



## STATE OF NEW JERSEY

In the Matter of F.A.,  
Atlantic County Sheriff's Office

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket No. 2024-963  
OAL Docket No. CSV 13217-23

ISSUED: MARCH 17, 2026

The appeal of F.A., a Sheriff's Officer Sergeant with Atlantic County Sheriff's Office, of his demotion to Sheriff's Officer, effective October 17, 2023, on charges, was heard by Administrative Law Judge Catherine A. Tuohy (ALJ), who rendered her initial decision on January 22, 2026. No exceptions were filed.

Having considered the record and the attached ALJ's initial decision, and having made an independent evaluation of the record, the Civil Service Commission (Commission), at its meeting on February 25, 2026, adopted the ALJ's Findings of Fact and Conclusions of Law as contained in the ALJ's initial decision and her recommendation to uphold the demotion.

The Commission makes the following comments. In her thorough initial decision, the ALJ outlines the voluminous evidence of the appellant engaged in conduct unbecoming of a public employee and violated department rules and regulations. Upon its *de novo* review, the Commission agrees with the ALJ's determination that the appointing authority has sustained its burden of proof regarding all of the proffered charges.<sup>1</sup>

<sup>1</sup> Although the ALJ referenced a charge of other sufficient cause, the charge was not listed on the Final Notice of Disciplinary Action. As such, the Commission sustains only the charges of conduct unbecoming a public employee and violations of departmental rules and regulations. In that regard, it is well established that the ALJ and the Commission only have jurisdiction to adjudicate disciplinary charges and specifications which were sustained at the departmental level hearing. See *Hammond v.*

Regarding the penalty, 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).

The Commission agrees with the ALJ that the demotion was appropriate in this matter. A law enforcement officer, especially one in a supervisory position, must be held to higher standard. The appellant's actions in this matter fell well short of what would be expected of a law enforcement officer and are worthy of significant sanction. Moreover, while the appellant was a longstanding employee, his actions call into question his judgment and integrity to be a supervisor. Finally, the Commission finds that the demotion imposed should impress upon the appellant the severity of his misconduct and serve as a reminder that any future misconduct may result in more severe disciplinary action, up to the removal from employment.

### ORDER

The Civil Service Commission finds that the action of the appointing authority in demoting the appellant was justified. The Commission, therefore, affirms that action and dismisses the appeal of F.A.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 25<sup>TH</sup> DAY OF FEBRUARY, 2026

*Allison Chris Myers*

---

Allison Chris Myers  
Chairperson

Civil Service Commission  
Inquiries  
and  
Correspondence

Dulce A. Sulit-Villamor  
Director  
Division of Appeals and Regulatory Affairs  
Unit H - Hearings Unit  
Civil Service Commission  
P.O. Box 312  
Trenton, New Jersey 08625-0312

Attachment



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

**INITIAL DECISION**

OAL DKT. NO. CSV 13217-23

AGENCY DKT. NO. 2024-963

**IN THE MATTER OF F [REDACTED] A [REDACTED]**  
**ATLANTIC COUNTY SHERIFF'S DEPARTMENT.**

---

**Michael DeRose, Esq.**, for appellant, (Crivelli, Barbati & DeRose, LLC, attorneys)

**Alysia Remaley, Esq.**, for respondent, (Atlantic County Department of Law)

**BEFORE CATHERINE A. TUOHY, ALJ:**

Record Closed: January 6, 2026

Decided: January 22, 2026

**STATEMENT OF THE CASE**

Appellant, F [REDACTED] k A [REDACTED], Sheriff's Officer Sergeant, Atlantic County, appeals his demotion to Sheriff's Officer effective October 17, 2023, pursuant to a Final Notice of Disciplinary Action (FNDA) (31-B) dated October 16, 2023, for violations of N.J.A.C. 4A:2-2.3 Violations of Department Policy Rules and Regulations Directive 10-001: 3.2.7 Conduct unbecoming a Sheriff's Officer; 3.4.3 Sexual activity of any kind; 3.4.7.1 Pursuing personal relationships; 3.6.6.1 Computer and Network Use; and 3.2.4 Truthfulness.

At issue is whether appellant is guilty of the charges presented, and if so, is the appropriate penalty demotion.

### **PROCEDURAL HISTORY**

On September 8, 2022, respondent issued a Preliminary Notice of Disciplinary Action (PNDA) (31-A) setting forth the charges and specifications made against the appellant. (R-13.) Following a departmental hearing held on September 14, 2023, the respondent issued a Final Notice of Disciplinary Action (FNDA) (31-B) on October 16, 2023, sustaining the charges in the preliminary notice and demoting appellant to the position of Sheriff's Officer, effective October 17, 2023. (R-14.) Appellant filed an appeal on October 23, 2023, and the matter was transmitted by the Civil Service Commission Division of Appeals and Regulatory Affairs to the Office of Administrative Law (OAL) where it was filed on November 21, 2023, for a hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to 15; N.J.S.A. 52:14F-1 to 13.

A Prehearing Order was entered on June 14, 2024. Numerous telephone status conferences were held throughout the course of this matter. The hearing was conducted on September 30 and October 1, 2025, and the record remained open to allow for receipt of transcripts and submission of closing briefs. The record closed following receipt of closing submissions on January 6, 2026.

