



PIMA COUNTY

MERIT SYSTEM COMMISSION MINUTES OF FEBRUARY 24, 2021

Members Present:

Michael Hellon, Chair
David P. Freund
Paul Rubin
Rhonda Pina, observer

Also Present Were:

Barry Corey	Counsel for the Commission/Council
Bryson Buckley	Deputy County Attorney, Pima County Attorney's Office
Daniel Jurkowitz	Deputy County Attorney, Pima County Attorney's Office
Lenora Anderson	Paralegal, Pima County Attorney's Office
Maritza Broce	Appellant Representative
Michelle Campagne	Finance and Risk Management Director
Michelle Garsha	Appellant Representative
Rosa Spallieri	Appellant
Sofia Blue	Human Resources
Stella Montiel	Dept. Personnel Representative., Finance and Risk Management Dept.
Trina Bergen	Recording Secretary, Human Resources

The Open Meeting of the Pima County Merit System Commission was called to order by Mike Hellon, Chair, at 9:01 a.m. All persons in attendance were asked to state their names for the record.

A. Roll Call

B. Pledge of Allegiance led by Chair Mike Hellon

C. Other Business

Discussion and Action:

1. Welcome Rhonda Pina to the Commission

Ms. Pina is from District 1 and is new to the Merit System Commission and Law Enforcement Merit System Council. She is attending this session as an observer.

2. Welcome Sofia Blue to the Commission

Ms. Blue will be assisting in the Merit System Commission/Law Enforcement Merit System Council process.

3. Election of Chairman and Vice Chairman

Mr. Freund made a motion to nominate Mr. Hellon as Chair. Mr. Rubin seconded the motion. Motion passed unanimously. Mr. Rubin nominated Mr. Freund as Vice Chair and Mr. Hellon seconded. Motion passed unanimously.

D. New Items

Mr. Rubin mentioned an email sent by Ms. Bohland. She clarified the email was a courtesy to the Commissioners. It pertained to changes in the Bereavement policy and was sent to several people for their review and edits before it goes to the Board of Supervisors on March 16, 2021. Changes to the policy were:

- Changed from days to hours because several people have 10 to 12 hour shifts.
- People can use sick leave when additional bereavement time is needed.

(At this time the Commission went off the record while waiting for the 9:30 a.m. hearing to begin)

E. Appeal Hearing

Discussion and Action:

Rosa Spallieri v. Pima County Finance and Risk Management
(Dismissal Appeal)

The Commission reconvened at 9:30 a.m. and Mr. Corey advised roll call needed to be called again.

FOR THE RECORD: Mr. Hellon stated the panel for this hearing is Commissioner Freund, Commissioner Rubin and Commissioner Hellon. All persons in attendance were asked to state their name.

Mr. Jurkowitz stated he has a couple of preliminary matters:

- If the hearing should go to Friday, he requested an extended lunch time. He is teaching a class over the lunch time.
- During the pre-hearing conference Witnesses and Exhibit lists were exchanged. The appellant had no objections to the Respondent Exhibits. Mr. Jurkowitz had a number of objections to the Appellant's Exhibits. Ms. Spallieri would like to contest past disciplinary actions that are not within the jurisdiction of the Commission. She received documented verbal counseling. She received a Letter of Reprimand. He stated none of those things are reviewable by the Commission. They are admitting those matters for progressive discipline purposes but the review of those is not in the purview of the Commission.

Mr. Hellon stated the relevance of the prior discipline exists only to the extent that it might show progressive discipline. Anything involving the specifics whether it is right or wrong is immaterial.

Mr. Hellon, Chair, read the opening statement into the record and asked if either party wished to invoke the Rule of Privilege. The Rule of Privilege was invoked by Maritza Broce, Representative for the Appellant.

Respondent's and Appellant's Witnesses: Michelle Campagne, Director of Pima County Finance and Risk Management, and Rosa Spallieri, appellant were sworn in by Counsel Barry Corey, Counsel to the Commission and provided testimony in this hearing. Cathy Bohland, Director of Pima County Human Resources, was sworn in as a witness, but did not provide testimony.

