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STATE OF NEW JERSEY

In the Matter of Marion Wilson

CSC Docket No. 2017-3166
OAL Docket No. CSR 04966-17

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

ISSUED: SEP 07 2017 (SLK)

The appeal of Marion Wilson, a County Correction Officer with Camden County, of her removal, on charges, was heard by Administrative Law Judge Dean J. Buono (ALJ), who rendered his initial decision on June 21, 2017. Exceptions were filed on behalf of the appellant and a reply to exceptions was filed on behalf of the appointing authority.

Having considered the record and the ALJ's initial decision, and having made an independent evaluation of the record, the Civil Service Commission (Commission), at its meeting on August 16, 2017, accepted and adopted the Findings of Fact as detailed in the initial decision. However, the Commission did not adopt the ALJ's recommendation to uphold the removal. Rather, the Commission modified the removal to a six-month suspension.

DISCUSSION

The appellant was removed, effective February 9, 2017, on charges of incompetency, inefficiency, or failure to perform duties, insubordination, conduct unbecoming a public employee, and other sufficient cause. Specifically, the appointing authority alleged that the appellant failed to search an inmate's mail allowing contraband to enter the facility, left bay doors open causing a serious breach of security and was disrespectful to superiors. Upon the appellant's appeal to the Commission, the matter was transmitted to the Office of Administrative Law (OAL) for a hearing as a contested case.

The ALJ set forth in his initial decision that Lieutenant Douglas Grundlock testified that mail was provided to an inmate without being searched allowing "contraband," 14 Compact Discs (CDs), to enter the facility, and it was the appellant's job to make sure that contraband did not get into the facility as she was stationed at the mail post. Further, upon being questioned by Grundlock, the appellant acknowledged that she signed for the "legal mail" and had not searched its contents. Additionally, while questioning the appellant, Grundlock saw that both bay doors to the loading dock were open in violation of the facility's rules of conduct that state that doors are to remain closed. Grundlock also indicated there were other open doors down the hallway and inmates had previously escaped, although not on the day of this incident. Therefore, he told the appellant to close the bay doors and she did. However, approximately 40 minutes later, the bay doors were open again and the appellant was removed from her post. Moreover, a video showed a civilian walking through the facility from the loading dock and proceeding through the bay doors into the facility without any impediments. Grundlock implied that the appellant should have known not to leave the bay doors open based on her 20 years of service, which included serving as a Sergeant, and previous service in the mailroom.

Captain Rebecca Franceshini testified that the 14 CDs were considered contraband because they can be broken and used as weapons. Additionally, the inmate who received the contraband indicated that the appellant gave him the mail and the appellant admitted she did not search the mail.

Captain Linda Blackwell testified that she, Lieutenant Leithead, Sergeant Arroliga, and Officer White, the appellant's union representative, met at the appellant's house to serve the disciplinary notice. She explained that the meeting was at the appellant's house because the appellant indicated that she would not be at the facility due to inclement weather. Blackwell indicated that, during the meeting, the appellant cursed at her superior officers several times and called Blackwell a "bitch." Blackwell stated that it was a violation of the facility rules to curse at superior officers and that she was approximately eight feet away from the appellant when she was called a "bitch." Blackwell indicated that she did not know why the reports from the other officers did not mention that the appellant called her a "bitch." She thought they might not have heard the derogatory term, as they were further down the driveway. Blackwell confirmed that she did not discuss being called a "bitch" with the other officers who were at the meeting.

Warden Karen Taylor testified that she recommended the appellant's termination since the appellant had a pattern of similar behavior and there were significant safety concerns for the facility. Taylor indicated that the appellant admitted she did not perform all of the duties she was supposed to perform when delivering legal mail. Taylor asserted that the appellant's conduct towards her superiors violated the facility's rules and it did not matter that the incident took

place while she was off duty at her home. Additionally, Taylor stated that bay doors should be closed unless work was being done and that even though no prisoners escaped, safety and security are the primary concern.

The appellant testified that she had been a Sergeant for 12 years, but she was demoted to County Correction Officer. She indicated that she had been assigned to the mail/delivery post for one month prior to this incident in February 2017. The appellant presented that she had never been instructed on when to open and close the bay doors and that she "understood" that if someone was on the loading dock that the bay doors were to be left open. She stated that she left the bay doors open because there were three civilians and two inmates on the loading dock. The appellant indicated that her post was not the "last line of defense" as there were gates on the loading dock that lead to the outside. She represents that Grundlock never explained why the doors were to be kept closed. The appellant denied cursing at her superior officers and calling Blackwell a "bitch," accused the officers of lying, believed that her union representative would just "side" with her superior officer so he would not be retaliated against, and asserted that "she wasn't happy but was not being disrespectful" during the meeting. She stated that Blackwell was "in the back" trailing behind the others who were "inches" ahead of her. The appellant provided that she chose the mail post because she only had two months left before her retirement and admitted that she did not check the mail. She also admitted that she was the "last officer" in that building near the loading dock. The appellant asserted that although the sign stating that the doors should be closed had been there for 20 years, it was her understanding that other officers would leave the bay doors open based on "past practices." Further, she kept the bay doors open after Grundlock left because people were coming in and out and she kept them open not "thinking anything of it."

Lieutenant Leithead and Sergeant Arroliga testified on behalf of the appellant indicating that they did not hear the appellant call Blackwell a "bitch" and never spoke with any other officer about a report.

The ALJ found the appointing authority's witnesses credible and persuasive as they clearly and concisely expressed concerns about how these incidents affected safety in the facility and the appellant's lack of respect for her superiors. Further, the ALJ found that the appellant admitted to not opening and searching legal mail for contraband and did not express remorse for her actions. Additionally, the ALJ found that it was unfathomable that the appellant did not understand the security concerns in leaving the bay doors open. Moreover, the appellant's position that she did not curse at her superior officers was not credible and it was not realistic that she would call Blackwell a "bitch" loud enough for the others to hear, which also hurt her credibility. The ALJ presented that the appellant had been fined on six occasions, reprimanded on eight occasions, suspended on seven occasions, and demoted from Sergeant to County Correction Officer for similar charges. Therefore,

the ALJ recommended sustaining the appellant's removal based on her disciplinary history, the nature of her job duties, and the nature of the charges.

