

CIVIL SERVICE COMMISSION MINUTES

February 5, 2025

A regular meeting of the Civil Service Commission was held at 2:30 p.m., in-person in room 402-A at the County Administration Center; 1600 Pacific Hwy.; and via Videoconference/Teleconference.

Present:

P. Kay Coleman
Bryan J. Fletcher
A. Melissa Johnson
Will Rodriguez-Kennedy

Absent:

Comprising a quorum of the Commission

Support Staff Present:

Todd Adams, Executive Officer
Morgan Foley, Commission Legal Advisor.

Approved
Civil Service Commission
April 2, 2025

**SAN DIEGO COUNTY CIVIL SERVICE COMMISSION
REGULAR MEETING AGENDA
FEBRUARY 5, 2025**

- 1:30 p.m. CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation
- 2:30 p.m. OPEN SESSION: Attend in-person at the County Administration Center, 1600 Pacific Highway, 4th Floor, Room 402A, San Diego, California; or Videoconference/Teleconference.
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Notice pursuant to Government Code Section 54954.2.

CLOSED SESSION AGENDA
County Administration Center, Room 458

Members of the public may be present at this location to hear the announcement of the closed session agenda.

- A. Commissioner Johnson: CONSIDERATION OF PUBLIC EMPLOYEE DISCIPLINE (GOV. CODE SEC. 54957(B)) Rico J. Dominguez, Esq., on behalf of **2024-044P**, former Deputy Sheriff, appealing an Order of Termination and Charges from the Sheriff's Office.
- B. Commissioner Johnson: CONFERENCE WITH LEGAL COUNSEL - PENDING LITIGATION (GOV. CODE SEC. 54956.9(a)) **2024-008**, former Protective Services Worker, alleging discrimination by the Health and Human Services Agency.

OPEN SESSION AGENDA

ORDER OF BUSINESS

A. **ROLL CALL**

Present: Coleman, Fletcher, Johnson, Rodriguez-Kennedy

Absent: None

B. **APPROVAL OF MINUTES:** Regular meeting of January 15, 2025.

Motion by Commissioner Johnson to approve the minutes of the regular meeting of January 15, 2025; seconded by Commissioner Coleman. Motion passed with all in favor.

C. **NON-AGENDA PUBLIC COMMENT:**

None.

D. **AGENDA ITEM DISCUSSION:**

Appellant 2024-008 requested to speak on agenda item #4.

E. **FORMATION OF CONSENT AGENDA**

Item Nos. 3 & 4 were automatically pulled for discussion. Agenda item #4 was also pulled by appellant.

Item Nos. 1, 2 & 5 are available for approval on the Consent Agenda.

Motion by Commissioner Coleman to approve the Consent Agenda; seconded by Commissioner Fletcher. Motion passed with all in favor.

F. **DISCUSSION ITEMS**

Item Nos. 3 & 4.

AGENDA ITEMS

CONFIRMATION OF ASSIGNMENT

1. Commissioner Fletcher: **2024-064P**, former Deputy Sheriff, Detentions-Court Services, appealing of an Order of Termination and Charges from the Sheriff's Office.

Confirmed.

2. Commissioner Coleman: **2025-002P**, former Deputy Probation Officer, appealing a Final Order of Removal and Charges from the Probation Department.

Confirmed.

DISCIPLINE

Findings

3. Commissioner Johnson: Rico J. Dominguez, Esq., on behalf of **2024-044P**, former Deputy Sheriff, appealing an Order of Termination and Charges from the Sheriff's Office.

FINDINGS AND RECOMMENDATIONS:

Appellant 2024-044P ("Employee") appealed an Order of Termination and Charges removing him from the position of Deputy Sheriff in the Sheriff's Office ("Department"). The Commission appointed, Commissioner A. Melissa Johnson, to hear the appeal and submit findings, conclusions, and recommendations to the Civil Service Commission. Thereafter, a hearing was held on December 12 and 13, 2024.

The causes of discipline were: three charges of failure of good behavior, one charge each of intemperance, conduct unbecoming, dishonesty, and acts incompatible with and/or inimical to the public service.

Prior to the start of the hearing, the Employee raised an objection and moved to dismiss the Order of Termination on the argument that the Department's Notice of Proposed Disciplinary Action was issued beyond the one-year period of limitations under the Public Safety Officers Procedural Bill of Rights Act. This motion is denied.

Near the end of the hearing the Employee raised his second objection to the discipline on the basis that the pre-disciplinary procedures followed by the Department, as mandated by *Skelly v. State Personnel Board* ("Skelly"), were insufficient to provide the Employee with the requisite due process under *Skelly*. The Employee's motion to dismiss the action based on the lack of procedural due process is denied.

In the hearing, the Employee asserted his 5th Amendment right against self-incrimination.

The Employee and his girlfriend were in a romantic relationship between December of 2020 and ending July 30, 2022.

