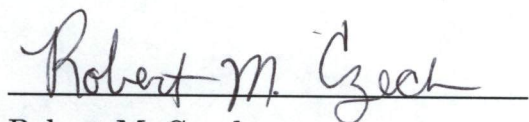


Re: Isaac Reyes

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
MAY 3, 2017

A handwritten signature in cursive script that reads "Robert M. Czech". The signature is written in black ink and is positioned above a solid horizontal line.

Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

OAL DKT. NO. CSV 07433-16

AGENCY DKT. NO. 2016-3162

**IN THE MATTER OF ISAAC REYES,
CAMDEN COUNTY, DEPARTMENT OF
CORRECTIONS.**

Micole C. Sparacio, Esq., for appellant (The Vigilante Law Firm, P.C., attorneys)

Antonieta Rinaldi, Esq., for respondent (Camden County, Office of County Counsel)

Record Closed: February 21, 2017

Decided: March 28, 2017

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

STATEMENT OF THE CASE

Appellant, Isaac Reyes, a Corrections Officer at Camden County Correction Facility (respondent) appeals a 120-day suspension he received as major discipline as a result of his participation in posing for a photograph with other corrections officers inside a jail cell on November 9, 2014 and the subsequent Internal Affairs investigation surrounding same. Appellant was charged with violations of N.J.A.C. 4A:2-2.3(a)(6), Conduct unbecoming a public employee; N.J.A.C. 4A:2-2.3(a)(7) Neglect of duty; N.J.A.C. 4A:2-2.3(a)(12), Other sufficient cause; Camden County Corrections Facility

Rules of conduct:1.1 Violations in general; 1.2 Conduct unbecoming; 1.3 Neglect of duty; 2.10 Inattentiveness to duty; 3.2 Security; General Order# 73, #74; and Internal Affairs order #001; et al. The appellant denies the allegations and maintains he did nothing wrong.

PROCEDURAL HISTORY

On March 13, 2015 respondent issued a Preliminary Notice of Disciplinary Action (R-1, page 1) setting forth the charges and specifications made against the appellant. After a departmental hearing on January 27, 2016, the respondent issued a Final Notice of Disciplinary Action (R-1, page 2) on February 16, 2016 sustaining the charges in the Preliminary Notice and suspending appellant from employment for 120 days. Appellant appealed on March 4, 2016 and the matter was transmitted by the Civil Service Commission Division of Appeals and Regulatory Affairs to the Office of Administrative Law (OAL) where it was filed on May 16, 2016, for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to 15; N.J.S.A. 52: 14F-1 to 13. The hearing was held on February 8, 2017. The record remained open to allow the parties to submit post-hearing submissions and the record closed on February 21, 2017.

FACTUAL DISCUSSIONS AND FINDINGS

John Jones has been employed by the respondent for seventeen years: thirteen years as a corrections officer; four years as a sergeant; and one month as a lieutenant. At the time of this incident, he was a sergeant in the Internal Affairs Department (IA). He has been in IA for ten years. His primary duties involve conducting criminal and administrative investigations and preparing reports. He prepared a five page IA report in connection with this case (R-2). Lt. Jones stated that on December 30, 2015, his supervisor gave him a photograph (R-3) of five correctional officers posing for the picture in a jail cell and requested an investigation to be conducted. Lt. Jones identified the five officers shown in the photograph as follows: the top left in the photograph is Officer John Gillen; Officer Jason King is below him gesturing with the middle finger; next to him kneeling, giving the #1 sign with his index finger, is Officer Isaac Reyes; Officer Matthew Bulzak has both hands on his belt and is to the right in the photograph;