### **FACTUAL DISCUSSIONS AND FINDINGS**

#### **Testimony**

██████████ testified on behalf of the respondent. He has worked for the Sheriff's Office for eighteen years and is now a captain but was a lieutenant at the time he conducted the internal affairs investigation into this case in the summer of 2022. Generally, an investigation arises as a result of either an internal or external complaint. In this case, there was an external complaint by a County IT worker, ██████████. ██████████ prepared an Internal Affairs Investigation Report following his investigation. (R-1.)

Chief ██████ assigned ██████ to do an investigation on June 7, 2022, after receiving a June 3, 2022, email from ██████, Director of Human Resources, (R-2) and attaching several emails containing inappropriate content. (R-4). ██████ from County IT brought the issue to ██████ attention after ██████ accessed A ██████' account because of a work order A ██████ submitted regarding issues he was having receiving emails. After ██████ initial review, he contacted ██████ who advised that while he was trying to resolve the email issue, ██████ unintentionally discovered A ██████' emails with ██████ using his Sheriff's Office email account from his work desktop computer. A ██████ had tried to delete these emails at some point. The emails that A ██████ sent to ██████ were sent using his county-issued email from A ██████ desktop computer. The content of the emails indicated that A ██████ and ██████ were involved in a romantic/dating relationship and much of the conversation shared between the two was sexual in nature and sent by A ██████ while he was working. ██████ stated that after he became aware of their communications, he blocked A ██████' account from receiving any emails from ██████ email address.

Following his conversation with ██████, ██████ put in a Telecommunications Work Request to get access to all of A ██████' emails. (R-3.) The request was approved and allowed ██████ full access to A ██████' work email account. In the deleted items folder of his account there were several dozen email threads with several hundred email exchanges between A ██████ and ██████ from March 7, 2022, up until June 3, 2022, when they were discovered and blocked by ██████.

An Atlantic County Sheriff's Office Internal Affairs Complaint Notification was sent to A ██████ June 9, 2022, advising him that an internal affairs complaint had been made against him alleging that he inappropriately sent and received hundreds of personal emails using his county email address, on a county owned computer, during his work hours from March 7, 2022, through June 3, 2022. (R-5.) On July 8, 2022, an Administrative Investigation Interview was conducted of A ██████ by ██████. (R-6.) A ██████ acknowledged that he was being questioned as part of an investigation into potential violations of office rules and regulations and that he may be subject to departmental discipline for refusing to answer a question directly related to the performance of his

duties, or for not answering truthfully. (R-6 at paragraph 3.) Mr. DeRose, A [REDACTED], attorney, was also present. The interview was audio recorded. (P-2.)

A [REDACTED] acknowledged he sent and received the emails from his girlfriend, [REDACTED], using his work email address, using his work computer during his assigned work shift. A [REDACTED] acknowledged the emails contained inappropriate discussions. He did not access his email account outside of the workplace or scheduled work shift and did not use any other devices such as a home computer or cell phone outside of his work hours. All of the emails between the two of them were personal and related to their dating relationship.

In reviewing the emails, [REDACTED] determined that there were other means of communication between the parties other than using the County issued email as the emails do reference "FaceTime and "Chat". An email from [REDACTED] to A [REDACTED] on May 26, 2022, at 7:44 a.m. states "I love that we FaceTime now btw." (R-7.)

On May 26 and 27, 2022, A [REDACTED] and [REDACTED] exchanged sexually explicit emails (R-7), and the two planned for him to leave work early on the 27th. He normally worked until 3pm but left at 1pm that day, using two hours of administrative leave. Although [REDACTED] acknowledged that there was nothing wrong with A [REDACTED] utilizing administrative leave time to go out with his girlfriend, [REDACTED] highlighted these emails as an example of A [REDACTED] and [REDACTED] making plans via email to get together and then carrying out their plans as discussed in the emails. (R-7.) A [REDACTED]' Attendance Report for May 27, 2022, shows him punching in at 6:59:11 and punching out at 13:00:59. (R-8.) The emails (R-7) were sent during A [REDACTED]' workday. Surveillance footage showed A [REDACTED] walking away from the Courthouse at 1:00 p.m.

On June 3, 2022, there were two series of emails between A [REDACTED] and [REDACTED], one from the morning (R-9) and another set from the afternoon. (R-10.) An Attendance Report from the Atlantic County Sheriff's Office indicated that A [REDACTED] worked a full day on June 3, 2022, from 6:55:50 to 15:00:04 (7:00 a.m. – 3:00 p.m.) (R-8 at 2).

The morning emails exchanged between A [REDACTED] and [REDACTED] on June 3, 2022, were as follows: (R-9, Re: h)

A [REDACTED] at 7:05 a.m. "good morning baby how are you feeling"

[REDACTED] at 7:08 a.m. "Baby I'm feeling pretty terrible barely slept cause of my cough"

A [REDACTED] at 7:09 a.m. "I'm sorry baby your home today"

[REDACTED] at 7:10 a.m. "Yes I am"

A [REDACTED] at 7:12 a.m. "I see had somewhat of an idea for us not same but next best thing"

[REDACTED] at 7:14 a.m. "Intrigued..."

A [REDACTED] at 7:15 a.m. "Well she is going to [REDACTED] school for fun day so since your home I can stop home and have a masturbation session."

