

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." Moreover, the Commission emphasizes that a County Correctional Police Officer, similar to 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).

The Commission wholly agrees with the ALJ's assessment that the appellant's misconduct warranted a more severe penalty. In this regard, the ALJ found:

In this instance, [the appellant] was belligerent in his interaction with the [p]olice, uncooperative with the investigation, and shows no remorse for his actions. He also has prior discipline evidencing the same overarching scenario from which it appears that [the appellant] has not learned. Considering the facts, the circumstances, and the Guidelines for Corrective Action/Table of Offenses and Penalties for Cumberland County Department of Corrections Policy Number 3.02A, I **CONCLUDE** that [the appellant]'s imposed suspension of ten days is not proportional to the offense and his prior history. I **CONCLUDE** that a suspension of ninety working days is proportional to the offense taking into consideration his prior history.

Particularly egregious was the appellant's act of urinating on the wall and floor in the processing room at the police station.

As indicated above, the Commission thoroughly reviewed the exceptions filed in this matter. Upon that review, it finds that the exceptions do not persuade the Commission that the ALJ's findings and conclusion or his recommendation to modify the penalty were arbitrary, capricious, or unreasonable. While the appellant argues that the appointing authority "could have issued a lengthier suspension," but it did not initially do so, the appointing authority agrees with the ALJ and replies that the 90 working day suspension "is proportionate" as the appellant's behavior is unbecoming a County Correctional Police Officer.

ORDER

The Civil Service Commission finds that the action of the appointing authority in imposing disciplinary action was justified. However, the Commission modifies that action and increases the penalty to a 90 working day suspension. Therefore, the Commission dismisses the appeal of Rene Cruz.

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 25TH DAY OF FEBRUARY, 2026



Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Dulce A. Sulit-Villamor
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
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Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSV 17293-24

AGENCY REF. NO. 2025-1043

**IN THE MATTER OF RENE CRUZ,
CUMBERLAND COUNTY
DEPARTMENT OF CORRECTIONS.**

Brandon Sweeney, Esq., for appellant, Rene Cruz (Rosenberg, Perry and Associates, LLC, attorneys)

Jeffrey DiLazzero, Assistant County Counsel, for respondent, Cumberland County Department of Corrections (John Carr, County Counsel)

Record Closed: October 21, 2025

Decided: January 15, 2026

BEFORE **CARL V. BUCK III**, ALJ:

STATEMENT OF THE CASE

At approximately 1:55 a.m. on September 4, 2021, Rene Cruz¹ (appellant), an off-duty Cumberland County Department of Corrections (Cumberland) correctional officer, was involved in a traffic stop (stop) that resulted in the Bridgeton Police Department

¹ A number of the documents submitted, including those pertaining to Municipal Court, reference "Rene Asencio Jr." Appellant is also referred to as "Rene Cruz" and "Rene Asencio-Cruz." These various names all refer to appellant.

(Police) issuing him seven traffic summonses. Appellant ultimately pled guilty to one of the summonses issued and a second, modified summons.²

Appellant was not on duty, and he was driving his personal vehicle, which was towed from the scene of the stop. May appellant be disciplined? Yes. A correctional officer is a special kind of public employee who represents law and order and may be disciplined for failure to exercise tact, restraint, and good judgment, even off duty. See Moorestown Twp. v. Armstrong, 89 N.J. Super. 560, 566 (App. Div. 1965).

PROCEDURAL HISTORY

Due to an incident that occurred on September 4, 2021, appellant was issued seven traffic violations, which were heard by the Bridgeton Joint Municipal Court on or about September 15, 2022. Appellant pled guilty to a violation of N.J.S.A. 39:4-50.2 (Refusal - Ticket #0601-BJ-057851) and to an amended violation of N.J.S.A. 39:4-130 (Immediate Notice of Accident).

On December 27, 2022, Cumberland served appellant with a Preliminary Notice of Disciplinary Action (PNDA). The charges listed in the PNDA are violations of:

1. N.J.A.C. 4A:2-2.3
 - a. III Personal Conduct; and
 - b. H Conduct Unbecoming A Public Employee.

Cumberland County also specifies that on September 15, 2022, Cruz pleaded guilty to:

1. 0601-BJ-057851 (violation of N.J.S.A. 39:4-50.2 – Refusal), and
2. 0601-BJ-057853 (violation of N.J.S.A. 39-129(b) – amended to N.J.S.A. 39:4-130 – Immediate Notice of Accident)

² The nature and severity of the violations, which will be detailed herein, provide guidance in the issuance of discipline.

