



DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 30<sup>TH</sup> DAY OF SEPTEMBER, 2020

*Deirdre L. Webster Cobb*

Deirdre L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Christopher S. Myers  
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**

**SUMMARY DECISION**

OAL DKT. NO. CSR 12477-19

AGENCY DOCKET NO: 2019-3692

**IN THE MATTER OF TEODORO AROCHO-  
RAMOS, EAST JERSEY STATE PRISON,  
NEW JERSEY DEPARTMENT OF  
CORRECTIONS.**

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**Teodoro Arocho-Ramos, petitioner, pro se**

**Rimma Razha, Deputy Attorney General (Gurbir S. Grewal, Attorney General of  
New Jersey, attorney) appearing for Respondent**

Record Closed: September 1, 2020

Decided: September 3, 2020

**BEFORE THOMAS R. BETANCOURT, ALJ:**

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

Appellant, Teodoro Arochos-Ramos, appeals a Final Notice of Disciplinary Action, dated May 30, 2019, providing for a penalty of removal. The contested matter was transferred to the Office of Administrative Law (OAL), where it was filed on September 4, 2019.

A prehearing conference was held on October 3, 2019, and a prehearing Order was entered by the undersigned on October 4, 2019.

Respondent filed a notice of motion for summary decision on August 7, 2020. No response thereto was filed by Appellant. Further, no request for an extension to file was made. The record closed on September 1, 2020.

### **FACTUAL BACKGROUND**

Appellant was employed by the Department of Corrections (DOC) at East Jersey State Prison as a correctional officer with the rank of sergeant. On May 8, 2019, Appellant was arrested by the Hopatcong Police Department and charged with a violation of N.J.S.A. 2C:35-10a(a), a third degree offense, and N.J.S.A. 2C:35-13, a third degree offense, and N.J.S.A. 2C:35-10.5e(2), a fourth degree offense. Appellant was immediately suspended by DOC pending disposition of the criminal charges.

Appellant did not request a departmental hearing. A Final Notice of Disciplinary Action (FNDA) dated May 30, 2019 was issued, providing for a penalty of removal.

Appellant was indicted on December 19, 2019 for third degree possession of a controlled dangerous substance in violation of N.J.S.A. 2C:35-10a(1), and fourth degree possession of more than five dosage units of Human Growth Hormone in violation of N.J.S.A. 2C:35-10.5e(2). (Razhba Cert., Ex. B)

Appellant entered into the Sussex County Pre-Trial Intervention (PTI) program on February 3, 2020. Pursuant to the terms of PTI Appellant agreed to forfeit all present and future public employment in New Jersey. (Razhba Cert., Ex. C)

### **LEGAL ANALYSIS AND CONCLUSION**

A motion for summary decision may be granted if the papers and discovery presented, as well as any affidavits which may have been filed with the application, show that there is no genuine issue of material fact and the moving party is entitled to prevail as a matter of law. N.J.A.C. 1:1-12.5(b). If the motion is sufficiently supported, the non-moving party must demonstrate by affidavit that there is a genuine issue of fact which can only be determined in an evidentiary proceeding, in order to prevail in such

an application. *Ibid.* These provisions mirror the summary judgment language of R. 4:46-2(c) of the New Jersey Court Rules.

The motion judge must “consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party . . . , are sufficient to permit a rational fact finder to resolve the alleged disputed issue in favor of the non-moving party.” Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 523 (1995). And even if the non-moving party comes forward with some evidence, this forum must grant summary decision if the evidence is “so one-sided that [the moving party] must prevail as a matter of law.” *Id.* at 536 (citation omitted).

There are no disputed facts in the instant matter, petitioner having filed no response, or a request for an extension to file a response. See N.J.A.C. 1:1-12.5. Accordingly, the matter is ripe for summary decision.

In accordance with his admittance into PTI Appellant forfeited his right to public employment. He cannot dispute his termination in the FNDA.

The only issue is whether Appellant is entitled to back pay from the time of his suspension from May 8, 2019 to the date he was terminated from employment, May 30, 2019.

N.J.A.C. 4A:2-2.10 states in pertinent part:

(c) Where an employee, other than a municipal police officer, has been suspended based on a pending criminal complaint or indictment, following disposition of the charges the employee shall receive back pay, benefits and seniority if the employee is found not guilty at trial, the complaint or indictment is dismissed, or the prosecution is terminated.

1. Such items shall not be awarded when the complaint or indictment is disposed of through Conditional Discharge, N.J.S.A. 2C:36A-1, or Pre-Trial Intervention (PTI), N.J.S.A. 2C:43-12 et seq.

Accordingly, Appellant is entitled to no back pay from the time of his suspension to the time of his termination.

Based upon the foregoing, I **CONCLUDE** that Respondent's motion for summary decision be **GRANTED**; and that the appeal should be **DISMISSED** with prejudice.

**ORDER**

It is hereby **ORDERED** that Respondent's motion for summary decision is **GRANTED**; and,

It is further **ORDERED**, that Appellant's appeal is dismissed, with prejudice.

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.



September 3, 2020

DATE

\_\_\_\_\_  
THOMAS R. BETANCOURT, ALJ

Date Received at Agency

\_\_\_\_\_

Date Mailed to Parties:

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**APPENDIX**

**List of Moving Papers**

For Petitioner:

None

For Respondent:

Notice of Motion for Summary Decision

Brief in Support of Motion for Summary Decision

Certification of Rimma Razhba, DAG, with Exhibits A through C