



B-42

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION

In the Matter of Gamaliel Cruz,
Vineland

CSC Docket No. 2016-1020

Court Remand

ISSUED: OCT 09 2015 (JET)

The Superior Court of New Jersey, Law Division, Civil Part, Cumberland County, has reinstated the appeal of Gamaliel Cruz, a Police Officer with the City of Vineland, regarding his removal effective May 22, 2012.

By way of background, the appellant was removed on charges effective May 22, 2012. The appellant appealed the matter of his removal to the Civil Service Commission (Commission) and the matter was referred to the Office of Administrative Law (OAL) for a hearing as a contested case. After five days of hearings at the OAL, the Mayor of Vineland withdrew the charges against the appellant and in his initial decision, the Administrative Law Judge (ALJ) recommended acknowledging the withdrawal. In its exceptions, the Vineland City Council (Council) opposed the Mayor's action dismissing the charges, but the Commission found that the Mayor, as the appointing authority, had the sole authority to dismiss the charges, and acknowledged the withdrawal of the appeal without prejudice. The appellant subsequently filed a complaint in the Superior Court, Law Division, Civil Part, Gloucester County, seeking to enforce the appointing authority's dismissal of the charges and to reinstate him to his former position as a Police Officer. In addition, the appointing authority filed a separate complaint in the Superior Court, Law Division, Civil Part, Cumberland County, seeking an order that the dismissal of the charges was *ultra vires*. On August 28, 2015, the Superior Court dismissed both complaints without prejudice, reinstating the initial disciplinary charges against the appellant. Further, the Superior Court ordered the continuation of the appellant's hearing at the OAL. The Superior Court ordered that the hearing at OAL proceed based on the original charges against the

appellant as set forth in the Final Notice of Disciplinary Action (FNDA) dated November 12, 2010.¹

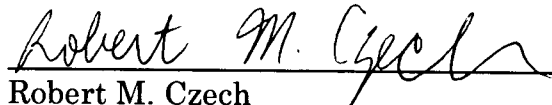
Additionally, the City of Vineland, represented by Michael E. Benson, Esq., states that it does not object to reinstating the appellant's appeal. The City contends that it initially sought to have the case continue to its conclusion, which is why it pursued the matter in Superior Court. The City reiterates that the withdrawal of the charges was *ultra vires*.

It is noted that neither party appealed the Commission's original decision in this matter, *In the Matter of Gamaliel Cruz* (CSC, decided July 30, 2014), to the Superior Court, Appellate Division. Nevertheless, since it appears that the issue of jurisdiction has not been contested by the parties, the Commission will abide by the decision of the Superior Court, Law Division. Accordingly, consistent with the Superior Court's decision, the Commission reinstates the appeal of the appellant's removal and refers this matter to the Office of Administrative Law for further proceedings as a contested case.

ORDER

The Commission orders that this matter be referred to the Office of Administrative Law for further proceedings as set forth above. It is further ordered that the request for Interim Relief be dismissed.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 7th DAY OF OCTOBER, 2015



Robert M. Czech

Chairperson

Civil Service Commission

¹ Based on the Superior Court's order reinstating the charges and ordering the continuation of his hearing, the appellant's request for interim relief (CSC Docket No. 2015-550) to enforce the dismissal of the charges against him and to reinstate him to his former position is rendered moot.

Inquiries
and
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