Respondent's Witness: Stella Montiel, Pima County Department of Finance and Risk Management, Department Personnel Representative was sworn in by Counsel Barry Corey, Counsel to the Commission and provided testimony in this hearing.

RESPONDENT'S EXHIBITS 1 – 16 were admitted without objection and listed below.

- EXHIBIT #1** Pima County Board of Supervisors Policy C 2.1 – Workplace Ethics, Conduct and Compliance;
- EXHIBIT #2** Pima County Merit System Rule 12.1.C – Disciplinary and Other Personnel Actions;
- EXHIBIT #3** Pima County Personnel Policy 8-119 – Rules of Conduct;
- EXHIBIT #4** Pima County Merit System Appeal Form dated December 9, 2020;
- EXHIBIT #5** Notice of Dismissal dated December 4, 2020;
- EXHIBIT #6** Appellant's Response to Notice of Intent to Dismiss and Pre-Action Meeting dated December 3, 2020, Bates Nos. 8-10;
- EXHIBIT #7** Notice of Intent to Dismiss and Pre-Action Meeting dated November 30, 2020, Bates Nos. 21-23;
- EXHIBIT #8** Notice of Intent to Dismiss and Pre-Action Meeting dated September 9, 2020, Bates Nos. 26-28;
- EXHIBIT #9** Letter from Michelle Campagne to Appellant directing return to work dated September 9, 2020, Bates No. 29;
- EXHIBIT #10** Notice of Special Observation Period dated August 19, 2020, Bates Nos. 31-32;
- EXHIBIT #11** Letter of Reprimand dated June 1, 2020, Bates Nos. 33-35;
- EXHIBIT #12** Notice of Right to Representation dated May 14, 2020, Bates No. 36;
- EXHIBIT #13** Documented Verbal Counseling issued May 6, 2020, Bates Nos. 37-38;
- EXHIBIT #14** Michelle Campagne memos to file, Bates Nos. 576-579 and 648-652;
- EXHIBIT #15** Any exhibits by or from Appellant;
- EXHIBIT #16** Any exhibits needed for rebuttal or foundation.

APPELLANT'S EXHIBITS A – S

- EXHIBIT A** Appellant's response to Notice of Intent to Dismiss and Pre-Action Meeting dated December 3, 2020;
- EXHIBIT B** Appellant's return to work physician note for June 1, 2020;
- EXHIBIT C** Pima County Employee Grievance Form dated June 11, 2020;
- EXHIBIT D** Appellant's Performance Appraisals dated February 28, 2019 and February 28, 2020;
- EXHIBIT E** Letter of Reprimand dated June 1, 2020;
- EXHIBIT F** Pima County Administrative Procedure 23-13 – Documentation of Disciplinary and Other Personnel Actions;
- EXHIBIT G** Pima County Administrative Procedure 23-9 – Employee Assistance Program;

- EXHIBIT H** Email from the appellant to Mandy Armenta regarding verbal warning and early out;
- EXHIBIT I** Email from the appellant to Kelly Hook regarding SR coverage;
- EXHIBIT J** Emails between the appellant, Human Resources Director Cathy Bohland and Deputy Human Resources Director Jason Parrish regarding EAP Form Policy Classification;
- EXHIBIT K** Emails between the appellant and Employment Rights Officer, Mark Malick regarding a denial of a grievance;
- EXHIBIT L** Appellant's Telecommuting Request Form dated March 24, 2020;
- EXHIBIT M** Employee Rights Under the Family and Medical Leave Act Posting;
- EXHIBIT N** Pima County Family and Medical Leave (FMLA) Designation of Approval dated November 24, 2020;
- EXHIBIT O** Pima County Family and Medical Leave (FMLA) Designation of Return to Work dated November 24, 2020;
- EXHIBIT P** Patient Care Summary dated May 20, 2020;
- EXHIBIT Q** Emergency Center Visit Summary dated September 9, 2020;
- EXHIBIT R** Emails from the appellant to Ms. Campagne, County Administrator Chuck Huckelberry, Octavio Barceló, and Mandy Armenta regarding COVID-19 and telecommuting;
- EXHIBIT S** Document outlining the Seven Tests of Just Cause;

Mr. Jurkowitz and Ms. Broce made opening statements.

