

Additionally, such credibility findings need not be explicitly enunciated if the record as a whole makes the findings clear. *Id.* at 659 (citing *Locurto, supra*). The Commission appropriately gives due deference to such determinations. However, in its *de novo* review of the record, the Commission has the authority to reverse or modify an ALJ's decision if it is not supported by sufficient credible evidence or was otherwise arbitrary. See *N.J.S.A. 52:14B-10(c)*; *Cavalieri v. Public Employees Retirement System*, 368 *N.J. Super.* 527 (App. Div. 2004). The Commission finds no persuasive evidence in the record to demonstrate that the ALJ's credibility determinations, or her findings and conclusions based on those determinations, were arbitrary, capricious, or unreasonable. Accordingly, the Commission finds nothing in the record to question those determinations or the findings and conclusions made therefrom.

The Commission adds the following comments regarding the exceptions. 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 her recommendation to uphold the penalties should be reversed. The appellant contends that the protocol she did not follow was not an order and that the security protocols did not apply to her because she did not remove the inmate from his cell. These semantic arguments are unconvincing. The appellant's suggestion that she was merely acting in good faith to enforce a housing rule is similarly unconvincing as the Commission finds it particularly egregious that the appellant prioritized removing a light cover instead of returning the inmate to his cell. The appellant further cannot be absolved of responsibility for the inmate's subsequent destruction of the tour gun. As persuasively argued by the appointing authority in its reply, that event was a reasonably foreseeable consequence of the appellant's failing to secure the inmate first before ordering his cell door to be opened. Further, as properly concluded by the ALJ, credible evidence supports that the appellant violated policy by manipulating an officer into making an inaccurate report and by writing an inaccurate report herself. Finally, there is no compelling reason to grant the appellant's request to remand her appeal "for a new and unbiased review" as the ALJ's decision was thorough and well-reasoned.

Regarding the penalty, similar to its review of the underlying charges, the Commission's review of the penalty is *de novo*. In addition to considering the seriousness of the underlying incident in determining the proper penalty, the Commission 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 may be appropriate notwithstanding a largely unblemished prior record. See *Carter v. Bordentown*, 191 N.J. 474 (2007). Moreover, the Commission emphasizes that a County Correctional Police Sergeant, as a supervisory law enforcement 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 recommending that the charges be sustained and that the penalties be upheld, the ALJ noted that the appellant's disciplinary history showed a previous 45 day suspension for similar conduct involving her misinterpretation or failure to follow orders. See *In the Matter of Vanessa Howard, Monmouth County, Department of Corrections and Youth Services* (CSC, decided April 8, 2026). The ALJ further stated:

Where, as here, the charges and established infractions "go to the heart of [a police officer's] capacity to function appropriately," and considering the [appointing authority]'s "need to maintain order and discipline" within its facility, I **CONCLUDE** that [the appellant] be suspended for six months. *In re Herrmann*, 192 N.J. [19, 34 (2007)]. Additionally, [the appellant]'s failure to demonstrate her ability to supervise officers, including guiding [Brian] Perry[, County Correctional Police Officer], a new officer, to omit and misstate facts in his report, or to have the judgment to prioritize the safety of other officers, staff, and inmates, and deliberately making false statements in her own report and to [William] Beckenstein[, then an Investigator Secured Facilities], indicate that she lacks the attributes needed in a leader. Such conduct can disrupt and destroy order and discipline in a prison. *Henry v. Rahway State Prison*, 81 N.J. 571, 579 (1980). Therefore, I **CONCLUDE** that [the appellant] should be demoted from [County Correctional Police Sergeant] to [County Correctional Police Officer].

Therefore, it is clear that as a supervisory law enforcement officer, who, per above, is held to a higher standard, the appellant's misconduct was improper and worthy of significant disciplinary penalties. As such, the Commission finds the penalties of a demotion and six-month suspension neither disproportionate to the offenses nor a shock to the conscience.

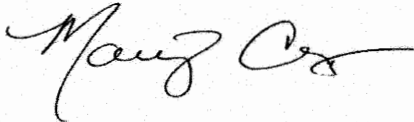
ORDER

The Civil Service Commission finds that the actions of the appointing authority in demoting and suspending the appellant were justified. The Commission, therefore,

affirms those actions and dismisses the appeal of Vanessa Kelly.

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 20TH DAY OF MAY, 2026



Mary Cruz
Acting Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSV 11870-24

AGENCY REF. NO. 2025-229

**IN THE MATTER OF VANESSA KELLY,
MONMOUTH COUNTY DEPARTMENT OF
CORRECTIONS AND YOUTH SERVICES.**

Raymond L. Hamlin, Esq., for appellant Vanessa Kelly (Hunt, Hamlin & Ridley,
attorneys)

Steven W. Kleinman, Esq., for respondent Monmouth County Department of
Corrections and Youth Services (Michael D. Fitzgerald, Monmouth County
Counsel, attorney)

Record Closed: March 16, 2026

Decided: April 7, 2026

BEFORE **MAMTA PATEL, ALJ**:

STATEMENT OF THE CASE

Vanessa Kelly, correctional police sergeant, failed to follow security procedures while handling a known combative inmate, allowing him to leave the cell, endangering staff and others, and causing property damage. Kelly then improperly conducted an investigation related to the incident, submitted an inaccurate report, and provided false information during an internal affairs investigation. Should Kelly be demoted? Yes. It is

essential to consider factors such as the employee's position in relation to maintaining safety and discipline. Henry v. Rahway State Prison, 81 N.J. 571, 579 (1980).

PROCEDURAL HISTORY

On March 25, 2024, the Monmouth County Department of Corrections and Youth Services (MDOC) issued Kelly a Preliminary Notice of Disciplinary Action (PNDA). The notice states that on November 5, 2023, Kelly violated specific orders and security procedures by ordering the opening of a cell door of a known combative and non-compliant inmate (AW) without first securing him, jeopardizing the safety of herself, staff, and the inmate, and resulting in the destruction of an officer's electronic tour gun valued at \$1,781.92. Additionally, the notice states that an internal affairs investigation found that Kelly completed disciplinary reports against the inmate in violation of N.J.A.C. 10A:31-16.9, resulting in the dismissal of the charges against AW. The investigation also revealed that Kelly's disciplinary report contained several misrepresentations and omissions. Lastly, the notice specifies that Kelly provided false statements during the internal affairs investigation.

As a result, the MDOC charged Kelly with: (1) incompetency, inefficiency, or failure to perform duties in violation of N.J.A.C. 4A:2-2.3(a)(1); (2) inability to perform duties in violation of N.J.A.C. 4A:2-2.3(a)(3); (3) conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6); (4) neglect of duty in violation of N.J.A.C. 4A:2-2.3(a)(7); and (5) other sufficient cause in violation of N.J.A.C. 4A:2-2.3(a)(12), for violations of the Monmouth County Policy Section 5: Employee Conduct and Workplace Rules; Monmouth County Sheriff's Office, Corrections Division Rules and Regulations: 3.20.030, 3.20.260, 3.20.080, 4.30.010, and 7.25.010; Monmouth County Sheriff's Office, Corrections Division Policy and Procedure: 1-3.13 Code of Ethics; Monmouth County Sheriff's Office, Corrections Division Policy and Procedure: 1-17.00 Inmate Discipline Policy; Monmouth County Sheriff's Office, Corrections Division Post Order #26 Floor Sergeant; and N.J.A.C. 10A:31-16.9.

Kelly sought a departmental hearing at the MDOC, which took place on May 30, 2024, and at which she presented her defense.