The evidence supports a finding that the events that the girlfriend complained about have a common feature: the

Employee's off-duty consumption of alcohol. The girlfriend's statements in the IA interview with the Lieutenant consistently reflect that the Employee showed up at her apartment or her place of work in a state of inebriation. While the Employee, during his IA interview, denied that his lack of recollection of events was the result of intoxication at the time, discussions exchanged between him and the girlfriend consistently reflect - contemporaneously - that he couldn't recall what happened even the evening before. Yet his excuse at the time of his IA interview by the Lieutenant was that "it was too long ago."

Fortunately, there are text messages. In none of these does the Employee emphatically deny the complaints or recitation of events occurring less than 24 hours prior to each of his responses - *including the girlfriend's communication of harm caused from physical violence*. There is evasiveness, but when pressed by the girlfriend, Employee provides a tacit admission and an apology. Importantly, not once did the Employee attempt to correct the messages in his responses, nor did he consider ending their relationship because he believed, at the time, that the girlfriend's messages were fabrication and lies.

The evidence presented by the Department supports a finding that on September 21, 2021, after consuming alcohol, the Employee left the girlfriend's apartment and came back to the apartment and, finding it secured by a chain lock, broke the device by forcing the door open, ripping the attached base from the molding at the door jamb.

The Employee thereafter ransacked the girlfriend's bedroom, strewing clothing and personal belongings around her room.

The evidence presented by the Department supports a finding that on January 2, 2022, following the consumption of alcohol, the Employee called the girlfriend asking for her to give him a ride home. The girlfriend complied and while at the Employee's residence the two of them engaged in an argument, the result of which was that the Employee became "physical" with her, by grabbing her shoulders with both hands, pushing her against the wall, and then shoved or struck her face two or three times with his open right hand.

The evidence presented by the Department supports a finding that on May 28, 2022, the Employee communicated with a female friend through direct messaging on her Instagram account,

messaging "Hey hottie let's do coke," meaning cocaine. The friend's response included, "I do not do cocaine," to which the Employee replied, "Well we do," "lol." This exchange concerned the friend that a deputy sheriff would send such a message.

The evidence presented by the Department supports a finding that on June 20, 2022, around 2:00 a.m., the Employee accessed the girlfriend's apartment, unannounced, and accused her of cheating on him with his male friend. The girlfriend told him that she was dog-sitting for the male friend since he was having his bachelor party later that day, she offered to watch his dog. The verbal argument led to a physical altercation with the Employee shoving her head into the headboard of her bed, approximately two to three times.

The evidence presented by the Department supports a finding that around 10:30 p.m. on July 4, 2022, after consuming alcohol at a separate event, the Employee visited the girlfriend, who was working at a bar, to get a ride home from her. While together at her workplace he called her "an idiot and a stupid fucking bitch," in front of others (particularly in front of a co-worker's girlfriend whom she just met that night). The Employee was slurring his words and could barely stand up; based on her experience of working in bars the girlfriend could recognize the signs of when a patron was "extremely intoxicated," and the Employee exhibited very clear signs of intoxication.

The evidence further supports a finding that the girlfriend was embarrassed by the Employee's conduct, i.e., showing up at her work, intoxicated, and belittling her, telling her in front of co-workers about "girls, naked girls," at the event he had just come from.

Finally, having agreed to give him a ride home, the girlfriend was subjected to more vitriol from the Employee, when he began berating her, calling her a slut and a whore. When they arrived at his home the Employee refused to get out of the car. Frustrated, upset, and crying, the girlfriend just wanted him out of her car. After leaving the Employee's home, and arriving at her apartment, the Employee later showed up at her residence, spending the night at her apartment. He left early in the morning without any communication with the girlfriend about his conduct, until an exchange of text messages about his misbehavior the night before.

Employee is guilty of failure of good behavior where, on September 21, 2021, at approximately 3:00 a.m., he forcefully broke the security device on the entry door to the girlfriend's apartment, thereby causing damage to the property.

Employee is guilty of failure of good behavior where, on January 2, 2022, he was involved in an argument with his girlfriend, at which time he battered his girlfriend during the argument by shoving her at her shoulders and then again in the face with an open palm strike (push).

Employee is guilty of failure of good behavior where, on June 20, 2022, he was involved in an argument with his girlfriend, at which time he battered his girlfriend during the argument by shoving her two or three times in the face with an open palm strike (push).

Employee is guilty of intemperance where, on July 4, 2022, his off-duty consumption of intoxicating beverages resulted in public intoxication, obnoxious behavior, and a domestic dispute with his girlfriend. Such conduct discredited the Employee as a deputy sheriff and had the potential to erode the reputation of the San Diego County Sheriff's Department. Employee is guilty of conduct unbecoming where on May 28, 2022, he communicated with an individual on Instagram who was aware of his status as a San Diego County deputy sheriff and invited her to join him in using cocaine. Such conduct, even in a joking manner, discredited the Employee as a deputy sheriff and had the potential to erode the reputation of the San Diego County Sheriff's Department.