Cumberland imposed a ten-working-day suspension. (R-1.)

On November 14, 2024, Cumberland County served Cruz with a Final Notice of Disciplinary Action (FNDA) sustaining the charges and specifications and imposing the ten-working-day suspension.

On or about November 15, 2024, Cruz appealed Cumberland County's determination. The Civil Service Commission transmitted this case to the Office of Administrative Law, where it was filed on December 6, 2024, under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the Office of Administrative Law, N.J.S.A. 52:14F-1 to -23, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6. The case was assigned to me on February 24, 2025.

An issue was brought forth by appellant concerning the "45 day rule." Appellant filed a Motion to Dismiss the disciplinary charges due to a violation of N.J.S.A. 40A:14-147. The Motion to Dismiss was denied, and the matter proceeded.

After numerous conferences with the parties, the hearing was held on September 3, 2025. On October 6, 2025, I received the closing brief from Cruz, and on October 3, 2025, I received the closing brief from Cumberland County and closed the record. A request to extend the time for filing this Initial Decision was made and granted.

FINDINGS OF FACT

Testimony

For Respondent

Paul Hoffman (Hoffman) is an employee of Cumberland with six years at Internal Affairs and twenty-seven years with the New Jersey State Police and was well qualified

to investigate this matter. Hoffman investigated the incident and interviewed Cruz (R-47) on October 18, 2022.

Hoffman testified to a review of the twenty-eight-minute observation of Cruz at the Police station before Cruz was administered an alcohol test, which was seen on R-21. Hoffman prepared the "Special Investigations Unit Conclusion Report" (Report) dated October 25, 2022, which detailed the incident and Hoffman's conversation with the Police on September 13, 2021 (R-7). The Report detailed the traffic stop, Cruz's interaction with the Police, analysis of the Police reports and dashcam recordings, and Cruz's responses during his interview.

Charles Albino (Albino), director of the Cumberland County Department of Corrections (DOC), stated that he oversees both the adult and juvenile jails and his position in the hierarchy of the DOC was above that of the warden. He had extensive experience in the field of corrections and was well qualified to testify on behalf of the DOC. He was the director at the time of the incident and was in charge of administrative discipline and testified to the two types of discipline used. He testified to the DOC policy regarding the Cumberland County Department of Corrections Code of Ethics (Code) (R-20) and conducted an independent investigation and agreed with the outcome. He testified that he felt that under the circumstances presented, the discipline imposed was "appropriate but to the lenient side." The purpose of imposing discipline is to alter behavior and alter conduct. It is not intended to be a punitive exercise.

He discussed the action of public employees and stated that the warden had determined the imposition of a ten-day suspension, which Albino felt was on the appropriate-to-lenient side. Albino also testified to another charge of conduct unbecoming deriving from an incident when appellant was intoxicated and entered a stranger's home. Cruz was charged with burglary and harassment as a result of that incident.

Based on the testimony the parties provided and my assessment of its credibility, together with the documents the parties submitted and my assessment of their sufficiency, I **FIND** the following as **FACT**:

Cruz has been employed by Cumberland County as a correctional officer since March 19, 2007.

On September 4, 2021, at approximately 1:55 a.m., Cruz was involved in a stop by the Police in his personal vehicle. Cruz was not on duty at the time of the stop.

Consequent to the stop, the Police had the vehicle towed from the scene. Cruz was taken to the Bridgeton Police Department, where he received seven traffic summonses:

- (1) #0601-BJ-057850 for an alleged violation of N.J.S.A. 39:4-50 (Driving While Intoxicated);
- (2) #0601-BJ-057851 for an alleged violation of N.J.S.A. 39:4-50.2 (Refusal/Consent to Taking Breath Sample);
- (3) #0601-BJ-057852 for an alleged violation of N.J.S.A. 39:4-129(a) (Leaving Scene of an Accident Involving Personal Injury);
- (4) #0601-BJ-057853 for an alleged violation of N.J.S.A. 39:4-129(b) (Leaving the Scene of an Accident);
- (5) #0601-BJ-057854 for an alleged violation of N.J.S.A. 39:3-29 (Failure to Exhibit Documents - Vehicle Registration);
- (6) #0601-BJ-057855 for an alleged violation of N.J.S.A. 39:3-29 (Failure to Exhibit Documents - Insurance Card); and
- (7) #0601-BJ-057856 for an alleged violation of N.J.S.A. 39:4-96 (Reckless Driving).

I also note the following.