Subsequently, on June 26, 2024, the MDOC issued Kelly a Final Notice of Disciplinary Action (FNDA). The notice states that on November 5, 2023, Kelly violated specific orders and security procedures when she ordered the cell door of AW to be opened without first securing the inmate, who was on the other side of the door, allowing him to walk out of the cell. This action jeopardized the safety of staff and inmates and resulted in the destruction of an officer's electronic tour gun, valued at \$1,781.92. The notice also reports that an internal investigation found Kelly had completed an investigation into the incident and had issued disciplinary reports against the inmate in violation of N.J.A.C. 10A:31-16.9, leading to the dismissal of the charges. Additionally, the internal investigation revealed that Kelly's disciplinary report about the incident included several misrepresentations and omissions. Finally, the notice states that Kelly provided false statements during the internal affairs investigation.

The FNDA indicates that the MDOC upheld all the charges and specifications listed in the PNDA, including: (1) incompetency, inefficiency, or failure to perform duties in violation of N.J.A.C. 4A:2-2.3(a)(1); (2) inability to perform duties in violation of N.J.A.C. 4A:2-2.3(a)(3); (3) conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6); (4) neglect of duty in violation of N.J.A.C. 4A:2-2.3(a)(7); and (5) other sufficient cause in violation of N.J.A.C. 4A:2-2.3(a)(12), for violations of the Monmouth County Policy Section 5: Employee Conduct and Workplace Rules; Monmouth County Sheriff's Office, Corrections Division Rules and Regulations: 3.20.030, 3.20.260, 3.20.080, 4.30.010, and 7.25.010; Monmouth County Sheriff's Office, Corrections Division Policy and Procedure: 1-3.13 Code of Ethics; Monmouth County Sheriff's Office, Corrections Division Policy and Procedure: 1-17.00 Inmate Discipline Policy; Monmouth County Sheriff's Office, Corrections Division Post Order #26 Floor Sergeant; and N.J.A.C. 10A:31-16.9.

Consequently, the MDOC issued Kelly a six-month unpaid suspension and demoted her from county correctional police sergeant to county correctional police officer, effective July 1, 2024.

On July 12, 2024, Kelly appealed the MDOC's determination to the Civil Service Commission. On August 13, 2024, the CSC transmitted the case to the Office of

Administrative Law (OAL), where it was filed as a contested case under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, 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.

On November 10, 2025, November 12, and 13, 2025, I held a hearing. On March 16, 2026, the parties submitted post-hearing briefs, and I closed the record.

DISCUSSION AND FINDINGS OF FACT

Background

The Monmouth County Correctional Institution (MCCI) is a maximum-security jail that houses inmates convicted of crimes and sentenced to less than 364 days, as well as those awaiting trial. The MCCI also has an infirmary with sixteen cells that house inmates with medical and mental health issues. Six of these cells are designated for inmates on “constant watch,” indicating they are suicidal or aggressive. Civilians, including nurses, and sworn correctional police officers (CPOs) are assigned to work in the infirmary.

Lieutenant Jonathan Gaul

Lieutenant Jonathan Gaul testified that he has worked at the MCCI for over twenty years. In 2016, Gaul was promoted to sergeant, and in 2020, he was promoted to lieutenant. Gaul is the administrative lieutenant, and his duties include staff and inmate discipline, overseeing firearms, and overseeing officer training.

Gaul testified that, as a result of this incident, an internal investigation was initiated and assigned to William Beckenstein. Gaul further testified that he reviewed Beckenstein’s report and conducted an independent review of related reports and the video of the incident. More specifically, regarding sworn staff, Gaul reviews any relevant internal affairs investigation, drafts the PNDA and FNDA, and recommends the penalty, which is then sent through the facility’s Office of Professional Standards to the MCCI

warden, Victor Iannello. Gaul further testified that he also reviews and implements all inmate discipline.

Gaul testified that when AW arrived at the MCCI on August 18, 2023, he was booked and immediately placed in the infirmary due to a medical issue affecting his mobility. Gaul explained that inmates in the infirmary have more restricted movement than those in the general population. They are allowed out of their cells for only one hour per day.

Between August 19, 2023, and October 23, 2023, CPOs reported twelve incidents involving AW, during which he threatened serious bodily harm or assaulted the reporting CPO, as follows:

- August 19, 2023, threats of physical force to officers.
- August 25, 2023, threats of physical force to officers.
- August 25, 2023, threats of physical force to officers.
- August 28, 2023, assault of multiple officers.
- August 28, 2023, failure to cooperate and threatening conduct.
- August 29, 2023, threats of physical force to officers.
- August 30, 2023, failure to comply with order.
- August 31, 2023, failure to cooperate.
- September 1, 2023, threats of physical force to officers.
- September 3, 2023, assault of an officer.
- September 4, 2023, failure to comply with order.
- October 23, 2023, threats of physical force to officers.

Gaul testified that during at least one incident, the officer was so severely physically injured that it led to his retirement. All these incidents are documented in incident reports stored in an electronic database called the Jail Management System, which is accessible to all officers. Officers are expected to review these incident reports and booking sheets before their shifts to stay informed about specific facility concerns and potential security issues.

Gaul testified that since several of the incidents above occurred while trying to administer medical attention to AW, physicians overseeing AW's care requested an order limiting AW's movement for medical reasons. As requested, on August 31, 2023, Gaul issued an order typed on an approved MDOC template used to issue all written orders. Gaul clarified that the template used for their orders includes the words "Advisory, Deliberative, and Consultive." Still, as Gaul testified, this language was standard on all MCCI memos and did not make the order discretionary. Specifically, the order states:

While [AW] is housed in the Infirmary, he will remain on medical lock and feed. The following security protocols are to be strictly followed:

- The Zone Supervisor and 2 Officers must be present whenever the cell door is opened.
- [AW] must be secured in handcuffs whenever medical personnel needs to enter his cell.
- [AW] will be offered a shower daily. [AW] must be secured in handcuffs, then secured in the shower. When complete, [AW] will be handcuffed, and escorted back to his cell.

Once medically cleared from the infirmary, [AW] will be placed in Disciplinary Detention to serve his sanctioned disciplinary time.

[R-10b.]

Copies of the order were sent to Iannello, supervisors, the infirmary, and the medical staff via the Power DMS (an electronic distribution system).

Gaul explained that the disciplinary detention mentioned in the order, based on the assaults and threats reported by the CPOs, was to be served after AW was released from the infirmary, since his movement there was already restricted.

After medical personnel advised that the protocols in the August 31, 2023, order were no longer necessary, Gaul updated the order on September 12, 2023, to ensure security procedures that protect officer and staff safety, as outlined below.

While [AW] is housed in the infirmary for Medical reasons, he will not be housed as disciplinary status. [AW] will be afforded his hour out including showering, phone usage, etc.

The following security protocols are to be followed:

- The Zone Supervisor must be notified whenever the cell door is opened, whenever [AW] will be removed from his cell, and when returned to his cell.
- A Security Officer must be called in to assist anytime the door is opened until [AW] is secured to the chair or secured in his cell or shower.
- One arm will be secured to the wheelchair with handcuffs whenever [AW] is out of his cell or not secured in the shower.
 1. [AW] will be told to sit on the bed, the door will be opened, and the Officer will push in the wheelchair.
 2. [AW] will sit down in the chair and his arm will be secured to the chair.
 3. Once secured, the Officer will either place [AW] in the day space area or secured in the shower.
 4. The same procedure will be used for shower usage and returning to his cell.

[R-10a (emphasis added).]

This order was posted on AW's cell door, and, consistent with the first order, Iannello, supervisors, the infirmary, medical staff, and, in this case, administration, were copied and notified.

