

DECISION OF THE CIVIL SERVICE COMMISSION

CSC Docket No. 2025-922
OAL Docket No. CSR 16309-24

ISSUED: SEPTEMBER 29, 2025

In its exceptions, the appointing authority argues that removal is the proper penalty in this matter and that the ALJ should not have relied on a Lieutenant's testimony that removal would not have been recommended if the appellant had not been untruthful in his interview. In this regard, 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 municipal Police 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 this matter, the ALJ performed an analysis of the penalty to be imposed. In that regard, the ALJ stated:

As respondent notes, Potocny's prior disciplinary record is clean of infractions involving truthfulness, but does include a violation for engaging in a high-speed chase and ignoring traffic devices. Resp't's Post-Hr'g Br. (July 3, 2025) (Resp't's Br.), at 36, citing R-19¹. The absence of prior discipline may be disregarded if the "seriousness of an offense . . . warrants" termination. Resp't's Br. at 34 (citations omitted).

Law enforcement officers must be held to a high standard in their job performance and in the context of disciplinary removals. What gives me pause, however, is that Pavlov testified that he and Chief Roohr would not have recommended termination if Potocny had admitted his mistake and accepted accountability, but because Potocny was not truthful in the IA interview, they had no choice but to seek the greater penalty. Potocny did admit to making a mistake—multiple times. "Accountability" generally means dealing with the consequences, making up for what you did wrong. There was no testimony or evidence on how Potocny could have made this digression right, whether to contact the complainants to correct the record or to serve a lesser penalty, including training. Given that I am unable to find that Potocny lied during his IA interview, I am left with respondent's position that Potocny's conduct on March 26, 2024, alone does not rise to the level of termination. (footnote omitted). Accordingly, I recommend, for the

¹ The disciplinary action taken for that incident in 2023 was a written reprimand.

reasons described above, that the penalty sought in this matter be modified to a six-month suspension followed by training in dealing with the public.

While the appointing authority believes the removal should be upheld, for all of the reasons expressed by the ALJ above, the Commission can support the modification to a six-month suspension with additional training. That penalty, the most severe suspension permitted under Civil Service law and rules, should serve as a warning to the appellant that any future misconduct with likely result in his removal from employment. In making this determination, the Commission affords no weight to the Lieutenant's testimony regarding the appropriate penalty. Rather, the Commission's determination is based solely on its assessment of the nature and severity of the upheld charges, which it does not find sufficient in this matter to warrant removal.

Since the removal has been modified, the appellant is entitled to be reinstated to his position with mitigated back pay, benefits, and seniority pursuant to *N.J.A.C. 4A:2-2.10* from six-months after the first date of disciplinary separation without pay² until the date he is reinstated.

However, the appellant is not entitled to counsel fees. *N.J.A.C. 4A:2-2.12(a)* provides for the award of counsel fees only where an employee has prevailed on all or substantially all of the primary issues in an appeal of a major disciplinary action. The primary issue in a disciplinary appeal is the merits of the charges. See *Johnny Walcott v. City of Plainfield*, 282 *N.J. Super.* 121,128 (App. Div. 1995); *In the Matter of Robert Dean* (MSB, decided January 12, 1993); *In the Matter of Ralph Cozzino* (MSB, decided September 21, 1989). Thus, where, as here, a penalty is modified but charges are sustained and major discipline is imposed, counsel fees must be denied since the appellant has failed to meet the standard set forth at *N.J.A.C. 4A:2-2.12*.

This decision resolves the merits of the dispute between the parties concerning the disciplinary charges and the penalty imposed by the appointing authority. However, per the Appellate Division's decision, *Dolores Phillips v. Department of Corrections*, Docket No. A-5581-01T2F (App. Div. Feb. 26, 2003), the Commission's decision will not become final until any outstanding issues concerning back pay are finally resolved. In the interim, as the court states in *Phillips, supra*, if it has not already done so, upon receipt of this decision, the appointing authority shall immediately reinstate the appellant to his permanent position.

² In this regard, if the appellant was immediately suspended without pay prior to the effective date of his removal, the imposed six-month suspension begins as of that date, and the back pay period starts six months later. See e.g. *In the Matter of Ranique Woodson* (CSC, decided January 15, 2025).

ORDER

The Civil Service Commission finds that the action of the appointing authority in removing the appellant was not justified. The Commission therefore modifies that action to a six-month suspension. The Commission further orders that the appellant undergo additional training as specified in the initial decision.

Additionally, the Commission orders that the appellant be granted back pay, benefits, and seniority from six-months after the first date of disciplinary separation without pay to the date he is reinstated. The amount of back pay awarded is to be reduced and mitigated as provided for in *N.J.A.C.* 4A:2-2.10. Proof of income earned, and an affidavit of mitigation shall be submitted by or on behalf of the appellant to the appointing authority within 30 days of issuance of this decision. Pursuant to *N.J.A.C.* 4A:2-2.10, the parties shall make a good faith effort to resolve any dispute as to the amount of back pay. However, under no circumstances should the appellant's reinstatement be delayed pending resolution of any potential back pay dispute.

Counsel fees are denied pursuant to *N.J.A.C.* 4A:2-2.12.

The parties must inform the Commission, in writing, if there is any dispute as to back pay within 60 days of issuance of this decision. In the absence of such notice, the Commission will assume that all outstanding issues have been amicably resolved by the parties and this decision shall become a final administrative determination pursuant to R. 2:2-3(a)(2). After such time, any further review of this matter shall be pursued in the Superior Court of New Jersey, Appellate Division.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 24TH DAY OF SEPTEMBER, 2025

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
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Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSR 16309-24

AGENCY DKT. NO. N/A

**IN THE MATTER OF CHASE POTOCHNY,
BORDENTOWN TOWNSHIP
POLICE DEPARTMENT.**

Paul W. Tyshchenko, Esq., for appellant Chase Potocny (Caruso Smith Picini,
P.C., attorneys)

Armando V. Riccio, Esq., for respondent Bordentown Township Police
Department (Armando V. Riccio, LLC, attorney)

Record Closed: July 8, 2025

Decided: August 14, 2025

BEFORE **TRICIA M. CALIGUIRE**, ALJ:

STATEMENT OF THE CASE

Appellant Chase Potocny appeals the decision of respondent Bordentown Township Police Department (BTPD) to remove him from his position of police officer, effective May 15, 2024, on charges of conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6); other sufficient cause pursuant to N.J.A.C. 4A:2-2.3(a)(12), due to alleged violations of Bordentown Township Rules and Regulations, Chapter IV,

Section J, conduct toward the public, and Chapter XIII, Rule No. 11, dishonesty or untruthfulness; and misconduct in violation of N.J.S.A. 40A:14-147.