The police officers conducting the traffic stop, Patrolman Maria Hernandez (Hernandez) and Patrolman Matthew Sooy (Sooy), asked Cruz to perform a field sobriety test. Cruz refused.³ The stop was recorded on bodycam footage (R-46, footage 1). Cruz told the police that he, Cruz, was a “cop” and Cruz gave the names of several Bridgeton police officers. Cruz put forward his hand toward Hernandez, holding what appears to be several pieces of paper currency; this is simultaneous to Cruz handing Hernandez his paperwork. Cruz stated, on several occasions, that he was cooperating, but he failed to follow clear directions (i.e. Cruz refused to get out of his vehicle). As can also be heard and seen in the video, Cruz did not exit his vehicle until Sooy eventually threatened to spray Cruz with pepper spray and physically remove him from his vehicle. After getting Cruz out of his vehicle, the Police took Cruz to the Police station for processing.

The Police report of the incident states in relevant part: “Once Rene [Cruz] was escorted into the processing room [at the Police station], he was secured to the bench where he stood up and urinated on the wall and floor, as he continued to act belligerent towards officers.” (R-35.) This was also documented in the statement: “While at the station, Officer Asencio-Cruz started urinating on the floor and maybe [sic] charged with disorderly conduct.” (R-34.) In the Drinking Driver Questionnaire, it states “Defendant [i.e. Mr. Cruz] was uncooperative and refused to answer questions” (R-37). The video shows Cruz interacting with the janitorial staff and, apparently, holding the wrist of a woman assigned to clean up the urine. The Bridgeton Police Department issued seven traffic complaints-summonses to Mr. Cruz, then released him from custody.

The traffic violations were heard by the Bridgeton Joint Municipal Court – Court Code 0601 on September 15, 2022. Cruz pled guilty to a violation of N.J.S.A. 39:4-50.2 (Refusal - Ticket #0601-BJ-057851) and to an amended violation of N.J.S.A. 39:4-130 (Immediate Notice of Accident). The amended violation was downgraded from Ticket #0601-BJ-057853 – violation of N.J.S.A. 39:4-129(b) (leaving the scene of an accident).

Warden Caldwell (Caldwell) of the DOC then assigned Investigator Paul D. Hoffman (Hoffman) to conduct an internal investigation of Cruz's conduct.

³ As Cruz did not testify at the hearing, any references to statements made or uttered by Cruz are derived from camera footage or from police reports.

The investigation did not proceed until Cruz's interaction with the Court was concluded. An extended time period was encountered due to the COVID-19 pandemic.

On October 18, 2022, Hoffman interviewed Cruz regarding this disciplinary matter.

Cruz was uncooperative and provided evasive answers to Investigator Hoffman's questions. During that interview, Cruz responded to almost every question by saying: "I don't recall. I was served with seven traffic tickets, five were dismissed." Cruz eventually admitted to Investigator Hoffman: "Yes, I plead to refusal and failure to report."

On December 27, 2022, the DOC served Cruz with a PNDA (31-A). (R-1.) The charges listed in the PNDA are violations of: N.J.A.C. 4A:2-2.3; III Personal Conduct; and H Conduct Unbecoming A Public Employee. Cruz was previously cited and disciplined for Conduct Unbecoming A Public Employee. (R-25.)

CONCLUSIONS OF LAW

Public employees' rights and duties are governed and protected by the provisions of the Civil Service Act, N.J.S.A. 11A:1-1 to 12-6, and its implementing regulations, N.J.A.C. 4A:1-1.1 to 4A:10-3.2. Public employees may be disciplined for a variety of offenses involving their employment, including the general causes for discipline as set forth in N.J.A.C. 4A:2-2.3(a). Among these general causes for discipline is "other sufficient cause." N.J.A.C. 4A:2-2.3(a)(12). Major discipline includes removal, demotion, or suspension for more than five consecutive working days, N.J.A.C. 4A:2-2.2(a), and its imposition depends upon the incident complained of and the employee's disciplinary record. W.N.Y. v. Bock, 38 N.J. 500, 522-524 (1962).

In appeals concerning major disciplinary action, the appointing authority bears the burden of proof. N.J.A.C. 4A:2-1.4(a). The burden of proof is by a preponderance of the evidence, Atkinson v. Parsekian, 37 N.J. 143, 149 (1962), and the hearing is de novo. Henry v. Rahway State Prison, 81 N.J. 571, 579 (1980). On such appeals, the Civil Service Commission may increase or decrease the penalty, N.J.S.A. 11A:2-19, and the

concept of progressive discipline guides that determination. In re Carter, 191 N.J. 474, 483–86 (2007). The inquiry is “whether such punishment is ‘so disproportionate to the offense, in the light of all the circumstances, as to be shocking to one’s sense of fairness.’” Id. at 484 (quoting In re Polk, 90 N.J. 550, 578 (1982)).