In her exceptions, regarding the charges, the appellant asserts that the ALJ erred in failing to ignore her motion to sever the three charges at the hearing as she claims the charges are for three unrelated incidents occurring at different times and places. The appellant claims that the ALJ misconstrued the sign stating that the doors shall remain closed at all times as this sign is not directed at correction officers. Further, she states that it would not make sense to keep the doors closed at all times. Additionally, the appellant contends that the ALJ misconstrued the facility's rule that indicates that a failure to close and/or lock any gate or door required to be shut is a breach of security as this rule does not mean that all doors are to remain closed at all times, but only should be shut at the required times. The appellant represents that she never received training regarding the operation of the bay doors and therefore argues that it is unfair to penalize her for failing to follow any processes related to the operation of the bay doors. The appellant argues that the appointing authority's witnesses were not credible. Specifically, she believes that Blackwell's testimony that she was called a "bitch" is not credible since none of the witnesses heard the comment and she never told the other officers on the ride back about the comment, which the appellant believes is highly unusual and contradicts Warden Taylor's comment that Blackwell told her that she did speak to the other officers on the ride back. The appellant argues that her admitting that she did not inspect the mail supports her credibility. The appellant asserts that the ALJ made a mistake by equating the lack of evidence of remorse with a lack of remorse as a finding must be based on evidence and not a lack of evidence. The appellant argues that the ALJ erred as he does not explain why it is not realistic that she would call Blackwell a "bitch" loud enough for the other officers to hear. The appellant presents that there is no evidence that she disobeyed a direct order to close the bay doors as she did close the bay doors after Grundlock told her to do so. However, there is no evidence that Grundlock directed her to keep the bay doors closed at all times and therefore there is no evidence to conclude that she was insubordinate. The appellant contends that there is no evidence that she permitted people to walk freely through the institution as the ALJ states as there was never anyone on the loading dock except people who were supposed to be there. The appellant indicates that the ALJ erred by charging her with "inattentiveness to duty" as this charge was not specified for the date of the incident. The appellant asserts that the ALJ erred that she violated a facility rule regarding property of inmates or by permitting contraband to be introduced to the general prison population as she did not destroy any property and the CDs were not introduced to the general population as they were promptly discovered and removed from the inmate's possession.

Regarding the penalty, the appellant argues that her removal was not warranted since she had been employed for 20 years and all of her fines and most of

her reprimands were outside of the seven-year "look-back" period mandated by the New Jersey Supreme Court. Further, she asserts that none of her prior charges were similar, as she had never been previously disciplined for failing to inspect mail, failing to keep doors shut, or for using profanity. While the appellant acknowledged that some penalty is justified for her failure to do her job, she argues that removal is excessive under these circumstances.

In reply, the appointing authority states that all three incidents were properly considered together as they were intertwined. Specifically, initially the appellant was questioned about her failure to search an inmate's mail. During that investigation, it was discovered that the appellant failed to keep the bay doors closed, and these two events led to the charges being served to the appellant where she cursed and was disrespectful to her superior officers. It asserts that the appellant is attempting to mislead the Commission by stating that the sign instructing that doors should be closed at all times does not specifically refer to correction officers as the appellant acknowledged that the sign was there for 20 years and she chose to ignore the sign. Further, her intentional act in leaving the bay doors open was a violation of facility rules, which undermined security as she admitted she was the "last officer" in that building near the loading dock. The appointing authority presents that the appellant was trained about opening and closing doors at the Academy and it is ludicrous for a 20-year employee who was a Sergeant for 12 years to argue that she needed training on the operation of doors. It emphasizes that the appointing authority's witnesses were credible as four of them unequivocally stated that the appellant cursed at them and the ALJ found that the appellant was not credible. Further, the ALJ found Blackwell credible when she testified that the appellant called her a "bitch," that the other officers were ahead of her and may not have heard it, and she did not discuss the comment with the other officers and waited to discuss it with her superiors. It states that the appellant disobeyed Grundlock's direct order to keep the bay doors closed by opening the doors after he left which clearly demonstrates her lack of concern for safety. Moreover, there is a video showing unnamed people walking through the unsecured bay doors. Additionally, there is a video showing the appellant on her phone discussing her paycheck and therefore the ALJ did not make a mistake when he sustained the charge of "inattentiveness of duty" against her. The ALJ also properly found her to have violated a facility rule when the appellant admitted that she did not search the inmate's mail and she was aware of the dangers when contraband enters the facility. The ALJ appropriately considered the appellant's prior discipline history and the alleged "seven year look back" rule does not apply if the prior offenses and behavior were similar to the current incidents, which they were. The ALJ presented a comprehensive review of the law and facts of this case and appropriately upheld the appellant's removal.

Upon its *de novo* review of the record, the Commission agrees with the ALJ regarding the charges. Clearly, the appellant's failure to search an inmate's mail

allowing contraband to enter the facility, leaving bay doors open causing a serious breach of security and being disrespectful to superiors constitutes incompetency, inefficiency, or failure to perform duties, insubordination, conduct unbecoming a public employee, neglect of duty and other sufficient cause.[1] However, as discussed further below, the Commission does not adopt the ALJ's recommendation to uphold the appellant's removal.

Initially, the Commission notes that the appellant admitted that she did not inspect an inmate's mail and her failure to perform this duty allowed contraband into the facility, which could have potentially been used as a dangerous weapon. Further, while the appellant argues that she was not given any training on the opening and closing of the bay doors, as the appellant was trained on the opening and closing of doors in the Academy, was a 20-year employee of the facility including serving 12 years as a Sergeant, was well aware of the sign that instructed that the doors remain closed, and was instructed by her superior officer to close the bay doors, the Commission finds that the appellant's leaving the bay doors open was a breach of security and the appellant's arguments in that regard are without merit. Moreover, the ALJ found that the appellant cursed and was otherwise disrespectful to her superior officers including calling Blackwell a "bitch" and there is nothing in the record to support overturning the ALJ's credibility determinations.