[REDACTED] at 7:17 a.m. "Together?? You're cute"

A [REDACTED] at 7:19 a.m. "Yes of course or if you want to just watch me"

[REDACTED] at 7:20 a.m. "Honestly I have to see how I feel but I'm game to watch. And no it's not the same but it's a good idea lol. What time is this? So I can be prepared"

A [REDACTED] at 7:21 a.m. "930 to 1030"

A [REDACTED] at 7:22 a.m. "Well you at least have to show legs or boobs lol"

[REDACTED] at 7:23 a.m. "Sounds great. What prompted this thought?"

A [REDACTED] at 7:24 a.m. "was thinking about us all night so I was horny and did nothing and remembered your home today so trying something"

[REDACTED] at 7:34 "Well you know I love your thoughts. I'm on a supervisor call. I was like I apologize for sounding horrible"

That was the end of the June 3, 2022, morning email chain and then the afternoon email exchange between A [REDACTED] and [REDACTED] on June 3, 2022, were as follows (R-10, Re: j):

A [REDACTED] at 1:13 p.m. "Hey baby miss you lots to answer your question from earlier I wanted you still after I came today so yes could of kept going"

[REDACTED] at 1:23 p.m. "Am I gonna have to drive down there tomorrow morning"

A [REDACTED] at 1:28 p.m. "hhmmmmmmmmmm how are you feeling"

██████████ at 1:41 p.m. "Actually Funny Story F-cked up my back after our phone call, must have been laying wrong. But Covid wise, I actually feel better"

A ██████████ at 1:43 p.m. "Well that's good except for the back baby my back killing me too we are twinsies, lol"

██████████ at 1:45 p.m. "Always, I'm driving down in morning. Say you are going to Walmart. I need you"

A ██████████ at 1:46 p.m. " ok baby"

██████████ at 1:46 p.m. "Ahhhh no argument?!!"

A ██████████ at 1:47 p.m. "why would I argue that"

██████████ at 1:48 "Don't know. I was waiting for baby I can't or something lol"

A ██████████ at 1:54 p.m. "wow thanks"

██████████ at 1:57 p.m. "Baby it was a joke. I guess I'll drive down there it's fine. Think of a story. I'll drive down early. Do you want to kiss these sick lips though"

A ██████████ at 1:59 p.m. "abso f-cking lutely"

██████████ at 2:00 p.m. "I keep thinking about you jerking off in your uniform for me. Hot as hell"

A ██████████ at 2:00 p.m. "as you are baby"

██████████ at 2:07 p.m. "So try to give me an hour tomorrow. Think of anything. I drive an hour, you give me hour is how it works. I can do a lot in an hour"

A ██████████ at 2:09 p.m. "yes maam what time you looking at"

██████████ at 2:11 p.m. "Get there around 930"

██████████ at 2:11 p.m. "Is that too early"

A ██████████ at 2:12 p.m. "not at all"

A ██████████ at 2:14 p.m. "im heading home early baby. Will snap at game. What time volunteering over???"

██████████ at 2:18 p.m. "I'll be home at 830. Love you baby"

End of email.

██████████ concluded based on the preponderance of evidence standard that A ██████████ went home to engage in the masturbation session with ██████████ as set forth in their June 3, 2022, emails. Although ██████████ acknowledged that he did not have direct evidence of the 'session' he explained his reasons for believing one occurred, namely the timing and context of the emails. For example, there is a wide gap in time between 7:34 a.m. and 1:13 p.m. where no emails are exchanged between the two. A ██████████ also identifies a specific time for the session in his emails, 9:30 to 10:30, which would fit within the gap of time. ██████████ also testified that A ██████████ was not assigned to any calls during this time period.

A [REDACTED] denied going home to masturbate while working on June 3, 2022. When [REDACTED] showed him the entire email exchange and pointed out the times they were sent, A [REDACTED] again denied the masturbation session referred to in the emails and said, "it was a fantasy." [REDACTED] indicated in his IA report that A [REDACTED] said it was a fantasy [REDACTED] had and they talked in a manner like it did happen. (R-1 at 5.) A [REDACTED] stated he has never engaged in any sexual conduct while working.

At the time of the investigation, [REDACTED] was a lieutenant in Internal Affairs and A [REDACTED]'s supervisor. A [REDACTED] mostly worked independently, at least on a day-to-day basis. Although the AG Guidelines state supervisors should not oversee investigations of the individuals they supervise, [REDACTED] was uncertain as to whether they were in place during this investigation. Notwithstanding, in response to the implication he should not have been involved in the investigation, he explained that guidelines are meant to address situations where the supervisor was involved in the alleged misconduct.

In his IA Investigation report, [REDACTED] concluded:

"During the interview with Sergeant A [REDACTED], he acknowledged he was the person sending and receiving emails between his work email address and a person named [REDACTED]. Emails exchanged between A [REDACTED] and [REDACTED] included conversations about sex, sex games, rubbing and licking feet, oral sex etc. A [REDACTED] denied pursuing a romantic relationship through email exchanges, but he acknowledged the email exchanges were based on his dating relationship with [REDACTED].

Although A [REDACTED] denies it, it is likely that A [REDACTED] and [REDACTED] did meet up through some sort of video chat for a masturbation session based on the planning, no email communications during the time of the planned encounter and the specific conversation discussing their encounter after the planned time discussing things that occurred during their masturbation session."

(R-1 at 7.)