Cumberland County holds correctional officers under its employ to an ethical standard that applies to their professional, public, and personal lives. The personal standard of ethics is delineated in Article 6 of its code of ethics, which provides that officers must be mindful of their special identification by the public as an “upholder of the law.” Article 6 further provides that “laxity of conduct” in private life reflects upon both the officer and the department, and that officers “shall conduct their private lives so that the public will regard them as example[s] of stability, fidelity, and morality.”

The overarching theme of Article 6 is consistent with State law, which holds that both police and correctional officers are held to a higher standard of public and personal conduct than other citizens due to their community roles. In re Phillips, 117 N.J. 567 (1990). The higher standard of conduct required in both public and private life “is one of the obligations [law enforcement] undertakes upon voluntary entry into the public service.” In re Emmons, 63 N.J. Super. 136, 142 (App. Div. 1960). This is because law enforcement personnel are a “special kind of public employee,” called upon “to exercise tact, restraint and good judgment,” whether on duty or off. Moorestown Twp. v. Armstrong, 89 N.J. Super. 560, 566 (App. Div. 1965). As a result of this heightened standard, infractions committed by police and correctional officers will lead to major discipline. Chopek v. Bayside State Prison, CSV 00658-01, Initial Decision (May 10, 2002), adopted, Merit Sys. Bd. (July 12, 2002), <https://njlaw.rutgers.edu/collections/oal/>.

In this case, Cruz was issued seven traffic summonses and pled guilty to two—those two being a violation of N.J.S.A. 39:4-50.2 (Refusal - Ticket #0601-BJ-057851) and an amended violation of N.J.S.A. 39:4-130 (Immediate Notice of Accident). During the pendency of the investigation, Cruz did not provide information; he did not provide responsive answers and did not cooperate with the investigation.

Through engaging in activity that led to him pleading guilty to these two tickets, and in not cooperating with the investigation, Cruz did not live up to the ethical obligations required of a law enforcement officer. He did not uphold the law in his private life, and he did not conduct his private life as an example of stability, fidelity, and morality to the public. Appellant's conduct was such that it adversely affected the morale or efficiency of the respondent and would have a tendency to destroy public respect in the delivery of governmental services. Under the circumstances presented here, appellant displayed a significant lack of judgment and acted in an egregious manner when he engaged in activity, albeit off duty, which violated his obligations and duties and led to his pleading guilty to the two summonses as detailed herein. I **CONCLUDE** that appellant's behavior did rise to a level of conduct unbecoming a public employee, in violation of N.J.A.C. 4A:2-2.3; III Personal Conduct; and H Conduct Unbecoming A Public Employee. Accordingly, I **CONCLUDE** that this charge against appellant is **SUSTAINED**.

Cruz has not taken responsibility for his actions. He did not cooperate with the Police after the incident, and he did not cooperate with the investigation. He had been charged and convicted on at least one prior incident, for burglary and harassment, in 2014, for which he entered into a settlement agreement for a suspension of five days, and that history of prior discipline is not the subject of this hearing.

In this instance, Cruz was belligerent in his interaction with the Police, uncooperative with the investigation, and shows no remorse for his actions. He also has prior discipline evidencing the same overarching scenario from which it appears that Cruz has not learned. Considering the facts, the circumstances, and the Guidelines for Corrective Action/Table of Offenses and Penalties for Cumberland County Department of Corrections Policy Number 3.02A, I **CONCLUDE** that Cruz's imposed suspension of ten days is not proportional to the offense and his prior history. I **CONCLUDE** that a suspension of ninety working days is proportional to the offense taking into consideration his prior history.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that Cruz is suspended for ninety working days.

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.



January 15, 2026

DATE

CARL V. BUCK III, ALJ

Date Received at Agency:

January 15, 2026 (sent via email)

Date Mailed to Parties:

January 15, 2026 (sent via email)

CVS/tat/sw

APPENDIX

Witnesses

For Appellant:

None

For Respondent:

Paul D. Hoffman, Investigator, Special Investigations Unit, Cumberland County
Department of Corrections
Charles Albino, Director, Cumberland County Department of Corrections

Exhibits

Joint:

J-1 August 11, 2025, Joint Stipulation of Facts

For Appellant:

None

For Respondent:

