

DECISION AFFIRMING DISMISSAL

ALONZO MAREZ, Appellant,

v.

DEPARTMENT OF AVIATION, AIRPORT INFRASTRUCTURE MANAGEMENT,
and the City and County of Denver, a municipal corporation, Agency.

I. INTRODUCTION

The Appellant, Alonzo Marez, appeals his dismissal from the Department of Aviation, Airport Infrastructure Management Division (Agency), assessed on September 1, 2016, for alleged violations of specified Career Service Rules. A hearing concerning this appeal was conducted by Bruce A. Plotkin, Hearing Officer, on November 17 and 29, 2016. The Agency was represented by Assistant City Attorney John Sauer, while the Appellant was represented by Sean Olson Esq., of the Olson Law Firm, LLC. Agency Exhibits 1-17 and Appellant Exhibits A - G were admitted. The following witnesses testified for the Agency: William Roach; Mark Baker; and Gary Warren. The Appellant testified on his own behalf, and also called Ron Hackett. The Agency recalled Gary Warren for rebuttal testimony.

II. ISSUES

The following issues were presented for appeal:

- A. whether the Appellant violated any of the following Career Service Rules: 16-29 A; 16-29 D; 16-29 F; 16-29 G, as it pertains to Appellant's 2016 PEP; or 16-29 T.;
- B. if the Appellant violated one or more of the aforementioned Career Service Rules, whether the Agency's decision to dismiss him conformed to the purposes of discipline under CSR 16-41.

III. FINDINGS

The Appellant, Alonzo Marez, was an Electronic Systems Technician with the Department of Aviation, Airport Infrastructure Management Division, and was employed with the City for 20 years. His duties and responsibilities included repairing, and maintaining a wide variety of specialized technical electronic equipment and electrical systems. He worked the swing shift, from 4:00 p.m. to 2:30 a.m. Technicians must process their work through the Agency's Maximo system, which manages each job assignment, including to whom it is assigned, and the hours to accomplish each task.

During May and June of 2016, Technicians Mike Talmadge and Bill Roach independently reported concerns to their new supervisor, Gary Warren, about several Maximo entries made by co-worker Marez claiming time spent on jobs they alone had completed. Warren reviewed the Maximo reports and Kronos entries for all the employees he supervised, and discovered 10

discrepancies reported by Marez for work orders assigned to other employees. [Exh. 1-2 through 1-4 at ¶¶ 1-10].

Eight of the ten discrepancies, 1- 4, 6, 7, 9 and 10, relate to time Marez claimed to have spent on "hood cleanings." [Exh. 1-2 through 1-4]. Every restaurant at DIA equipped with a cooking surface has an exhaust hood to pull heat, smoke, grease, and odor away from the cooking surfaces. Cleaning those hoods requires a partial shut-down of DIA's fire alarm system through a formal "shutdown request" enabling outside contractors to clean the exhaust hood without triggering a fire alarm. Because the fire alarm is inoperable during cleaning, the technician is the "eyes and ears" for the Denver Fire Department, and must monitor the surrounding area for fire.

Hood cleanings are time consuming processes which require from two to six hours. For that reason, hood cleanings are assigned to night shift technicians, who operate entirely outside of restaurant business hours so as to avoid having to close them. [Warren testimony; Roach testimony].

As to the remaining two discrepancies alleged by Warren, the fifth involved Marez's reporting two hours work on a work order, but backing that time out after a supervisor annotated in Maximo that the contractor did not show up. The Maximo system does not allow employees to erase already input time on a work order, so in order to correct a mistaken or false entry, they must instead add negative hours. The Agency did not have a record of when Marez added or removed the two hours on this work order, and Marez's supervisor acknowledged that this could have been a simple mistake.

Warren claimed the eighth discrepancy was Marez's reporting 1.5 hours work for a sprinkler system head relocation. Relocations entail the plumbing department unlocking the water valve, shutting the water off, and relocating the sprinkler heads. This process triggers an alarm to the Denver Fire Department. Technicians alert the DFD ahead of time to expect the alarm, then monitor the area for fires while the sprinklers are disabled. Gary Warren testified sprinkler relocations are always done overnight and, in his experience, the work continues until 3-4 a.m. For that reason, such tasks are always assigned to the night shift. In this case, the job was assigned to Mr. Kim during his night shift. Marez did not work the night shift then or any other night.