PROCEDURAL HISTORY

On May 14, 2024, respondent issued a Preliminary Notice of Disciplinary Action (PNDA) to Potocny, charging him with conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6); other sufficient cause pursuant to N.J.A.C. 4A:2-2.3(a)(12), due to alleged violations of Bordentown Township Rules and Regulations, Chapter IV, Section J, conduct toward the public, and Chapter XIII, Rule No. 11, dishonesty or untruthfulness; and misconduct in violation of N.J.S.A. 40A:14-147. Potocny requested a departmental hearing but did not appear at the designated time and place. On October 17, 2024, respondent issued the Final Notice of Disciplinary Action (FNDA) to Potocny, sustaining all charges and imposing the discipline of removal from his position as a police officer, effective May 15, 2024.

Potocny timely appealed the FNDA to the Civil Service Commission, which transmitted this matter on November 8, 2024, to the Office of Administrative Law (OAL) for a hearing under to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -23.¹ A prehearing conference was held on December 9, 2024, during which the hearing was scheduled, and a prehearing order was issued on December 10, 2024. Following a motion by respondent, an amended prehearing order was issued on January 7, 2025, which included the following directions:

As to any expert witness, the offering party shall provide the other party with a resume, a written summary of testimony, and reasonable access to all reports, data, investigations, studies, tests, and the like upon which the expert testimony will be based.

¹ As provided at N.J.A.C. 4A:2-2.13(g) and (h)(6–8), the final decision in this matter is due 180 days following the OAL’s receipt of the appeal, but this date shall be extended by “the period of time for which appellant or his or her attorney . . . requests and is granted postponement of a hearing or other delay . . . [or] causes by his or her actions a postponement, adjournment or delay of a hearing [and] [t]he period of time for which the appellant or his or her attorney . . . agrees with the appointing authority to a postponement or delay of a hearing[.]”

[Amended Prehearing Order (January 7, 2025), ¶ 11.]

Neither party objected to this provision of the prehearing order.

The parties both filed motions to dismiss, by appellant on procedural grounds, and by respondent due to alleged discovery violations. After expedited briefing, both motions were dismissed, by orders dated February 4, 2025, and February 10, 2025.

The hearing was held at the OAL on February 18 and 21, 2025. Due to the failure of appellant to disclose the report generated by his expert, the hearing was adjourned on February 21, 2025, and rescheduled to permit respondent review time. The hearing resumed on April 16, and May 6, 2025. At the close of the hearing, the parties requested to submit briefs on or before June 6, 2025. Two adjournments of the filing deadline were granted. With the receipt of post-hearing briefs on July 8, 2025, I closed the record.

As provided at N.J.A.C. 4A:2-2.13(h)(7), the deadline by which the final decision is due was extended for the length of the adjournments, totaling one hundred thirty-five days.

FACTUAL DISCUSSION AND FINDINGS

Respondent presented three witnesses; appellant presented one witness and testified on his own behalf. Based on the testimonial and documentary evidence presented at the hearing and in connection with the motions described above, I **FIND** the following **FACTS**:

Background/

Rules and Policies of the Appointing Authority

The applicable rules and policies of the appointing authority are found in the Rules and Regulations Manual of the Bordentown Police Department (the Rules), which provides as follows, in pertinent part:

IV. RULES OF CONDUCT

...

J. Conduct toward public

2. Request for identification. Upon request, employees are required to supply their name and identification number in a courteous manner.

UNIFORM STANDARD RULES OF CONDUCT

...

RULE 11: DISHONESTY OR UNTRUTHFULNESS:

Members shall not lie, give misleading information or half-truths, or falsify written or verbal communications in official reports or in their statements or actions with supervisors, another person, or organization when it is reasonable to expect that such information may be relied upon because of the member's position or affiliation with this organization.

Nonexclusive Listing of Violations

...

Giving untruthful or misleading statements or partial truths during a legal proceeding, internal investigation, or administrative proceeding.

Making untruthful or misleading statements or partial truths about any member, supervisor, command staff or their operations.

Providing citizens with misleading or false information to avoid performance of duties or delivery of an expected service.

Enforcement Guidelines

Termination if, as a result of the action, the member loses work credibility and it is no longer reasonable to expect that the member can be effective or efficient in his or her current job assignment.

[R-5 at 16, 63, 64.]

The BTPD Directive #2020-2, Brady/Giglio Policy and Procedures, issued on February 20, 2020, provides:

II. POLICY

It is the policy of the Burlington County Prosecutor's Office to satisfy its **Brady/Giglio** obligations in a manner that timely provides defendants with Brady/Giglio material to which they are entitled, while respecting the confidentiality of internal affairs matters, which are often the subject of Brady/Giglio review. There are significant consequences in both regards. The possible consequences of a Brady/Giglio violation are (1) the Court ordering disclosure of the material at issue; (2) continuance of a trial for further investigation; (3) reversal of a conviction or sentence; and/or (4) withdrawal of a previously entered guilty plea. The impact upon a sworn law enforcement officer of a Brady/Giglio disclosure includes (1) harm to their reputation; (2) privacy implications; (3) their role as a police officer may be limited in the future; and (4) possible adverse employment action.

. . .

This Directive will guide law enforcement and BCPO Assistant Prosecutors not only in the procedure, but also in identifying, obtaining and reviewing Brady/Giglio material related to law enforcement witnesses who may testify in matters prosecuted by this Office, in compliance with the law, the Rules of Professional Conduct and relevant New Jersey Attorney General Policy & Procedures and Directives[.]

[R-6 at 2.]

The BTPD S.O.P. #2021-228, Internal Affairs Policy and Procedures, issued November 16, 2022, provides, in pertinent part:

Section 8.6.4 Any questions asked of officers during an internal investigation must be "narrowly and directly" related to performance of their duties and the ongoing investigation. Officers must answer questions directly and narrowly related to that performance. All answers must be complete and truthful, but officers cannot be compelled to answer questions

having nothing to do with their performance as law enforcement officers, that do not implicate a rule or regulation violation, or that are unrelated to the investigation.