Given Gaul's assignment and his knowledge of AW, it's clear that AW posed a security threat, prompting the implementation of special security measures to prevent harm to staff, CPOs, and possibly other inmates. Gaul explained that although AW was housed in the infirmary and not under disciplinary detention, he did not enjoy the same freedoms as inmates in the general population. Specifically, he could not move freely around the infirmary; officers were required to secure AW to a wheelchair whenever he was transported away from his cell, and when in the shower, he was handcuffed and secured within the shower area. Due to the potential danger AW posed, he took his recreation alone in the infirmary's common area, handcuffed to the wheelchair. No other

inmates were out of their cells when AW was out of his. Gaul testified that he confirmed a wheelchair could fit through the cell door opening before issuing the order.

Gaul explained that during the midnight shift, from 11:00 p.m. to 7:00 a.m., the facility is locked down with no inmate movement unless there's an emergency, and only about half of the staff are on duty. A watch commander, holding the rank of lieutenant, oversees the facility and is stationed in the center control. If a lieutenant is not on duty, a sergeant is assigned as the watch commander. On November 5, 2023, Sergeant R. Lombardo was assigned as the watch commander. Additionally, two sergeants are on duty, assigned to different zones within the facility.

The duties and responsibilities of a zone sergeant are detailed in the Monmouth County Correctional Institute Post Order #26. The order specifies that the zone supervisor's mission is to provide leadership and a safe, secure environment for staff and inmates. Additionally, among other duties, the zone sergeant must "read, understand, and be familiar with the policies and procedures and all post orders." R-18. Zone sergeants are required to log onto the electronic database, review all relevant information, and enforce all rules, regulations, and policies.

Gaul testified that inmate cells have two light bulbs: one for daytime and a dimmer one at night. The night light provides enough illumination for an officer to see inside. It is a housing rule violation for an inmate to cover the light. Gaul explained that officers are trained not to enter an inmate's cell without first removing the inmate unless it's necessary, such as during a medical emergency or to extract an inmate from the cell. For safety reasons, officers are trained never to have their backs to an inmate, which can easily happen given the limited space in the cell.

Gaul also testified that inmates often cover their lights at night to make their cells darker so they can sleep. The procedure is to instruct the inmate to remove the cover. If the inmate refuses, the officer should file disciplinary charges. The officer should not enter the inmate's cell to remove the cover.

November 5, 2023

On November 5, 2023, AW was still in the infirmary. Ultimately, AW spent his entire stay at the MCCI in the infirmary. During the midnight shift, from 11:00 p.m. to 7:00 a.m., one nurse and two CPOs are assigned to the infirmary.

CPO Brian Perry, who had just graduated from the Monmouth County Correctional Academy in May 2023, did not have a fixed or permanent assignment and was working as a floater, meaning he could be assigned wherever needed. On November 5, 2023, Perry was assigned to the infirmary during the midnight shift. The other officer was assigned to monitor the inmates' video feed on constant watch.

Nurse Taleisa Brown, a licensed practitioner, was working the midnight shift on November 5th. Brown testified that her primary duty during her shift is to administer any prescribed medication. She explained that she administers the medicines through a trap door—a small opening that opens and closes—on the main cell door.

On November 5th, CPO Christopher Williams served as the relief officer. Williams was responsible for relieving Perry for breaks and served as the second officer whenever a cell needed to be opened for any reason.

On November 5, 2023, Kelly was designated zone supervisor for the D and E dorms, including the infirmary, and was responsible for conducting two rounds there to ensure everything was in order. The MCCI has employed Kelly for twelve years, and she has been a sergeant for five years.

Taleisa Brown, LPN

Brown testified that she was hired through a third-party vendor, not directly by the MCCI. Before November 2023, she had been employed at the MCCI infirmary for about one year. She stated that her duties during the midnight shift include checking inmates'

vital signs as needed, ensuring they are in good standing, and administering medication and fluids as prescribed.

Brown testified that most, if not all, of the cells in the infirmary are usually occupied. During the midnight shift, two officers are assigned to the infirmary; one officer is solely responsible for monitoring inmate videos on constant watch.

Brown testified that she was familiar with inmate AW. AW was brought directly into the infirmary upon his arrival at the MCCI. She recalled that on the evening of November 5, 2023, the lighting in AW's cell was dim, but she could see him inside. When Brown did her rounds, AW was asleep on his bed. Brown said that if she needed to administer medication, including AW's, she would pass it through the "trap," a small, locked opening on the cell door that opens and closes and must be unlocked by an officer. Brown testified that she did not need to enter AW's cell.

Brown stated that on the night of November 5, 2023, Kelly entered the infirmary to do her rounds. Kelly immediately noticed that AW's cell was dimly lit and went directly to it. Brown testified that Kelly asked AW to remove the light cover multiple times, but AW refused each time and told her to leave him alone.

Brown knows that whenever AW's cell door is opened, two officers and a supervisor must be present. In this case, Perry, the officer assigned to the infirmary, and Williams were present when the door was opened. Brown didn't remember all the details of the incident involving AW, but she generally recalled Kelly asking the officers to open the cell door. Brown did remember the officers rhetorically asking Kelly, "Do you want this opened?" Kelly responded, "Yes." Brown then moved away from the cell area. The video footage shows Brown walking and pushing her cart containing medical supplies behind a glass partition, away from AW's cell and the officers.

Brown saw AW walk out of the cell, push past the officers, enter the infirmary's common area, walk to the officer's desk—about ten to fifteen feet from the cell—and grab the tour gun from the top of the desk. A tour gun is an electronic device resembling a slightly longer, thicker iPhone that scans a barcode on an inmate's cell to verify the inmate

is accounted for in that cell. Kelly went into AW's cell to remove the light covering. Meanwhile, Perry and Williams tried to get AW back inside his cell, which he eventually did with the tour gun. Perry and Williams also tried to persuade AW to return the tour gun. Once AW was back in his cell, he broke the tour gun and passed it back to the officers through the trap door.

Brown testified that she had never previously seen an inmate who was not under an officer's control walking around. She also said that the incident made her very nervous and that she left work immediately afterward.

CCPO Brian Perry and CCPO Christopher Williams

Perry testified that he had only worked in the infirmary two or three times before November 5, 2023. Perry said that when he arrives, his duties include turning off the televisions and conducting a headcount of the inmates in the infirmary. This involves checking each cell to ensure the inmate is in their assigned cell, alive, and breathing, and recording it with a tour gun. Once he concludes the headcount, he places the tour gun on the officer's desk, which is in the common area within the infirmary. Also on the desk are a computer, a phone, and other office supplies.

Perry testified that the only reason an inmate in the infirmary might be taken out of their cell during the midnight shift is in case of an emergency. Additionally, Perry testified that if an inmate's cell door must be opened or if an inmate must be removed from their cell, another officer must be called and present. The relief officer and the officer to be called on November 5, 2023, was Williams.

Williams testified that he has worked for the MCCI for twenty-five years. Williams testified that his bidded position was relief officer for the D and E dorms, which included the infirmary. Williams confirmed he would be the officer called when a cell in the infirmary needed to be opened.

Perry and Williams consistently testified that they were familiar with AW based on prior incidents involving other officers and knew the security protocols for handling AW,

as posted on AW's cell door. These protocols required officers to properly secure him to a wheelchair when opening the cell door. Williams described AW as a dangerous inmate. Perry said that when he arrived for his shift, inmate AW was asleep in his cell. There are two lights in each cell: a daylight light and a night light, which is slightly dimmer. Perry testified that the night light in AW's cell was covered with a towel, making the cell dim; however, he could see AW sleeping on his bed and clearly observe him breathing. Perry admitted that inmates are not supposed to have anything covering the cell. Still, as a floater, it would be difficult for him to enforce that rule because, although he could write AW up and have him remove the towel, since the infirmary is not Perry's permanent assignment, AW would likely just put the towel back up the following day.