[REDACTED] IA report recommended sustaining the following charges: 3.2.7 Conduct Unbecoming a Sheriff's Officer; 3.4.3 Sexual activity of any kind; 3.4.7.1 Pursuing

personal relationships; 3.6.6.1 Computer and Network Use; and 3.2.4 Truthfulness. (R-1 at 7-9)

█████ submitted his Investigation report, dated August 15, 2022, to his supervisor, Chief █████, who concurred and forwarded it to his supervisor, Undersheriff █████ who also concurred and sent it to Sheriff █████ who also concurred and ultimately recommended the disciplinary action of demotion on September 7, 2022. (R-1 at 10.)

█████ was not the one who drafted the PNDA specifications, though the PNDA incorporates much of the findings contained in █████ internal affairs report. (R-1.) █████ had a discussion about the truthfulness charge with his supervisor █████ due to the seriousness of that charge.

On cross, █████ admitted that he did not specifically ask A █████ about a video chat in his interview. However, when A █████ emailed █████ "you can just watch me' watching would be part of the video. A █████ wife was not at home but was at his daughter's school during the time frame they planned to meet. █████ was home from work sick that day and she lived an hour away. A █████ said his wife was not at home. The emails also establish that █████ was home sick that day and lived an hour away. █████ also references a recent "phone call" where she hurt her back in an email after the "session" purportedly occurred. Overall, █████ concluded that just like the May 27<sup>th</sup> get together, on June 3, 2022, the couple made a plan and carried through with it.

On cross-examination, it was brought up that there was a lack of direct evidence in this case, in particular by emphasizing that there was no reference to any surveillance footage in the internal affairs report that showed A █████ leaving the office. █████ ultimately couldn't be positive whether he reviewed the footage. He testified that reviewing surveillance footage is a typical part of an investigation, and he suggested that if the footage had shown A █████ stayed at work the whole day, then he would have included that exculpatory evidence in his report. A █████ attorney asked whether

██████████ reviewed any GPS history from A ██████████ vehicle, but the Sheriff's Office does not track this information.

██████████ testified on behalf of the appellant. She was not subpoenaed to appear for the hearing but appeared voluntarily. She is still in a relationship with A ██████████.

Ms. ██████████ works for ESS, a staffing agency. She was a call center supervisor in 2022 but is now in HR for employee relations, which includes handling disciplinary matters. She worked in the Cherry Hill office. As a supervisor, she was continuously logged into her computer, monitoring and taking calls. In 2022, she typically took her lunch break between 12p.m. and 12:30pm. She could not take lunch whenever she wanted, although she acknowledged there was some flexibility. For example, if someone called out that day, this might lead her to have lunch at a different time. There was an email where Ms. ██████████ indicated she was taking lunch a little earlier, sometime before noon, in order to get her nails done. As a supervisor, she was ultimately the one in charge of making the schedule. Ms. ██████████ workday was roughly between 6am and 2pm. She would sometimes use apps like Kick and Snapchat to communicate with A ██████████, including calling using Snapchat. She never actually called or Facetimed A ██████████ during her workday.

On June 3, 2022, Ms. ██████████ was working remotely because she had COVID. She insisted that the emails exchanged between her and A ██████████ on June 3<sup>rd</sup> were simply part of a role play / fantasy. She also claims she never called or Facetimed A ██████████ that day, while either of them was at work. When shown the email where she claims to have messed up her back during a recent phone call, she claims this was a reference to a phone call she had the night before with A ██████████. She testified that while the two never called each other during the workday, they often called one another at night.

F ██████████ A ██████████ testified on his own behalf. He lives in Egg Harbor, Atlantic County and has been employed with the Atlantic County Sheriff's Office for twenty-two years. He was assigned to the legal services unit around 2008 and promoted to Sergeant around 2009 or 2010. He was demoted from sergeant to officer in 2023.

A [REDACTED] testified that a typical day involved leaving the office at some point to go out on the road to conduct patrols, evictions, traffic stops, etc. Evictions were regularly scheduled at 9:30am and 1pm. However, there was an eviction moratorium in place during this time, and traffic stops were limited due to COVID.

A [REDACTED] would regularly email [REDACTED] early in the morning and then in the afternoon. Initially A [REDACTED] stated that he never called, Facetimed, used Kick or Snap to contact [REDACTED] during his shift, however, he may have used Snap to contact [REDACTED] sometimes during the end of his shift.

A [REDACTED] left the office at some point on June 3<sup>rd</sup>. On a typical day, he would have been patrolling local parks and a shopping center around the time the alleged session took place. This was his normal routine and was often followed by lunch with Officer [REDACTED] at Wawa.

A [REDACTED] stated he did not have any form of communication with [REDACTED] during the gap in time between the morning and afternoon emails. He claims the gap arose because he had to attend to other work. He only accessed his email at his desktop at work, so if he was out on the road, then this would account for the gap.

A [REDACTED] stated that the June 3<sup>rd</sup> masturbation session never actually took place and that it was all part of a fantasy. He never went home on June 3 to masturbate and did not engage in any communication with [REDACTED] during the gap period between the emails. He did not FaceTime with [REDACTED]. When confronted with why he suggested a particular time for the session, specifically 9:30 to 10:30, he stated that he was simply trying to add to the fantasy. In a 1:13 p.m. email- the very first email exchanged after the alleged session took place- A [REDACTED] emails [REDACTED] "to answer your question from earlier I wanted you still." A [REDACTED] claimed this was an inside joke between him and [REDACTED] and simply another part of the fantasy. In a 2:00p.m. email, [REDACTED] references watching A [REDACTED] "jerking off" in his uniform. A [REDACTED] claims this was also part of the fantasy and that he never wore his uniform in such a manner because he would have gotten in trouble for doing so.