next to him on the right is Officer Damion Pearson, who also is making the #1 sign with his finger. Lt Jones conducted an IA interview of Officer Reyes on January 26, 2015 which was audiotaped and later transcribed (R-4). During the IA interview, Officer Reyes admitted he was familiar with the policies and procedures of the correctional facility. He knew that personal cell phones are not permitted as they are considered contraband. He also identified all of the officers in the photograph (R-3). Lt. Jones testified that during his IA interview, Officer Reyes was not forthcoming and that he lied and made excuses. He denied posing for the photograph and he denied knowing it was Officer Michael Jacobs personal cell phone. He believed it was the official county camera that Officer Jacobs was using. Officer Reyes was in the process of conducting the shakedown in the toilet area of the cell and he looked up and Officer Jacobs took the photo with the county camera. Officer Reyes could not describe the county camera. Lt. Jones described the county camera as being a red Nikon camera with a pop-up flash. The cell phone used by Officer Jacobs to take the photo was a black I-Phone 6, yet Officer Reyes insisted it was a county camera. He never admitted to seeing a cell phone. Lt. Jones advised Reyes that the consequences of lying to IA could include disciplinary charges as well as possible termination. Officer Reyes was adamant that he was giving a truthful statement. He never admitted to posing for the photo even though he was questioned why he was looking directly at the lens and making the #1 sign with his finger. Lt Jones also conducted IA interviews of Sgt. Pearson (R-5); Officer Bulzac (R-6); and Officer John Gillen (R-7). None of these officers denied posing for the photograph or said it was taken with the county camera. None of the other officers lied to IA. Officer Jason King was not interviewed by IA because he went out on an extended medical leave after the photograph (R-3) surfaced. As a result of his investigation, Lt. Jones recommended charges and issued a Supervisory Staff Complaint against Officer Reyes (R-8). He stated that the warden issues the charges and determines the penalty. Officer Reyes said he had previously seen Officer Jacobs with a cell phone so he believed he was allowed to have it. Lt. Jones stated that Officer Jacobs was previously reprimanded for having his cell phone in the jail before this incident. Lt. Jones stated that all of the officers who appeared in the photo (R-3) were brought up on charges.

John Gillen has been a Camden County Correctional Officer for twelve years. On November 9, 2014, he was involved in a "shakedown" while assigned to 3 North C Block. There were ten officers assigned to the shakedown including Officers Bulzac, Jacob, King, Reyes, and the supervisor, Sgt. Pearson. Officer Gillen identified all of the officers appearing in the photograph R-3, including himself shown on the top left corner of the photograph. Officer Michael Jacobs took the photo with his personal cellphone. They all posed for the photograph when Officer Jacobs said "Let's pose for a picture fellas". (R-7, page 6 line 236). Officer Gillen was familiar with the policies and procedures of the jail and knew that cellphones were not allowed in the correctional facility as they are contraband and could be a security breach if introduced to the inmates. He admitted observing Officer Michael Jacobs in possession of a personal cellphone that was smuggled into the prison, but did not notify his supervisor, Sgt. Pearson. He admitted this to IA. Officer Gillen also admitted to IA that Michael Jacobs took the photograph and that in his opinion it was clearly a cellphone and not a county camera. The photograph was not taken by surprise. He admitted that he made a bad judgment call allowing the photo to be taken of himself in uniform and with making the hand gestures. It was an embarrassment to himself and not indicative of his character as a law enforcement officer. He took full responsibility for his actions. Officer Gillen stated that he told IA the truth. On cross-examination, Officer Gillen admitted that he knew Officer Jacobs was using his personal cell phone on that date but did not report him to the supervisor because he did not want to get involved personally in what Officer Jacob was doing. Also, he did not want to report Officer Jacobs because they were friendly outside the facility.

Karen Taylor has been employed by the Camden County Department of Corrections for twenty years, the last three months as warden. When this incident occurred, she was the administrative captain. Her responsibilities included touring the facility; reviewing the cameras; and ensuring that the staff was following all policies and procedures. She would make decisions regarding discipline. She served as both an administrative captain as well as a regular captain assigned to a platoon. An administrative captain reviewed policy and recommended discipline.

This matter first came to her attention in early March 2015, following her receipt of the Supervisory Staff Report that was generated following the IA investigation concerning the circumstances surrounding the taking of the photograph R-3. Captain Taylor reviewed the photograph (R-3) of several staff members posing inside a cell inside the correctional facility that was taken by another staff member. She reviewed all of the documents including the IA report (R-2); the transcripts of the IA interviews of the officers involved (R-4, R-5, R-6, R-7); the Supervisory Staff report (R-8); Officer Reyes rebuttal (R-9); and the chronology of discipline of Officer Reyes (R-15). Based on her review of all the reports and prior discipline, she issued the Preliminary Notice of Disciplinary Action 31A (R-1) dated 3/13/15. She recommended a 120-day suspension, but the warden makes the final decision.