The Agency also determined Marez's work performance was deficient. Marez was expected to maintain minimum productivity which was calculated by the time he spent on every assignment and recording that time in the Maximo system. The Agency computes productivity by dividing the time a technician spends on each assignment by the hours in his work day. [Warren testimony]. In his 2015, and 2016 PEPs the productivity requirement was 75%, and Marez failed to meet that standard for at least four out of the past five years. [Exh. 1; 14; 15].¹

Following an investigation into Marez's alleged falsified timekeeping and lack of productivity, the Agency held a contemplation of discipline meeting on August 11, 2016. [Exh. 1-4; Exh. 3]. Being advised of his right to representation, Marez attended alone and gave a statement.

The Agency dismissed Marez on September 1, 2016. This appeal followed in timely fashion on September 6, 2016.

¹ There was insufficient evidence to establish the productivity requirement for years 2011-2014 by a preponderance of the evidence.

IV. ANALYSIS

A. Jurisdiction and Review

Jurisdiction is proper as the direct appeal of a dismissal. CSR §19-20. I am required to conduct a *de novo* review, meaning to consider all the evidence as though no previous action had been taken. Turner v. Rossmiller, 532 P.2d 751 (Colo. App. 1975).

B. Burden and Standard of Proof

The Agency retains the burden of persuasion, throughout the case, to prove Marez violated one or more of the cited Career Service Rules, and to prove the degree of discipline complied with CSR 16-41. The standard by which the Agency must prove each violation² is by a preponderance of the evidence.

C. Career Service Rule Violations.

1. CSR 16-29 D. Any act of dishonesty.

A violation of this rule includes any knowing misrepresentation made within the employment context. In re Rodriguez, CSA 12-10, 7 (10/22/10); *citing* In re Mounjim, CSB 87-07A (1/8/09).

Gary Warren became Marez's direct supervisor in May 2016. He alleged to have discovered 10 discrepancies in Marez's time keeping in the Agency's Maximo system, nine of which related to Marez's noting time spent assisting in restaurant smoke hood cleanings,³ and the 10th was for a sprinkler system repair [Exh. 1-3 at paragraph 8].

a. Work Order 16-28837. [Exh. 9-1]. This hood cleaning, at the Cantina Grill, was assigned to Technician Bill Roach. The Agency's evidence was unclear when the cleaning actually occurred.⁴ When Roach marked his time, work order details showed his identification number, 109741, as the lead worker, and two hours devoted to that project. [Exh. 9-1; Exh. 16-1; Roach testimony]. The same work order showed Marez, I.D. #103031, claiming three hours for the same project. While Roach offered Marez could have made a mistake in claiming that time, Roach stated he alone worked with the subcontractor on that hood cleaning.

Despite the Agency's insufficient proof regarding the date of the hood cleaning, other testimony was more certain that hood cleanings are: assigned only to technicians working the night shift; never assigned to swing shift technicians, such as Marez, in order to avoid having to

² Appellant initially claimed the City discriminated against him on the bases of race and age, and retaliated against him for whistleblower actions. However, those claims were withdrawn at the beginning of hearing.

³ Exhibit 1, pp 2-4 @ paragraphs 1-4, 6, 7, 9, and 10.

⁴ As an example of the confusion in the Agency's protocol for timekeeping, Roach testified the Cantina Grill hood cleaning was originally scheduled for February 2, that February 25 was the "planned start," that he recorded his work on March 3, and the work actually finished June 10. He also stated the "shutdown request" form would indicate when the work actually occurred, but when referring directly to that document, he acknowledged the form is received about one week before the work is to occur. [Exhibit 16-1 through 16-3]. Thus, even though the shutdown request indicates a shutdown completion date of February 26, 2016, it is not clear whether that was the scheduled date, the actual completion date, or something else. [Exhibit 16-1 through 16-3]. Gary Warren testified definitively the hood cleaning occurred on March 3, but also offered it could have occurred on February 25 or 26. [Warren testimony, cross-exam; Exhibit 7]. Mark Baker believed the work occurred March 2-3, but readily acknowledged he did not know how shutdown requests are processed. [Baker testimony, cross-exam]. Finally, witnesses on both sides testified they do not always record work on the date it is done, but sometimes at the end of the day, the week, or the two-week pay period, adding to the uncertainty when work is actually done. In short, current Agency timekeeping protocol, as demonstrated during this hearing, falls short of establishing when this hood cleaning occurred.

close restaurants during their operating hours; and seldom require more than one technician to complete the tasks associated with hood cleanings. [Warren testimony; Roach testimony; Hackett cross-exam].