Before November 5, 2023, Perry had only worked with Kelly two or three times. Williams was somewhat more familiar with Kelly. Perry testified that at 11:50 p.m., Kelly entered the infirmary to conduct her tour and noticed the towel covering the light in AW's cell. Williams testified that he was already in the infirmary area when Brown called him there. Perry stated that Kelly approached AW's cell, kicked the door, woke AW, and told him to remove the towel. AW, annoyed and upset after being woken, refused to take down the towel. Williams, who was present at the time, testified that AW responded to Kelly's request by saying, "I'm not 'fucking' taking it down."

Perry testified that Kelly asked him to get the scrub brush from a nearby closet. The scrub brush is a tool with a long handle, similar to a broom. After Perry retrieved it, Kelly instructed him to open the door. Perry said he was hesitant because AW was strong and he didn't want to get into a fight, but he believed he had to follow Kelly's orders since she was his supervisor. The door is operated manually; a key is inserted into the lock and turned 180 degrees to unlock it. Perry unlocked the door, and AW, who was standing right on the other side, pushed it open, but the officers quickly pushed it closed.

A few seconds later, Kelly asked Perry to open the door again. Perry and Williams described AW as irate and agitated, having just been awakened. AW immediately walked out of the cell, and Kelly entered. While Kelly was in AW's cell removing the covering, AW began walking away from his cell toward the officer's desk, and Williams and Perry tried to calm him and redirect him back into the cell. When AW reached the officer's desk,

he saw the tour gun and grabbed it. Kelly walked out of the cell, and AW re-entered, carrying the tour gun. The officers repeatedly asked AW to return the tour gun; however, AW refused. The officers promptly closed and locked the cell door. A video recording of the incident confirmed the officers' testimony.

Perry and Williams testified that Kelly knew AW was out of his cell and walking around the infirmary. Both officers also stated that Kelly neither instructed them to secure AW nor ordered AW to stand outside the cell or return to his cell. Instead, they testified that AW was walking around the infirmary, not under their control, while Kelly was more focused on removing the light's cover in AW's cell.

Perry and Williams testified that they clearly understood that specific orders were posted on AW's door to secure AW before opening his cell door and that Kelly did not instruct them to follow the posted protocols for securing AW before opening the cell door.

Kelly left the infirmary to assemble an extraction team to go into AW's cell and retrieve the tour gun. Meanwhile, Perry and Williams continued to persuade AW to return the tour gun. AW hit the tour gun on the bed, breaking it into three pieces and separating the battery and screen from the body. Before Kelly returned, AW handed all the pieces of the tour gun back through the trap door. Williams then called Kelly over the radio and reported that the tour gun had been returned. Perry testified that pieces of the tour gun could have been used as a weapon.

Findings

Given my discussion above, I am not convinced by Kelly's insinuation in her closing submission that the protocols dated September 12, 2023, issued by Gaul, and posted on AW's cell door, for handling AW were discretionary because the memorandum does not include the words "order" or "directive." Gaul testified that the template he used to draft the order is the same template used to draft all orders, directives, or protocols. The protocols specifically state: "The following security protocols are to be followed." R-10a. I **FIND** that the memorandum Gaul issued on September 12, 2023, was an order.

Next, although Kelly was aware of the September 12, 2023, protocols, Kelly's argument that the September 12 order did not apply because AW was not being removed from his cell is unconvincing. Gaul testified that the order was issued because AW was considered a security risk and a threat to personnel safety based on twelve separate verbal and physical incidents reported. The order clearly contemplated securing AW whenever the cell door was opened to minimize his ability to move. The order explicitly states: "A Security Officer must be called in to assist anytime the door is opened until [AW] is secured to the chair or secured in his cell or shower." R-10a. The order plainly calls for securing AW in his cell when the cell door is opened. I **FIND** that the order applied the moment Kelly ordered Perry to open AW's cell door. I further **FIND** that failing to secure AW effectively allowed him to walk freely, putting other officers and medical staff at risk.

Kelly also disputes being held responsible for the destruction of the tour gun, arguing that it was Perry's duty to use it for inmate counts in the infirmary. This argument is misplaced. As a seasoned sergeant, Kelly knows Perry is not always required to carry the tour gun, and Gaul confirmed it was entirely appropriate for Perry to leave it on the officer's desk with all the other office supplies when not in use. Perry and Gaul credibly testified, and I **FIND** that Perry is not required to keep it on his person at all times. AW took the tour gun from the officer's desk, located in the common area, because Kelly, who was in charge, ordered AW's cell to be opened without first securing AW, as required by the order posted on his cell door, allowing AW to walk freely around the infirmary. Therefore, I **FIND** Kelly responsible for the destruction of the tour gun.

Reports

Perry testified that Kelly ordered him to write a report about the incident with AW and that he immediately began writing it. Perry also testified that during his interview with Beckenstein, he admitted to modifying the original version of his report based on Kelly's guidance. He testified that Kelly returned to the infirmary and asked if he needed help. As a new employee at the time, Perry readily accepted Kelly's offer. Perry explained that in his original report, he wrote that the first time the door was unlocked, AW nearly pushed it open before the officers pushed it closed, which was consistent with his testimony.

However, Perry testified that Kelly instructed him to remove that sentence and instead write that AW exited the cell and complied with orders to stand by the cell, which Perry stated did not happen. Williams and Perry testified that Kelly never ordered AW to stand by the cell, a fact confirmed not only by their testimony but also by video footage showing AW exiting the cell, standing next to the door for no more than a second, and then walking into the infirmary's common area toward the officer's desk.

Perry testified that once his section of the report was finished, he submitted it, and Kelly added a supplemental section. Kelly did not testify, but in the report she submitted during the shifts on November 5, 2023, and November 6, 2023, she wrote:

On 11/05/23 at approximately 11:50 pm I witnessed that cell 10 in the infirmary [was] dark and [I] was unable to see into the cell. Due to the issues of security for custody and medical staff entering the cell for vitals I ordered Inmate [AW] to remove the covering, made from ripped cloth resembling rope and towels, affixed to the light. Inmate [AW] refused. Inmate [AW] sat on the bed and I opened the cell and uncovered the light with the floor broom. While I attempted to uncover the light Inmate [AW] exited the cell. Initially, [AW] stood near the cell door with Officer Williams and Officer Perry. Once the contraband was fully removed I turned around to see Inmate [AW] walking back into the cell with the tour gun. Inmate [AW] was given multiple orders to return the tour gun, at which time he threatened to destroy it. When [AW] walked back into the cell the door was closed and the watch commander was informed of the anticipated use of force. I began to assemble an extraction team when Officer Williams informed me that he was able to recover the broken tour gun. The tour gun was placed in the evidence box. Inmate [AW] was charged with MAJ 152 and MAJ 306.

At approximately 1:26am when I returned to serve the charges Inmate [AW] covered the cell light again. He came to the cell door and was ordered to remove the covering from the light – which he refused. Inmate [AW] was charged with a MIN 256. The watch commander was notified.

[R-5.]

Findings

Given the discussion above, I **FIND** that there are several inconsistencies between Kelly's report and the testimony of Perry, Williams, and Brown during the hearing, as well as in my review of the video footage of the incident. First, Kelly wrote, "Due to the issues of security for custody and medical staff entering the cell for vitals I ordered Inmate [AW] to remove the covering" R-5. Perry and Brown testified that although AW's cell was dim, they were both able to see inside and perform their respective duties. Perry saw AW on the bed, sleeping and breathing, and had no problem recording him in his count. Brown testified she did not need to go inside AW's cell for any medical reason. Brown could administer medication, if required, through the trap door. I **FIND** both Perry and Brown were able to perform their duties without necessitating the removal of the light covering.

