



STATE OF NEW JERSEY

In the Matter of Christopher Boller,
Ewing

**DECISION OF THE
CIVIL SERVICE COMMISSION**

CSC Docket No. 2025-2768

Request for Interim Relief

ISSUED: September 10, 2025 (HS)

Christopher Boller, a Police Captain with Ewing, represented by Peter B. Paris, Esq., petitions the Civil Service Commission (Commission) for interim relief of his demotion.

As background, the appointing authority issued a Preliminary Notice of Disciplinary Action (PNDA) dated November 13, 2024, recommending a 10-day suspension and demotion to Police Lieutenant based on charges of conduct unbecoming a public employee and other sufficient cause. In summary, it was alleged that the petitioner had engaged in an affair with a subordinate Police Lieutenant's wife for about one year. The appointing authority proceeded to demote the petitioner to Police Lieutenant, effective November 18, 2024. The record reflects that a departmental hearing on the merits of the charges was held on July 17, 2025.

In his petition for interim relief filed June 9, 2025, the petitioner, relying on *In the Matter of Mario Fucci, Salem County* (CSC, decided March 23, 2022), requests an order rescinding his "immediate demotion" and providing differential back pay, benefits, and seniority from November 18, 2024 until such time as a Final Notice of Disciplinary Action (FNDA) is issued. He states that his former counsel had requested a departmental hearing on his behalf on November 15, 2024. The petitioner maintains that he can meet all requisite interim relief factors. Specifically, he has a clear likelihood of success on the merits because the appointing authority clearly and intentionally ignored Civil Service law and rules by demoting him in advance of a departmental hearing. He faces irreparable harm because his rights to

due process were violated, and if the appointing authority is permitted to dispense with Civil Service law and rules at its whim, the harm to him and the public is irreparable. Further, rescinding the immediate demotion while the disciplinary process moves forward will not create any possible harm to the appointing authority. Finally, the public interest demands that the appointing authority adhere to Civil Service law and rules. The public is best served when municipal governments treat their employees in a manner that is consistent with State laws. In support, the petitioner submits his PNDA; the November 15, 2024 request that the “[departmental] hearing be scheduled for a mutually agreed upon date once said discovery is received;” and the personnel order demoting him.

In response, the appointing authority, represented by David J. Truelove, Esq., explains that it sought a timely hearing and resolution of this matter. On several occasions, specifically November 22, 2024, December 16, 2024, and February 28, 2025, counsel for the appointing authority contacted petitioner’s former counsel for proposed dates for a mutually convenient hearing. Additionally, as early as April 9, 2025, petitioner’s former counsel was well aware that his client had been demoted. The appointing authority insists that the petitioner was interested in conducting discovery. Any delay for a hearing was not caused by the appointing authority and petitioner’s former counsel was well aware of the demotion and never raised the issue. Further, the appointing authority contends that its action was sanctioned by *Covey v. City of Plainfield*, 11 N.J. 375, 380 (1953), where the New Jersey Supreme Court said: “The city, however, could at any time abolish plaintiff’s captaincy for any legitimate reason and effect plaintiff’s demotion to a lieutenantcy without first giving him a hearing.” The appointing authority argues that all interim relief factors run in its favor. In support, it submits, among other things, copies of correspondence between the appointing authority’s counsel and the petitioner’s former counsel. This documentation indicates, among other things, that on April 9, 2025, the petitioner’s former counsel sent the following email to counsel for the appointing authority:

In the meantime, [the petitioner] was a captain and was already demoted without a hearing. He is now a lieutenant and I’m not sure how that happened. Can you please look into that and get back to me on that subject. I don’t think that he should have been demoted without any kind of a hearing and without due process. My understanding is the Chief just called him in and said here you’re now Lt.

In reply, the petitioner insists that the dozens of pages of email traffic appended to the appointing authority’s response are irrelevant to the instant petition for interim relief. The manner in which petitioner’s former counsel communicated with counsel for the appointing authority over scheduling issues is a red herring designed to distract the Commission from the undisputed fact that the appointing authority demoted him without a departmental hearing, despite such hearing being requested. Indeed, the emails provided seem to show that neither the appointing

authority nor petitioner's former counsel seemed to make any genuine effort to schedule the hearing in a timely manner. But, in the petitioner's view, the details of what occurred are not before the Commission and are not relevant to the current inquiry. Rather, all that is relevant is that the appointing authority has conceded that the petitioner was demoted. Even assuming that petitioner's former counsel was well aware of the demotion and never raised this issue, the appointing authority simply had no authority to demote him without a hearing, irrespective of when a hearing was ultimately scheduled. In addition, the petitioner argues that *Covey, supra*, which addressed a unique situation, has nothing to do with the subject of this petition. Nowhere in that case, the petitioner insists, is there any suggestion that a municipality has the authority to issue a disciplinary demotion in a Civil Service jurisdiction without a departmental hearing.