Marez's alternative responses, that he just offers to help out, or that his time entry was an honest mistake, or that Maximo is unwieldy and error-prone [Marez testimony], were less convincing. In addition to reasons of evident self-interest, he failed to rebut his supervisor's credible testimony. Further, his three most recent disciplinary actions, all for improperly documented time in the Maximo system, suggest the same a course of conduct, in addition to belying his professed lack of familiarity with Maximo timekeeping. For these reasons this claim is established by a preponderance of the evidence.

Marez also claimed, with respect to hood cleanings, that contractors sometimes arrive earlier than the start of the night shift and, being conscientious, he helps out until the night shift technician begins. Marez provided no specific example, did not call any night shift technicians who could corroborate his claim that he turned work over to them, and did not directly address any of the nine hood cleanings specified by the Agency.

b. Work Order 16-45638. [Exh. 9-3]. This hood cleaning, at the Timberline Grill, was assigned to Technician Max Hernandez. [Id.]. He performed that lead work during three hours of his night shift on March 1-2. [Exh. 4-24; Exh. 16-4].

Marez also claimed he worked two hours for this same hood cleaning on February 27, 2016. [Exh. 9-3; Warren testimony]. Hernandez logged this work on March 14, claiming it was done on March 1, 2016, the same day it was scheduled to be completed, despite being also listed as having an actual start of February 26. [Exh. 9-3]. Many of the same issues identifying what date the Cantina hood cleaning occurred, above, apply here as well. However, as above, even if Marez was at work on February 27, he did not dispute he was assigned to the swing shift when hood cleanings are not done. [Roach testimony; Warren testimony]. Also, Marez was well aware, from previous disciplinary actions and Performance Improvement Plans [Exh. 1-2 & 1-4], that he needed to be highly accurate in recording his work hours. This claim is established by a preponderance of the evidence.

c. Work Order 16-67158. [Exh. 9-4]. This hood cleaning, at Chef Jimmy's, was assigned to Roach. [Exh. 9-4; Exh. 7-17]. Roach reported two hours for that job during the night shift March 30-31.

Marez also claimed he worked two hours on the same hood cleaning assignment. [Exh. 6-16; Exh. 9-4]. According to Marez, he performed that duty on April 9, 2016. In addition to the factors stated above, regardless of the date of the hood cleaning, Warren specifically recalled he did not assign that task to Marez, [Warren testimony], and Roach did not recall Marez ever assisting with a hood cleaning. This claim is established by a preponderance of the evidence.

d. Work Order 16-45939. [Exh. 9-5]. This hood cleaning, also at the Timberline Grill, was originally assigned to Technician Hernandez [Id.], but he retired and the work order was reassigned to Roach as lead technician. [Exh. 7-17]. Roach worked two hours on that job on the night of March 31 – April 1, 2016. Marez also claimed two hours for the same assignment, [Exh. 6-16], however, in addition to reasons already stated above, Marez worked on snow duty during that swing shift before the hood cleaning, and could not have been scheduled for hood cleaning as well. This claim is established by a preponderance of the evidence.

e. Work Order 16-45861. [Exh. 9-6]. This hood cleaning, at McDonalds, was assigned to Technician Hernandez. [Id.]. Marez claimed to have worked two hours on two different dates

for this assignment. However, the contractor never showed up, and Marez, only afterward, added negative hours ["backed out"] his time for that assignment. The Maximo system does not allow employees to delete time on a work order. Instead they add negative hours to correct a mistaken or false entry. The Agency did not definitively identify when Marez added or removed the two hours on this work order, and Warren acknowledged this could have been a simple mistake. [Warren testimony]. No intent to deceive, thus no dishonesty, is proven here.

f. Work Order 16-88289. [Exh. 9-7]. This hood cleaning, at Steve's Snapping Dogs, was assigned by Warren to Roach. Warren testified that Marez altered the work order to reflect that the order was assigned to him. Warren hand-wrote on the work order that Marez did this work before he (Warren) viewed a Crystal Report, Exhibit 17, which shows the date and time of every action taken with respect to each Maximo entry. [Exh. 17]. Warren credibly testified Marez had the ability and knowledge to enter the Maximo Report to change the assignment and enter 2.5 hours work.