Captain Taylor found Officer Reyes guilty of violating the orders, policies and procedures of the Camden County Corrections Department. All of the other officers admitted to posing for the picture and admitted that Officer Jacobs took the photo with his personal cell phone. They all admitted it except Reyes. Officer Reyes impeded the IA investigation claiming that he did not do anything wrong. Captain Taylor stated she questioned whether Officer Reyes would have advised his supervisor if Officer Jacobs had been bringing drugs in to the facility. She thinks not which goes to her belief that he has no accountability for his actions. Captain Taylor feels that he has to be made to understand which is why she recommended 120 days. Captain Taylor admitted that a 120-day suspension was a significant penalty, but he could have been terminated. Captain Taylor signed the Preliminary Notice of Disciplinary Action (31-A) dated March 13, 2015 (R-1).

Captain Taylor was asked on cross-examination whether after seeing the photograph (R-3) was there anything else she would have needed in order to charge the officers involved. She stated that an investigation was necessary to make sure R-3 was the only photograph.

Officer Isaac Reyes testified on his own behalf. Officer Reyes was working November 9, 2014 and was assigned to a shakedown. He was shown R-3 and identified himself in the photograph that was taken on that date. He was interviewed by

IA on January 26, 2015 and saw the photograph for the first time. He has in the past been issued a department approved cell phone and an approved camera when he worked as a videographer. He explained that at the time many officers had authorized cell phones. On November 9, 2014, he did not know Officer Jacobs had a personal cell phone in his possession. He assumed Officer Jacobs had a county camera in his possession. Officer Reyes also stated that he didn't realize Officer Jacobs was taking a picture that day. At the time, they were shaking down the cell and Officer Reyes was in the toilet area of the cell, when Officer Jacobs walked in with the device. Officer Reyes could not describe the device but assumed it was a camera that day. He stated that it looked like a camera. He now knows it was Jacobs' cell phone which makes him upset. He always assumed his fellow officers were acting lawfully. Officer Reyes did not think Officer Jacobs was in possession of anything unauthorized. He did not remember why he was holding up his finger making the #1 sign. Officer Reyes stated that a picture can say a thousand words. He was not aware that Officer Jacobs was taking a picture. Officer Reyes was asked whether he believed the other Officers were lying as to what they saw that day. He testified no, that was their interpretation. He was very much on the defense during his IA interview, however he did not lie to IA. Officer Reyes feels that everyone was telling the truth based on what they thought that day.

When assessing credibility, inferences may be drawn concerning the witness' expression, tone of voice and demeanor. MacDonald v. Hudson Bus Transportation Co., 100 N.J. Super. 103 (App. Div. 1968). Additionally, the witness' interest in the outcome, motive or bias should be considered. Credibility contemplates an overall assessment of the story of a witness in light of its rationality, internal consistency, and manner in which it "hangs together" with other evidence. Carbo v. United States, 314 F.2d 718 (9th Cir. 1963).

A trier of fact may reject testimony because it is inherently incredible, or because it is inconsistent with other testimony or with common experience, or because it is overborne by other testimony. Congleton v. Pura-Tex Stone Corp., 53 N.J. Super. 282, 287 (App Div. 1958).

I deem Officer Reyes' testimony to be unbelievable. The other officers involved admitted to the photograph being taken by Officer Jacobs with his personal cellphone. Officer Reyes insisted he did not know Officer Jacobs was in possession of his personal cell phone and thought it was the county camera although he could not describe the device. Officer Reyes stated he did not pose for the photograph although he is looking right at the lens and gesturing with his finger and clearly posing in R-3. Based on the above, I do not believe Officer Reyes to be a credible witness.

In reviewing the record therefore, and after having had the opportunity to listen to the testimony and observe the demeanor of the witnesses, I **FIND** the following to be the relevant and credible **FACTS** in this matter:

1. Officer Reyes did pose for the photograph (R-3) in the jail cell on November 9, 2014 along with four other officers that was taken by Officer Jacobs with his personal cell phone.
2. Officer Reyes knew that Officer Jacobs used his personal cell phone in the jail to take the photograph.
3. Officer Reyes knew that personal cell phones were contraband and were not permitted in the jail.
4. Officer Reyes did not report Officer Jacobs to his supervisor.
5. Officer Reyes did not provide truthful answers during the course of the IA investigation.

LEGAL DISCUSSION

Appellant's rights and duties are governed by laws including the Civil Service Act and accompanying regulations. A civil service employee who commits a wrongful act related to his or her employment may be subject to discipline, and that discipline,

depending upon the incident complained of, may include a suspension or removal. N.J.S.A. 11A:1-2, 11A:2-6, 11A:2-20; N.J.A.C. 4A2-2.