[R-7 at 53.]

Testimony/BWC Footage

Chase Potocny was hired by the BTPD in 2018 and served as a police officer continuously until he was suspended in April 2024.

By way of background, on March 26, 2024, Potocny was called to the Red Roof Inn in Bordentown to respond to a claim of credit card fraud. Two men, one the former employer of the other, were involved in a dispute over money allegedly owed by the employer to his former employee. The employee chose to recover this money by using the employer's company credit card to pay for his stay at the Red Roof Inn. When the employer saw a significant hotel charge on his credit card, he contacted the BTPD.

When Potocny arrived at the Red Roof Inn, he activated his body-worn camera (BWC). The footage from the BWC was viewed at the hearing. R-1. Officer Andrew Addison and Officer Christian Cardinale were with the employee/suspect on the second-floor exterior walkway, and Addison was on the phone with the employer/complainant.² Potocny was the highest-ranking officer and, as such, was responsible for directing the other officers on the scene.

Potocny can be heard on the BWC footage speaking to the suspect about the difference between the complainant, his former employer, withholding money from him, which would be a civil matter, and the suspect using the complainant's credit card without authorization, which would be a criminal matter.

² Although no information was provided regarding the disposition of the underlying criminal charges against the employee, for simplicity's sake, the employee shall be referred to as the "suspect" and the employer as the "complainant."

The complainant asked Addison to speak with a higher-ranking officer and, therefore, Addison handed his phone to Potocny. Potocny can be heard instructing the complainant about credit card fraud and the need for the complainant to come to the police station to make a formal complaint. He offers to take the credit card from the suspect and keep it at the station. The complainant can be heard telling Potocny that the suspect is a flight risk and should be detained.

After Potocny concluded the call, the complainant called Addison a second time, asking to again “speak to a higher-ranking officer.” Tr. of May 6, 2025 (Tr. 4), at 49. Potocny took the phone, and the complainant can be heard saying that there is a felony in progress. He wanted Potocny to take his complaint over the phone and/or wanted to go to his local police department to file the complaint. He asked, “is that the way you treat the public?” Tr. 4 at 51. Potocny gave the complainant the case number to use if he decided to file locally. Throughout the conversation, Potocny remained calm and courteous while the complainant was belligerent.

The complainant then thanked Potocny and can be heard asking for his name. In response, Potocny said, “It’s a . . . I’ll give you my badge number, 3297.” That number was not Potocny’s badge number, which is 3289, but is Addison’s badge number. Potocny did not tell the complainant that he provided the badge number of the case officer, that the case officer is Addison, that the badge number is Addison’s, and that he did not give his own name or badge number. Meanwhile, Addison and Cardinale can be seen on the BWC footage approximately eighteen feet away, facing in the opposite direction.

At the hearing, Potocny said that the reason he gave Addison’s badge number was because Addison was the case officer, with continuing responsibility for the case, who the complainant would need to contact if and/or when he filed a formal complaint. Potocny said he made “a mistake.” He said he did not lie, he did not attempt to conceal his identity, and if he could go back in time, he would have explained who he is and Addison’s role. Tr. 4 at 13, 14.

On cross-examination, Potocny stated that he knows that it is important for an officer to give his name to a member of the public when asked—for accountability and transparency—and that truthfulness is an important part of the job.

The BWC footage shows that after completing the call, Potocny walked to where Addison and Cardinale were standing; Potocny is heard telling the other officers that he is going to the front desk to ask whether the hotel would take an alternate form of payment from the suspect. The last view from Potocny's BWC footage is all the officers walking down the stairs toward a fourth Bordentown police officer, Sergeant Joseph Ciabattoni.

On March 27, 2025, the complainant went to the BTPD to file a complaint. When Detective Sergeant Anthony Nagle took the complaint, he activated his BWC. He added the footage from his BWC to the file and reviewed the existing BWC footage, including that from Potocny's BWC, on which Potocny can be heard giving Addison's badge number in response to the request for his own name. Consistent with BTPD rules, Detective Nagle was obligated to use the Guardian Tracking System, an "early-warning" system that tracks positive and negative actions in each employee's job history. Detective Nagle reported to Lieutenant Joshua Pavlov that he believed Potocny may have committed a rule infraction.

Lieutenant Joshua Pavlov has been with the BTPD for sixteen years and has been responsible for conducting Internal Affairs (IA) investigations for approximately ten years. He conducted the investigation of Potocny's alleged misconduct, which included review of the BWC footage of all three officers, R-1 and R-2, interviewing Potocny, R-9, and issuing a report. R-11. He did not interview anyone else as there was no one else who heard Potocny's alleged misstatements except the complainant, and the complainant had no reason (at the time) to know that Potocny was not being truthful.

On April 2, 2024, a notice was issued to Potocny that he was subject to an IA investigation related to the March 26, 2024, incident and would be interviewed by IA on April 5, 2024. R-10. Between March 26, 2024, and April 5, 2024, Potocny worked two twelve-hour shifts. R-12. He did not review the BWC footage before the IA interview. During the IA interview, Potocny stated that he did not recall the "exact conversation"

when the complainants asked him for his name. Tr. 4 at 84. He stated that he recalled parts of the conversation with the complainant, but not all. Id. at 85, 89. Finally, Potocny told Pavlov that he answered all Pavlov's questions truthfully.

Pavlov concluded that Potocny lied to the complainant, which is a Rule 4 violation. Pavlov also concluded that Potocny lied during his IA interview when he said that he could not recall his conversation with the complainant, though he did recall giving Addison's badge number and not giving his own name or badge number. Untruthfulness in an IA investigation is a Rule 11 violation. The only reason Potocny gave to Pavlov for his behavior was that Addison was the case officer. Tr. of February 18, 2025 (Tr. 1), at 79. Potocny did not explain to Pavlov that the complainant would need Addison's name if and/or when he filed a complaint. Tr. 4 at 91.

The transcript of the IA interview follows:

Pavlov: Are you familiar with/do you recall the incident?

Potocny: I recall the incident.

Pavlov: Were you involved with speaking with the complainant(s) on the phone?

Potocny: I was.

Pavlov: Did Ptl. Addison inform you that the complainant(s) on the phone wished to speak to a different, higher-ranking officer?

Potocny: He did.

Pavlov: Did you then take the phone from Ptl. Addison and continue speaking with the subjects on the phone?