Marez failed to raise doubt about Warren's credibility. Marez's denial that he knows how to change the lead technician field was not credible because: Warren was certain all fields, including the assignment of the lead technician, can be readily changed; Marez had the experience, motivation and opportunity to change that information; and between the Crystal Report and Warren's testimony, it is evident this work order was assigned only to Roach. In addition, as stated previously, Marez could not have assisted the contractor for this hood cleaning because the contractor was not present. This claim is established by a preponderance of the evidence.

g. Work Order 16-91826. [Exh. 9-8]. This hood cleaning, at Lefty's Mile High Bar and Grill, was also assigned to Roach. [*Id.*]. Roach assisted the contractor for two hours during his night shift from May 12-13, 2016. [Exh. 7-21]. Marez entered two hours for the same job on May 14. Marez did not address this claim at hearing, other than to allege that he did assist with hood cleanings generally when a contractor would show up early and wanted to get started. [Marez testimony]. The Agency established this claim against Marez by a preponderance of the evidence.

h. Work Order 16-124072. [Exh. 9-10]. This hood cleaning, at the Coors Silver Bullet, was assigned to technician Mike Talmadge during his night shift. [Exh. 8-28]. A report concerning that task, generated on October 12, 2016 [Exh. 6-22; *see bottom* Exh. 6-27], showed Marez claimed two hours for the same task, then backed out his time only after Talmadge complained to Warren that Marez entered time on work orders he did not complete on June 28, 2016 and an investigation into his conduct began. [Exh. 2; Exh. 9-10 *created* 11/2/16; Exh. 18].

Marez stated he was unsure when he backed out those two hours, but denied ever claiming time for work he did not do. He insisted he had begun hood cleanings then handed them over to another technician on the subsequent night shift. He did not recall to whom he handed these hood cleanings.

Warren testified persuasively that any technician may reopen a closed work order and alter any field simply by entering "search all records" in Maximo. Marez acknowledged work orders could be changed, but only in limited fashion, and not to whom the work order was assigned [Marez testimony]; however, he did not rebut Warren's testimony or credibility. On the other hand, Marez had been disciplined and placed on a Performance Improvement Plan for his lack of production, and became aware of an investigation into this claim before backing out his two hours of claimed work. [See Warren testimony]. Together, these indicia prove Marez intentionally claimed two hours for work he did not perform, then backed out those hours in an attempt to deceive the Agency, in violation of CSR 16-29D.

i. Work Order 16-115355. [Exh. 9-11]. This hood cleaning, at the Timberline Grill, was also assigned to Talmadge during the night shift. [Exh. 8-28]. Marez claimed two hours for the same task. [Exh. 9-11]. The facts cited above apply here as well, and this claim is proven by a preponderance of the evidence.

j. Work Order 16-116772. [Exh. 9-9]. Warren determined Marez dishonestly entered 1.5 hours work for a sprinkler head relocation in Concourse C. In a sprinkler relocation, the plumbing department unlocks the water valve, turns off the water to the sprinkler, then relocates sprinkler heads. That work generates an alarm to the Denver Fire Department (DFD), so the technician must alert the Denver Fire Department ahead of time and must monitor the alarm system and the area for fires while the plumbing department conducts the relocation. Warren, who is familiar with that task, testified sprinkler head relocations are always assigned to the night shift, never to a technician on the swing shift, and in this case the job was assigned to Mr. Kim who completed it during his night shift on June 16-17.

Marez's time entry for the work described above claimed "smoke heads pulled, assisted contractor monitor life safety." [Exh. 9-9]. Warren was certain smoke heads are not pulled off for a relocation; that the contractor did not pull off any smoke heads in this relocation, and that this was not the type of work Marez had ever performed previously. Warren's testimony, and the records provided, were more convincing than Marez's denial. Marez's deception, and this violation, are proven by a preponderance of the evidence.

To the extent Marez claimed he is human and could have made a mistake in entering time into Maximo, his claim is reasonable. However, after the first or second such error, each additional "mistake" decreases the credibility of that claim. One or two errors may have generated doubt about the Agency's claims. Nine similar mistakes do not. The Agency proved nine of its timekeeping claims. Since the Agency's allegations under the next three rules were based upon the same facts, they are grouped together as follows.

2. CSR 16-29 F. Failing to comply with the lawful orders of an authorized supervisor or failing to do assigned work the employee is capable of performing.

A violation of this rule requires proof that a supervisor communicated a reasonable order, and an employee violated that order under circumstances demonstrating willfulness. In re Macieyovski, CSA 28-14, 6 (10/13/14); citing In re Mounjim, CSB 87-07A (1/8/09). Other than Baker's conclusory statement, that Marez did not do work he was capable of performing without stating what work Marez failed to do, the Agency failed to present evidence of this violation, thus none is found.