In determining the proper penalty, the Commission's review is *de novo*. In addition to its consideration of the seriousness of the underlying incident in determining the proper penalty, the Commission also utilizes, when appropriate, the concept of progressive discipline. *West New York v. Bock*, 38 *N.J.* 500 (1962). In assessing the penalty in relationship to the employee's conduct, it is important to emphasize that the nature of the offense must be balanced against mitigating circumstances, including any prior disciplinary history. 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 is appropriate notwithstanding a largely unblemished prior record. *See Carter v. Bordentown,* 191 *N.J.* 474 (2007).

In the instant matter, the Commission is not in any way persuaded by the appellant's exceptions. However, the Commission notes that the appellant was a 20-year employee, retired on March 1, 2017 and had been suspended effective February 9, 2017 due to incidents that took place in early February 2017. In other words, the appellant's suspension was only approximately three weeks before the

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[1] This charge included a violation of the appointing authority's policy regarding "inattentiveness to duty." This charge involved the appellant's failure to secure the bay doors and was clearly listed on her Final Notice of Disciplinary Action.

effective day of her retirement after a long career as a correction officer. Therefore, in light of these circumstances, the Commission shall modify the appellant's removal to a six-month suspension. However, the Commission emphasizes that the appellant shall not have the option to rescind her retirement and return to employment as the modification of the appellant's removal to a six-month suspension is based solely on the fact that the appellant has retired and the suspension runs from February 9, 2017 to the date of her retirement with the remainder to be considered for record keeping purposes only. As such, the appellant shall not be entitled to any back pay under *N.J.A.C.* 4A:2-2.10.

N.J.A.C. 4A:2-2.12(a) provides for the award of counsel fees only where an employee has prevailed on all or substantially all of the primary issues in an appeal of a major disciplinary action. The primary issue in any disciplinary appeal is the merits of the charges, not whether the penalty imposed was appropriate. *See Johnny Walcott v. City of Plainfield,* 282 *N.J. Super,* 121, 128 (App. Div. 1995); *James L. Smith v. Department of Personnel,* Docket No. A-1489-02T2 (App. Div. March 18, 2004); *In the Matter of Robert Dean* (MSB, decided January 12, 1993); *In the Matter of Ralph Cozzino* (MSB, decided September 21, 1989). In the case at hand, although the penalty was modified by the Commission, the conduct underlying the charges, as well as the charges, were sustained. Thus, the appellant has not prevailed on all or substantially all of the primary issues of the appeal. Consequently, as the appellant has failed to meet the standard set forth in *N.J.A.C.* 4A:2-2.12(a), counsel fees must be denied.

ORDER

The Commission finds that in light of the circumstances as described above, the Commission shall modify the appellant's removal to a six-month suspension.

Back pay pursuant to *N.J.A.C.* 4A:2-2.10, and counsel fees pursuant to *N.J.A.C.* 4A:2-2.12(a) are denied

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 16th DAY OF AUGUST, 2017

Dolores Gorczyca

Dolores Gorczyca
Member
Civil Service Commission

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and
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Attachment

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION
AND ORDER

OAL DKT. NO. CSR 04966-17
AGENCY DKT. NO. N/A

IN THE MATTER OF MARION WILSON, CAMDEN COUNTY CORRECTIONAL FACILITY.

William B. Hildebrand, Esq. for appellant, Marion Wilson (Law Offices of William B. Hildebrand, LLC, attorneys)

Antonieta P. Rinaldi, Assistant County Counsel, for respondent, Camden County Department of Corrections (Christopher A. Orlando, County Counsel)

Record Closed: June 16, 2017 Decided: June 21, 2017

BEFORE **DEAN J. BUONO,** ALJ:

STATEMENT OF THE CASE

Appellant, Marion Wilson (Wilson), an employee of respondent, Camden County Correctional Facility (CCCF), appeals from the determination of respondent that she be Terminated for incidents that occurred on February 2, 2017, February 6, 2017 and February 9, 2017. Respondent argues that she violated: N.J.A.C. 4A:2-2.3(a)(1)

Incompetency, Inefficiency, Failure to Perform Duties; N.J.A.C. 4A:2-2.3(a)(2) Insubordination; 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; Camden County Correctional Facility Rules of Conduct (C.C.C.F.): 1.1 Violations in General; 1.2 Conduct Unbecoming; 1.3 Neglect of Duty; 1.4 Insubordination; 2.10 Inattentiveness to Duty; 3.2 Security; 3.12 Property of Inmates; General Order 73; General Order 74; and Post Order 33. The appellant denies the allegations and contends that she acted appropriately.

PROCEDURAL HISTORY

On February 10, 2017, the CCCF issued a Preliminary Notice of Disciplinary Action removing her from her post as of February 9, 2017. On March 9, 2017, the CCCF issued a Final Notice of Disciplinary Action sustaining the charges and terminating her from employment as of February 9, 2017. Appellant filed a timely notice of appeal.

The Division of Appeals and Regulatory Affairs of the Civil Service Commission transmitted the case to the Office of Administrative Law, where it was filed on April 5, 2017. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13. The hearing was held on June 2, 2017. The record remained open until June 16, 2017, for the parties to submit closing summations and the record closed on that date.

FACTUAL DISCUSSION

Testimony

Respondent

Lieutenant Douglas Grundlock (Grundlock), has been employed by the Camden County Department of Corrections for twenty years. The last two years he served as a Lieutenant at the CCCF. Primarily, his job as a lieutenant is to monitor officers so that "they are doing their jobs".

In this case, he was tasked to investigate "legal mail" that had been given to an inmate. Included in the mail were fourteen Compact Discs (CDs). The mail was provided to the inmate without being searched allowing "contraband" to enter the facility. Wilson was stationed at the mail post so, he proceeded to her location. Upon his arrival, he confronted her and she was on the "cell phone and looking at her paycheck." After she finished, Wilson told him that she signed for the "legal mail" and had not searched its contents. On the exterior of the legal mail, (2NA 53) was handwritten on the envelope. Wilson acknowledged that it was her handwriting. (R-4).

While discussing the "legal mail" issue with Wilson, he saw that both doors to the loading dock area were open. There is a sign on the door that says, "All staff Doors are to remain closed at all times" plus rules of conduct 3.2 says, all doors are to remain closed.