Respondent's Witness #1: Mr. Jurkowitz called on Finance and Risk Management Director Michelle Campagne to give testimony. Ms. Campagne answered questions concerning the events leading up to the dismissal of Ms. Spallieri.

EXHIBIT 13, Mr. Jurkowitz asked Ms. Campagne to confirm that one of the grounds for dismissal was insubordination and that a Documented Verbal Counseling was issued on May 6, 2020. She said that was correct.

EXHIBIT 11, Mr. Jurkowitz asked Ms. Campagne if Ms. Spallieri received a Letter of Reprimand for insubordination. She confirmed that was true.

EXHIBIT 10, Ms. Campagne confirmed that Ms. Spallieri was served a notice of Special Observation Period.

EXHIBIT 14, Ms. Campagne confirmed that her notes of the events of September 9, 2020 were contemporaneous with said events.

EXHIBIT 9, Ms. Campagne testified that she gave written and verbal directives to Ms. Spallieri to return to work and she would face discipline. She did not comply.

EXHIBIT 8, Mr. Jurkowitz read the last paragraph on page 2 of the Notice of Intent to Dismiss and Pre-Action Meeting dated September 9, 2020. Ms. Campagne confirmed that what was written in the Notice was the basis for the disciplinary action.

EXHIBIT 7, Mr. Jurkowitz asked Ms. Campagne if the pre-action meeting was held. She said it was held.

EXHIBIT 6, Ms. Campagne reviewed the complete response from Ms. Spallieri. Ms. Campagne considered the response and she still felt that dismissal was appropriate.

EXHIBIT 5, Ms. Campagne said that she felt the dismissal was appropriate based on her disciplinary history and the events of September 9, 2020.

ACTION: Mr. Jurkowitz had no further questions.

ACTION: The Commission recessed the hearing for a 10-minute break at 11:01 AM and reconvened at 11:15 AM.

ACTION: Ms. Broce began her cross examination of the witness.

EXHIBIT 13, Ms. Broce began questioning details within the document. Mr. Hellon stated it is not a grievable or appealable document and could only be taken as proof of progressive discipline. Ms. Broce explained this provides context to their argument. Mr. Hellon said they would take note of her argument that it was flawed and the notion of progressive discipline as applied in this case is flawed. Nothing can be gained by debating something that is not within their jurisdiction.

EXHIBIT L, Ms. Broce asked Ms. Campagne a question regarding Ms. Spallieri's telecommuting request. Mr. Jurkowitz objected on the basis that the request was from March of 2020, rather than September 9, 2020 which was the basis for the dismissal. Mr. Hellon noted Mr. Jurkowitz's objection, but allowed the exhibit. Ms. Campagne explained the department had nine requests to telecommute and all were denied because the work has to be done on site due to types of programs they utilized. Ms. Spallieri filed an OSHA complaint after the denial. An investigation took place and the information was shared with Ms. Spallieri. The department followed all the policies that were in place. Ms. Campagne provided dates the department met with Ms. Spallieri regarding her safety concerns.

EXHIBIT 14, Ms. Broce asked Ms. Campagne if she recalled a conversation in which Ms. Spallieri stated that she was willing to return to work under her current supervisor. Ms. Campagne said she did not recall that, but remembered her requesting to return under a different supervisor.

The events of September 9, 2020 were reviewed. It consisted of Ms. Spallieri meeting Ms. Montiel and Ms. Campagne to discuss her current allegation of bullying by Mandy Armenta because she was not greeted in the same manner as other employees and she re-hashed prior events that were investigated.