Second, Kelly wrote, "Inmate [AW] sat on the bed and I opened the cell and uncovered the light with the floor broom." R-5. I **FIND** Kelly did not open the door; she ordered Perry to fetch a broom, and he opened it. As the officer assigned to the infirmary, Perry held the keys to the cell door. I further **FIND** that Kelly omitted from her report that when the door was first opened, AW pushed on it, and the officers pushed it shut. I also **FIND** that Kelly omitted asking Perry to open the door a second time. I **FIND** that Kelly incorrectly wrote that AW was sitting on the bed when the door was open. Perry and Williams testified that AW walked out as soon as the door was opened. Although the camera angle does not show the inside of the cell, I **FIND** it is more likely that, as quickly as AW was out of the cell, he was not sitting on the bed when the door opened, but was on the other side of the door.

Third, Kelly wrote, "While I attempted to uncover the light Inmate [AW] exited the cell." R-5. Based on testimonial evidence and video footage, I **FIND** AW exited the cell before Kelly entered. Fourth, Kelly wrote, "Initially, [AW] stood near the cell door with Officer Williams and Officer Perry." R-5. Perry, Williams, and Brown testified, as confirmed by video footage, that AW walked out of the cell when the door was opened and stood near the door for only a second or so. I **FIND** AW did not stand by the door. Kelly reports that when she turned around, she saw AW grab the tour gun and return to

the cell with it. She also stated AW was ordered several times to return the tour gun. Although Kelly does not specify who ordered AW to return the tour gun, Williams, whose testimony I found credible, took control of the situation once AW exited the cell by trying—with Perry's help—to get him back inside and to return the tour gun. Although Kelly was the supervisor, based on the testimony of Williams and Perry, I **FIND** that Kelly did not order AW to return to the cell or to return the tour gun. Kelly left the infirmary to assemble an extraction team, while Williams and Perry stayed and eventually got AW to return the tour gun, albeit broken.

Based on the consistent testimony of Brown, Perry, and Williams, along with my review of the video footage from November 5, 2025, I **FIND** that Kelly's report inaccurately describes the incident and omits relevant information.

Investigation

On November 16, 2023, Victor Iannello, Warden at the MCCI, assigned William Beckenstein, an investigator, to investigate the incident involving Kelly that occurred on November 5, 2023. Beckenstein testified that he interviewed AW, Brown, Perry, Williams, and Kelly. He also testified that he reviewed the reports written by Perry and Kelly about the November 5th incident, as well as the infirmary video footage for the relevant time period.

Kelly's Interview

Since Kelly did not testify, I reviewed her video-recorded interview. Kelly was represented by Mr. Hamlin, Esq., during the interview. In the interview, Beckenstein asked Kelly to recount the events of November 5, 2023. Kelly was shown a copy of her report and video footage of the incident to help refresh her memory.

Respondent made much of the Monmouth County Prosecutor's Office's conclusion that Kelly's written report of the November 5, 2023, incident includes potential Brady/Giglio impeachment material that must be disclosed to a criminal defense attorney if Kelly is called to testify. In this case, I serve as the fact finder and make credibility

determinations based on my independent assessment of the testimony and the documentary evidence presented. Therefore, I disregarded the prosecutor's conclusion for my fact-finding purposes. After reviewing Kelly's recorded interview, her report, and the video of the incident, it became clear that Kelly made additional inconsistent statements during the internal affairs investigation.

Findings

Given the discussion above, first, I **FIND** that Kelly's argument during the investigation that although she was aware of the September 12, 2023, security protocols for securing AW, they did not apply because she did not remove AW from his cell; he exited the cell, is preposterous. Second, Kelly continued to insist that AW was sitting on the bed before the door was opened a second time. While I acknowledge that the cells are small and there may be only a foot or two between the bed and the cell door, I **FIND** that the video shows AW exit immediately upon the door opening. Therefore, it is more likely that AW was right behind the door, waiting for it to be opened. Third, during the interview, Kelly continued to insist that she ordered AW to remain by the door after he exited the cell. Perry and Williams credibly and consistently testified that Kelly did not give AW any such order. Therefore, I **FIND** that Kelly was not truthful during the investigative interview. I **FIND** Kelly mischaracterized the events of November 5, 2023, and provided misleading or incorrect information during her interview with Beckenstein.

What is more concerning, given that Kelly was the supervisor on the scene, is that once AW was out of the cell, she prioritized removing the light cover over returning AW to the cell. The video clearly shows that when Kelly entered the infirmary, Brown was making her rounds, pushing a cart with medical supplies. Once Kelly ordered AW's door to be opened, Brown moved the cart and herself behind a wall and glass partition, away from AW's cell. Even Brown, a civilian, sensed the potential risk of opening the door. During the interview, Kelly failed to acknowledge the risk.

Charges Against AW

Gaul testified that his duties and responsibilities include reviewing disciplinary charges against inmates and sworn officers. Shortly after the incident, Gaul stated that he had been informed of procedural issues regarding the charges Kelly had filed against AW.

Gaul's review of the records found that Kelly charged AW with destroying, altering, or damaging property, major discipline 152; conduct that disrupts or interferes with the security or proper operation of the correctional facility, major discipline 306; and covering the light fixture, minor discipline 256.

Gaul testified that New Jersey Administrative Code 10A:31-16.9 prohibits Kelly from issuing disciplinary charges because she was directly involved in the incident involving AW. Specifically, N.J.A.C. 10A:31-16.9(b) states, "The adult county correctional facility Administrator shall appoint an investigation officer who was not involved in the incident to conduct the investigation." Additionally, the Monmouth County Sheriff's Office Policy and Procedure, Inmate Discipline, Section V. A. 3., states in relevant part, "A supervisor who was not involved in the incident shall conduct the investigation." R-17. Gaul further testified that, because one of his duties is to review and issue all inmate discipline, he examined the discipline Kelly imposed on AW. He found that Kelly had issued the disciplinary charges, even though she should have known she was not authorized to do so due to her involvement in the underlying incident. As a result of Kelly's procedural violation, Gaul testified that the charges for destroying, altering, or damaging property, major discipline 152, and for conduct that disrupts or interferes with the security or proper operation of the correctional facility, major discipline 306, were dismissed because of Kelly's procedural violations.

Given the discussion above, I **FIND** that Kelly mischaracterized her involvement in the November 5, 2023, incident during the internal investigation interview. Kelly stated that she did not witness AW breaking the tour gun and, therefore, that her investigation of the incident and the issuance of charges against AW were proper. However, I **FIND** that Kelly failed to recognize that, but for her ordering the cell door to be opened, failing

to follow security protocols to secure AW before the door was opened, and failing to secure him when he walked out of the cell, he would not have been able to grab the tour gun in the first place. I do not **FIND** any credence to Kelly's argument that she, rather than Perry, was disciplined for the destruction of the tour gun because she is the only Black female sergeant. Kelly failed to present any evidence to show that the charges against her had anything to do with race or gender.

Furthermore, Kelly's reliance on Lombardo's sign-off on the report is also misplaced. Lombardo did not testify, and Gaul explained that it is common for the watch commander to sign off on the report based on the supervisor or sergeant's written narrative. In this case, I have already found that Kelly misstated and omitted facts in her narrative report. Therefore, her reliance on Lombardo's sign-off does not absolve her of fault. It should also be noted that the disciplinary charges issued to AW are signed solely by Kelly. There is no indication that Lombardo knew about or approved the charges. While AW broke the tour gun after he was secured in his cell and after Kelly left the infirmary to call in an extraction team, I **FIND** that the destruction of the tour gun resulted from the same incident that began when Kelly ordered AW's cell door opened without securing him first. Therefore, I **FIND** that Kelly was present when AW walked away from the cell and took the tour gun from the officer's desk.