Grundlock said two doors that were further down the hallway were also opened and inmates have escaped before, but not that day. As a result of what he saw, Grundlock told Wilson to close the doors and she did. However, approximately forty minutes later, the doors were opened again. At that point, she was removed from her post for not keeping the doors closed and disobeying an order. A video showed a civilian walking through the facility from the loading dock and proceeding through the doors into the facility without any impediments. (R-6 Video at 10:39:34). The same video at 10:40:43, showed Grundlock telling Wilson to close the doors and she did.

On cross-examination, Grundlock testified that Wilson was working her mailroom bid post and her job was to open and inspect the mail, making sure no contraband gets into the facility through the mail. She did not do her job. Also, "Wilson controls both sliding doors" shown in video. In describing the location of the security doors, Grundlock stated that there was a twenty to thirty-foot corridor, then a gate on the loading dock that is controlled by a civilian. Only "specially classified lower level" offenders are permitted on the loading dock. Grundlock reiterated that all gates are supposed to be closed, unless someone is ingress or egressing. After the person ingresses or egresses the doors were again to be closed. When one door is opened, the other one is closed to control the flow of people. (Rule 3.2). Interestingly, when

confronted with the question of what instruction or training Wilson had on the operation of doors, Grundlock replied that "she was a C.O. for twenty years" and "had been in the mail room before that day." Also, she was a "Sargent for five years." Intimating that she should have known.

Captain Rebecca Franceschini (Franceschini), has been with the CCCF for seventeen years; two and a half years as Captain. Her responsibilities are the safety and security of facility.

She recalled that on February 6, 2017, she received a telephone call from Warden Taylor (Taylor) about legal mail that had fourteen CD's enclosed inside and was disseminated into the facility. They are "contraband" because they can be broken and used as weapons. Inmate Collins was given the legal mail and told Franceschini that Wilson gave her the legal mail. When confronted about the contraband in the mail, Wilson admitted she did not search the mail.

Franceschini reported her findings to the Warden and Deputy Warden and Wilson was then removed from the mailroom bid post. A Disciplinary Complaint was generated and discipline was recommended for the incident. (R-3).

Captain Linda Blackwell (Blackwell), has spent twenty years at the CCCF, three years as Captain. Her responsibilities are to make sure all officers are doing their job.

On February 8, 2017, Taylor told her that she was going to be serving a "Laudermill letter" to Wilson. On February 9, 2017, Wilson indicated to members of the facility that due to inclement weather, she would not appear at the facility to be served and she requested to be served her at home.

As a result, Blackwell, Lieutenant Leithead (Leithead), Sergeant Arroliga (Arroliga), and Officer M. White (White) arrived at Wilson's home. White was there as her union representative. Wilson came to the door on front porch and stated, "You had to bring the whole department to my house?" Blackwell informed her that White was

there on her behalf as a union representative, and that she was going to be served with Laudermill paperwork. Wilson looked at White and said, "Thank you." She was informed that she was suspended pending termination and that she had an opportunity to explain orally to us why she should be suspended with pay, or she had twenty-four hours to write the Warden explaining why she should be suspended with pay. Then, Wilson stated, "I don't want to fucking talk to ya'll." She laughed and then stated, "I knew this was coming." Arroliga then asked Wilson for her the badge, breast badge and two identification cards. To retrieve the items, Wilson went into her house and slammed the front door with force. Upon her return, she handed the items to White. Arroliga explained to her that her insurance may be affected and gave her insurance paperwork. Arroliga then asked Wilson to sign her equipment paperwork and she stated that she could not find her Department I.D. Arroliga also explained to Wilson that she could give an oral statement or notify the department within twenty-four hours in writing of why she should not be suspended without pay. Wilson then stated, "I ain't talking to ya'll; fuck ya'll." After all the paperwork was signed Wilson stated, "Fuck ya'll; get the fuck otta here." Blackwell responded with, "my pleasure" and as she was walking away Wilson stated, "bitch." Blackwell continued to walk away and joined Leithead and Arroliga who were walking ahead. She was agitated and being disrespectful, so to diffuse the situation Blackwell replied, "my pleasure." (R-7). All individuals were instructed to write reports. (R-8, R-9, R-10).

On cross-examination, Blackwell testified that it is a violation of the rules if an officer curses at a superior officer. In this case, Wilson called her a "bitch" and she was approximately eight feet away. She also testified that she did not know why the other reports did not mention Wilson calling her a "bitch", but it may be that they were further down the driveway. Blackwell never discussed it with them. Frankly, she was not surprised that Wilson used that language because she was known to be unprofessional.

Warden Karen Taylor (Taylor), has been with CCCF for twenty-one years; seven months as a Warden. She is tasked with the care and custody of inmates and safety of all in the facility.

She learned of Wilson's incident by reading through her daily reports and saw that contraband (CDs) came in the facility through legal mail. After Franceschini reported to her on the incident, coupled with the loading dock door incident, she recommended termination. "There was a pattern of the same type of behavior." (R-15). Wilson clearly violated Rules of Conduct 1.1, 1.2, 1.3. and 3.12 Disregard for Inmate Property. (R-12). There are significant concerns for the safety of the facility. The CDs can be used as weapons and mail can contain the drug suboxone. As a result, Wilson violated Order 33 for Mail Officer/Processing and Delivery 3.2.

In Order 33, Contraband is defined as:

1. Any item, article or material found in the possession of, or under the control of, an inmate that is not authorized for retention or receipt;
2. Any item, article, or material found within the adult county correctional facility or on facility grounds that has not been issued by the facility or authorized as permissible for retention receipt;
3. Any item, article or material found in the possession of, or under the control of, staff or visitors within the adult county correctional facility or on facility grounds that is not authorized for receipt, retention or importation;
4. Any item, article or material that is authorized for receipt, retention or importation by inmates, staff or visitors but that is found in an excessive amount or that has been altered from its original form. An amount shall be considered excessive if it exceeds stated adult county correctional facility limits or exceeds reasonable safety, security, sanitary, or space considerations; and/or
5. Any article that may be harmful or presents a threat to the security and orderly operation of an adult county correctional facility.

Taylor testified that when delivering legal mail, the officer should verify that the correct inmate is receiving the mail by checking the inmate's I.D. bracelet, then open

and inspect the contents in front of the inmate. None of this was done, Wilson admitted to it.