A memo was created with assistance from Cathy Bohland, HR Director, which stated she is to go back to her workstation, attend her meetings and complete her assigned tasks. Ms. Campagne informed her that if she did not go it would be considered insubordination. Ms. Spallieri was provided three options to leave; return to her workstation, take an unauthorized absence or go to Human Resources

Ms. Campagne and Ms. Montiel left the room again to contact Ms. Bohland. At this time a Notice of Intent to Dismiss letter was created and a letter placing Ms. Spallieri on Administrative Leave pending the Pre-Action meeting. Ms. Spallieri reviewed the letter and said you are going to fire me and she began to breathe heavily. She began to have an anxiety attack and she asked for an ambulance. 911 was called and she was taken to a hospital. Prior to leaving with the paramedics the letters were placed in an envelope and handed to her.

Ms. Broce asked if a meeting was held about the Special Observation Period. Ms. Campagne answered it was not held because Ms. Spallieri went out on leave due to COVID related reasons.

ACTION: Ms. Broce had no further questions for the witness.

ACTION: The Commission recessed for lunch at 12:15 pm and reconvened at 1:15 pm.

ACTION: Mr. Jurkowitz redirected the witness.

Ms. Campagne did not make the telecommuting policy, that is done by the Board of Supervisors. She did not base the dismissal on Ms. Spallieri filing an OSHA complaint. It was issued because of Ms. Spallieri's conduct. Changing supervisors was not a viable option as Ms. Spallieri would still report to the same Division Manager, Deputy Director, and Director. Using a mediator to get a person to return to their workstation is not productive. It is expected employees would go back to their workstation and do their job and follow the directives of their supervisors.

ACTION: Mr. Jurkowitz had no further questions. Witness was excused.

APPELLANT WITNESS #1: Ms. Broce called Rosa Spallieri to testify. She answered questions regarding her career in Pima County, the telecommuting request, work conduct, COVID related safety concerns, Pandemic Leave, the OSHA complaint, the events of September 9, 2020, and the December 3, 2020 meeting. She testified that she was unaware of the Notice of Intent to Dismiss and Pre-Action Meeting when she returned to work.

EXHIBIT D: Appellant's Performance Appraisals dated February 28, 2019 and February 28, 2020. Mr. Jurkowitz objected to the three-month review as her work performance wasn't the basis for the discipline. Ms. Broce briefly reviewed the three-month performance appraisal to show there were no problems with insubordination or unprofessional conduct.

EXHIBIT C: Pima County Employee Grievance Form dated June 11, 2020

Ms. Spallieri stated the grievance was denied on a technicality because she neglected to check a box on the form.

Ms. Spallieri briefly reviewed her activities on September 9, 2020. Going through the temperature check and taking note of Ms. Armenta's greeting of others versus hers "Hey" and proceeded to her desk. She pulled files and began reading her emails. She saw the meetings scheduled on her calendar and she did not want to attend the meetings. She became anxious and contacted Stella then went to speak with Stella. When meeting with Stella and Ms. Campagne she re-stated her concerns and they disagreed with her because the concerns Ms. Spallieri expressed were discussed and investigated previously. Ms. Campagne asked her to return to her workstation but she continued to re-state her concerns. They left the room and upon return Ms. Spallieri was given a letter to return to her workstation. She continued to restate her issues.

Stella and Ms. Campagne left and sometime later returned with a Notice of Intent to Dismiss. Ms. Spallieri didn't remember reviewing the Notice as her anxiety heightened and asked for paramedics. She did not remember the Notice of Intent to Dismiss letter was placed in an envelope with her other items. When she met with Ms. Broce, she was surprised the letter was in the envelope.

ACTION: Ms. Broce had no further questions.

ACTION: Mr. Jurkowitz cross examined the witness. Mr. Jurkowitz asked Ms. Spallieri if she thought she had done anything wrong. She answered that she did not feel she had done anything wrong.