Appellant raises the issue that the internal charges should be dismissed since the respondent failed to comply with the requirements of the forty-five-day rule as set forth in N.J.S.A. 30:8-18.2. This rule does not apply to general causes for major discipline listed under N.J.A.C. 4A:2-2.3(a). McElwee v. Bor. Of Fieldsboro, 400 N.J. Super. 388 (App. Div. 2008). Furthermore, since there was no appeal to the Commissioner for interim relief at the time the charges were brought pursuant to N.J.A.C. 4A:2-2.5(e), procedural irregularities are deemed waived.

Therefore, I **CONCLUDE** that any objections to the timeliness of the internal charges are waived.

The Appointing Authority bears the burden of establishing the truth of the allegations by a preponderance of the credible evidence. Atkinson v. Parsekian, 37 N.J. 143, 149 (1962) Evidence is said to preponderate "if it establishes the reasonable probability of the fact." Jaeger v. Elizabethtown Consol. Gas Co , 124 N.J.L. 420, 423 (Sup. Ct 1940) (citation omitted). Stated differently, the evidence must "be such as to lead a reasonably cautious mind to a given conclusion." Bornstein v. Metro. Bottling Co., 26 N.J. 263, 275 (1958); see also Loew v. Union Beach, 56 N.J Super. 93,104 (App. Div. 1959).

Appellant was charged with "Conduct unbecoming a public employee," N.J.A.C. 4A:2-2.3(a)(6). "Conduct unbecoming a public employee" is an elastic phrase, which encompasses conduct that adversely affects the morale or efficiency of a governmental unit or that has a tendency to destroy public respect in the delivery of governmental services. Karins v. City of Atlantic City, 152 N.J. 532, 554 (1998); see also In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960). It is sufficient that the complained - of conduct and its attending circumstances "be such as to offend publicly accepted standards of decency." Karins, supra, 152 N.J. at 555 (quoting In reZeber, 156 A.2d 821, 825 (1959)). Such misconduct need not necessarily "be predicated upon the violation of any particular rule or regulation, but may be based merely upon the violation

of the implicit standard of good behavior which devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct.” Hartmann v. Police Dep’t. of Ridgewood, 258 N.J. Super. 32, 40 (App. Div. 1992) (quoting Asbury Park v. Dep’t of Civil Serv., 17 N.J. 419, 429 (1955)).

Appellants status as a corrections officer subjects him to a higher standard of conduct than ordinary public employees. In re Phillips, 117 N.J. 567, 576-77 (1980). They represent “law and order to the citizenry and must present an image of personal integrity and dependability in order to have the respect of the public.” Township of Moorestown v. Armstrong, 89 N.J. Super. 560 (App. Div. 1965), certif. denied, 47 N.J. 80 (1966). Maintenance of strict discipline is important in military-like settings such as police departments, prisons and correctional facilities. Rivell v. Civil Serv. Comm’n, 115 N.J. Super. 64, 72 (App. Div.), certif. denied, 50 N.J. 269 (1971); City of Newark v. Massey, 93 N.J. Super. 317 (App. Div. 1967). Refusal to obey orders and disrespect of authority cannot be tolerated. Cosme v. Borough of E. Newark Twp. Comm., 304 N.J. Super. 191, 199 (App. Div. 1997).

The need for proper control over the conduct of inmates in a correctional facility and the part played by proper relationships between those who are required to maintain order and enforce discipline and the inmates cannot be doubted. We can take judicial notice that such facilities, if not properly operated, have a capacity to become “tinderboxes” [Bowden v. Bayside State Prison, 268 N.J. Super. 301, 305-06 (App. Div. 1993), certif. denied, 135 N.J. 469 (1994).]

Officer Reyes allowed the contraband cell phone into the jail. He failed to report the contraband to his supervisor. He posed for the photograph in the jail cell with other officers all of whom were making various hand gestures which were unprofessional and brought discredit to the Department. In posing for the photograph he was not attending to his duties and breached security protocol. During the course of the IA investigation Officer Reyes was not forthcoming, impeded the investigation and lied to IA.

I **CONCLUDE** that appellant's conduct rose to the level of conduct unbecoming a public employee, and that the respondent has met its burden of proof on this issue.

Appellant was also charged with neglect of duty in violation of N.J.A.C. 4A:2-2.3(a)(7). There is no definition in the New Jersey Administrative Code for neglect of duty, but the charge has been interpreted to mean that an employee has failed to perform and act as required by the description of their job title. Neglect of duty can arise from an omission or failure to perform a duty and includes official misconduct or misdoing, as well as negligence. Generally, the term 'negligent' connotes a deviation from normal standards of conduct. In re Kerlin, 151 N.J. Super. 179, 186 (App. Div. 1977), neglect of duty implies nonperformance of some official duty imposed upon a public employee, not merely commission of an imprudent act. Rushin v. Bd. Of Child Welfare, 65 N.J. Super. 504, 515 (App. Div. 1961).