It was stipulated that there was never any mention of a uniform in the other emails between March and June 2022 or the emails from September 2020. Regardless of the emails, A [REDACTED] stated that they talked about the uniform as part of a fantasy on more than one occasion.

A [REDACTED] has lots of regret for engaging in these email communications on his work email and acknowledges it was improper for him to do that. He has not engaged in any improper communication on his work email since this investigation commenced. He was demoted from sergeant to officer, which came with a pay cut. He still hopes to retire in three years when he will reach twenty-five years of service. A [REDACTED] wishes to be reinstated as sergeant. He has had no prior disciplinary history and testified to instances where he received positive recognition for his work. (P-1.)

A [REDACTED] interpreted "pursuing a relationship" as attempting to start a new relationship with someone, for example flirting with a stranger. That was his interpretation during his July interview with then-Lieutenant [REDACTED] when he denied pursuing a romantic relationship with [REDACTED] as they were already in an ongoing relationship. He never denied sending or receiving emails or the romantic and sexual nature of many of the emails.

[REDACTED] and A [REDACTED] overall had an on-and-off-again relationship. This includes a period in September 2020 where they were broken up but sending emails back and forth, contemplating getting back together.

There were several previous emails of April 12, May 5, May 13 and May 27 where the two discussed plans to go on a date and most likely did so in person and A [REDACTED] left work early. Although A [REDACTED] acknowledged such instances existed he could not recall the exact dates and times. In regard to the May 13<sup>th</sup> date, a calendar exhibit shows A [REDACTED] did not leave work early that day. (R-17.)

## Discussion

Credibility contemplates an overall assessment of the story of a witness in light of its rationality, internal consistency, and manner in which it “hangs together” with other evidence. Carbo v. United States, 314 F.2d 718 (9<sup>th</sup> Cir. 1963); see In re Polk, 90 N.J. 550 (1982). “The 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.) (citation omitted), certif. denied, 10 N.J. 316 (1952). Credibility findings “are often influenced by matters such as observations of the character and demeanor of witnesses and common human experience that are not transmitted by the record.” State v. Locurto, 157 N.J. 463 (1999). A fact finder is expected to base decisions on credibility on his or her common sense, intuition, or experience. Barnes v. United States, 412 U.S. 837 (1973). A trier of fact may reject testimony because it is inherently incredible, or because it is inconsistent with other testimony or with common experience, or because it is overborne by other testimony. Congleton v. Pura-Tex Stone Corp., 53 N.J. Super. 282, 287 (App Div. 1958). Testimony, to be believed, must not only proceed from the mouth of a credible witness, but must be credible in itself. Spagnuolo v. Bonnet, 16 N.J. 546, 554–55 (1954).

Although A [REDACTED] admitted that his use of his work email during his shift and the content of his email communications with [REDACTED] were improper, he denied that on June 3, 2022, he went home while working to engage in a masturbation session with [REDACTED]. Since he denied the masturbation session, he denied he was untruthful during his internal affairs interview on July 8, 2022, with then Lieutenant [REDACTED]. Both A [REDACTED] and [REDACTED] claimed their email exchanges of June 3, 2022, were nothing more than a fantasy, despite the graphic and specific nature describing their advanced plans for a masturbation session and thereafter discussing the session in detail as set forth in R-9 and R-10. Both of their testimony was not credible. [REDACTED] appeared voluntarily to testify on behalf of A [REDACTED] and is still in a romantic relationship with A [REDACTED]. A [REDACTED] was demoted because of this incident and lost his sergeant’s rank as well as a cut in his salary. Both have motive to testify that the June 3, 2022, incident did not in fact occur but was merely

a part of their sexual fantasy - A [REDACTED] to be returned to his rank and sergeant's pay and [REDACTED] to assist her paramour.

Captain [REDACTED] was a credible witness. He acknowledged the evidence against A [REDACTED] was circumstantial but was straightforward and calm during his testimony and was confident in explaining his rationale for reaching his conclusions set forth in his Internal Affairs Investigation Report. (R-1.) The R-9 emails are specific – A [REDACTED] suggests a masturbation session to [REDACTED] knowing she is home from work sick and suggests a time, 9:30-10:30 a.m. when his wife is out of the house at his daughter's school for 'fun day'. A [REDACTED] email at 7:15 a.m. "Well she is going to [REDACTED] school for fun day so since your home I can stop home and have a masturbation session". [REDACTED] responds that she has to see how she feels, but she is game to watch. A [REDACTED] emails at 7:22 a.m. "well you at least have to show legs or boobs lol". This implies some sort of video chat between the two of them that occurred during the gap between the morning and afternoon emails of June 3, 2022. Also, the email in the afternoon from A [REDACTED] to [REDACTED] at 1:13 p.m. " Hey baby miss you lots to answer your question from earlier I wanted you still after I came today so yes could of kept going". There was no question posed by [REDACTED] in her earlier email so it stands to reason that there was non-email communication between the two of them that took place during the gap in emails on June 3, 2022. [REDACTED] also indicated that he checked the Sheriff's Office records and A [REDACTED] was not assigned to any incidents during his entire shift on June 3, 2022. The email exchange between A [REDACTED] and [REDACTED] from May 27<sup>th</sup> also described him leaving work early and planning a get together and then executing on their plan shows a pattern. (R-7.).