EXHIBIT D: Appellant's Performance Appraisals dated February 28, 2019 and February 28, 2020.

Mr. Jurkowitz referenced the February 28, 2020 document, page 2, "her time taken for breaks did not fall within the guidelines." He asked if that was correct. Ms. Spallieri attempted to elaborate but it was a yes or no answer. Mr. Hellon stated she basically acknowledged the question.

Mr. Jurkowitz asked her to confirm her testimony that she didn't receive the envelope containing the Notice of Intent to Dismiss until the paramedics were there. Ms. Spallieri stated she saw a paper put in the envelope while emergency medical services were on scene.

ACTION: Mr. Jurkowitz had no further questions.

Mr. Hellon asked if the Commissioners had questions.

Mr. Freund asked Ms. Spallieri when she started to feel people were bullying her and when she felt wasn't given the responses she thought management should have given her. It began in March, she was concerned about COVID and her health.

When Ms. Spallieri was asked if her reaction to the situations added tension or created problems between herself and management. She felt like she reacted appropriately in the situations.

ACTION: Ms. Broce redirected the witness.

Ms. Broce asked if she received a lesser discipline would that have made a difference in this case? Ms. Spallieri stated yes.

ACTION: Commission recessed for ten minutes at 2:30 PM and reconvened at 2:40 PM.

RESPONDENT'S WITNESS #2: Mr. Jurkowitz called Stella Montiel as a witness in rebuttal. She testified about the events of September 9, 2020.

EXHIBIT 14: Michelle Campagne memos to file, Bates Nos. 576-579 and 648-652. Ms. Montiel confirmed the information in the document was accurate. She stated when Ms. Spallieri was handed the Notice of Intent to Dismiss it triggered her to be very upset, very anxious, and uncontrollably upset. She requested an ambulance.

Mr. Jurkowitz reference the last paragraph of Exhibit 14, Bates #579, and the first three lines of the paragraph. He asked if the second and third lines were correct. "When I handed over the Intent to Dismiss Letter and started going over it, she [Ms. Spallieri] said you are trying to fire me. She then began breathing heavy." Ms. Montiel agreed that is what happened.

Mr. Jurkowitz asked if Ms. Campagne asked Ms. Spallieri multiple times to return to her workstation. Ms. Montiel stated yes. He asked if Ms. Spallieri complied and Ms. Montiel stated no.

ACTION: Mr. Jurkowitz

ACTION: Ms. Broce cross examined the witness regarding the events of September 9, 2020.

EXHIBIT 14: Michelle Campagne memos to file, Bates Nos. 576-579 and 648-652.

Ms. Broce asked if Ms. Montiel suggested alternatives for Ms. Spallieri, i.e. Human Resources? Ms. Montiel recommended she speak with her Deputy Director or go to Human Resources.

Ms. Montiel is the Department Personnel Representative for her department. She is not part of the Human Resources team. She is a liaison for her department.

Ms. Montiel confirmed initially Ms. Spallieri wasn't upset. When Ms. Campagne entered the room, Ms. Spallieri stated her concerns then she became argumentative. Ms. Campagne asked Ms. Spallieri to return to her workstation and she refused. Ms. Spallieri stated she did not want to go back and the discussion continued.

ACTION: Ms. Broce had no further questions.

Mr. Freund asked if Ms. Spallieri was in distress when they went back into the room. Ms. Montiel stated she was not in distress at that time. She also confirmed the Notice of Intent was not stuffed in an envelope without comment and handed to Ms. Spallieri.

The witness was reminded of the rule and excused.

RESPONDENT'S WITNESS #1: Mr. Jurkowitz recalled Ms. Campagne and questioned her regarding the testimony provided by Ms. Spallieri.

EXHIBIT 14: Michelle Campagne memos to file, Bates Nos. 576-579 and 648-652.

Ms. Spallieri testified Ms. Campagne agreed to call Human Resources on her behalf. Ms. Campagne did not recall agreeing to call Human Resources.