Officer Reyes allowed the contraband cell phone into the jail. He failed to report the contraband to his supervisor as he was required to do. He failed to report Officer Jacobs for bringing in the contraband to the jail. He allowed the photograph to be taken of him and the other officers with the contraband cell phone. By posing for the photograph he was inattentive and neglecting his duties. By posing for the photograph he brought discredit to the Department. Officer Reyes was under a duty to respond truthfully to IA and he did not. He failed to cooperate with the IA investigation and impeded the IA investigation by maintaining that the cell phone was a county camera. He failed to accept responsibility for his actions and his conduct.

I **CONCLUDE** that respondent has met its burden of proof in establishing that appellants conduct constituted neglect of duty.

Appellant has also been charged with violating N.J.A.C. 4A:2-2.3(a)(12), "Other sufficient cause." Other sufficient cause is an offense for conduct that violates the implicit standard of good behavior that devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct. Appellant's conduct in posing for the photograph in the jail cell, failing to report the contraband cellphone and being untruthful throughout his IA interview, violates the implicit standard of good

behavior one would expect from a corrections officer. Therefore, I **CONCLUDE** that the respondent has met its burden of proof in establishing a violation of other sufficient cause.

The appellant was also charged with violations of C.C.C.F. Rules of Conduct: 1.1 Violations in General; 1:2 Conduct Unbecoming; 1.3 Neglect of Duty; 2.10 Inattentiveness to Duty; 3.2 Security; General Order #73, #74; and Internal Affairs Order #001. Officer Reyes violated the C.C.C.F. Rules of Conduct (R-11, section 1.2) "Conduct Unbecoming" in that his conduct in posing for the photograph brings discredit upon the department. Officer Reyes also violated section 1.3 of the Rules of Conduct (R-11) regarding "Neglect of Duty in that he failed to notify his supervisor of the contraband that was brought into the facility and he had a duty to do so. He lied during the investigation. Furthermore, while he is posing for the picture, he is not paying attention to his duties and inattentiveness to duty is dangerous in a corrections facility (R-11 section 2.10) Allowing contraband into the facility and failure to report the contraband is a breach of security (R 11, section 3.2). Officer Reyes also violated General Order #73 (R-13) which requires all department employees to conduct themselves in a manner that will not bring discredit or criticism to the department. Common sense and good judgment are to be the guiding principles for the expected employee standard of conduct. Officer Reyes lied to IA and continued to lie to IA in his rebuttal by maintaining that the cell phone was a county camera. He did not accept responsibility for his actions. He also violated General Order #74 (R-14) which requires all sworn personnel to conduct themselves in a professional and ethical manner at all times. Officer Reyes conduct in this matter detracted from the professionalism required of all department members. Officer Reyes also failed to report the contraband as required by R-14, section 5. He also violated the Department of Corrections IA policy Order #001 (R-10, page 7, Section 9(h)) which states: "Employees being questioned are obligated to answer all questions truthfully or he/she will be subject to disciplinary action, up to and may include termination." All of the other officers told the truth that it was a cell phone and that they posed for the picture. Officer Reyes did not. He lied to IA.

I **CONCLUDE** that Respondent has met its burden of proof in establishing violations of these department rules of conduct and orders.

PENALTY

The Civil Service Commission's review of a penalty is de novo. N.J.S.A. 11A:2-19 and N.J.A.C. 4A:2-2.9(d) specifically grant the Commission authority to increase or decrease the penalty imposed by the appointing authority. General principles of progressive discipline involving penalties of increasing severity are used where appropriate. Town of W. New York v. Bock, 38 N.J. 500, 523 (1962). Typically, the Board considers numerous factors, including the nature of the offense, the concept of progressive discipline and the employee's prior record. George v. N. Princeton Developmental Ctr., 96 N.J.A.R.2d (CSV) 463.

"Although we recognize that a tribunal may not consider an employee's past record to prove a present charge, West New York v. Brock, 38 N.J. 500, 523 (1962), that past record may be considered when determining the appropriate penalty for the current offense." In re Phillips, 117 N.J. 567, 581 (1990). Ultimately, however, "it is the appraisal of the seriousness of the offense which lies at the heart of the matter." Bowden v. Bayside State Prison, 268 N.J. Super. 301, 305 (App. Div. 1993), certif. denied, 135 N.J. 469 (1994). The question to be resolved is whether the discipline imposed in this case is appropriate.