Based upon due consideration of the testimonial, documentary, and audio evidence presented at this hearing, and having had the opportunity to observe the demeanor of the witnesses and assess their credibility, I **FIND** the following as **FACTS**:

A [REDACTED] was a sergeant in the Sherrif's Office with access to a work computer and work assigned email. He was having problems receiving emails and put in a work request with the County IT department. [REDACTED], from the County IT department while trying to help A [REDACTED] with his emails, discovered numerous inappropriate emails sent

and received by A [REDACTED] to his girlfriend [REDACTED] and reported it to the Director of Human Resources, [REDACTED], who in turn reported it to the Sheriff's Office. (R-2 and R-4.)

Lt. [REDACTED] was assigned to and conducted an Internal Affairs Investigation and prepared a report as a result of his investigation. (R-1.)

In his IA Investigation report, [REDACTED] concluded:

"During the interview with Sergeant A [REDACTED], he acknowledged he was the person sending and receiving emails between his work email address and a person named [REDACTED]. Emails exchanged between A [REDACTED] and [REDACTED] included conversations about sex, sex games, rubbing and licking feet, oral sex etc. A [REDACTED] denied pursuing a romantic relationship through email exchanges, but he acknowledged the email exchanges were based on his dating relationship with [REDACTED].

Although A [REDACTED] denies it, it is likely that A [REDACTED] and [REDACTED] did meet up through some sort of video chat for a masturbation session based on the planning, no email communications during the time of the planned encounter and the specific conversation discussing their encounter after the planned time discussing things that occurred during their masturbation session."

(R-1 at 7).

A [REDACTED] and [REDACTED] exchanged the emails set forth in R-4, R-7, R-9, R-10, R-18, R-19, R-20, R-21, R-22, R-23, and R-24.

A [REDACTED] acknowledged that the emails to and from [REDACTED] were inappropriate and regrets using his work email and work computer during his work shift.

As planned and discussed in detail in the emails of R-9 and R-10, A [REDACTED] left work and went home on June 3, 2022, to engage in a masturbation session with [REDACTED] between 9:30 a.m. and 10:30 a.m.

On July 8, 2022, ██████ conducted an audio recorded interview of A ██████. (R-11.) ██████ showed A ██████ the email exchange between A ██████ and ██████. A ██████ denied going home to masturbate while working on June 3, 2022, and said that the email conversation between A ██████ and ██████ was a fantasy ██████ had and they talked in a manner like it did happen. (R-1 and R-11.)

A ██████ was untruthful in his IA interview with ██████ on July 8, 2022.

The Atlantic County Sheriff's Office S.O.P (Standard Operating Procedure) establishes the Sheriff's Office Rules and Regulations, Directive 10-001 for the government of the office and the discipline of its officers and employees. (R-11.) Pursuant to 3.2.4 "Truthfulness" All employees are required to be truthful at all times whether testifying under oath or when not under oath and while reporting and answering questions posed by superior officers, supervisor, acting supervisor and/or internal affairs investigators. Pursuant to 3.2.7, "Conduct Unbecoming a Sheriff's Officer", Sheriff's Officers must be held to the highest standard in order for a Sheriff's Office to carry out its law enforcement mission. Accordingly, officers shall conduct themselves at all times, both on and off duty, with high ethical standards, so as not to bring discredit upon themselves as Sheriff's Officers or upon the Sheriff's Office. Conduct unbecoming a Sheriff's Officer is grounds for disciplinary action and shall be defined as any improper conduct which tends to weaken public respect or confidence in the Sheriff's Office, or which adversely impacts the confidence amongst fellow officers. Pursuant to 3.4, Employees who are on duty are prohibited from engaging in activities which are not directly related to the lawful performance of their official duties, including but not limited to: 3.4.3 Sexual activity of any kind and 3.4.7 Pursuing personal relationships. Pursuant to 3.6.6 "Computer and Network Use", All employees of the Sheriff's Office who are operating the computer information systems and its resources have the responsibility not to abuse this privilege, to act honestly and to respect the rights of user community. 3.6.6.1 Employees shall conduct oneself in compliance with office procedures and the County Computer and Network Use Policy. (P.S. 3.14.)

Atlantic County has established a Computer and Network Use Policy, P.S. 3.14, which states that the County information systems are created and maintained to conduct

official County related business. Misuse of the County's information systems is prohibited. Misuse includes personal use of any County information system to access, download, print store, forward transmit or distribute immoral material. The transmission of email should not be used for illegal, unlawful, or immoral purposes. (R-12.)

### **LEGAL DISCUSSION AND CONCLUSIONS OF LAW**

Appellant's rights and duties are governed by laws including the Civil Service Act and accompanying regulations. A civil service employee who commits a wrongful act related to his employment may be subject to discipline, and that discipline, depending upon the incident complained of, may include a suspension or removal. N.J.S.A. 11A:1-2, 11A:2-6, 11A:2-20; N.J.A.C. 4A:2-2. The appointing authority employer has the burden of proof to establish the truth of the disciplinary action brought against a civil service employee. N.J.A.C. 4A:2-1.4(a). The standard of proof in administrative proceedings is by a preponderance of credible evidence. N.J.S.A. 11A:2-21; N.J.A.C. 4A:2-1.4(a); see Atkinson v. Parsekian, 37 N.J. 143, 149 (1962). Evidence is said to preponderate "if it establishes the reasonable probability of the fact." Jaeger v. Elizabethtown Consol. Gas Co., 124 N.J.L. 420, 423 (Sup. Ct. 1940) (citation omitted). Stated differently, the evidence must "be such as to lead a reasonably cautious mind to a given conclusion." Bornstein v. Metro. Bottling Co., 26 N.J. 263, 275 (1958); see also Loew v. Union Beach, 56 N.J. Super. 93, 104 (App. Div. 1959).