Mr. Jurkowitz asked if Ms. Spallieri told Ms. Campagne that she opted to go to Human Resources. Ms. Campagne stated no.

She was asked if the Notice of Intent was served before or after the emergency medical services arrived. Ms. Campagne replied before.

Ms. Spallieri testified she verbally refused to go, did Ms. Campagne recall or not recall? Ms. Campagne did not recall whether it was verbal bout at no time did Ms. Spallieri comply.

Ms. Campagne described some of Ms. Spallieri's concerns; an individual was coughing and that person worked in another department but on the same floor. They recommended or asked if she would like to move workstations. She refused.

Ms. Spallieri had concerns about the ventilation and Ms. Campagne contacted the director of Facilities Management, Ms. Josker, and was told she would look into it.

Ms. Spallieri was concerned about cleaning. The cleaning staff clean the common areas, i.e., kitchen, conference rooms, the entry way, etc.

The request for donations from the staff was to maintain a supply, during that time cleaning supplies were in short supply.

ACTION: Mr. Jurkowitz had no further questions.

ACTION: Ms. Broce questioned the witness.

Ms. Campagne was asked if she was physically in the same work area when Ms. Spallieri expressed concern about the cleaning. She stated she was not but a log was maintained by Department Analysis that showed they were cleaned. She agreed she was not physically doing the cleaning.

Commissioners asked Ms. Campagne questions about September 9, 2020 and her decision to issue a Notice of Intent to Dismiss rather than a lesser form of discipline.

Mr. Freund asked why Ms. Campagne didn't choose a lesser discipline. She stated the insubordination of the prior meeting and the disciplinary action were the reasons for the Notice of Intent to Dismiss.

Mr. Freund asked what she said when she went into the room. Ms. Campagne told Ms. Spallieri the previous bullying accusations were investigated and if she had new concerns to tell her. If there is no new information, she would need to move forward. Ms. Spallieri continued to re-hash old concerns. During the conversation, Ms. Campagne asked her three times to go back to her workstation and each time Ms. Spallieri re-stated her concerns.

When Ms. Campagne returned with the Notice of Intent and Pre-Action meeting letter she placed the paper on the desk. Ms. Spallieri began to read it while Ms. Campagne read it to her. Ms. Spallieri started to get upset and she had an anxiety attack.

Ms. Broce asked a final question of Ms. Campagne. Exhibit 14, first page, last sentence; "to attend meetings, complete her assigned tasks unless of course she can provide specific incidents of how she was being bullied." Ms. Broce stated Ms. Spallieri gave her examples of bullying. Ms. Campagne stated they were instances that she already received, investigated and addressed.

ACTION: Ms. Broce had no further questions.

ACTION: Mr. Jurkowitz delivered his closing argument.

This is what occurred on the morning of Sept. 9, 2020. Ms. Spallieri was insubordinate. She did not go back to her workstation as directed. This was not the first time she was insubordinate.

- There's documented verbal counseling that included insubordination.
- There is a Letter of Reprimand that includes insubordination.
- There's a SOP that puts her on notice that she needs to follow directive from her supervisor.
- She doesn't comply with a reasonable directive to go back to your desk.
- If there was any additional follow-up that could have happened after that time.
- At this time, I'm directing you to return to your workstation.
- Go to your meetings and do you work. We are done here.

She had every opportunity to do that and never did so. She was there at 8:20 until 12:00. Not being productive. Not doing work. Not doing anything other than re-hashing old grievances of the department.

As the Appointing Authority, Ms. Campagne has the right to direct her to go back to her workstation.

ACTION: Ms. Broce delivered her closing argument.

The purpose of progressive discipline is to correct behavior. Unfortunately, we are here today because the County did not take any pro-active measures to correct the behavior issues they alleged.

- They issued an SOP that they never allowed to be carried forward.
- There was a big contradiction today in Ms. Campagne's testimony.

- And in County's case in general where they first say the reason we are here is because of Sept. 9th due to the insubordination and yet she just answered in her testimony the reason she went from Letter of Reprimand to Dismissal was due to her previous insubordination.

