, the appointing authority could have significantly mitigated the partial, interim back pay awarded by the Commission simply by preparing a one-page PNDA in October 2024, which indisputably does not take much time to do, unlike all of its subsequent voluminous filings from November 2024 to the present.

## CONCLUSION

*N.J.A.C. 4A:2-1.2(c)* provides the following factors for consideration in evaluating a petition for a stay:

1. Clear likelihood of success on the merits by the petitioner;
2. Danger of immediate or irreparable harm;
3. Absence of substantial injury to other parties; and
4. The public interest.

Also, *N.J.A.C. 4A:2-1.2(f)* allows a party, after receiving a final administrative decision by the Commission and upon filing an appeal to the Appellate Division, to petition the Commission for a stay pending the decision of the Appellate Division. *See also, N.J. Court Rules 2:9-7.*

Initially, there does not appear to be a clear likelihood of success on the merits of an appeal before the Appellate Division. It is well settled that an appellate court

will reverse the final decision of an administrative agency only if it is arbitrary, capricious or unreasonable or if it is not supported by substantial credible evidence in the record as a whole, or if it violates legislative policy expressed or fairly to be implied in the statutory scheme administered by the agency. *See Karins v. City of Atlantic City*, 152 N.J. 532, 540 (1998); *Henry v. Rahway State Prison*, 81 N.J. 571, 579-80 (1980); *Mayflower Securities v. Bureau of Securities*, 64 N.J. 85, 92-93 (1973); *Campbell v. Civil Service Department*, 39 N.J. 556, 562 (1963).

The appointing authority previously argued that it could not pay out the limited back pay previously ordered in light of N.J.S.A. 52:17B-67.1, which provides that a person shall not be employed as a law enforcement officer unless the person holds a valid, active law enforcement officer license. The Commission was unpersuaded by this argument, noting that the appointing authority was not strictly being ordered to reinstate S.J. to active law enforcement duties. The limited back pay award was provided not to compensate S.J. for the nonperformance of police duties during a period of ineligibility but to redress the identified procedural issue. It was the appointing authority's inaction from June 3, 2024 onward that was deemed improper and merited the back pay remedy from that date until appropriate action was implemented.

The appointing authority now renews its argument based on N.J.S.A. 52:17B-67.1 and now supports it with citation to the two Law Division decisions in the *Anthes, supra*, matter and PTC regulation N.J.A.C. 13:1-11.8, Obligation to terminate, suspend, or refuse employment. The regulation, in full, provides:

- (a) Each law enforcement unit shall preclude any law enforcement officer from working in a law enforcement capacity whose license has been denied, revoked, or suspended by the Commission.
- (b) No law enforcement unit shall knowingly employ any unlicensed person as a law enforcement officer.
- (c) Any repeated or willful failure by the chief law enforcement executive to comply with the requirements of this chapter will subject the chief law enforcement executive to potential adverse licensure action.

However, the Commission does not find that the decisions and regulation mean that the appointing authority has a clear likelihood of success on the merits. In this regard, the decisions do not address Civil Service law and rules. Additionally, PTC law defines "[p]ermanent appointment" to mean:

[A]n appointment having permanent status as a law enforcement officer in a law enforcement unit as prescribed by Title 11A of the New Jersey



Statutes, Civil Service Commission Rules and Regulations, or of any other law of this State, municipal ordinance, or rules and regulations adopted thereunder.

*N.J.S.A. 52:17B-67.* PTC law also provides:

Except as expressly provided in P.L.1961, c.56 (C.52:17B-66 et seq.), nothing herein contained shall be deemed to limit the powers, rights, duties or responsibilities of municipal or county governments, nor to affect provisions of Title 11 of the Revised Statutes, provided that a determination by the Civil Service Commission that an individual is eligible for appointment as a law enforcement officer shall not be construed to affect or limit the commission's ability to take any action authorized under P.L.2022, c.65 (C.52:17B-71a et al.) with respect to an applicant or licensee.

*N.J.S.A. 52:17B-72.* Resort to analogous legal authorities is not necessary. As S.J. is a permanent Civil Service employee, he was entitled to certain procedural rights under Civil Service law and rules upon the dismissal of the criminal charges. The October 18, 2022 PNDA did not remain in effect for the reasons already stated in the prior decisions. *See In the Matter of Stanford Harris* (CSC, decided December 17, 2008) and *N.J.A.C. 4A:2-2.7(b)1*. In conjunction with the October 18, 2022 PNDA, S.J. had been suspended with pay. If the appointing authority wanted to immediately suspend S.J. from his employment without pay based on the October 18, 2022 PNDA once the criminal charges were dismissed, it needed to take formal steps to reissue that PNDA and convert the immediate suspension with pay to one without pay. Similarly, if the appointing authority wanted to immediately suspend S.J. from his employment without pay based on the suspension of his law enforcement officer license, it needed to issue a new immediate suspension/PNDA setting forth such basis.<sup>3</sup> As such, the appointing authority's proposal to modify the back pay award by having it begin on January 13, 2025, the date on which S.J.'s license was reinstated by the PTC, is still an inadequate remedy. In short, if the appointing authority wanted to keep S.J. suspended without pay for whatever reason following the

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<sup>3</sup> The Commission cannot agree that Civil Service law and rules do not address the circumstance of returning an officer to work or affording him back pay where he fails to hold a license required for his continued employment. In this regard, an employee may be suspended immediately and prior to a hearing where it is determined that the employee is unfit for duty or is a hazard to any person if permitted to remain on the job, or that an immediate suspension is necessary to maintain safety, health, order or effective direction of public services. *N.J.A.C. 4A:2-2.5(a)1*. Where suspension is immediate under this provision, and is without pay, the employee must first be apprised either orally or in writing, of why an immediate suspension is sought, the charges and general evidence in support of the charges and provided with sufficient opportunity to review the charges and the evidence in order to respond to the charges before a representative of the appointing authority. The response may be oral or in writing, at the discretion of the appointing authority. Further, the inability to perform one's duties is among the causes for which an employee may be subject to discipline. *N.J.A.C. 4A:2-2.3(a)3*.

dismissal of the criminal charges, there was a mechanism under *N.J.A.C. 4A:2-2.7(b)1* and *N.J.A.C. 4A:2-2.5* whereby it could pursue such action. Since the appointing authority did not act, S.J. was entitled to the limited back pay awarded.

Turning to other stay factors, the Commission finds that it is S.J. who is suffering substantial injury for continuing to be kept in limbo after the dismissal of criminal charges. It is also in the public interest to require compliance with orders issued by an administrative agency. The public interest is not served when such order is not implemented in a timely fashion.


Therefore, the appointing authority has not demonstrated a sufficient basis for a stay in this matter.

Finally, the Commission previously noted its power to assess compliance costs and fines against an appointing authority. Now that the stay request has been denied, the appointing authority should be mindful that any further delay in implementing the Commission's October 16, 2024 order will subject it to fines and penalties pursuant to *N.J.A.C. 4A:10-2.1(a)2*.

### ORDER

Therefore, it is ordered that Boonton's request for a stay be denied. If Boonton has not taken actions in compliance with the Commission's previous orders within 10 days of the issuance of this decision, it shall be assessed a fine of \$5,000 on the 11th day following the issuance of this decision. Thereafter, Boonton shall continue to be assessed a fine of \$100 per day, beginning on the 12th day following the issuance of this decision, for each day of continued violation up to a maximum of \$10,000.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 10<sup>TH</sup> DAY OF SEPTEMBER, 2025



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