Potocny: I did.

Pavlov: During the conversation, did you clarify the judicial process and inform the subjects of their options regarding the filing of complaints?

Potocny: I did.

Pavlov: Did you provide the complainants with the incident number?

Potocny: I don't recall.

Pavlov: At the conclusion of the call, did the complainant(s) ask for your name?

Potocny: I don't recall exactly what they asked.

Pavlov: Did you provide them with your name?

Potocny: I did not.

Pavlov: Did you provide them with your badge number?

Potocny: I did not.

Pavlov: Did you provide them with a badge number?

Potocny: Yes.

Pavlov: What badge number did you provide?

Potocny: To the best of my recollection it was patrolman Addison's.

Pavlov: Which is?

Potocny: 3297.

Pavlov: What is your badge number?

Potocny: 3289.

Pavlov: Is there a reason, upon request, that you provided a badge number other than your own?

Potocny: Because he is the case officer.

Pavlov: So, to your recollection you provided Ptl. Addison's badge number when asked for your name?

Potocny: I don't recall the exact conversation.

Pavlov: Is there anything else you would like me to know regarding this matter?

Potocny: No, sir.

[R-11 at 2-3.]

In explaining why the above exchange resulted in a second charge of untruthfulness, Pavlov said:

I felt that he wasn't truthful when he stated that he did not recall specifically what he was asked, specifically because during the interview he recalled specific other facts. In addition to that when asked for his name he deviated from a standard answer of his name, took a pause, made a knowing and voluntarily changed to the answer to a badge number and then provided another officer's badge number. It's not something you would normally do in the course of business. It was my understanding that within a short period of time since that had occurred it would be fresh in his recollection because it's not something that we would normally do.

[Tr. 1 at 74.]

Pavlov also said that he did not believe Potocny during the IA interview when Potocny said the reason he gave Addison's badge number was because Addison was the case officer, because:

I don't speak him [sic] because again specifically he changed his answer, he recalled the other specific events. Had a recollection of everything up to that point. Essentially refused to answer the question, the selective memory at that point is equivalent to not honestly answering the question and avoiding answering the question. It's akin to lying because he's not fully answering the question that was posed to him.

[Tr. 1 at 83.]

Pavlov stated that in a paramilitary organization, such as the BTPD, it is important for members of the organization to follow the rules because the rules "provide the guidelines and the framework for providing response and holding people accountable for their actions." Tr. 1 at 82. As part of his job, Pavlov keeps track of all officers' receipt and review of BTPD rules, including the Rules and Regulations, the Brady-Giglio Policy statement,³ and Standard Operating Procedures. Pavlov identified the document in which Potocny's receipt and stated review of all these documents was recorded. R-8.

On cross-examination, Pavlov described the difference between minor mistakes and violations of the rules. He conceded errors in the IA report but stated that none of these were intended to mislead the reader. He also conceded that he did not ask Potocny if he wished to review his recorded statement for accuracy, explaining that Potocny had already said he could not recall much of what he was asked and that he had nothing further to add.

Pavlov discussed the results of his investigation, and the IA report, with Chief Nathan Roohr, but the decision regarding discipline was made by Chief Roohr. Pavlov

³ In short, this policy characterizes an officer's lack of candor during an IA investigation as a Giglio violation which would have to be disclosed to defense counsel should that officer be called to testify in a criminal proceeding, thereby limiting that officer's ability to serve in law enforcement. See Tr. 1 at 84-85; R-6.

stated that he and Chief Roohr discussed that when Potocny spoke with the complainant, it would have been very simple for him to identify himself and tell the complainant to contact Addison for additional information. It should not have been difficult for Potocny to be honest in this situation, raising concern about Potocny's potential for dishonesty in more difficult situations.

"On top of that," Pavlov and Chief Roohr "discussed the [IA] interview and [Pavlov's] thoughts on [Potocny's] honesty during the interview and how that further complicated things." Tr. 1 at 135. Had Potocny admitted his mistake and taken accountability, "we probably wouldn't have moved for termination," but because Potocny said he could not recall the exact conversation with the complainants, lesser discipline than termination would mean condoning "the initial lie [and] the subsequent selective memory." Tr. 1 at 136. Such would impair the ability of the BTPD to conduct IA investigations in the future, opening the way for other officers to "selectively answer questions" in the guise of poor memory. Ibid.

According to Pavlov, he did not discuss progressive discipline, or Potocny's disciplinary record, with the chief, who was "adamant that he did not trust Potocny" and that the seriousness of the incident was sufficient for Potocny to be terminated. Tr. 1 at 138.

Richard Rivera appeared on appellant's behalf. He is a consultant on matters related "to police conduct and operations." A-52. He has operated his own consulting company since 2008, during which time he has worked for private individuals and public entities. Rivera was offered and accepted (over respondent's objections) as an expert in police practices, training and IA matters.

Rivera was retained by appellant to review this matter, including the incident of March 26, 2024, the filing of the formal underlying complaint, Nagle's actions, the IA investigation, Pavlov's actions, and the decision of Chief Roohr to recommend termination of appellant. He stated that he considered both Potocny's conduct and the BTPD response. After a review of all materials provided by respondent to appellant in discovery,

BTPD policies and procedures, the IA investigation, BWC footage, and other background materials, Rivera produced two reports. A-53; A-54.

At the hearing, Rivera identified the footage from Addison's BWC on March 26, 2024, approximately thirty minutes of which was played without interruption or commentary. This footage did not differ significantly from the footage from Potocny's BWC, other than that there is more footage of the suspect and his interaction with all three officers. Rivera stated that from the footage, he determined that Addison was new to the job and in need of guidance, which Potocny provided. Addison used his speakerphone when talking to the complainant and, therefore, no action or interaction by or between any parties was concealed.

Rivera identified the footage from Nagle's BWC on March 27, 2024, one day after the incident at the Red Roof Inn, approximately ten minutes of which was played without interruption or commentary. A-55. On the footage, the complainant and a colleague are seen at the police department, speaking with Nagle after filing a formal complaint. Nagle is heard making statements like those the complainant heard the day before from both Addison and Potocny. Rivera noted that Nagle said that he "believed" that Addison was the case officer "despite already knowing Addison's role and previously telling the men" that he would inform the case officer of the filing of the complaint. A-53 at 6. Rivera characterizes Nagle's statement of his belief as "misleading the victim about the case officer's identity," an action for which Nagle was not disciplined. Ibid.