3. CSR 16-29 A. Neglect or Carelessness in the Performance of Duties.

To sustain a violation under CSR 16-29 A., the Agency must establish Marez performed a known duty deficiently, or not at all. In re Leslie, CSA 10-11 (12/5/11) citing In re O'Meallie, CSA 92-09, 4 (6/18/10). Other than Baker's conclusory statement that Marez neglected his duty under this rule to reach his 75% productivity expectation, an impermissible doubling of other rule violations alleged⁵, the Agency failed to present evidence of this violation, thus none is found.

⁵ CSR 16-29 A. may not be used to mirror other violations. Such practice would permit a neglect of the duty under every rule, order, or policy, a result not contemplated by the Career Service Rules. In the absence of a duty not already incorporated within another rule or order, no violation is found here. See In re Gordon, CSA 10-14 FN 1 (11/28/14); see also In re Wright, CSA 40-14, 7 (11/17/14).

4. CSR 16-29 G. Failure to meet established standards of performance.

In order to prove an employee violated this rule, the agency must prove (1) it established a standard; (2) it clearly communicated the standard; and (3) the employee failed to meet that standard. In re Rodriguez, CSA 12-10 (10/22/10); *see also* In re Mounjim, CSB 87-07A 3-5 (1/8/09).

The Agency asserted Marez violated these three rules based on Marez's failure to meet his alleged productivity goal of 75%. [Baker testimony; Exh. 1]. Marez denied he was subject to that number and proposed his productivity goal was 70%, which he met in three out of the past five years.

The Agency replied the Marez violated his 2016 Electronic Systems Technician PEP which required him to maintain a certain productivity percentage in the Maximo system. In his 2015 and 2016 work reviews, the Agency required 75% productivity from its technicians. [Exh. 14; Exh. 15]. The Agency did not provide PEPRs for 2012 – 2014, and Appellant's 2011 PEP stated that his productivity goal was both 70% and 75%. [Exh. E]. For these reasons, the Agency failed to establish Appellant's productivity goals for 2011 – 2014 was 75%.

In support of his 70% claim, Marez presented three exhibits: his 2011 PEPR, which had a 75% productivity requirement but also contained annotations from his previous supervisor, Steven Ulrich, that he needed to achieve 70% productivity to be "successful" [Exh. E]; a December 2, 2011 e-mail in which Ullrich stated Marez had 71% productivity in Maximo, "right where [he] needed to be," [Exh. D]; and a 2012 e-mail from Ulrich, stating Marez needed to hit 70% to be "successful" on his PEP [Exh. F].

This evidence, that Marez's productivity requirement was 70% in 2011 and 2012, was irreconcilable with un rebutted evidence that, in 2012, he was placed on a Performance Improvement Plan for his failure to meet performance expectations. [Exh. 1]. Marez did not argue the PIP was invalid. Based on the evidence presented, this conflict cannot be resolved, thus the Agency did not prove Marez was subject to 75% productivity in 2011 or 2012.

Regardless whether a former supervisor required 70% production, his current supervisor and other technicians stated consistently that technicians have been held to a 75% productivity standard, and the evidence supports that assertion as it relates to 2015 and 2016. [Warren testimony; Roach testimony; Exh. E, Exh. 14; Exh. 15]. In addition, the same supervisor - Ulrich - who referred to 70% productivity from Marez in 2011 and 2012, required 75% from Marez in Marez's 2015 and 2016 PEPRs. [Exh. 14-2; Exh. 14-3 ("Alonzo needs to be more aware of his Maximo records and seek out opportunities to create more productivity") (Exh. 15-1)]. Any uncertainty resolves in favor of the Agency based on Marez's most recent supervisor, (Warren), and the credible testimony of his co-worker (Roach) who expressed certainty about the 75% standard applying to all technicians. Finally, Marez's own witness, Ron Hackett, is a supervisor in another division, and testified he was unfamiliar with the performance goals of Marez's division. [Hackett cross-exam].

While the Agency's evidence was imperfect, it established, by a preponderance of the evidence, that, at least for the past two years, Marez's performance was substantially below clearly-stated expectations, and those expectations were for him to meet 75% productivity. Even without more, that is sufficient to sustain the Agency's ultimate findings under CSR 16-29 A., F., and G.