The Insubordination was the incident at her house. When the Laudermill papers were to be delivered at her home, she was "demeaning", "insubordinate," cursed at them and was "belligerent" so she was charged with a violation of Rule 1.4. Being off duty, has nothing to do with it. Personal conduct of employees is defined as "all department employees, when on and off duty, will conduct themselves in a manner that will not bring discredit or criticism to the department. Common sense, good judgment, consistency and the department's mission will be the guiding principles for the expected employee standard of conduct." (R-13).

"If you look at the disciplinary record, they tried to correct her behavior." "It's not a case of first impressions," she has a pattern of doing this. Even though she has twenty years, the safety of the facility is paramount.

On cross-examination Taylor admitted that "it was very troubling" that Wilson did not open the legal mail but "this was how she does things". It's quite possible that "she had done it in the past".

Regarding the security door incident, Taylor testified that "all doors should be closed at all times unless there was work being done." No inmate escaped as a result of Wilson's actions, but that is not the point. Security and safety are the primary concern. No inmate was hurt either, but "how do I know she is checking anything?" "I have no confidence" in her ability.

Appellant

Marion Wilson (Wilson), twenty years with Department of Corrections, had been Sergeant for twelve years, but she was demoted to Officer.

In February 2017, she was assigned to bid post mail/delivery and had been there for a month before this incident. She had never been instructed on when to open/close doors. She "understood" that if someone was on the loading dock that the doors were to be left open. On that day, three civilians and two inmates were on the loading docks, so she left the doors open.

Wilson indicated that her post is not the, "last line of defense" and there are gates on the loading dock that lead to the outside. Grundlock never explained the reason why the doors were to be kept closed.

On February 9, 2017, when the officers came to her house, she did not swear at them at all and did not call Blackwell a "bitch." Blackwell was "in the back" trailing behind the others who were "inches" ahead of her.

On cross-examination, Wilson stated that she chose the mail bid post because she only had two months left and admitted that she did not check the mail. She understands the danger of letting contraband into the facility. She also admitted that she is the "last officer" in that building near the loading dock. Also, the sign that is on the window for the mail post "has been there twenty years because Aramark is no longer there." Other officers would leave the doors open in the past. Despite the fact that the sign reads to keep the doors closed, "past practices" was her understanding. (R-6). She explained that she opened the doors after Grundlock left because people came in/out, and kept them open not "thinking anything of it".

Regarding the incident at her house, all the officers are lying. White would just "side" with them so he is not retaliated against. She did not curse. "She wasn't happy but was not being disrespectful."

Lieutenant Leithead (Leithead), did not hear Wilson call Blackwell a "bitch" and never spoke with other officers about report.

Sergeant Arroliga (Arroliga), has spent thirteen years with CCCF; two years as Sergeant. Arroliga did not hear Wilson call Blackwell a "bitch" and never spoke with any other officer about a report.

FINDINGS OF FACT

For testimony to be believed, it must not only come from the mouth of a credible witness, but it also has to be credible in itself. It must elicit evidence that is from such common experience and observation that it can be approved as proper under the circumstances. See Spagnuolo v. Bonnet, 16 N.J. 546 (1954); Gallo v. Gallo, 66 N.J.Super. 1 (App. Div. 1961). A credibility determination requires an overall assessment of the witness's story in light of its rationality, internal consistency and the manner in which it "hangs together" with the other evidence. Carbo v. United States, 314 F.2d 718, 749 (9th Cir. 1963). Also, "'[t]he interest, motive, bias, or prejudice of a witness may affect his credibility and justify the [trier of fact], whose province it is to pass upon the credibility of an interested witness, in disbelieving his testimony.'" State v. Salimone, 19 N.J. Super. 600, 608 (App. Div.), certif. denied, 10 N.J. 316 (1952) (citation omitted).

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).

The testimony of Warden Taylor and the respondent witnesses was especially credible and persuasive. Their testimony was clear and concise. It was obvious that they all had concerns about these incidents and the safety of inmates and individuals working in the facility. Also, they had concerns for the lack of respect for the position and her superiors.

Conversely, Wilson's testimony was not credible. Wilson's own testimony assisted the respondent in proving the facts of the case by a preponderance of the evidence. Regarding the legal mail, she admitted to not opening and searching the legal mail, thereby allowing fourteen CD's to enter the facility and become potential weapons. More disturbing is the fact that the record is devoid of her expressing any remorse for her actions. That allows me to believe that she failed to understand the gravity of her action, or more appropriate, inaction.

Regarding the issue of the security doors, she explained that all corrections officers always left those doors open when people were on the loading dock and that her post is not the "last line of defense;" there are gates on the loading dock. Wilson used the excuse that Grundlock never explained the reason why the doors were to be kept closed. Despite a sign located on the window of the post indicating that the "[d]oors are to remain closed at all times" and being employed as a corrections officer for twenty years, it is unfathomable as to why Wilson could not comprehend the significant security concern of leaving security doors open. Wilson's attempt to shift the blame for this incident on her employer for failing to educate her or explain why the doors were to be closed is unavailing and deeply concerns the undersigned.

Regarding the incident at her house, Wilson testified that all the officers were lying and White would just "side" with them so he is not retaliated against. Although "she wasn't happy," she did not curse. This was Wilson's attempt to "sell" her version of the facts to the undersigned. Not only was her recitation of the positioning of the officers when they left not credible, (Blackwell was "in the back" trailing behind the others who were "inches" ahead of her), it is also not realistic to believe that Wilson would call Blackwell a "bitch" loud enough for the others to hear. These comments by Wilson detracted from any modicum of credibility.

After hearing the testimony and reviewing the evidence, I **FIND,** by a preponderance of credible evidence, that on February 2, 2017, Wilson delivered legal mail to an inmate without searching it, causing fourteen CD's (contraband) to enter the correctional facility. I **FURTHER FIND,** on February 6, 2017, while at the mail post,

Wilson failed to secure the doors and after being told to close them, she continued to leave them open. I **FURTHER FIND,** on February 9, 2017, she was not courteous and civil while dealing with superior officers at her residence and used profane language toward Blackwell.