So, which is it? Are we here because of Sept. 9th that it was so extreme? Or are we here for an alleged pattern where Ms. Spallieri was not allowed to properly grieve due to a technicality. I believe had there been an opportunity for actual due process along the way, this would never have reached you. I believe that we would have suggest some real alternatives during the first level discipline and would never escalate to the point. Unfortunately, you don't have that in your scope but that does play a role in why we are here today.

We find it really concerning that in the...at no point was Ms. Spallieri aware that when she returned back to work she was going to be issued a Notice of Termination. We ask for reasonable remedy for Ms. Spallieri to have her termination dismissed on grounds the County did not prove their case of just cause and did not meet the Rules.

ACTION: Mr. Jurkowitz responded

I would submit that if your Department Director tells you verbally one time "you go back to your workstation right now, unless you have something additional to add to me." That is sufficient in and of itself to justify dismissal. It's grossly insubordinate.

How much clearer does the department have to be? This is not one time telling her. Multiple times telling her to go back to her workstation and that's it. It's not a difficult thing.

Mr. Jurkowitz provided possible alternatives the department could have utilized and ended with; Ms. Spallieri testified that she doesn't think she did anything wrong. The concept of her coming back to work for this management team in any capacity is just not something that is going to happen. It's not going to work. I would urge the Commission to uphold the dismissal.

The commissioners discussed:

- Mr. Rubin stated alternatives should have been utilized before termination. Ms. Spallieri was willing to continue working with her current supervisor. Termination should be utilized when it is clearly deserved or there is no alternative. In this case, termination was too severe. There was no progressive discipline.

He would suggest a suspension for a week or two.

- Mr. Freund acknowledged there was just cause for discipline. Ms. Spallieri is repeatedly told to return to her workstation and work unless she presented new evidence about bullying. Ms. Spallieri is not agreeing how management is doing things in the department. There are accusations of people aligning against her. Her concerns started when COVID started. She feels her concerns were not properly investigated and solved to her satisfaction. She said she doesn't feel like she did anything wrong. Based on the information, he would deny the appeal.

He stated if Ms. Spallieri felt what she has done so far is right in the way she approached her employer and her duties. He didn't see how she could continue to work there because the same management team and supervisors will be there.

- Mr. Hellon would have gone for some suspension, possibly two weeks. It wasn't his job as a commissioner to substitute his judgement for the Division Manager's judgement, that is her job. He stated the dismissal of the grievance of the Letter of Reprimand was too cavalierly handled by the County. It is a matter of record. It is prior discipline based on some issues of insubordination. It didn't raise to the level of not being justified. The Rules mandate specific

steps in the exercise of progressive discipline. It's the decision the manager of the department has the authority to make. He would uphold the dismissal even though he would have done something different. He disagreed with what was done, he couldn't second guess the decision because management has the right to make that judgment.

Mr. Corey read Merit System Rule 12.1, A: A disciplinary action is an action taken only for cause to correct inappropriate performance or other work-related behavior. The degree of disciplinary action shall relate to the gravity of the improper performance or conduct and the past performance and conduct of the employee. Progressive discipline, including counseling and other supervisory actions to improve conduct and performance, should be used whenever possible before taking formal disciplinary action. Mr. Hellon stated is a judgment.

ACTION: Mr. Rubin moved that the Commission sustain the appeal and that the appellant be reinstated to her position and serve a two-week suspension. Motion was seconded by Mr. Hellon. Motion second was then withdrawn by Mr. Hellon. Motion fails for lack of a second.

ACTION: Mr. Hellon moved to deny the appeal and affirm the disciplinary action imposed upon the appellant. Motion was seconded by Mr. Freund.

Upon vote being taken the Motion passed 2-1 with Mr. Hellon and Mr. Freund voting yes and Mr. Rubin voting no.

The meeting ended at 3:59 PM.

Minutes approved on June 24, 2021