



PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lieutenant Governor

State of New Jersey
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DIVISION OF CRIMINAL JUSTICE
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GURBIR S. GREWAL
Attorney General

VERONICA ALLENDE
Director

CARIDAD E. RIVERO,

Petitioner

v.

NEW JERSEY STATE POLICE
TRAINING ACADEMY,

Respondent

FINAL DECISION

OAL Docket No. PTC 00186-18


The Police Training Commission received an Initial Decision in this matter on May 1, 2018. This final decision was rendered within the time limits prescribed by N.J.A.C. 1:1-18.6.

Petitioner Caridad E. Rivero was enrolled in the Basic Course for Police Officers at the New Jersey State Police Academy. On September 11, 2017, Petitioner was dismissed from the basic course for physical training failure. Petitioner filed an appeal with the Police Training Commission, which was referred to the Office of Administrative Law.

As a result of a settlement conference, the parties agreed to a settlement of all issues in dispute and memorialized the terms of the settlement in a Settlement Agreement. Under the terms of the settlement, the Respondent will amend its records for Petitioner to reflect a resignation in good standing from the Academy on September 11, 2017. The Petitioner agrees to withdraw her appeal, agrees that she will not continue to seek employment with the City of Newark and waives any and all claims against the Academy. The Settlement Agreement shall not prohibit petitioner from seeking future employment with the Newark Police Department via a subsequent Civil Service examination nor as a "lateral transfer" via the Intergovernmental Transfer Program. The Settlement Agreement shall not prohibit the Petitioner from seeking employment with other law enforcement agencies. On April 26, 2018, ALJ Ellen S. Bass approved the settlement and ordered the parties to comply with its terms.

On Wednesday, June 6, 2018, at a regular meeting of the Police Training Commission, the commissioners reviewed the Initial Decision rendered by Judge Bass. The commissioners voted to **ADOPT** the Initial Decision as the **FINAL DECISION**.

POLICE TRAINING COMMISSION

By: 
John F. Cunningham, Chairman

Date: 6/11/2018



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GURBIR S. GREWAL
Attorney General

VERONICA ALLENDE
Director

ANDREW MASTICE,

Petitioner

v.

FINAL DECISION

OAL Docket No. PTC 08576-16

ESSEX COUNTY COLLEGE PUBLIC
SAFETY TRAINING ACADEMY,

Respondent

The Police Training Commission received an Initial Decision in this matter on March 27, 2018. The Police Training Commission requested and was granted one extension on April 4, 2018 pursuant to N.J.S.A. 52:14B-10(c) and N.J.A.C. 1:1-18.8. This final decision was rendered within the time limits prescribed by N.J.A.C. 1:1-18.6 and N.J.A.C. 1:1-18.8.

Petitioner Andrew Mastice was enrolled in the Special Law Enforcement Officer Class II (SLEO II) at the Essex County College Public Safety Academy. On April 23, 2016, Petitioner was dismissed from the Police Academy for violation of school rules alleging that Petitioner wrote and signed a false report denying that he removed his training firearm from its holster without authorization.

Petitioner filed an appeal with the Police Training Commission, which was referred to the Office of Administrative Law. On October 23, 2017 a hearing was held before Administrative Law Judge Joan Bedrin-Murray. On or about December 20, 2017, the matter was reassigned to ALJ Joann Lasala Candido. On March 16, 2018, the record was closed following submission of post-hearing briefs from both parties. On March 19, 2018, following consideration of all papers and evidence, the ALJ Candido determined that Petitioner's dismissal was not supported by substantial credible evidence. ALJ Candido ultimately concluded that the Petitioner's dismissal should be reversed.



On June 6, 2018, at a regular meeting of the Police Training Commission, the commissioners reviewed the Initial Decision rendered by Judge Candido. The commissioners voted to **ADOPT** the Initial Decision as the **FINAL DECISION**.

POLICE TRAINING COMMISSION

By: 
John F. Cunningham, Chairman

Date: 6/14/2018





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GURBIR S. GREWAL
Attorney General

VERONICA ALLENDE
Director

CHRISTOPHER REECE,

Petitioner

v.

PASSAIC COUNTY POLICE
ACADEMY,

Respondent

FINAL DECISION

OAL Docket No. PTC 02976-16

OAL Docket No. CSV 11753-16
(Consolidated)

The New Jersey Police Training Commission (PTC) hereby determines the matter of the dismissal of Petitioner Christopher Reece from the Passaic County Police Academy. Petitioner was enrolled in a Basic Training Course for Police Officers at the Passaic County Police Academy. On February 2, 2016, Petitioner was dismissed from the basic course for physical fitness failure (failure to participate). Petitioner filed an appeal with the PTC, which was referred to the Office of Administrative Law.

The PTC received an Initial Decision in this matter on April 5, 2018. Exceptions were filed by the petitioner, Christopher Reece, on April 20, 2018. The Respondent, Passaic County Police Academy filed response exceptions on April 23, 2018. The PTC requested and was granted one extension on April 17, 2018 pursuant to N.J.S.A. 52:14B-10(c) and N.J.A.C. 1:1-18.8. This Final Decision was rendered within the time limits prescribed by N.J.A.C. 1:1-18.6.