Employee is guilty of dishonesty where on April 26, 2023, he displayed a pattern of evasiveness and deceit in responses to the Internal Affairs investigator's administrative review. The Employee's conduct during that procedure proved that he was not truthful to the fullest extent of his knowledge during the administrative interview and in answering the investigator's questions.

Employee is guilty of acts incompatible with and/or inimical to the public service where his conduct as set forth in the preceding conclusions.

Important in this analysis is the Employee's likely issue with his consumption of alcohol, even if off-duty. As pointed out by the testimony of his girlfriend and his female friend,

they were concerned that somebody holding the position of deputy sheriff would participate in such off-duty activities that involve drinking to intoxication, or messaging about using illegal drugs. I share their concerns. An employee who drinks excessively, commits battery on another person (multiple times), is so publicly intoxicated it results in obnoxious behavior and publicly berating another person, brags (or jokes) about using cocaine, is dishonest, and discredits and erodes the reputation of the San Diego County Sheriff's Department should not remain employed as a Deputy Sheriff.

Therefore, I find that the Department has met its burden of proving the charges detailed in the causes of discipline and further find that the Department's decision to terminate the Employee is reasonable and should be affirmed.

Based on the findings and conclusions set forth above, it is hereby recommended that the Order of Termination and Charges be affirmed; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motioned by Commissioner Johnson for approval of the decision by the Commission; seconded by Commissioner Fletcher. Motion passed with all in favor.

DISCRIMINATION

Findings

4. Commissioner Johnson: **2024-008**, former Protective Services Worker, alleging discrimination by the Health and Human Services Agency.

Appellant (2024-008) addressed the Commission regarding his discrimination complaint and failure of probation on February 16, 2024. He states his complaint is based on retaliation, unfair treatment, and procedural failures that denied him a fair chance to complete probation. After the Appellant spoke, Commissioner Johnson read her report.

FINDINGS AND RECOMMENDATIONS:

On March 6, 2024, the Commission appointed, Commissioner A. Melissa Johnson, as its member to be the investigating officer in the matter of the complaint submitted by Employee 2024-

008, former Protective Services Worker, which alleged discrimination based on retaliation for engaging in a protected activity by the Health and Human Services Agency. In accordance with the established rules and procedures of the Commission, the matter was concurrently referred to the Office of Ethics and Compliance ("OEC") for investigation.

The OEC concluded the discrimination investigation and reported its findings to the Commission. I have reviewed OEC's report and have taken into consideration all documentation submitted in this matter. I concur with OEC's Report and have concluded that: the evidence does not support a finding of probable cause that a violation of discrimination laws occurred.

Civil Service Rule 6.1.4, Issuance of Temporary Orders, states in relevant part "Upon the filing of a complaint, the Commission may issue such orders as are necessary to maintain the status quo, to bar further actions relative to the employment process in issue, or to avoid potential continuing damages."

On July 25, 2024, Employee submitted a request under Rule 6.1.4 requesting "the Commission to make temporary orders awarding me partial continuing wages at 85% of my hourly wages at time of dismissal until a hearing is conducted."

By using the term, "may" Rule 6.1.4 is (by definition) discretionary. The three scenarios for exercising its discretion are as described above, and addressed as follows:

First, Rule 6.1.4's remedy to protect an employee's "status quo" is an intent to protect an employee's status, such that if no intervention occurred immediately, then status quo would be lost. In this situation the Employee has already been dismissed from his position.

Second, the remedy of Rule 6.1.4, barring "further actions relative to the employment process," is similarly applicable to complaints of current employees of the County. It contemplates a complaint of discrimination experienced by current employees when the Commission agrees the current employee should be protected from possible discrimination, or retaliation.

Third, the Commission could consider a temporary order by the Commission under Rule 6.1.4 "to avoid potential continuing

damage." If, following a hearing, the Commission determined that a violation of Charter Section 901 occurred, the Commission's remedy of back pay and reinstatement would be enough to make Employee whole. In this case there is no such determination.

It is therefore recommended that Employee's Rule VI discrimination complaint be denied, and no hearing be conducted.

The Employee's request for a temporary order awarding him 85% of his hourly wages until a hearing is conducted be denied; and the Commission approve and file this report with a finding of no probable cause to believe that the Complainant has been unlawfully discriminated against.

Motioned by Commissioner Johnson for approval of the decision by the Commission; seconded by Commissioner Fletcher. Motion passed with all in favor.

EXTENSION OF TEMPORARY APPOINTMENTS

5. Office of the Public Defender

2 Social Workers I: 2025-003 and 2025-004

Ratified.

ADJOURNED: 3:11 p.m.

ASSISTANCE FOR THE DISABLED: Agendas and records are available in alternative formats upon request. Contact the Civil Service Commission office at (619)531-5751 with questions or to request a disability-related accommodation. Individuals requiring sign language interpreters should contact the Americans with Disabilities Coordinator at (619)531-4908. To the extent reasonably possible, requests for accommodation or assistance should be submitted at least 24 hours in advance of the meeting so that arrangements may be made. An area in the front of the room is designated for individuals requiring the use of wheelchair or other accessible devices.