

Re: Marzettie Shamberger

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
AUGUST 19, 2015

Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Unit H
P. O. Box 312
Trenton, New Jersey 08625-0312

attachment



State of New Jersey

OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

DISMISSAL

OAL DKT. NO. CSV 09385-12

AGENCY DKT. NO. 2012-3645

**IN THE MATTER OF MARZETTIE SHAMBERGER,
NORTHERN STATE PRISON.**

James Heist, Executive Vice President, PBA Local 105 for appellant
Marzettie Shamberger pursuant to N.J.A.C. 1:1-5.4(a)(6)

Kathleen Asher, Esq. for respondent Northern State Prison

Record Closed: May 14, 2015

Decided: June 23, 2015

BEFORE **IRENE JONES**, ALJ:

STATEMENT OF THE CASE

On June 6, 2012 appellant, Marzettie Shamberger filed an appeal challenging the action of the respondent, Northern State Prison that proposed to suspend her from her position for 60 days. On July 10, 2012, the matter was transmitted by the Civil Service Commission to the Office of Administrative Law for hearing as a contested case.

A hearing was scheduled for December 10, 2012, but adjourned at the request of the parties. Subsequently, the parties engaged in settlement discussions and agreed to settle the matter.

Subsequently, the respondent advised the undersigned that the file was inadvertently archived without the final signature page being forwarded to the undersigned. By letter dated May 14, 2015, the respondent noted that the matter was previously disposed of and is no longer an active matter.

Thus, for the foregoing reasons it is **ORDERED** and this matter is hereby **DISMISSED**.

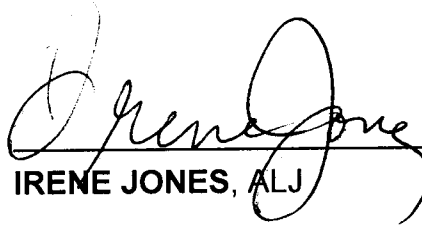
I hereby **FILE** my initial decision with the **CIVIL SERVICE COMMISSION** for consideration.

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.

July 23, 2015

DATE

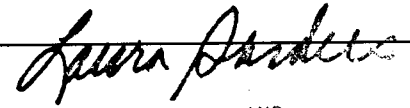


IRENE JONES, ALJ

Date Received at Agency:

Date Mailed to Parties:
sej

JUL 24 2015



DIRECTOR AND
CHIEF ADMINISTRATIVE LAW JUDGE

OALDocket No. CSV09385-2012

Agency No. 2012-3645

SETTLEMENT AGREEMENT

SCO MARZETTIE SHAMBERGER

V.

NORTHERN STATE PRISON, NJ

DEPARTMENT OF CORRECTIONS

The parties in this appeal have voluntarily resolved all disputed matters and enter into the following settlement, which fully disposes of all issues in controversy between them.

A. The **Final** Notice of Disciplinary Action dated May 18, 2012 contains the following charges and proposed discipline:

<u>Charge</u>	<u>Discipline</u>	<u>Date Effective</u>
NJAC 4A:2-2.3 (A-2)	Insubordination	
NJAC 4A:2-2.3 (A-6)	Conduct Unbecoming a Public Employee	
NJAC 4A:2-2.3 (A-11)	Other Sufficient Cause	
HRB 84-17 (C-9)	Insubordination	
HRB 84-17 (E-1) Violation of a rule, regulation, policy, procedure or order		60 day suspension

The parties have agreed to the following:

1. The total number of days of suspended pay the Respondent has imposed on Appellant to date is as follows: **Twenty (20)**.
2. The total number of days of back pay, if any, to be paid by the appointing authority to the Appellant is as follows: **n/a**

3. Any other days from the time of last suspension day until reinstatement shall be treated as follows: **n/a**

C. Appellant, Marzettie Shamberger, withdraws his appeal and request for a hearing, and the Respondent Appointing Authority agrees that the following result will occur with regard to each charge:

<u>Charge</u>	<u>Discipline</u>
1) NJAC 4A:2-2.3 (A-2)	Insubordination - DISMISSED
2) NJAC 4A:2-2.3 (A-6)	Conduct Unbecoming a Public Employee
3) NJAC 4A:2-2.3 (A-11)	Other Sufficient Cause
4) HRB 84-17 (C-9)	Insubordination- DISMISSED
5) HRB 84-17 (E-1)	Violation of a rule, regulation, policy, procedure or order

On the basis of the remaining charges, the Appellant's disciplinary record shall reflect a sixty (60) day suspension. Appellant shall serve a suspension of twenty (20) days without pay.