- R-1 Preliminary Notice of Disciplinary Action (31A) for 9/4/21 Offense
- R-2 NJ Order & Certification – Intoxicated Driving Dated 9/15/22
- R-3 Bridgeton Municipal Court Order for Payments 9/15/22
- R-4 Municipal Court Summons & Complaint dated 9/15/22
- R-5 New Jersey Interim Driver License Issue to Rene Asencio-Cruz valid 9/16/22 through 10/16/22
- R-6 Department of Corrections Special Investigations Unit Investigation Review Sheet
- R-7 Department of Corrections Special Investigations Unit Conclusion Report 10/25/22
- R-8 Department of Corrections Special Investigations Unit Report
- R-9 Email from Warden Eugene Caldwell to Captain Amy Brag 12/27/22

- R-10 Department of Corrections Internal Investigation Attachment Log 10/24/22
- R-11 Department of Corrections Incident/Offense Report Dated 9/6/21
- R-12 Ticket No. 0601-BJ-057850 issued to Rene Asencio-Cruz N.J.S.A. 39:4-50
- R-13 Ticket No. 0601-BJ-057851 issued to Rene Asencio-Cruz N.J.S.A. 39:4-50.2
- R-14 Ticket No. 0601-BJ-057852 issued to Rene Asencio-Cruz N.J.S.A. 39:4-129
- R-15 Ticket No. 0601-BJ-057853 issued to Rene Asencio-Cruz N.J.S.A. 39:4-129
- R-16 Ticket No. 0601-BJ-057854 issued to Rene Asencio-Cruz N.J.S.A. 39:3-29
- R-17 Ticket No. 0601-BJ-057855 issued to Rene Asencio-Cruz N.J.S.A. 39:3-29
- R-18 Ticket No. 0601-BJ-057856 issued to Rene Asencio-Cruz N.J.S.A. 39:4-96
- R-19 New Jersey Automated Traffic Systems Disposition Information
- R-20 Department of Corrections Policy 4.13 Subject: Code Of Ethics
- R-21 Bridgeton Police Dept. Evidence Receipt dated 9/16/21
- R-22 Department of Corrections Investigation Interview Notice to Officer Asencio-Cruz 10/13/22
- R-23 Letter of Representation from Daniel Rosenberg Dated 10/4/22
- R-24 Department of Corrections Investigation Warning Notice Dated 10/18/22 (with photocopy of CD)
- R-25 Emails between Capt. Brag and HR Director Paige Desiere regarding discipline history of Officer Asencio-Cruz 12/1/22
- R-26 Final Notice of Disciplinary Action (31B) Dated 3/20/14 for 3/14/13 Offense issued by Director of Personnel 5 day suspension
- R-27 Settlement Agreement between Dept. of Corrections and Officer Asencio-Cruz dated 3/14/2014
- R-28 Final Notice of Disciplinary Action (31-B) dated 3/26/2013 issued by Warden (indefinite suspension)
- R-29 Loudermill Hearing Notice to Officer Asencio-Cruz 3/18/13
- R-30 Loudermill Hearing Decision 3/21/13
- R-31 Preliminary Notice of Disciplinary Action (31A) for 3/14/13 Offense
- R-32 Bridgeton Police Case Reports 3/14/13
- R-33 CAMPS Report Disciplinary Action & fax cover
- R-34 Memo of DOC Capt. Joynes re: DWI charges 9/4/21
- R-35 Bridgeton Police Department Investigation Report of 9/4/21 DWI Charges

- R-36 Bridgeton Police Department Drinking and Driving Report of 9/7/21
- R-37 Drinking Driver Questionnaire 9/4/21
- R-38 Bridgeton Police Department Arrest Report 9/4/21
- R-39 Bridgeton Police Department Potential Liability Warning
- R-40 Bridgeton Police Department Property Report 9/4/21
- R-41 Bridgeton Police Property Release 9/4/21
- R-42 Bridgeton Police Investigation Report 03/15/2013
- R-43 Bridgeton Police Arrest Report 3/14/2013
- R-44 Appendix B (Guidelines for Corrective Action/Table of Offenses and Penalties) for Cumberland County Department of Corrections Policy Number 3.02A (Also known as 84-17)
- R-45 Video 21-36060 MVR-BWC Footage 9/4/21 Video Bridgeton Police 9/4/21
- R-46 Video Bridgeton Police In Station & Reports 9/4/21 (thumb drive of video previously provided to Court & Appellant's attorney, Brandon Sweeney, Esq.)
- R-47 Video Hoffman Interview with Cruz 10/18/22 (thumb drive of video previously provided to Court & Appellant's attorney, Brandon Sweeney, Esq.)