On Wednesday, June 6, 2018, at a regular meeting of the PTC, the Commissioners reviewed the Initial Decision rendered by Administrative Law Judge Kelly J. Kirk. Based upon a review of the record presented and the exceptions submitted, the commissioners voted to **AFFIRM** and **ADOPT** the Initial Decision as the Final Decision.



Discussion

A hearing on this matter was held on November 9, 2017 and November 16, 2017. The record remained open for post-hearing submissions until April 2, 2018 following receipt of the final submission.

Following the Initial Decision, both parties submitted exceptions. In their exceptions the Petitioner asserts that the Initial Decision did not address the argument that respondent's failure to provide petitioner with the individual profile form from his physical fitness assessment should invalidate Petitioner's dismissal. Petitioner further asserts that the ALJ gave greater credence to the Nonparticipation and Trainee Reports, than to Petitioner's testimony, which the ALJ deemed credible. Finally, Petitioner asserts that the ALJ mischaracterized Petitioner's preparation for the physical training program in the Academy

In Respondent's reply, Respondent asserts that Petitioner's exceptions require a review of the record, a transcript of which was not provided by the Petitioner. Respondent further asserts that even if a review of the record occurred, such review would confirm that each training report was prepared and submitted by the petitioner.

N.J.A.C. 1:1-18.6 limits an agency head's ability to reject or modify certain findings of an administrative law judge. Specifically, an "agency head may reject or modify conclusions of law, interpretations of agency policy, and issues of fact not relating to issues of credibility of lay witness testimony." N.J.A.C. 1:1-18.6(b). For an agency head to reject or modify findings of fact related to credibility of lay witness, it must be determined that the findings of the administrative law judge were "arbitrary, capricious, or unreasonable, or not supported by sufficient, competent, and credible evidence in the record." N.J.A.C. 1:1-18.6(c).

While Petitioner notes points in the record that counter the findings of fact by Judge Kirk, it is left to the administrative law judge to make determinations on the weight and credibility of testimony. Deference is afforded to the findings by Judge Kirk as to the credibility of the testimony presented by Petitioner and witnesses on behalf of Respondent, and that the case, as presented, was sufficient to meet Respondent's burden to demonstrate by a preponderance of the evidence that Petitioner was properly dismissed. Absent such findings were arbitrary, capricious, or unreasonable, or not supported by sufficient, competent, and credible evidence in the record, the decision shall not be disturbed.

Here, the ALJ's findings of fact and conclusions of law appear to be supported by the recorded. There is no evidence to support that such findings were arbitrary, capricious, or unreasonable. As such, the Police Training Commission has determined not to disturb these findings.


Conclusion

Based upon the foregoing, the PTC concurs with the factual findings, legal conclusions, and credibility determinations by Judge Kirk in this matter. In light of the discussion above, the



PTC, on this 6th day of June 2018, **AFFIRMS** the Initial Decision as specifically described in this **FINAL DECISION**.

POLICE TRAINING COMMISSION

By: 
John F. Cunningham - Chairman





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VERONICA ALLENDE
Director

MATHEW HAHN,

Petitioner

v.

MONMOUTH COUNTY
POLICE ACADEMY,

Respondent

FINAL DECISION

OAL Docket No. PTC 14419-16
OAL Docket No. CSV 18089-16

(CONSOLIDATED)

The Police Training Commission received an Initial Decision in this matter on May 1, 2018. This final decision was rendered within the time limits prescribed by N.J.A.C. 1:1-18.6.

Petitioner Mathew Hahn was enrolled in the Basic Course for County Corrections Officers at the Monmouth County Police Academy. On September 8, 2016, Petitioner was dismissed from the basic course for insubordination. Petitioner filed an appeal with the Police Training Commission, which was referred to the Office of Administrative Law.

As a result of a settlement conference, the parties agreed to a settlement of all issues in dispute and memorialized the terms of the settlement in a Settlement Agreement. Under the terms of the settlement, the Respondent will amend its records for Petitioner to reflect that Petitioner voluntarily withdrew from the Basic Course for Corrections Officers. The Petitioner agrees that he will not seek future employment as a sworn law enforcement officer with Middlesex County. This settlement shall not prevent the Respondent from applying for future law enforcement positions with any other law enforcement agency, or seeking any other employment whatsoever, whether or not that employment is governed by the Civil Service Act. On April 23, 2018, ALJ Dean J. Buono approved the settlement and ordered the parties to comply with its terms.

On Wednesday, June 6, 2018, at a regular meeting of the Police Training Commission, the commissioners reviewed the Initial Decision rendered by Judge Buono. The commissioners voted to adopt the Initial Decision as the **FINAL DECISION**.

POLICE TRAINING COMMISSION

By: 
John F. Cunningham, Chairman

Date: June 12, 2018



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GURBIR S. GREWAL
Attorney General

VERONICA ALLENDE
Director

ZEINAB ARAFA,

Petitioner

FINAL DECISION

v.