For his actions arising out of this incident, appellant has been found to have violated N.J.A.C. 4A:2-2.3(a)(6) Conduct Unbecoming; N.J.A.C. 4A:2-2.3(a)(7) Neglect of Duty; N.J.A.C. 4A:2-2.3(a)(12) Other Sufficient Cause; C.C.C.F. Rules of Conduct: 1.1 Violations in General; 1.2 Conduct Unbecoming; 1.3 Neglect of Duty; 2.10 Inattentiveness to Duty; 3.2 Security; General Order #73, #74; and Internal Affairs Order #001. Appellant received a 120-day suspension from February 17, 2016 to June 15, 2016 (R-1). Respondent provided appellants chronology of discipline (R-15) which indicates he had been disciplined on three previous occasions. On September 15, 2014 and September 25, 2014 appellant received a reprimand for abuse of sick leave (AWOL). On June 18, 2013, he received a five-day suspension for neglect of duty. He

also received a one day suspension on June 18, 2013 for neglect of duty. On September 12, 2012 appellant received a thirty-day suspension for neglect of duty, failure to perform duty, insubordination, conduct unbecoming and various other rules of conduct arising out of an incident that occurred on May 11, 2012. On that date, appellant was in the control booth engaged in conversation when he should have been patrolling the moat area. During the time appellant was failing to perform his duties, an inmate was severely assaulted requiring hospitalization. Appellants failure to take accountability for his actions, his impeding the IA investigation and being untruthful during his IA interview, support the imposition of the 120-day suspension. After having considered all of the proofs offered in this matter and the impact upon the C.C.C.F. regarding the behavior by appellant herein, and after having given due deference to the impact of and the role to be considered by and relative to progressive discipline, I **CONCLUDE** that appellant's violations are significant to warrant a penalty of a 120-day suspension. Therefore, I **CONCLUDE** that the imposition of a 120-day suspension was an appropriate penalty.

ORDER

I **CONCLUDE** that the respondent has sustained its burden of proof as to the charges of violating N.J.A.C. 4A:2-2.3(a)(6) Conduct Unbecoming; N.J.A.C. 4A:2-2.3(a)(7) Neglect of Duty; N.J.A.C. 4A:2-2.3(a)(12) Other Sufficient Cause; C.C.C.F. Rules of Conduct: 1.1 Violations in General; 1.2 Conduct Unbecoming; 1.3 Neglect of Duty; 2.10 Inattentiveness to Duty; 3.2 Security; General Order #73, #74; and Internal Affairs Order #001.

Accordingly, I **ORDER** that the action of respondent in suspending the appellant for 120 days is **AFFIRMED**.


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.

March 28, 2017
DATE


CATHERINE A. TUOHY, ALJ

Date Received at Agency:

March 28, 2017 (emailed)

Date Mailed to Parties:

4/3/17

/mel

APPENDIX
WITNESSES

For Appellant:

Officer Isaac Reyes

For Respondent

Lt. Investigator John Jones

Officer John Gillen

Warden Karen Taylor

EXHIBITS

For Appellant:

None

For Respondent:

- R-1 Preliminary Notice of Disciplinary Action (31A) dated March 13, 2015
Final Notice of Disciplinary Action (31B) dated February 16, 2016
- R-2 Internal Affairs Report by Investigator Sgt. John Jones
- R-3 Photograph of Five Officers in jail cell
- R-4 Internal Affairs Interview of Correctional Officer Isaac Reyes
- R-5 Internal Affairs Interview of Correctional Officer Damion Pearson
- R-6 Internal Affairs Interview of Correctional Officer Matthew Bulzak
- R-7 Internal Affairs Interview of Correctional Officer John Gillen
- R-8 Supervisor's Complaint Report by Investigator Sgt. John Jones
- R-9 Rebuttal authored by Correctional Officer Isaac Reyes
- R-10 Camden County Department of Corrections Internal Affairs Order #001
- R-11 Camden County Department of Corrections Rules of Conduct
- R-12 Camden County Department of Corrections Post Order #032
- R-13 Camden County Department of Corrections General Order #073

R-14 Camden County Department of Corrections General Order #074

R-15 Correctional Officer Isaac Reyes Chronology of Discipline