The parties acknowledge that under N.J.A.C. 17:1-2.18, no pension or seniority time may be credited for periods for which the employee is not paid by the employer.

E. The NJ Department of Corrections shall amend Appellant's personnel records to conform to the terms of the settlement. All internal records of the Department of Corrections will be kept intact. Nothing herein shall preclude the Department from releasing information on this matter to anyone who has a release executed by appellant or as consistent with the law. Any information regarding the underlying charges will be provided to the Division of Pensions pursuant to N.J.S.A. 43:1-3.3 as amended effective April 14, 2007.

F. Appellant waives all other claims against Respondent Appointing Authority with regard to this matter, including any award of back pay, counsel fees or other monetary relief, except as may otherwise be provided herein.

G. Except for the assessment of Marzettie Shamberger's disciplinary record in any subsequent personnel disciplinary hearing, nothing in this agreement shall be deemed to be an admission of liability on behalf of either party. This agreement shall not constitute a precedent in matters involving other employees.

H. In connection with OAL Docket No. CSV09385-2012 ONLY, Appellant waives all claims, suits or actions, whether known, unknown, vested or contingent, civil, criminal or administrative, in law or equity against the State of New Jersey, the New Jersey Department of Corrections, their employees, agents, or assigns, including but not limited to those which have been or could have been made or prosecuted on account of any conduct of any party occurring at any time with respect to the events, information or disputes giving rise to this action up to the date of this agreement, including, but not limited to, all claims under Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Americans with Disabilities Act, the Family Leave Act, the Family and Medical Leave Act, the New Jersey Law Against Discrimination, the Equal Pay Act, the Conscientious Employee Protection Act, the Age Discrimination in Employment Act, Title 11A - the Civil Service Act, the Older Workers Benefits Protection Act, the Occupational Safety and Health Act, the Public Employee Occupational Safety and Health Act, the New Jersey Smoking Act, New Jersey wages and hours law, public works statutes, unemployment compensation laws, disability benefits laws, the United States Constitution, the New Jersey Constitution, any workers compensation or common law claims and any contract express or implied. **In connection with OAL Docket No. CSV09385-2012 ONLY,** this waiver includes all claims involving any continuing effects of actions or practices which arose prior to the date of this Settlement Agreement and bars the use in any way of any past action or practice in any subsequent claims, except pending workers compensation claims.

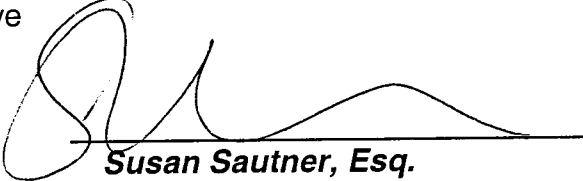
I. The parties agree that if any portion of this Settlement Agreement is deemed unenforceable, the remainder of this Settlement Agreement shall be fully enforceable.

J. The parties waive the right to file exceptions and cross exceptions.

K. This agreement will become effective only if approved by the **CIVIL SERVICE COMMISSION**. Any disapproval by the **CIVIL SERVICE COMMISSION** shall not interfere with the rights of either party to pursue the matter further.

DATE: _____ Appellant: _____

DATE: _____ Appellant's:
Representative _____

DATE: 12/19/12 Respondent: 
Susan Sautner, Esq.
ON BEHALF OF RESPONDENT

CERTIFICATION

I, **Marzettie Shamberger**, being the moving party in this matter, hereby certify that I have reviewed this Settlement Agreement and fully understand its meaning and terms. I acknowledge my understanding and verify my acceptance of the terms of this Settlement Agreement. I acknowledge that my representative questioned my understanding, verified my acceptance of the terms of this Settlement Agreement, and answered all my questions regarding this settlement to my satisfaction. I am satisfied with my representation and I enter into this Settlement Agreement voluntarily.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

DATE: _____

(SIGNATURE)