The petitioner adds that it now appears that the same people who participated in his unlawful demotion are now seeking to rapidly conduct promotions in the near future for Deputy Police Chief and Police Captain while the petitioner is litigating his unlawful demotion. Whether this was their intent all along remains unclear. If true, this accelerated promotion effort would result in another Police Captain being promoted to Deputy Police Chief without the petitioner's participation in the promotional process due to his unlawful demotion to Police Lieutenant. Also, if true, this accelerated promotional effort would possibly result in the subordinate whose wife the petitioner is alleged to have had an affair with being promoted to Police Captain while the petitioner is unlawfully demoted, instead of waiting until his anticipated appeal is resolved. The petitioner asserts that some corroboration for these concerns came in a July 4, 2025 email sent by the president of the Superior Officers Association¹ (SOA) to all SOA members, including the petitioner. The email states, in part:

The mayor and [business administrator] were receptive to our position on the Deputy [Police] Chief spot being filled permanently, but did not commit to a timeline on doing so. Additionally, they understood our interest in seeing the interim positions becoming permanent appointments when the time comes. We also presented our case for adding [four] sergeants to patrol, and they shared our concerns about span of control and proper levels of supervision, especially given the amount of newer officers our department has. Again, no timeline was given. We noted the township ordinance that allows for these positions and the department staffing level increases due to the return to consistent hiring in recent years as reasons to consider filling these positions sooner than later. We believe putting these issues in front of them will move them toward making more promotions in the near future

¹ Based on the record, the president happens to also be the subordinate whose wife the petitioner is alleged to have had an affair with.

and feel that we will be able to continue this conversation based on the rapport we have with town administration[.]

Thus, he also requests an order “requiring [the appointing authority] to preserve the *status quo ante* by not making any promotions to Deputy [Police] Chief or [Police] Captain until [p]etitioner’s anticipated appeal of his demotion is resolved.”

In reply, the appointing authority proffers that to suggest that this disciplinary action was deliberately timed to prevent the petitioner from being considered for a Deputy Police Chief position is absurd at best. In addition, if there was immediate harm, the petitioner would not have allowed months to go by, since his November 18, 2024 demotion, to either schedule a hearing or request interim relief. Here, inaction equates to acquiescence. In support, the appointing authority submits, among other things, additional correspondence between the petitioner’s former counsel and the appointing authority’s counsel. This documentation indicates that on February 28, 2025, the petitioner’s former counsel stated the following in an email to the appointing authority’s counsel: “Interestingly, my client has already been wrongfully demoted.”

CONCLUSION

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

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.

In the instant matter, the petitioner has demonstrated, based on the standards above, that he is entitled to interim relief. In this matter, it is *not* the merits of the charges at issue, but rather, whether the appointing authority’s “immediate demotion” was appropriate. *N.J.A.C.* 4A:2-2.5(a) provides that an employee must be served with a PNDA setting forth the charges and statement of facts supporting the charges and afforded the opportunity for a hearing prior to the imposition of major discipline. *N.J.A.C.* 4A:2-2.5(a)1 provides that an employee may be immediately **suspended** without pay prior to a hearing.² *N.J.A.C.* 4A:2-2.5(d) provides that a departmental hearing, if requested, shall be held within 30 days of the issuance of the PNDA unless waived by the employee or a later date as agreed to by the parties.

² *N.J.S.A.* 11A:2-13 and *N.J.A.C.* 4A:2-2.5(a)1 provide that an employee may be suspended immediately without a hearing if the appointing authority determines that the employee is unfit for duty or is a hazard to any person if allowed to remain on the job or that an immediate suspension is necessary to maintain safety, health, order, or effective direction of public services.

In this matter, the petitioner accurately states that the appointing authority improperly demoted him prior to conducting a substantive departmental hearing pursuant to *N.J.A.C. 4A:2-2.5(a)*. In this regard, *N.J.A.C. 4A:2-2.5(a)1* does not provide any information indicating that employees may be immediately *demoted* prior to a departmental hearing. Rather, the rules only indicate that employees may be immediately *suspended* prior to a departmental hearing under certain circumstances. There is no Civil Service law, rule, or standard that permits an “immediate demotion.” See *Fucci, supra*. Since a PNDA was issued and the petitioner requested a departmental hearing prior to the demotion, the appointing authority in this matter infringed upon the petitioner’s entitlement to a departmental hearing prior to imposing discipline.