CONCLUSIONS OF LAW

Civil service employees' rights and duties are governed by the Civil Service Act and regulations promulgated pursuant thereto. N.J.S.A. 11A:1-1 to 11A:12-6; N.J.A.C. 4A:1-1.1. The Act is an important inducement to attract qualified people to public service and is to be liberally applied toward merit appointment and tenure protection. Mastrobattista v. Essex Cnty. Park Comm'n, 46 N.J. 138, 147 (1965). However, consistent with public policy and civil-service law, a public entity should not be burdened with an employee who fails to perform his or her duties satisfactorily or who engages in misconduct related to his or her duties. N.J.S.A.11A:1-2(a). A civil-service employee who commits a wrongful act related to his or her duties, or gives other just cause, may be subject to major discipline, including removal. N.J.S.A.11A:2-6; N.J.S.A. 11A:2-20; N.J.A.C.4A:2-2.2. The general causes for such discipline are set forth in N.J.A.C. 4A:2- 2.3(a).

This matter involves a major disciplinary action brought by the respondent appointing authority against the appellant. An appeal to the Merit System Board requires the OAL to conduct a hearing de novo to determine the appellant's guilt or innocence as well as the appropriate penalty, if the charges are sustained. In re Morrison, 216 N.J. Super. 143 (App. Div. 1987). Respondent has the burden of proof and must establish by a fair preponderance of the credible evidence that appellant was guilty of the charges. Atkinson v. Parsekian, 37 N.J. 143 (1962). Evidence is found to preponderate if it establishes the reasonable probability of the fact

alleged and generates a reliable belief that the tendered hypothesis, in all human likelihood, is true. See Loew v. Union Beach, 56 N.J. Super. 93, 104 (App. Div. 1959), overruled on other grounds, Dwyer v. Ford Motor Co., 36 N.J. 487 (1962).

The respondent sustained charges of violations of: N.J.A.C. 4A:2-2.3(a)(1) Incompetency, Inefficiency, Failure to Perform Duties; N.J.A.C. 4A:2-2.3(a)(2) Insubordination; 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; Camden County Correctional Facility Rules of Conduct (C.C.C.F.): 1.1 Violations in General; 1.2 Conduct Unbecoming; 1.3 Neglect of Duty; 1.4 Insubordination; 2.10 Inattentiveness to Duty; 3.2 Security; 3.12 Property of Inmates; General Order 73; General Order 74; and Post Order 33.

Initially, Wilson has been charged with a violation of N.J.A.C. 4A:2-2.3(a)(1) Incompetency, Inefficiency, Failure to Perform Duties. It is uncontested that Wilson failed to search an inmate's legal mail. Also, it is uncontroverted that security doors were open when Lt. Grundlock arrived at her post. The record reflects in the testimony and video that Wilson re-opened the doors, and kept them open after being told to close them. Accordingly, I **CONCLUDE** that the appointing authority has met its burden in demonstrating support to sustain a charge of Incompetency, Inefficiency, Failure to Perform Duties. Charges of violation of N.J.A.C. 4A:2-2.3(a)(1) are hereby **SUSTAINED**.

Regarding the charge of Insubordination, to the extent that appellant is charged with violation of Rule of Conduct 1.4, which addresses Insubordination and Serious Breach of Security, consideration of such violation will be addressed in concert with the current analysis. Black's Law Dictionary 802 (7th Ed. 1999) defines insubordination as a "willful disregard of an employer's instructions" or an "act of disobedience to proper authority." Webster's II New College Dictionary (1995) defines insubordination as "not submissive to authority: disobedient." Such dictionary definitions have been utilized by courts to define the term where it is not specifically defined in contract or regulation.

> 'Insubordination' is not defined in the agreement. Consequently, assuming for purposes of argument that its presence is implicit, we are obliged to accept its ordinary definition since it is not a technical term or word of art and there are no circumstances indicating that a different meaning was intended.
>
> [Ricci v. Corporate Express of the East, Inc., 344 N.J. Super. 39, 45 (App. Div. 2001) (citation omitted).]

Importantly, this definition incorporates acts of non-compliance and non-cooperation, as well as affirmative acts of disobedience. Thus, insubordination can occur even where no specific order or direction has been given to the allegedly insubordinate person. Insubordination is always a serious matter, especially in a paramilitary context. "Refusal to obey orders and disrespect cannot be tolerated. Such conduct adversely affects the morale and efficiency of the department." Rivell v. Civil Serv. Comm'n, 115 N.J. Super. 64, 72 (App. Div.), certif. denied, 59 N.J. 269 (1971).

In the present matter, appellant was told to keep the security doors closed and she did not. Approximately forty minutes later, the doors once again remained open. Despite a sign on the Post indicating that the "[d]oors are to remain closed at all times" and twenty years of employment at the CCCF, she claimed that nobody trained her at the post. Her disregard of a direct order is evidence of Insubordination. Her argument to the contrary is not lucid nor comprehensible based upon her years at the facility. Accordingly, I **CONCLUDE** that the appointing authority has met its burden in demonstrating support to sustain a charge of Insubordination. The charges of violating N.J.A.C. 4A:2-2.3(a)(2) and Rule of Conduct 1.4 are hereby **SUSTAINED**.

Respondent also sustained charges against appellant for 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 NJ. 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 re

Zeber, 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)). Suspension or removal may be justified where the misconduct occurred while the employee was off duty. Emmons, supra, 63 N.J. Super. at 140.

It is difficult to contemplate a more basic example of conduct which could destroy public respect in the delivery of governmental services than the image of a Corrections Officer failing to search an inmate's mail and allowing contraband to enter a prison. Also, the same officer disregarding a direct order to secure security doors and allowing people in a correctional facility to walk freely through the institution. Finally, to use the type of language Wilson used toward a superior officer in public is intolerable. I **CONCLUDE** that appellant's actions constitute unbecoming conduct. The charges of violating N.J.A.C. 4A:2-2.3(a)(6) and Rules of Conduct 1.2 are hereby **SUSTAINED**.