Appellant has been demoted from Sheriff's Sergeant to Sheriff's Officer pursuant to N.J.A.C. 4A:2-2.3 which sets forth the general causes for subjecting a civil service employee to discipline including N.J.A.C. 4A:2-2.3(a)(6) "Conduct unbecoming a public employee" and N.J.A.C. 4A:2-2.3(a)(12), "Other sufficient cause." Other sufficient cause is an offense for conduct that violates the implicit standard of good behavior that devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct, as well as specific violations of the Atlantic County Sheriff's Office S.O.P, Sheriff's Office Rules and Regulations including the following: 3.2.7 Conduct Unbecoming a Sheriff's Officer; 3.4.3 Sexual activity of any kind; 3.4.7.1 Pursuing personal relationships; 3.6.6.1 Computer and Network Use; and 3.2.4 Truthfulness.

Appellant was charged with "Conduct unbecoming a public employee," N.J.A.C. 4A:2-2.3(a)(6). "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. City of Atlantic 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 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 Asbury Park v. Dep't of Civil Serv., 17 N.J. 419, 429 (1955)).

Appellant's status as an Atlantic County Sheriff's Sergeant subjects him to a higher standard of conduct than ordinary public employees. In re Phillips, 117 N.J. 567, 576-77 (1990). They represent "law and order to the citizenry and must present an image of personal integrity and dependability in order to have the respect of the public." Twp. of Moorestown v. Armstrong, 89 N.J. Super. 560 (App. Div. 1965), certif. denied, 47 N.J. 80 (1966). Maintenance of strict discipline is important in military-like settings such as police departments, prisons, and correctional facilities. Rivell v. Civil Serv. Comm'n, 115 N.J. Super. 64, 72 (App. Div.), certif. denied, 59 N.J. 269 (1971); City of Newark v. Massey, 93 N.J. Super. 317 (App. Div. 1967). Refusal to obey orders and disrespect of authority cannot be tolerated. Cosme v. Borough of E. Newark Twp. Comm., 304 N.J. Super. 191, 199 (App. Div. 1997).

As set forth in the finding of facts, appellant exchanged improper and sexually explicit emails with his girlfriend during his work shift using his sheriff's office email and work computer. Emails exchanged between A [REDACTED] and [REDACTED] included conversations about sex, sex games, rubbing and licking feet, oral sex etc. (R-4, R-7, R-9, R-10, R-18, R-19, R-20, R-21, R-22, R-23, and R-24.) A [REDACTED] acknowledged the email exchanges were based on his dating relationship with [REDACTED]. A [REDACTED]

acknowledged that his email correspondence with Lymper was inappropriate and stated that he regretted using his work email account and work computer during working hours.

Therefore, I **CONCLUDE** that the respondent has met its burden of proof in establishing violations of N.J.A.C. 4A:2-2.3(a)(6), Conduct Unbecoming a Public Employee, as well as N.J.A.C. 4A:2-2.3(a)(12), Other Sufficient Cause, for violations of the Sheriff's Office Department Rules and Regulations Directive 10-001 for 3.2.7 Conduct Unbecoming a Sheriff's Officer; 3.4.3 Sexual activity of any kind; 3.4.7.1 Pursuing personal relationships; and 3.6.6.1 Computer and Network Use, by a preponderance of the credible evidence.

Appellant has also been charged with a violation of Sheriff's Office Rules and Regulations, Directive 10-001 for 3.2.4 "Truthfulness" which states that all employees are required to be truthful at all times whether testifying under oath or when not under oath and while reporting and answering questions posed by superior officers, supervisor, acting supervisor and/or internal affairs investigators. As set forth in the findings of facts, A [REDACTED] left work and went home on June 3, 2022, to engage in a masturbation session with [REDACTED] between 9:30 a.m. and 10:30 a.m. as planned and discussed in the emails of R-9 and R-10. On July 8, 2022, [REDACTED] conducted an audio recorded interview of A [REDACTED]. (R-11.) [REDACTED] showed A [REDACTED] the email exchange between A [REDACTED] and [REDACTED]. A [REDACTED] denied going home to masturbate while working on June 3, 2022, and said that the email conversation between A [REDACTED] and [REDACTED] was a fantasy [REDACTED] had and they talked in a manner like it did happen. (R-1 and R-11.)

A [REDACTED] was untruthful in his IA interview with [REDACTED] on July 8, 2022, in denying he went home to engage in a masturbation session with [REDACTED] on June 3, 2022, and denying it took place, claiming it was just a 'fantasy'.

Therefore, I **CONCLUDE** that the respondent has met its burden of proof in establishing a violation of Sheriff's Office Rules and Regulations, Directive 10-001 for 3.2.4 "Truthfulness".

## PENALTY

The remaining issue is penalty. The Civil Service Commission's review of a 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. General principles of progressive discipline involving penalties of increasing severity are used where appropriate. Town of W. New York v. Bock, 38 N.J. 500, 523 (1962). 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.