Rivera identified the audio tape of the IA interview of Potocny by Pavlov on April 5, 2024, which was played in its entirety without interruption or commentary. A-56. Rivera found that the interview was conducted in violation of the Attorney General Guidelines; Pavlov should have offered Potocny the opportunity to review the BWC footage under Section 8.6.5. Rivera stated that the questions by Pavlov and the answers given by Potocny were both made quickly and without hesitation. He did not hear Potocny "lying" during the IA interview. Rivera noted that Pavlov did not ask follow-up questions but could not explain why Pavlov would ask more questions after getting the response he wanted from Potocny. See Tr. of April 16, 2025 (Tr. 3), at 72–73.

Rivera described other faults with the IA process, including that witnesses to the alleged event were not interviewed as required by Section 6.2.3,⁴ and there was no evidence (such as a signed form) that Chief Roohr reviewed the IA investigation and/or interview or that he made a recommendation regarding discipline as required under Section 6.2.5. Tr. 3 at 60; see also A-53 at 23.

Finally, Rivera stated that the IA Report did not discuss the application of progressive discipline, a standard section in such reports. R-11. Rivera explained that other forms of discipline were available to the BTPD to use at its discretion. Intent is an important consideration when the action or inaction of an officer involves candor and/or dishonesty. Rivera describes Potocny's untruthful statement to the complainant as a "technical violation" and not done with intent to deceive but to "facilitate assistance to Officer Addison in a criminal investigation." Tr. 3 at 84–85; A-53 at 31. The statement "was not a lie or meant to deceive[.]" A-53 at 31. All the officers, Rivera said, were working together at the Red Roof Inn. Both Potocny, on the phone, and Nagle, in person, directed the complainant to Addison, who had primary responsibility for the case.

Rivera concluded that Potocny's action did not rise to the level of misconduct warranting termination and that such discipline should not have been imposed. A-53 at 31. Rivera did not find that Potocny gave false answers in the IA interview; "[H]e said he just didn't recall, so he didn't give an answer one way or another." Tr. 3 at 78. Rivera conceded that it is more common to have trouble recalling the specifics about an incident when the IA interview is remote in time from the date of the incident, Tr. 3 at 79, which was not the case here.

Rivera is critical of the BTPD, claiming that Pavlov "weaponized the [IA] function and repeatedly violated [policy] to exact punitive and retaliatory measures for Potocny seeking employment elsewhere." A-53 at 32. Rivera found a conspiracy within the BTPD to retaliate against Potocny after he applied with the West Windsor (New Jersey) Police Department (WW), and concluded that this conspiracy included Chief Roohr.

⁴ The complainant was the only witness to Potocny's disputed statement, and everything the complainant heard was taped via the BWC.

For his part, Potocny stated that he applied to WW because he felt the BTPD was not “the best fit.” Tr. 4 at 15. He also applied to police departments in Spring Lake and Bordentown City. He did not state the results of the WW application but agreed when asked that having an open IA investigation could negatively impact that application. Further, he agreed that as of February 2024, he was subject to an IA investigation, which did not result in charges.

Potocny also stated that in early March 2024, he learned that the New Jersey State Police was putting together a drug enforcement task force with members from various police departments. Potocny asked Pavlov about joining the task force on behalf of the BTPD; according to Potocny, Pavlov said that the BTPD needed another detective on its own force and was not likely to grant such a request. Potocny said if he could go back in time, he would not have spoken with Pavlov regarding the task force.

On rebuttal, respondent called **Thaddeus Drummond**, former assistant prosecutor with the Burlington County Prosecutor’s Office. R-4. Drummond was offered and qualified without objection as an expert in IA operations, investigations and procedures, and in Brady-Giglio procedures.

Drummond explained that in two cases, the United States Supreme Court ruled that in criminal matters, the prosecutor has an affirmative duty to tell the defense of evidence that exculpates the defendant and/or that affects the credibility of a government witness. A “Brady cop” is shorthand for a police officer whose credibility can be challenged due to incidents where he or she was found to be lacking candor or truthfulness. Practically, this means that the officer is limited in his or her ability to do his or her job as so often, police are needed to testify in court. A “Brady review” by a county prosecutor is triggered by allegations of untruthfulness or criminal charges.

Drummond agreed that there is no requirement that a Brady cop be fired but stated that they are severely undermined in their ability to do their jobs. Lack of truthfulness is a terminable offense because officers so charged are unable to do their jobs.

Drummond reviewed the BWC footage and the IA report of Pavlov and found no errors of significance in the report. With respect to Potocny's conduct, Drummond found his statement in response to the request for his name to be a significant violation of two BTPD regulations, Chapter 4, section J, and Rule 11. Objectively, Potocny was not truthful. In response to the question, he first deflected—"I'll give you my badge number"—and then lied by giving Addison's badge number.

Drummond speculated that because the callers were displeased with the refusal of the responding officers to arrest the suspect, and the complainants were likely to file a complaint, Potocny wanted to step away and hand the matter to Addison. Although Potocny's name would be on the BWC footage and in documents in the file, the public would not have access to these materials without doing additional research. When they used the badge number they were given, only Addison would be identified. Potocny's reason for using Addison's badge number—that he was making it easier for the complainant—should be considered but does not absolve him from responsibility.

Drummond also reviewed the tape of the IA interview and is of the opinion that Potocny did not answer the questions honestly and completely. This opinion is based on his review of both the BWC footage from the incident and from the IA interview; Potocny remembered a lot from the incident except being asked for his name. "This was a big issue so it should have been top of his mind." Further, Drummond believed that Potocny answered the IA interview questions so as to avoid being contrary to what was found on the BWC footage. Like Pavlov, Drummond did not find Potocny credible.

Discussion and Credibility Analysis

For testimony to be believed, it must not only come from the mouth of a credible witness, but it also has to be credible in itself. 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's story in light of its rationality, internal consistency and the manner in which it "hangs together" with the other evidence. Carbo v. United States, 314 F.2d 718, 749

(9th Cir. 1963). Also, “[t]he 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).

After carefully considering the testimonial and documentary evidence presented and having had the opportunity to listen to the testimony and observe the demeanor of the witnesses, I make the following observations.