The respondent also sustained charges for a violation of N.J.A.C. 4A:2-2.3(a)(7) (Neglect of Duty). Neglect of Duty can arise from an omission or failure to perform a duty as well as negligence. Generally, the term "neglect" connotes a deviation from normal standards of conduct. In re Kerlin, 151 N.J. Super. 179, 186 (App. Div 1977). "Duty" signifies conformance to "the legal standard of reasonable conduct in the light of the apparent risk." Wytupeck v. Camden, 25 N.J. 450, 461 (1957). Neglect of duty can arise from omission to perform a required duty as well as from misconduct or misdoing. Cf. State v. Dunphy, 19 N.J. 531, 534 (1955). Although the term "neglect of duty" is not defined in the New Jersey Administrative Code, the charge has been interpreted to mean that an employee has neglected to perform and act as required by his or her job title or was negligent in its discharge. Avanti v. Dep't of Military and Veterans Affairs, 97 N.J.A.R. 2d (CSV) 564; Ruggiero v. Jackson Twp. Dep't of Law and Safety, 92 N.J.A.R. 2d (CSV) 214.

Again, it is difficult to contemplate a more basic example of Neglect of Duty than the image of a corrections officer in a correctional facility not searching an inmate's mail and allowing contraband to enter a prison. Also, leaving secure security doors open and allowing people in a correctional facility to walk freely through the institution after being instructed to close them by a superior officer. I **CONCLUDE** that appellant's actions constitute Neglect of Duty. The charges of violating N.J.A.C. 4A:2-2.3(a)(7) and Rule of Conduct 1.3 are hereby **SUSTAINED**.

Appellant has also been charged with a violation of N.J.A.C. 4A:2-2.3(a)(12) (Other Sufficient Cause). Specifically, appellant is charged with violations of the Camden County Correctional Facility Rules of Conduct (C.C.C.F.): 1.1 Violations in General; 1.2 Conduct Unbecoming; 1.3 Neglect of Duty; 1.4 Insubordination; 2.10 Inattentiveness to Duty; 3.2 Security; 3.12 Property of Inmates; General Order 73; General Order 74; and Post Order 33. It is noted that the Preliminary and Final Notices of Disciplinary Action (R-1) indicate the sustained charges. I **CONCLUDE** that consideration of the charge constituting a violation of N.J.A.C. 4A:2-2.3(a)(12) (Other Sufficient Cause) will be limited to the regulations, rules and general orders specifically enumerated in the Final Notice of Disciplinary Action (R-1). Additionally, Rules of Conduct 1.2, 1.3, and 1.4 have been addressed within the discussion of violations of N.J.A.C. 4A:2-2.3(a)(2), (6) and (7).

As such, appellant is charged with violating Rule of Conduct 1.1, Violations in General, which is a charge of "Failure to comply with regulations, orders, directives or practices of the department, whether verbal or written by the Warden or his designee." (R-6). The rule provides that:

> Any employee who violates any rule, regulation, procedure, order or directive, either by an act of commission or omission, whether stated in this manual or elsewhere, or who violates the standard operating procedure as dictated by departmental practice, is subject to disciplinary action in accordance with the New Jersey Department of Personnel (Civil Service) rules and regulations. Disciplinary actions shall be based on the nature of the rule, regulation, procedure, order, or directive violated, the severity and circumstances of the infraction and the individual's record of conduct.

Violation of this rule would seem to be implicated by the appointing authority's allegations of violations of General Orders 73, 74, and Post Order 33.

Post Order 33 (R-11) addresses the duties of a Mail Officer/Processing and Delivery. This order defines contraband and provides that "[w]hen delivering LEGAL MAIL, the officer will verify that the correct inmate is receiving the correspondence by checking the inmate's I.D. bracelet. The officer will then open and inspect the contents in front of the inmate...." Wilson admitted to not doing any of the above.

Accordingly, I **CONCLUDE** that the appointing authority has met its burden in demonstrating a violation of Post Order 33 and the charge is hereby **SUSTAINED**.

General Order 73 (R-13) addresses "Personal Conduct of Employees." There was significant testimony that the appellant violated sections 4 and 12, of this order.

Section 4 states that "Employees will comply with all departmental rules and regulations and all laws of the United States and the State of New Jersey." The record reflects above that appellant did not comply with the Post Order 33 to which she was accused of violating. I **CONCLUDE** that the appointing authority has met its burden in demonstrating a violation of this section and the charge is hereby **SUSTAINED**.

Section 12 states that, "Employees are responsible to know all departmental policies as well as county policies and act in accordance with them." Irrespective of whether the appellant was aware or unaware of the specific requirement of Post Order 33, ultimately it is her responsibility to know. I **CONCLUDE** that the appointing authority has met its burden in demonstrating a violation of this section and the charge is hereby **SUSTAINED**.

Based on the foregoing, I **CONCLUDE** that the appointing authority has met its burden in demonstrating a violation of General Order 73.

General Order 74 (R-14) addresses "Professional Code of Conduct." Testimony revealed that appellant violated sections 1, 9, 11, 12, 13, and 14 of this order.

Section 1 states that, "Sworn personnel will conduct themselves in accordance with the Constitution of the United States, the New Jersey Constitution and all applicable laws and rules enacted or established pursuant to legal authority. Sworn personnel are also obligated to follow all other departmental and county policies." The evidence in the record demonstrates that appellant not only violated Post Order 33 but also N.J.A.C. 4A:2-2.3(a)(2) (Insubordination); 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) and therefore this supports a finding of a violation of this section. Also, she used "indecent", "profane" and "derogatory" language toward a superior officer; "ridiculing" them in public as well as not "treating fellow employees with respect." Captain Blackwell's testimony was clear, concise and believable. As stated above, Wilson's was not. I **CONCLUDE** that the appointing authority has met its burden in demonstrating a violation of section 9, 11, 12, 13 and 14 and the charge is hereby **SUSTAINED**.

Based on the foregoing, I **CONCLUDE** that the appointing authority has met its burden in demonstrating a violation of General Order 74.

Having met its burden in demonstrating violations of General Orders 33, 73 and 74, I **CONCLUDE** that the appointing authority has demonstrated a violation of Rule of Conduct 1.1, 1.2 and 1.4 having already been addressed, I **FURTHER CONCLUDE** that the charge of a violation of N.J.A.C. 4A:2-2.3(a)(12), Other Sufficient Cause, is hereby **SUSTAINED**.

Finally, the respondent sustained charges of 2.10 Inattentiveness to Duty, 3.2 Security and 3.12 Property of Inmates.