However, where the charged dereliction is an act which, in view of the duties and obligations of the position, substantially disadvantages the public, good cause exists for removal. See Golaine v. Cardinale, 142 N.J. Super. 385 (Law Div. 1976), aff'd, 163 N.J. Super. 453 (App. Div. 1978); In re Herrmann, 192 N.J. 19 (2007). The question to be resolved is whether the discipline imposed in this case is appropriate. Some disciplinary infractions are so serious that removal is appropriate notwithstanding a largely unblemished prior record. In re Carter, 191 N.J. 474, 484 (2007), (citing Rawlings v. Police Dep't of Jersey City, 133 N.J. 182, 197-98 (1993) (upholding dismissal of police officer who refused drug screening as "fairly proportionate" to offense).

Appellant has been found to have violated N.J.A.C. 4A:2-2.3(a)(6), Conduct unbecoming a public employee; N.J.A.C. 4A:2-2.3(a)(12), Other sufficient cause for violations of the Atlantic County Sheriff's Office Rules and Regulations, Directive 10-001 including the following: 3.2.7 Conduct Unbecoming a Sheriff's Officer; 3.4.3 Sexual activity of any kind; 3.4.7.1 Pursuing personal relationships; 3.6.6.1 Computer and Network Use; and 3.2.4 Truthfulness.

A [REDACTED] has an unblemished work history and has received several commendations as set forth in P-1. However, considering the serious nature of the sustained offenses against A [REDACTED] as well as the concept of progressive discipline, the penalty respondent seeks in demoting A [REDACTED] from Sheriff's Sergeant to Sheriff's

Officer is appropriate. Respondent has not sought to suspend A [REDACTED] or remove him from employment, although respondent could have sought the most serious penalty of removal.

Therefore, I **CONCLUDE** respondent's actions in demoting appellant from Sheriff's Sergeant to Sheriff's Officer was appropriate.

**ORDER**

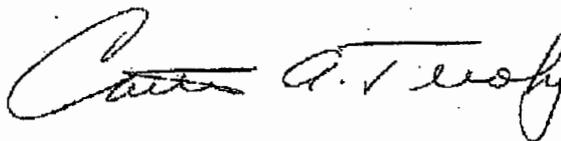
It is **ORDERED** that the charges as set forth above are **SUSTAINED**.

It is also **ORDERED** that the penalty of demotion from Sheriff's Sergeant to Sheriff's Officer is **AFFIRMED**. Appellant's appeal is **DISMISSED**.

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

This recommended decision may be adopted, modified, or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify, or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, DIVISION OF APPEALS AND REGULATORY AFFAIRS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, PO Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.



January 22, 2026

DATE

CATHERINE A. TUOHY, ALJ

Date Received at Agency:

emailed January 22, 2026

Date Mailed to Parties:

emailed January 22, 2026

CAT/gd

**APPENDIX**

**WITNESSES**

**For appellant**

██████████ ██████████  
F ██████████ A ██████████

**For respondent**

████████████████████

**EXHIBITS**

**For appellant**

P-1 Exceptional Service Award dated November 28, 2011; Performance Notice dated January 31, 2011; March 23, 2005, letter of commendation; August 9, 2009, thank you letter; July 11, 2011, thank you letter; February 19, 2014, perfect attendance for 2013 commendation; Supervisor Compliment Incident Report entered July 22, 2014; Supervisor Compliment Incident Report entered June 16, 2018; Supervisor Compliment Incident Report entered January 21, 2014; Supervisor Compliment Incident Report entered August 11, 2015; and Supervisor Compliment Incident Report entered October 19, 2019

P-2 July 8, 2022, flash drive of audio IA interview of Sgt. A ██████████ by Captain ██████████

**For respondent**

R-1 Internal Affairs Investigation Report IA -2022-001

R-2 June 3, 2022 email from ██████████ to ██████████

R-3 Telecommunications Work Request dated June 7, 2022

R-4 Various emails between A ██████████ and ██████████ attached to D'Ancona HR email

- R-5 IA Complaint Notification Form
- R-6 Administrative Investigation Interview Form
- R-7 A [REDACTED] / [REDACTED] emails May 26, 2022, – May 27, 2022
- R-8 May 27, 2022, Attendance Report
- R-9 A [REDACTED] / [REDACTED] emails June 3, 2022
- R-10 A [REDACTED] / [REDACTED] emails June 3, 2022
- R-11 Sheriff's Rules and Regulations on Charges Sustained against A [REDACTED]
- R-12 Atlantic County P.S. 3.14 Computer and Network Use Policy
- R-13 Preliminary Notice of Disciplinary Action (31-A)
- R-14 Final Notice of Disciplinary Action (31-B)
- R-15 Atlantic County Prosecutor's Office Internal Affairs Initial Complaint
- R-16 July 8, 2022, letter from Prosecutor's Office to Sheriff [REDACTED]
- R-17 A [REDACTED] Work Schedule Sheets for March 2022 – May 2022
- R-18 A [REDACTED] / [REDACTED] emails June 2, 2022
- R-19 A [REDACTED] emails June 2, 2022
- R-20 May 10, 2022, email [REDACTED] / A [REDACTED]
- R-21 May 4, 2022, email chain [REDACTED] / A [REDACTED]
- R-22 April 29, 2022, email [REDACTED] / A [REDACTED]
- R-23 various emails [REDACTED] / A [REDACTED] September 2020
- R-24 emails [REDACTED] / A [REDACTED] May 13, 2022