The appointing authority relies on *Covey, supra*. In pertinent part, the facts of that case are as follows. The Department of Civil Service questioned the appointment of Covey, a fire department member, to the position of parking division superintendent without consideration of the promotional rights of members of the police department. On April 19, 1951, the Department of Civil Service, almost four months after Covey’s appointment, formally advised the city that “[it] cannot accept the ordinance provisions for promoting a member of the Uniformed Fire Department to the position of Parking Division Superintendent under the administrative supervision of the Police Chief without considering the promotional rights of members of the Police Department as well.” Thereupon, on July 2, 1951, the challenged resolution was adopted rescinding the resolution of December 28, 1950, which appointed Covey parking division superintendent and captain in the fire department and directing him “to return to his position and duties as Lieutenant in the Fire Department.” Subsequently, on September 4, 1951, the fire department ordinance was amended to reduce the number of captaincies from five to four, and on September 18, 1951, an ordinance was adopted abolishing the position of parking division superintendent. 11 *N.J.* at 378-379. When the *Covey* Court said that “[t]he city . . . could at any time abolish plaintiff’s captaincy for any legitimate reason and effect plaintiff’s demotion to a lieutenantcy without first giving him a hearing,” it cited, as authorities, *Reck v. Board of Commissioners of North Bergen*, 110 *N.J.L.* 173 (*E. & A.* 1933) and *R.S. 11:22-10*. 11 *N.J.* at 380. In *Reck*, the former Court of Errors and Appeals indicated that “the proceedings in question were taken in good faith for the purpose of effecting economy in the expenditures of the municipality.” 110 *N.J.L.* at 176. Former *R.S. 11:22-10* similarly dealt with positions abolished for reasons of economy or otherwise. See, e.g., *Kraibuehler v. Civil Service Commission*, 134 *N.J.L.* 97 (*Sup. Ct.* 1946). The facts of *Covey* are unlike the instant matter. In addition, that case relied on authorities that pertained to the abolishment of positions for reasons of economy. The petitioner was clearly demoted for a disciplinary reason. As such, *Covey* does not apply here.

Additionally, since the petitioner requested a departmental hearing, he did not waive his right to have such hearing conducted, notwithstanding that he sought to

conduct discovery. Further, there is insufficient support in the record to state that the petitioner effectively forfeited any right to interim relief. In this regard, the petitioner, notwithstanding that he sought discovery, did promptly request a departmental hearing after receipt of his PNDA. The imposition of the “immediate demotion” was clearly improper in and of itself as discussed above. And the record reflects that though the instant formal petition for interim relief was not filed until June 9, 2025, the record reflects that the petitioner was earlier voicing concerns to the appointing authority over his demotion via his former counsel. Specifically, in the February 28, 2025 email, counsel stated that the petitioner “has already been wrongfully demoted.” In the April 9, 2025 email, counsel stated that he “[didn’t] think that [the petitioner] should have been demoted without any kind of a hearing and without due process.”

Based on the imposition of the procedurally deficient immediate demotion, the Commission finds that the petitioner, in the absence of an FNDA, is entitled to be immediately returned to the title of Police Captain. Further, he is entitled to differential back pay, benefits, and seniority from the first date of his demotion until the actual date he is returned to the title of Police Captain or the actual date an FNDA is issued, whichever occurs first. However, such procedural errors do not warrant dismissal of the underlying charges. The Commission will not dismiss such charges based on procedural errors. Moreover, the Commission has provided an appropriate remedy in this circumstance and should the petitioner be successful at the departmental hearing or upon any subsequent appeal to the Commission based on the discipline ultimately imposed, he will be afforded all other appropriate remedies. Finally, the appointing authority is cautioned that, in the future, it strictly follow the provisions of *N.J.A.C. 4A:2-2.1, et seq.*, in imposing future disciplinary actions.

Finally, the Commission declines the petitioner’s request for an order “requiring [the appointing authority] to preserve the *status quo ante* by not making any promotions to Deputy [Police] Chief or [Police] Captain until [p]etitioner’s anticipated appeal of his demotion is resolved.” Based on the July 4, 2025 email by the SOA president, the appointing authority did not commit to any timeline for promotions. Further, the petitioner has the “[t]he right to appeal adverse actions relating to the examination and appointment process, which shall include but not be limited to rejection of an application, failure of an examination and removal from an eligible list.” *N.J.S.A. 11A:4-1e*. If the petitioner is subjected to such adverse action in the future, the recourse would be to file the appropriate appeal at that time.

ORDER

Therefore, it is ordered that this petition be granted in part. Christopher Boller, in the absence of the issuance of a Final Notice of Disciplinary Action upholding his demotion, shall immediately be returned to the title of Police Captain.

Further, he shall be granted differential back pay, benefits, and seniority from the first date of his demotion until the actual date he is returned to the title of Police Captain or the actual date a Final Notice of Disciplinary Action is issued, whichever occurs first.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 10TH DAY OF SEPTEMBER, 2025

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