At the final hearing, appellant asked to recall Lt. Pavlov, who had testified for respondent, on the grounds that recently obtained evidence called Pavlov’s credibility into question. Specifically, appellant claimed that Pavlov’s conclusions regarding the truthfulness of appellant’s answers in an IA interview are suspect because Pavlov was about to be charged with similar violations of the BTPD rules. Respondent’s objection was sustained, and Pavlov was not recalled for two reasons. First, the audio tape of the IA interview was played in its entirety, and I will make an independent judgement regarding Potocny’s truthfulness during that interview, meaning that Pavlov’s characterization is less significant. Second, it is less likely that Pavlov would recommend the strict application of the rules regarding truthfulness when a more lenient application with respect to Potocny would support a similar application to his alleged violations.

It did not take four days of testimony to learn what happened on March 26, 2024, or for that matter, on April 5, 2024. When asked for his name by a member of the public, Potocny at first deflected, offering his badge number, and then lied by giving Addison’s number instead. Potocny gave two reasons: he made a mistake, and Addison was the officer with continuing responsibility, so it was easier to give Addison’s badge number instead of his own.

Potocny responded to the complainant’s question after pausing for just a moment, but it was only “a mistake” in the sense that he made the wrong choice between truth and a lie. He did not mistakenly give the wrong badge number (and he does not say that he did). I can accept that the complainants would need Addison’s information if they decided

to press charges, but that still does not explain why Potocny did not want to give his own name or badge number as well.

Respondent introduced the theory that Potocny knew that the complainants (both of whom are heard on the BWC footage) were dissatisfied with the answers Potocny gave them and wanted to prevent them from filing a complaint against him. There is no evidence that Potocny had any more incentive to avoid being tagged by dissatisfied “customers” than any other police officer on the scene. Potocny did not give inaccurate information to the complainants about the potential crime being committed or the process required before the suspect could be arrested or charged. Potocny was respectful and professional on both calls with the complainants. This theory also does not account for the BWC footage which would have protected all the officers on the scene from complaints regarding their professionalism.

The most plausible reason for Potocny to give Addison’s badge number rather than his own was to avoid further interaction with these complainants if and when they showed up at the BTPD. It is even plausible that Potocny gets tired of spelling his name slowly over the phone, as it is unusual, especially when he did not expect to have continuing obligations with respect to this case. But, even then, he should have used his own badge number, not Addison’s. Or, he should have said that he was giving the name of the case officer, rather than his own, as Addison would have continued responsibility for this case.

Potocny made no attempt to say he failed to understand the obligations imposed on police officers by the Rules; he understands that a finding of untruthfulness could subject him to termination. That Potocny was not thinking about the ramifications of his action is an understatement. He activated his BWC, so he had to know that he recorded himself lying to the complainants. It is curious that Potocny did not consider that the complainants would find out that the officer they spoke with gave them another officer’s badge number. He had already heard them ask: “is this the way you treat the public?”

Notwithstanding Potocny’s actions on March 26, 2024, respondent did not convince me that Potocny lied in his IA interview. Pavlov characterizes Potocny’s inability to recall his exact conversation with the complainants as another lie, because Potocny

was able to recall “specific other facts.” Tr. 1 at 74. Potocny was also unable to recall specific other facts, including whether he gave the complainants the incident number. He is heard, however, on the BWC footage giving complainants the incident number. See R-11 at 3.⁵ If Potocny was exercising selective recall, as respondent claims, it is more likely than not that he would have “remembered” giving complainants the incident number. Potocny certainly could have told Pavlov the gist of the conversation with the complainants – and it is not clear why he felt he needed to be precise -- but when he said he did not recall the specific conversation, I **FIND** he was telling the truth.

Rivera was courteous and professional. He was serious in demeanor but made statements—at the hearing and in his reports—that are simply not credible. First, in reviewing Nagle’s BWC footage, he tries to characterize Nagle’s use of the prefatory “I believe” as an attempt to mislead the complainants, even though Nagle followed “I believe” with accurate information. Second, Rivera concluded “there was nothing untruthful about what Potocny did.” A-53 at 34. Even Potocny admitted that he was untruthful. Third, Rivera (as well as counsel) made much of the typographical errors made by Pavlov in his IA report, but there is no equivalence between typos or putting the reporting officer’s name on the top page rather than on the correct line and the intentional misleading of the public. Potocny did not give his own name; he offered but did not give his own badge number.

Rivera’s testimony and reports miss that the incident of March 26, 2024, was relatively uneventful. The “crime in progress” was a former employee using his former employer’s credit card, which the suspect surrendered without incident. No guns were drawn; no arrests were made. The complainants asked a simple question, and it should have been easy for Potocny to tell the truth, even if he wanted to avoid further entanglement with the complainants.⁶ Instead, Rivera spent a great deal of effort to blame everyone else at the BTPD, and to inflate minor errors in written reports that did not have the effect of misleading anyone into evidence of a vast conspiracy.

⁵ See also A-53 at 7.

⁶ Potocny could have simply said, “You will need the badge number of the officer who will be handling this investigation.”

By his supplemental report, Rivera doubles down on the failure of the BTPD to properly train Potocny—as if he needed training to honestly answer the question “What is your name?” Overall, Rivera’s testimony did not add much to my analysis and is generally disregarded.

Drummond was similarly serious and professional in demeanor. His explanation of the Brady rule and its practical application was helpful.

Drummond speculated as to Potocny’s motives for not giving the complainants his name, surprising given that he has extensive experience in the courtroom where witnesses are routinely asked not to speculate. I did not find his speculation helpful; Drummond suggested that Potocny wanted to avoid being the subject of a crime victim’s complaint. As described above, that is not the most plausible reason for Potocny’s actions as the complainants were—from the BWC footage—happy with Potocny (“you’ve been a gentleman,” they said to him), and common sense tells us that they would have been more likely to file a complaint if they had found out that Potocny lied to them.

Additional Findings

Based on the foregoing, I **FIND** the following additional **FACTS**:

1. On March 26, 2024, when asked by the complainant for his name, Potocny did not give his name and offered his badge number instead and then gave the badge number of another officer.
2. On March 26, 2024, as recorded on Potocny’s BWC, he gave the complainants information regarding how to file a complaint.
3. On March 26, 2024, as recorded on Potocny’s BWC, he gave the complainants the incident number to use if and when they filed a complaint.
4. On April 5, 2024, during the IA interview, in response to a question from Pavlov, Potocny stated that he could not recall the exact conversation with the complainants.
5. On April 5, 2024, during the IA interview, in response to a question from Pavlov, Potocny did not deny that the complainants asked for his name and admitted that he did not respond truthfully to the request for his name.