Disciplinary History

Gaul also testified that Kelly has previously been disciplined for failing to follow orders. On March 13, 2023, Kelly was served with an FNDA sustaining charges stemming from an incident on April 17, 2022, during which she directed officers under her command not to assist medical personnel with carrying an inmate down a flight of stairs, delaying medical attention. Kelly's conduct resulted in sustaining charges including: (1) incompetency, inefficiency, or failure to perform duties in violation of N.J.A.C. 4A:2-2.3(a)(1); (2) conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6); (3) neglect of duty in violation of N.J.A.C. 4A:2-2.3(a)(7); and (4) other sufficient cause in violation of N.J.A.C. 4A:2-2.3(a)(12) for violating several Monmouth County Policies and Monmouth County Sheriff's Office, Corrections Division Rules and Regulations, Policies and Procedures.

DISCUSSION AND 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 the regulations promulgated under N.J.A.C. 4A:1-1.1 to 4A:2-6.2. Public employees may be disciplined for a variety of offenses related to their employment, including the general causes for discipline outlined in N.J.A.C. 4A:2-2.3(a). Major discipline may include suspension without pay for more than five working days and demotion of the public employee to a lower title. N.J.A.C. 4A:2-2.2(a).

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, In re Phillips, 117 N.J. 567, 575 (1990), and the hearing is de novo, Henry v. Rahway State Prison, 81 N.J. 571, 579 (1980). The evidence must be such as to lead a reasonably cautious mind to the given conclusion. Bornstein v. Metro. Bottling Co., 26 N.J. 263 (1958). One can describe preponderance as the greater weight of credible evidence in the case, not necessarily dependent on the number of witnesses, but having the greater convincing power. State v. Lewis, 67 N.J. 47 (1975).

In Henry v. Rahway State Prison, the Supreme Court recognized the importance of strict adherence to order and discipline in paramilitary settings such as correctional facilities and the danger that inheres when order and discipline are disrupted or destroyed in a prison. Rivell v. Civil Serv. Comm'n, 115 N.J. Super. 64, 72 (App. Div.), certif. denied, 59 N.J. 269 (1971); Newark v. Massey, 93 N.J. Super. 317 (App. Div. 1967).

The role of officers and supervisors, who are required to maintain and enforce orders, must be uncompromised. Such facilities, if not properly operated, can become "tinderboxes." In such settings, the primary duty of officers and supervisors is to ensure the facility's safety and security. Bowden v. Bayside State Prison, 268 N.J. Super. 301, 306 (1993).

"Duty" intends conformance to "the legal standard of reasonable conduct in the light of the apparent risk." Wytupeck v. Camden, 25 N.J. 450, 461 (1957) (internal citation

omitted). Neglect of duty arises from an omission or failure to perform a task imposed upon a public employee that indicates a deviation from usual standards of conduct. Rushin v. Bd. of Child Welfare, 65 N.J. Super. 504, 515 (App. Div. 1961

The inability to perform duties has been upheld where the employee is too incompetent to execute their job responsibilities. Klusaritz v. Cape May Cnty., 387 N.J. Super. 305 (App. Div. 2006) (removal of accountant who was incapable of preparing a bank reconciliation and was of no value to the county). The absence of judgment alone, or the failure to exercise appropriate judgment, can be sufficient grounds to impose major discipline on an employee in a sensitive position that requires public trust in that judgment. In re Herrmann, 192 N.J. 19, 32, 36–38 (2007); see also Vavosa v. Borough of Hillsdale, 2009 N.J. Super. Unpub. LEXIS 3239, *18 (officer was terminated following an incident where he exhibited bad judgment that presented a dangerous situation).

In Township of Moorestown v. Armstrong, 89 N.J. Super. 560, 566 (App. Div. 1965), certif. denied, 47 N.J. 80 (1966), the Court held that the police are a “special kind of public employee” who, accordingly, are expected to “present an image of personal integrity and dependability.” The New Jersey Supreme Court has upheld termination where, for example, an officer made conflicting statements to internal affairs investigators about an off-duty altercation. Ruroede v. Borough of Hasbrouck Heights, 214 N.J. 338, at 362–363 (2013). “[T]he qualifications required to hold [a law enforcement] position require a high level of honesty, integrity, sensitivity, and fairness in dealing with members of the public[.]” State v. Gismondj, 353 N.J. Super. 178, 185 (App. Div. 2002). This includes always exercising candor, including when writing reports and during questioning by an investigator conducting an internal investigation. An officer’s dishonesty in an internal affairs investigation “is significant.” Ruroede, 214 N.J. at 363.

Lastly, as broadly defined by caselaw, “unbecoming conduct” encompasses conduct that adversely affects the morale or efficiency of a governmental unit, or that tends to destroy public respect for governmental employees and confidence in the delivery of governmental services. Karins v. City of Atl. City, 152 N.J. 532, 554 (1998), see also In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960). The complained-of conduct and its attending circumstances need only “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)).

The Charges

The specifications of the charges against Kelly are based on the very core of these standards including: (1) incompetency, inefficiency, or failure to perform duties in violation of N.J.A.C. 4A:2-2.3(a)(1); (2) inability to perform duties in violation of N.J.A.C. 4A:2-2.3(a)(3); (3) conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6); (4) neglect of duty in violation of N.J.A.C. 4A:2-2.3(a)(7); and (5) other sufficient cause in violation of N.J.A.C. 4A:2-2.3(a)(12) for violating the Monmouth County Policy Section 5: Employee Conduct and Workplace Rules; Monmouth County Sheriff’s Office, Corrections Division Rules and Regulations: 3.20.030; 3.20.260; 3.20.080; 4.30.010; and 7.25.010; Monmouth County Sheriff’s Office, Corrections Division Policy and Procedure: 1-3.13 Code of Ethics; Monmouth County Sheriff’s Office, Corrections Division Policy and Procedure: 1-17.00 Inmate Discipline Policy; Monmouth County Sheriff’s Office, Corrections Division Post Order #26 Floor Sergeant; and N.J.A.C. 10A:31-16.9.

In this case, Kelly’s primary job responsibility is the safety and security of the officers under her command, as well as the staff and inmates. Specifically, Monmouth County Policy Section 5: Employee Conduct and Workplace Rules explicitly states that all employees must conduct themselves in a manner that protects the interests, safety, and property of county worksites and premises. The Monmouth County Sheriff’s Office, Corrections Division Rules and Regulations: 3.20.030; 3.20.260; 3.20.080; 4.30.010; and 7.25.010 state:

3.20.030

Members of the Division found guilty of any of the following offenses may be dismissed from the Division or suffer such other punishment as the Sheriff/Warden may direct, pursuant to applicable provisions of the New Jersey Civil Service Law and the progressive disciplinary policy. Violation of the rules and regulations:

A. Failure to abide by the provision of any order;

- B. Disobedience of orders;
- C. Conduct unbecoming an Officer or member;
- D. Making a false official Statement, or
- E. Conviction in court of criminal jurisdiction;
- F. Failure to perform duties;
- G. Insubordination;
- H. Violation of the rules and regulations.

.....

3.20.260

Though not specifically mentioned in these rules and regulations, all behavior which threatens the good order and discipline and all conduct of a nature to bring discredit upon the Division shall be acted upon by the Division according to the nature and degree of the offense and punished at the discretion of the Warden and/or Sheriff.

.....

3.20.080

Members of the Division shall promptly obey all lawful orders of their Supervisors.

.....

4.30.010

Members of the Division shall not make any false entries or notations or render any false reports concerning the business of the Division. The failure to submit a report when one is required, or the suppression of any evidence regarding an alleged violation, shall be cause for disciplinary action and possible termination

7.25.010 [In Relevant Part]

Inmate discipline is the responsibility of all members of the Division. Discipline in minor matters may take the form of counseling or advising the inmate concerning inappropriate conduct. Members unable to obtain desirable inmate conduct through counseling and advice shall initiate a written formal disciplinary action against the inmate.