2.10 Inattentiveness to Duty is defined as "Personnel shall not engage in any activities or personal business which could cause them to neglect or be inattentive to duty." There is unrebutted evidence in the record to support a claim that would substantiate this charge. Testimony from Lt. Grudlock, corroborated by Wilson, indicated that Wilson was on her cellular telephone with her paycheck in her hand when the Lt. approached. This occurred while the security doors were left open. I **CONCLUDE** that the charge of a violation of 2.10 Inattentiveness to Duty, is hereby **SUSTAINED**.

3.2 Security is defined as "[p]ersonnel shall exercise a scrupulous regard for security in their dealings with inmates and with regard to the Correctional Facility in general. Any act of commission or omission tending to undermine security shall constitute a breach of security." (R-12). I find the record to support a claim that would clearly substantiate this charge. The fact that appellant fails to acknowledge the security concern in improperly searching or failing to search an inmate's mail and leaving security doors open is troublesome. Therefore, I **CONCLUDE** that the charge of a violation of 3.2 Security, is hereby **SUSTAINED**.

3.12 Property of Inmates is defined as "Employees shall exercise scrupulous regard for the property of inmates." Here, Wilson exercised complete disregard for legal mail of an inmate and allowed it to be introduced into the general population without a search. This would compromise not only the safety of the inmate but any possible defense she may have had. Therefore, I **CONCLUDE** that the charge of a violation of 3.12 Property of Inmates, is hereby **SUSTAINED**.

PENALTY

Where appropriate, concepts of progressive discipline involving penalties of increasing severity are used in imposing a penalty and in determining the reasonableness of a penalty. West New York v. Bock, supra, 38 N.J. 523-24. Factors determining the degree of discipline include the employee's prior disciplinary record and the gravity of the instant misconduct.

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 is appropriate notwithstanding a largely unblemished prior record. See Carter v. Bordentown, 191 N.J. 474 (2007).

The record reflects that appellant has been fined on six occasions, reprimanded on eight occasions, suspended on seven occasions and demoted from Sargent to officer. All of the prior discipline is similar to the within charges. The disciplinary record is remarkable. It is noted that a single charge of Incompetency, Inefficiency or Failure to Perform Duties by itself, can be sufficient grounds for termination in the absence of any other disciplinary history. Absence of judgment alone can be sufficient to warrant termination if the employee is in a sensitive position that requires public trust in the agency's judgment. See In re Herrmann, 192 N.J. 19, 32 (2007) (DYFS worker who waved a lit cigarette lighter in a five-year-old's face was terminated, despite lack of any prior discipline).

"There is no constitutional or statutory right to a government job." State-Operated Sch. Dist. of Newark v. Gaines, 309 N.J. Super. 327, 334 (App. Div. 1998). (NOTE: Gaines had a substantial prior disciplinary history, but the case is frequently quoted as a threshold statement of civil service law.)

"In addition, there is no right or reason for a government to continue employing an incompetent and inefficient individual after a showing of inability to change." Klusaritz v. Cape May County, 387 N.J. Super. 305, 317 (App. Div. 2006) (termination was the proper remedy for a county treasurer who couldn't balance the books, after the auditors tried three times to show him how).

> In reversing the MSB's insistence on progressive discipline, contrary to the wishes of the appointing authority, the Klusaritz panel stated that "[t]he [MSB's] application of progressive discipline in this context is misplaced and contrary to the public interest." The court determined that Klusaritz's prior record is "of no moment" because his lack of competence to perform the job rendered him unsuitable for the job and subject to termination by the county.
>
> [In re Herrmann, 192 N.J. 19, 35-36 (2007) (citations omitted).]

Considering the foregoing, the respondent seeks to terminate the appellant. Considering the record in the present matter including the appellant's disciplinary

record, the nature of the job duties and the nature of the charges, I **CONCLUDE** that the respondent's action terminating appellant is hereby **SUSTAINED**.

DECISION AND ORDER

I **ORDER** that the charges of N.J.A.C. 4A:2-2.3(a)(1) Incompetency, Inefficiency, Failure to Perform Duties; N.J.A.C. 4A:2-2.3(a)(2) Insubordination; 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 be **SUSTAINED**. I further **ORDER** that the charges of violating Camden County Correctional Facility Rules of Conduct (C.C.C.F.): 1.1 Violations in General; 1.2 Conduct Unbecoming; 1.3 Neglect of Duty; 1.4 Insubordination; 2.10 Inattentiveness to Duty; 3.2 Security; 3.12 Property of Inmates; General Order 73; General Order 74; and Post Order 33 also be **SUSTAINED**. I **FURTHER ORDER** respondent's action terminating appellant is hereby **SUSTAINED**.

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

This recommended decision may be adopted, modified or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 40A:14-204.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, DIVISION OF APPEALS AND REGULATORY AFFAIRS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, PO Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

June 21, 2017
DATE

DEAN J. BUONO, ALJ

Date Received at Agency: 6/21/17

Date Mailed to Parties: 6/21/17

/vj

APPENDIX

LIST OF WITNESSES:

For Appellant:

Marion Wilson

Lieutenant Leithead

Sergeant Arroliga

For Respondent:

Lieutenant Douglas Grudlock

Captain Rebecca Franceschini

Captain Linda Blackwell

Warden Karen Taylor

LIST OF EXHIBITS:

For Appellant:

None

For Respondent:

R-1 Preliminary Notice of Disciplinary Action 31-A, dated February 10, 2017

R-2 General Incident Report authored by Sergeant Theron Sharper, dated February 3, 2017

R-3 Supervisor Staff Complaint authored by Franceschini, dated February 6, 2017

R-4 Pictures of the Envelope and Fourteen CDs

R-5 Supervisor Staff Complaint authored by Grundlock, dated February 6, 2017

R-6 Videos and Pictures

R-7 General Incident Report by Blackwell, dated February 9, 2017

R-8 General Incident Reported by Leithead, dated February 9, 2017

R-9 General Incident Report by Arroliga, dated February 9, 2017

R-10 General Incident Report by White, dated February 9, 2017

R-11 Camden County Department of Correction Post Order Number 33 Mail Officer/Processing and Delivery

R-12 Camden County Department of Corrections Rules of Conduct

R-13 Camden County Department of Corrections General Order Number 73 Personal Conduct of Employees

R-14 Camden County Department of Corrections General Order Number 74 Professional Code of Conduct

R-15 Wilson Chronology of Discipline