OAL Docket No. PTC 17850-16

NEW JERSEY DEPARTMENT OF
CORRECTIONS TRAINING ACADEMY,

Respondent

The Police Training Commission received an Initial Decision in this matter on April 4, 2018. The Police Training Commission requested and was granted one extension on April 9, 2018 under N.J.S.A. 2C:52:14B-10(c) and N.J.A.C. 1:1-18.8. This final decision was rendered within the time limits prescribed by N.J.A.C. 1:1-18.6.

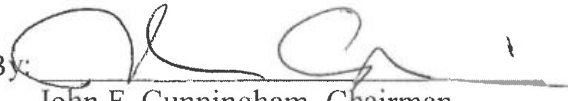
Petitioner Zeinab Arafa was enrolled in a basic training course at the New Jersey Department of Corrections Training Academy (NJDCTA). On August 17, 2016, Petitioner was dismissed from the basic course for insubordination and for failing to meet physical conditioning standards. Petitioner filed an appeal with the Police Training Commission, which was referred to the Office of Administrative Law on November 28, 2016.

Respondent filed a motion for summary decision on July 28, 2017, and Petitioner responded on October 12, 2017. Respondent submitted a reply brief on November 21, 2017.

ALJ Susan M. Scarola issued an Initial Decision on March 29, 2018. Petitioner argued that the NJDCTA failed to adequately accommodate her religious dietary restrictions and that, therefore, she was unable to properly recover from the physical conditioning sessions and successfully complete the physical training requirements. Despite these claims, Judge Scarola found that the NJDCTA reasonably accommodated the petitioner's dietary restrictions. She also found that both Petitioner's conduct, and Petitioner's failure to complete eighty (80) percent of the physical-training sessions provided the NJDCTA with good cause to dismiss her. Therefore, Judge Scarola affirmed Petitioner's dismissal from the NJDCTA.

On Wednesday, June 6, 2018, at a regular meeting of the Police Training Commission, the commissioners reviewed the Initial Decision rendered by Judge Scarola. The commissioners voted to adopt the Initial Decision as the **FINAL DECISION**.

POLICE TRAINING COMMISSION

By: 
John F. Cunningham, Chairman

Date: June 12, 2018



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GURBIR S. GREWAL
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VERONICA ALLENDE
Director

NICHOLAS DIAZ,

Petitioner

FINAL DECISION

v.

OAL Docket No. PTC 00723-18

NEW JERSEY STATE POLICE
TRAINING ACADEMY,

Respondent

The Police Training Commission received an Initial Decision in this matter on May 10, 2018. A correction to the Initial Decision was received on May 14, 2018. This final decision was rendered within the time limits prescribed by N.J.A.C. 1:1-18.6.

Petitioner Nicholas Diaz was enrolled in the Basic Course for Police Officers at the New Jersey State Police Training Academy (NJSPTA). On September 1, 2017, Petitioner was dismissed from the basic course for failing to meet physical conditioning standards. Specifically, the Petitioner was dismissed for failure to complete the required 24 push-ups within the allotted time. Petitioner filed an appeal with the Police Training Commission, which was referred to the Office of Administrative Law.

The matter was heard on March 22, 2018, and the parties were permitted to file post-hearing submissions. Respondent filed a post-hearing submission on April 9, 2018, and Petitioner filed a post-hearing submission on April 10, 2018.

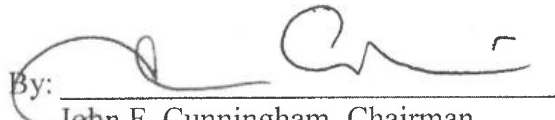
ALJ Ernest M. Bongiovanni issued an Initial Decision on April 30, 2018. He found that the parties agreed to the following facts: 1) Petitioner was required to complete a physical training test in accordance with PTC standards, including the push-up requirement, to successfully complete his course at the NJSPTA; 2) Petitioner was properly trained on all physical conditioning standards, including push-ups; 3) Neither Trooper who was present at the second PT test administered on September 1, 2017, has a direct recollection of counting the push-ups completed by Petitioner; 4) NJSPTA records indicate that Petitioner completed 21 out of 24 push-ups during the September 1, 2017 test; and 5) excluding push-ups, Petitioner competed all other components

of the PT test successfully.

Judge Bongiovanni found that Respondent had not satisfied its burden of proof and demonstrated that Petitioner had failed to complete the PT test requirements by a preponderance of the evidence. Respondent had failed to present documentation or testimony showing that Petitioner failed to perform the required number of push-ups in the allotted time. Therefore, Judge Bongiovanni granted Petitioner's appeal and reversed the Petitioner's dismissal from the NJSPTA.

On Wednesday, June 6, 2018, at a regular meeting of the Police Training Commission, the commissioners reviewed the Initial Decision rendered by Judge Bongiovanni. The commissioners voted to adopt the Initial Decision as the **FINAL DECISION**.

POLICE TRAINING COMMISSION

By: 
John F. Cunningham, Chairman

Date: June 12, 2018