.....

All major rule infractions shall be investigated by a Supervisor not involved with infractions shall be investigated by a Supervisor not involved with the report or infractions immediately at the time the disciplinary report is served on the inmate.

[R-16.]

Monmouth County Sheriff's Office, Corrections Division Policy and Procedure: 1-3.13 Code of Ethics prescribes rules of conduct for county employees, including prohibiting employees from knowingly making false statements or misrepresentations of facts, and requiring employees to comply with proper orders of an authorized supervisor, exercise watchfulness in the performance of duties to eliminate potential hazards and protect co-workers, and render full and efficient service. R-22.

Monmouth County Correctional Institute Post Order #26 states that the zone sergeant's mission is to provide leadership and ensure a safe, secure environment for staff and inmates. Additionally, among other duties, the zone sergeant must "read, understand, and be familiar with the policies and procedures and all post orders." R-18. The zone sergeants are required to log into the electronic database, review all relevant information, and enforce all rules, regulations, and policies.

First, I question Kelly's judgment and competence as a supervisor for awakening a sleeping inmate and ordering the cell door opened to remove a light covering. Granted, it is an inmate housing rule violation to cover the cell's lighting. However, given that Brown testified she did not need to enter the cell to administer medication or take vitals and was able to see AW from the door, and Perry was able to see AW for his count, as Gaul testified, and as stated in the Monmouth County Sheriff's Office, Corrections Division Rules and Regulations 7.25.010, Kelly should have issued AW a disciplinary charge for refusing to take down the light covering rather than opening the cell door of a known combative inmate. Ultimately, AW was served with charges for covering the cell light after Kelly saw that he had covered the light back up when she returned to his cell to serve him with the major disciplinary charges for destroying, altering, or damaging property, major discipline 152, and for conduct that disrupts or interferes with the security or proper operation of the correctional facility, major discipline 306.

Second, N.J.A.C. 10A:31-16.9(b) states, "The adult county correctional facility Administrator shall appoint an investigating officer who was not involved in the incident to conduct the investigation." The Monmouth County Sheriff's Office, Corrections Division Rules and Regulations 7.25.010, and Monmouth County Sheriff's Office Policy and Procedure, Inmate Discipline, Section V. A. 3., specify that major discipline cases involving inmates must be investigated by a supervisor not involved in the incident. Kelly, as a supervisor, should have known she could not complete the investigation or issue charges against AW for an incident in which she was involved, as this is clearly outlined in at least three different places. Her conduct resulted in the dismissal of the major discipline imposed on AW. Therefore, I **CONCLUDE** that Kelly violated N.J.A.C. 10A:31-16.9(b), Rules and Regulations 7.25.010, and Inmate Discipline, Section V. A. 3, by investigating the incident because she was present when AW walked away from the cell and then took the tour gun.

Third, Monmouth County Sheriff's Office, Corrections Division Rules and Regulations: 3.20.080 mandates that officers promptly obey all lawful orders from their supervisors. The September 12, 2023, order explicitly states, "The following security protocols are to be followed." R-10a. Additionally, the Monmouth County Sheriff's Office, Correction Division Policy and Procedure 1-3.13, Code of Ethics, specifies that employees must comply with proper orders from an authorized supervisor, exercise watchfulness in performing duties to eliminate potential hazards, protect co-workers, and provide full and efficient service. Kelly was the supervisor and the assigned zone sergeant. Zone sergeants are required to log into the electronic database, review all relevant information, and enforce all rules, regulations, and policies. Therefore, Kelly's mission is to provide leadership and ensure a safe, secure environment for staff and inmates, not to create potential hazards. Furthermore, among other duties, the zone sergeant must "read, understand, and be familiar with the policies and procedures and all post orders." R-18.

Gaul competently testified that he issued the September 12, 2023, order, which was emailed to all supervisors, including Kelly, and posted on AW's cell door for the safety of officers and staff, based on AW's threats and physical altercations with officers, and that it was not subject to discretion. The second bullet in the order states, "A Security

Officer must be called in to assist anytime the door is opened until [AW] is secured to the chair or secured in his cell or shower.” R-10a. The order includes securing AW in his cell when the cell door is open. Kelly fell short of her duties by blatantly ignoring orders visibly posted on AW’s cell door, thereby putting the safety and security of personnel under her command, as well as the facility, at risk, leading to the destruction of the tour gun. To prevent any serious incident, especially given AW’s history, common sense dictated, let alone the responsibilities outlined in Post Order #26, that Kelly should have exercised better judgment and secured AW before opening the cell door. I **CONCLUDE** that Kelly’s failure to follow Gaul’s security order violated Rules and Regulations: 3.20.080, Policy and Procedure 1-3.13, Code of Ethics. Further, I **CONCLUDE** that Kelly’s failure as the supervisor placed staff and officers at unnecessary risk, given AW’s history of threatening and assaulting officers in violation of Post Order #26, and Monmouth County Policy Section 5: Employee Conduct and Workplace Rules.

Fourth, Monmouth County Sheriff’s Office, Corrections Division Rules and Regulations: 4.30.010 prohibits officers from making any false entries or notations or rendering any false reports concerning the business of the MCCI. Additionally, this covenant is repeated in the Monmouth County Sheriff’s Office, Corrections Division Policy and Procedure: 1-3.13 Code of Ethics, which prohibits, among other things, knowingly making false statements or misrepresentations of facts.

Honesty, integrity, and truthfulness are essential traits that law enforcement officers must possess. As a sergeant, Kelly had a heightened responsibility to set a good example for both subordinate officers and the public. Kelly’s influence over Perry, who was new at the time, led him to misstate and omit relevant information in the report he submitted regarding the November 5, 2023, incident. Additionally, Kelly distorted facts, omitted information in her own report, and made untruthful statements during the internal affairs investigation. These actions demonstrate a lack of the characteristics necessary for someone in such a responsible position. What is more concerning is that, at no point during the internal investigation, did Kelly acknowledge that she might have made a mistake or misinterpreted the September 12, 2023, order. I **CONCLUDE** that Kelly violated Rules and Regulations: 4.30.010 by manipulating Perry into making inaccurate entries in his report and by writing an inaccurate report herself regarding the November

5, 2023, incident, also violating Policy and Procedure: 1-3.13 Code of Ethics. Further, I **CONCLUDE** that Kelly continued to misrepresent the November 5, 2023, incident during her internal investigation interview with Beckenstein.

Monmouth County Policy Section 5: Employee Conduct and Workplace Rules explicitly states that all employees must conduct themselves in a manner that protects the interests, safety, and property of county worksites and premises. For the reasons discussed above, including Kelly's poor judgment, failure to know and follow the MDOC's rules, policies, and procedures by failing to secure AW before opening the cell door, thereby putting the safety of staff and inmates at risk, and serving AW with disciplinary charges in violation of N.J.A.C. 10A:31-16.9(b), failure to submit accurate reports and provide an honest account of the incident on November 5, 2023, when interviewed by internal affairs, and ineffectiveness as a supervisor, where the overall job entails keeping the facility and the staff safe and secure, I **CONCLUDE** that these actions affected the morale, safety and property of the MCCI in violation of Monmouth County Policy Section 5.