6. On April 5, 2024, during the IA interview, in response to a question from Pavlov, Potocny stated that he gave the complainants information regarding the judicial process and how to file a complaint.
7. On April 5, 2024, during the IA interview, in response to a question from Pavlov, Potocny stated that he could not recall whether he gave the complainants the incident number.
8. On March 26, 2024, Potocny was untruthful in speaking to the complainants.
9. On April 5, 2024, Potocny was truthful when he stated in his IA interview that he could not recall specifics of the March 26, 2024, incident, those being whether he provided the incident number to complainants and the exact conversation with the complainants.

LEGAL ANALYSIS AND CONCLUSIONS

The Civil Service Act, N.J.S.A. 11A:1-1 to -12-6 (Act), and its implementing regulations, N.J.A.C. 4A:1-1.1 to -10-3.2, are designed in part “to encourage and reward meritorious performance by employees in the public service and to retain and separate employees on the basis of the adequacy of their performance.” N.J.S.A. 11A:1-2(c). An employee may be subject to discipline for several reasons, including conduct unbecoming a public employee and other sufficient cause, which may include violations of the rules and regulations of the employer. N.J.A.C. 4A:2-2.3(a)(12). In an appeal of major disciplinary action, such as involved here, the burden is on the appointing authority to establish by a preponderance of the credible evidence that the employee is guilty of the charges. Atkinson v. Parsekian, 37 N.J. 143 (1962).

Respondent has charged appellant, as a result of his conduct toward a member of the public and his alleged misrepresentations during an IA interview, with conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6); and with other sufficient cause pursuant to N.J.A.C. 4A:2-2.3(a)(12), due to alleged violations of Bordentown Township Rules and Regulations, Chapter IV, Section J, conduct toward the public, and Chapter XIII, Rule No. 11, dishonesty or untruthfulness; and misconduct in violation of N.J.S.A. 40A:14-147.

The sanctions appropriate for these offenses include removal. N.J.A.C. 4A:2-2.2(a).

Conduct Unbecoming a Public Employee

There is no precise definition for “conduct unbecoming a public employee,” and the question of whether conduct is unbecoming is made on a case-by-case basis. King v. County of Mercer, CSV 2768-02, Initial Decision (Feb. 24, 2003), adopted, Merit Sys. Bd. (Apr. 9, 2003), <http://njlaw.rutgers.edu/collections/oal/>. “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. 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 Emmons, 63 N.J. Super. at 140 (citing Asbury Park v. Dep’t of Civil Serv., 17 N.J. 419, 429 (1955))). Unbecoming conduct may include behavior which is improper under the circumstances; it may be less serious than a violation of the law, but which is inappropriate on the part of a public employee because it is disruptive of governmental operations.

On March 26, 2024, Potocny was asked a simple question by a member of the public and rather than giving the simple, truthful, answer, he deflected and then lied. This action was improper, inappropriate, and “has a tendency to destroy public respect in the delivery of governmental services.” I **CONCLUDE** that respondent proved by a preponderance of the credible evidence that on March 26, 2024, Potocny was guilty of conduct unbecoming a public employee, in violation of N.J.A.C. 4A:2-2.3(a)(6).

On April 5, 2024, Potocny participated in an IA interview, during which he said that he could not recall certain portions of his March 26, 2024, telephone conversation with a member of the public, conducted while he was responding to a call at the Red Roof Inn, Bordentown, New Jersey. I **CONCLUDE** that respondent did not prove by a preponderance of the credible evidence that on April 5, 2024, Potocny was guilty of conduct unbecoming a public employee, in violation of N.J.A.C. 4A:2-2.3(a)(6).

Other Sufficient Cause

There is no definition in the New Jersey Administrative Code for other sufficient cause; it is generally defined as all other offenses caused and derived as a result of all other charges against appellant. There have been cases when the charge of other sufficient cause has been dismissed when “[r]espondent has not given any substance to the allegation.” Simmons v. City of Newark, initial decision, 2006 N.J. AGEN LEXIS 68 (Feb. 22, 2006), adopted, Merit Sys. Bd. (Apr. 5, 2006), <https://njlaw.rutgers.edu/collections/oal/final/csv9122-99.pdf>.

Respondent determined that sufficient cause charges are attributable to appellant for his alleged violations of Bordentown Township Rules and Regulations, Chapter IV, Section J, conduct toward the public, and Chapter XIII, Rule No. 11, dishonesty or untruthfulness.

Bordentown Township Rules and Regulations, Chapter IV, Section J, requires an employee, when asked, “to supply their name and identification number in a courteous manner.” R-5 at 16. Potocny remained courteous but failed to supply either his name or identification number and, therefore, I **CONCLUDE** that he violated this rule.

Bordentown Township Rules and Regulations, Chapter XIII, Rule No. 11, provides that an employee “shall not lie, give misleading information or half-truths . . . in their statements [to] another person . . . when it is reasonable to expect that such information may be relied upon because of the member’s position or affiliation with this organization.” Potocny lied in his statement to the complainants. He had been identified as a “senior

officer” at the scene and, therefore, the complainants had reason to rely on him to tell the truth. I **CONCLUDE** that Potocny violated this rule.

Due to his violations of the Bordentown Township Rules and Regulations, I **CONCLUDE** that respondent has proved by a preponderance of the credible evidence the charge against Potocny of other sufficient cause.

Misconduct

Respondent alleges that Potocny violated N.J.S.A. 40A:14-147, which provides: .

[N]o permanent member or officer of the police department or force shall be removed from his office, employment or position for political reasons or for any cause other than incapacity, misconduct, or disobedience of rules and regulations established for the government of the police department and force[.]

This statute, N.J.S.A. 40A:14-147 to -151, governs the proceedings by which a police officer’s employment may be terminated, providing the “officer with well-defined procedures for an efficient and fair hearing process on alleged charges against the officer.” Ruroede v. Borough of Hasbrouck Heights, 214 N.J. 338, 355–356 (2013). The statute imposes obligations on the employer to conduct a fair and efficient process and does not support an additional violation by Potocny. Therefore, I will not consider this charge.