Given this discussion, I **CONCLUDE** that the MCCI has proved by a preponderance of the evidence that Kelly violated N.J.A.C. 4A:2-2.3(a)(12) other sufficient cause for violating the Monmouth County Policy Section 5: Employee Conduct and Workplace Rules; Monmouth County Sheriff's Office, Corrections Division Rules and Regulations: 3.20.030; 3.20.260; 3.20.080; 4.30.010; and 7.25.010; Monmouth County Sheriff's Office, Corrections Division Policy and Procedure: 1-3.13 Code of Ethics; Monmouth County Sheriff's Office, Corrections Division Policy and Procedure: 1-17.00 Inmate Discipline Policy; Monmouth County Sheriff's Office, Corrections Division Post Order #26 Floor Sergeant; and N.J.A.C. 10A:31-16.9.

As such, I further **CONCLUDE** that Kelly violated the following subsections of N.J.A.C. 4A:2-2.3: (1) incompetency, inefficiency, or failure to perform duties in violation of N.J.A.C. 4A:2-2.3(a)(1); (2) inability to perform duties in violation of N.J.A.C. 4A:2-2.3(a)(3); (3) conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6); and (4) neglect of duty in violation of N.J.A.C. 4A:2-2.3(a)(7).

Penalty

Progressive discipline requires consideration once it is determined that an employee violated a statute, regulation, or rule concerning his employment. W. New York v. Bock, 38 N.J. 500 (1962). Where the underlying conduct is egregious, however, imposing a penalty up to and including removal is appropriate, regardless of an individual's disciplinary record. In re Herrmann, 192 N.J. 19 (2007).

As discussed above, Kelly's actions and omissions on November 5, 2023, violated numerous rules, policies, procedures, and regulations. Police officers are held to a higher standard of conduct than other public employees. In re Phillips, 117 N.J. 567, 576–77 (1990); In re Att'y Gen. L. Enf't Directive Nos. 2020-5 & 2020-6, 465 N.J. Super. 111, 147 (App. Div. 2020), aff'd as modified, 246 N.J. 462 (2021).

Our courts have also held that an officer's dishonesty in an internal affairs investigation is significant because "inconsistent statements during the course of the internal affairs investigation, [call] into question [the officer's] honesty, integrity, and truthfulness, essential traits for a law enforcement officer." Ruroede, 214 N.J. at 362–63 (2013). Finally, the retention of a police officer with a record of untruthfulness in official matters endangers the effective and efficient direction of public services. Brady v. Maryland, 373 U.S. 83 (1963).

Monmouth County Sheriff's Office Corrections Division Rules and Regulations, 3.20.030 and 3.20.260 warrant discipline for Kelly's conduct. Kelly's disciplinary history shows that, just before the discipline was issued in this case, she was suspended for forty-five days on April 17, 2022, for similar conduct involving her misinterpretation or failure to follow orders. In that case, Kelly had previously been counseled by her captain that medical staff make medical decisions and custody staff make custody decisions when she ordered custody staff to stand down when medical staff asked for assistance with carrying an inmate who was non-responsive, in critical medical condition, down the stairs. The discipline was upheld in In re Howard v. Monmouth County Department of Corrections and Youth Services, OAL Dkt. No. CSV 03268-23.

The MCCI and its supervisory personnel are responsible for ensuring that staff members devote their full attention to the critical function of protecting the safety and security of officers, staff, and inmates. Kelly's failure to comply with MCCI's rules and regulations created dangerous circumstances that put the safety and security of staff and inmates at risk and resulted in the destruction of state property.

A government agency like the MCCI, which performs vital duties for its citizens, has the right to expect its employees to fully understand and follow its rules and regulations. It is equally important that the MCCI can rely on its employees to perform their assigned roles. Allowing Kelly, who has demonstrated that she cannot follow clear orders and directives from her supervisor—posted right in front of her and often repeated in multiple policies—to remain as a county correctional police sergeant would cause chaos in the execution of essential government functions. This would not only significantly hinder the MCCI's ability to fulfill its duties and responsibilities but also potentially endanger the individuals Kelly is responsible for safeguarding, mentoring, and guiding.

Kelly's untruthfulness is most concerning, as honesty and integrity are essential traits for any officer, whether they hold the rank of officer or supervisor. As such, and including consideration of Kelly's prior forty-five-day suspension, I **CONCLUDE** that Kelly must not only be suspended but also demoted.

Where, as here, the charges and established infractions “go to the heart of [a police officer's] capacity to function appropriately,” and considering the MCCI's “need to maintain order and discipline” within its facility, I **CONCLUDE** that Kelly be suspended for six months. In re Herrmann, 192 N.J. at 34. Additionally, Kelly's failure to demonstrate her ability to supervise officers, including guiding Perry, a new officer, to omit and misstate facts in his report, or to have the judgment to prioritize the safety of other officers, staff, and inmates, and deliberately making false statements in her own report and to Beckenstein, indicate that she lacks the attributes needed in a leader. Such conduct can disrupt and destroy order and discipline in a prison. Henry v. Rahway State Prison, 81 N.J. 571, 579 (1980). Therefore, I **CONCLUDE** that Kelly should be demoted from sergeant to officer.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that Kelly is **SUSPENDED** for the equivalent of six months of working days. I further **ORDER** that Kelly is demoted from county correctional police sergeant to county correctional police officer, effective July 1, 2024, and that her 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.

April 7, 2026
DATE



MAMTA PATEL, ALJ

Date Received at Agency:

April 7, 2026

Date Mailed to Parties:

April 7, 2026

MP/jm

APPENDIX

Witnesses

For Appellant

None

For Respondent

Taleisa Brown, LPN, MCCI

CCPO Brian Perry, MCCI

CCPO Christopher Williams, MCCI

CCPO (former Investigator, Secured Facilities) William Beckenstein, MCCI

Lt. Jonathan Gaul, MCCI

Exhibits

For Appellant

None

For Respondent

R-1 Preliminary Notice of Disciplinary Action—Proposed Removal, December 11, 2024

R-2 Final Notice of Disciplinary Action—Demotion/6-month suspension (7/1/24–1/1/25), June 26, 2024

R-3 IA Report, Case #IA23-042, February 14, 2024

R-4 IA Report, Case #IA23-042 (Supplemental 1), March 11, 2024

R-5 Jail Incident Report 23JI05331, November 6, 2023

R-6 Jail Incident Report 23JI05332, November 6, 2023

R-7 E-mail from Stephanie Ruane to Lt. Jonathan Gaul, November 13, 2023

R-8 NOT IN EVIDENCE

R-9 NOT IN EVIDENCE

R-10a. Updated Memorandum to Infirmity Personnel from Lt. Jonathan Gaul, September 12, 2023

- R-10b. Memorandum to Infirmity Personnel from Lt. Jonathan Gaul, August 31, 2023
- R-11 Jail Incident Reports involving AW between August and October 2023
- R-12 November 5, 2023, Jail Scheduling Report, Sunday, November 5, 2023
- R-13 NOT IN EVIDENCE
- R-14 NOT IN EVIDENCE
- R-15 N.J.A.C. 10A:31-16.9
- R-16 Monmouth County Sheriff's Office Corrections Division Rules and Regulations (3.20.030, 3.20.260, 3.20.080, 4.30.010, and 7.25.010) January 2022
- R-17 Monmouth County Sheriff's Office Corrections Division SOP 1.17.00 (Inmate Discipline), May 18, 1999
- R-18 Monmouth County Correctional Institution Post Order #26—Zone Sergeant, October 14, 2021
- R-19 Monmouth County Employee Guide Section 5, December 19, 2022
- R-20 Final Notice of Disciplinary Action, 45 Day Suspension, March 13, 2023
- R-21 Thumb-drive, Video Evidence, and Video Witness Statements of Altonia Williams, CCPO Brian Perry, CCPO Christopher Williams, Nurse Taleisa Brown, Sergeant Vanessa Kelly
- R-22 Monmouth County Sheriff's Office Code of Ethics (1-3.13), December 7, 1998