Penalty

The Act protects classified employees from arbitrary dismissal and other onerous sanctions. See Prosecutor’s Detectives & Investigators Ass’n v. Hudson Cnty. Bd. of Chosen Freeholders, 130 N.J. Super. 30, 41 (App. Div. 1974); Scancarella v. Dep’t of Civil Serv., 24 N.J. Super. 65, 70 (App. Div. 1952). The Civil Service Commission’s review of a proposed penalty is de novo. N.J.S.A. 11A:2-19 and N.J.A.C. 4A:2-2.9(d) specifically grant the Commission authority to increase or decrease the penalty imposed by the appointing authority. Typically, the Board considers numerous factors, including the

nature of the offense, the concept of progressive discipline, and the employee's prior record. George v. N. Princeton Developmental Ctr., 96 N.J.A.R.2d (CSV) 463. "The evidence presented and the credibility of the witnesses will assist in resolving whether the charges and discipline imposed should be sustained; or whether there are mitigating circumstances, which . . . must be taken into consideration when determining whether there is just cause for the penalty imposed." In re Shavers-Johnson, initial decision, 2014 N.J. AGEN LEXIS 439, *44 (July 30, 2014), adopted, 2014 N.J. AGEN LEXIS 1049 (Sept. 3, 2014). Depending upon the incident complained of and the employee's past record, major discipline may include suspension or removal. See West New York v. Bock, 38 N.J. 500, 519 (1962) (describing progressive discipline); N.J.S.A. 11A:2-6(a), -20; N.J.A.C. 4A:2-2.2, -2.4.

As respondent notes, Potocny's prior disciplinary record is clean of infractions involving truthfulness, but does include a violation for engaging in a high-speed chase and ignoring traffic devices. Resp't's Post-Hr'g Br. (July 3, 2025) (Resp't's Br.), at 36, citing R-19. The absence of prior discipline may be disregarded if the "seriousness of an offense . . . warrants" termination. Resp't's Br. at 34 (citations omitted).

Law enforcement officers must be held to a high standard in their job performance and in the context of disciplinary removals. What gives me pause, however, is that Pavlov testified that he and Chief Roohr would not have recommended termination if Potocny had admitted his mistake and accepted accountability, but because Potocny was not truthful in the IA interview, they had no choice but to seek the greater penalty. Potocny did admit to making a mistake—multiple times. "Accountability" generally means dealing with the consequences, making up for what you did wrong. There was no testimony or evidence on how Potocny could have made this digression right, whether to contact the complainants to correct the record or to serve a lesser penalty, including training. Given that I am unable to find that Potocny lied during his IA interview, I am left with respondent's position that Potocny's conduct on March 26, 2024, alone does not rise to the level of termination.⁷ Accordingly, I recommend, for the reasons described above, that the

⁷ Counsel also made this point in his opening remarks. Tr. 1 at 11 ("[Potocny] doesn't say I made a mistake during IA, we wouldn't be here if [he] did.").

penalty sought in this matter be modified to a six-month suspension followed by training in dealing with the public.

ORDER

I hereby **ORDER** that the following charges in the Final Notice of Disciplinary Action issued by respondent Bordentown Township Police Department on November 8, 2024, to appellant Chase Potocny are **SUSTAINED**: conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6); other sufficient cause pursuant to N.J.A.C. 4A:2-2.3(a)(12), due to violations of Bordentown Township Rules and Regulations, Chapter IV, Section J, conduct toward the public, and Chapter XIII, Rule No. 11, dishonesty or untruthfulness. I hereby **ORDER** that the charge of misconduct in violation of N.J.S.A. 40A:14-147 is **DISMISSED**. Finally, I hereby **ORDER** that the penalty imposed by respondent of termination is **REVERSED** and **MODIFIED** to a six-month suspension followed by training in dealing with the public.

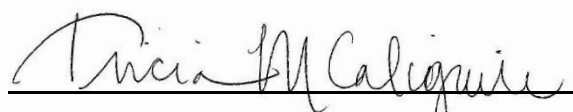
I hereby **FILE** my initial decision with the **CIVIL SERVICE COMMISSION** for consideration.

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.

August 14, 2025

DATE

A handwritten signature in cursive script, reading "Tricia M. Caliguire", is written over a horizontal line.

TRICIA M. CALIGUIRE, ALJ

Date Received at Agency:

August 14, 2025

Date Mailed to Parties:

TMC/kl

APPENDIX

Witnesses

For Appellant

Chase Potocny
Richard Rivera

For Respondent

Joshua Pavlov
Thaddeus Drummond

Exhibits

For Appellant

- A-51 Letters of Appreciation regarding Officer Potocny
- A-52 Curriculum Vitae of Richard Rivera
- A-53 "Preliminary Police Expert Report" by Rivera, dated February 19, 2025
- A-54 Supplemental Expert Report by Rivera, dated February 28, 2025
- A-55 Video of Footage from Body Worn Camera of Detective Nagle, dated March 27, 2024
- A-56 Audiotape of IA Investigation Interview of Potocny, dated April 10, 2024

For Respondent

- R-1 Body Worn Camera Footage of Chase Potocny, Chase Potocny_202403261547_BWC2102757-0 (**on enclosed USB stick**)
- R-2 Body Worn Camera Footage of Officer Addison AndrewAddison_202403261542_BWC2118796-0 (**on enclosed USB stick**)
- R-3 Final Notice of Disciplinary Action
- R-4 Thaddeus Drummond, Esq., CV and List of Training
- R-5 Departmental Rules and Regulations
- R-6 6334231 Brady-Giglio Policy

- R-7 11412718 SOP IA
- R-8 RadGridExport (1) Documents Signed off by C. Potocny
- R-9 Internal Affairs Interview Recording of C. Potocny
(on enclosed USB stick)
- R-10 Internal Affairs Notice to C. Potocny
- R-11 IA 2024–05 Internal Affairs Materials
- R-12 Appellant's timecard
- R-13 Appellant's Answers to Respondent's Interrogatories
- R-14 Appellant's May 20, 2024 Letter to George J. Botcheos to the extent it
makes factual assertions
- R-15 Appellant's Opposition Brief Supplementing Appellant's Interrogatory
Response
- R-16 Appellant's Opposition Brief Supplementing Appellant's Interrogatory
Response
- R-17 Waiver of Backpay
- R-18 Appellant's Interrogatories and Respondent's Interrogatory Responses
- R-19 History/Records of prior warnings/disciplinary notices: Reprimand 7/20/23