5. CSR 16-29 T. Conduct prejudicial

Under the previous version of this rule, CSR 16-60 Z, a violation was proven by conduct that causes actual harm to an agency mission, or to the City's reputation or integrity. In re Jones, CSB 88-09A (9/29/10), *affirming In re Jones*, CSA 88-09 (5/11/10). However, under the new rule, violations broadened to include conduct which "could foreseeably" cause harm, as well as actual harm. CSR 16-29 T.

The decision maker, Mark Baker, testified he found Marez violated this rule by the possible effect on other employees of allowing Marez's substandard performance to continue. He also testified Marez placed himself in a position to be viewed as lazy, thus potentially portraying a negative image of the Agency. Baker felt concerned about the potentially poor outlook on his department due to Marez's conduct. These personal speculations were so vague, conclusory, and unsupported as to lack any foundation. Even with this rule's allowance for speculative harm, such projected harm requires more than vague, conclusory and unsupported allegations. In other words, more than imagination, or sheer conjecture, is required, no matter which of the three parts of the rule is implicated.⁶

Further, if the "conduct unbecoming" portion of the new rule were to be read broadly, then any other substantive violation - such as neglect, theft, deceit, or discrimination - would automatically morph into conduct unbecoming, impermissibly doubling every rule violation. [See, FN 5 *supra*]. Further, if violations of this rule were attained merely upon a supervisor's say-so, there would remain no objective basis upon which an employee would be on notice what conduct violates this rule. For these reasons, no violation was established under the "conduct unbecoming" or any other portion of this rule.

V. DEGREE OF DISCIPLINE

The purpose of discipline under the Career Service Rules is to correct inappropriate behavior if possible. Appointing authorities are directed by CSR 16-41 to consider the severity of the offense(s), the employee's past record, and the penalty most likely to achieve compliance with the rules. CSR § 16-41. The measure of these considerations is whether the penalty assessed is within the range of penalties that could be imposed by a reasonable and prudent administrator, or is clearly excessive. In re Ford, 48-14A, 8 (CSB 9/17/15).

A. Seriousness of the proven offenses

Honest timekeeping is an essential function for all Career Service employees. Timekeeping is the promise of Career Service employees to provide a valuable service in exchange for a substantial portion of each taxpayer dollar. Dishonest timekeeping robs the citizens of Denver of that service, which is at the core of Career Service employment. For that reason, dishonesty in timekeeping is subject to dismissal.

B. Prior Record

The Agency cited three previous incidences of discipline. [Exh. 1-4]. All three included timekeeping issues in Maximo. This pattern of behavior belies his claim that the ten entries cited

⁶ Conduct may violate 16-29-T in any of three ways: (1) if it is prejudicial to the good order and effectiveness of the department or agency; (2) if it brings disrepute on, or compromises, the integrity of the City; or (3) if the conduct is unbecoming of a City employee, the last of which has heretofore only applied to military or paramilitary organizations, and has been only vaguely employed in the civilian context. See, e.g. Peter Broida, A Guide to Merit Systems Protection Board Law & Practice (32nd Ed. 2015), (where the term is combined with "criminal," "infamous," "immoral," or "disgraceful" conduct.); see also Parker v. USPS, 31 MSPR 58, 59-60 (1986); Lawley v. Dept. of Treasury, 84 MSPR 253, 260 ¶ 18 (1999).

in this case were mere errors. His last penalty was a 4.55% reduction in pay for 13 pay periods. The Career Service Rules require discipline to be progressive when possible. CSR 16-42 A; see also In re Ford, 48-14A, 8-9 (CSB 9/17/15). The Agency's choice of discipline was not clearly excessive in view of this goal, even though one incidence of dishonest timekeeping may subject an employee to dismissal. In re Macieyovski, CSA 28-14, 6 (10/13/14); see also In re Blan, CSA 40-08, 5 (7/31/08); In re Rodriguez, CSA 12-10, 8 (10/22/10).

C. Likelihood of Reform

Marez denied all wrongdoing, claiming that his timekeeping errors were, at worst mistakes. In conjunction with his prior discipline for similar conduct, it was reasonable for the Agency to conclude reform would be unlikely.

VI. ORDER

For reasons stated immediately above, the Agency's dismissal of Mr. Marez on September 1, 2016, is AFFIRMED.

DONE January 26, 2017.



Bruce A. Plotkin
Career Service Hearing Officer

NOTICE OF RIGHT TO FILE PETITION FOR REVIEW

You may petition the Career Service Board for review of this decision, in accordance with the requirements of CSR § 19-60 *et seq.*, within fifteen calendar days after the date of mailing of the Hearing Officer's decision, as stated in the decision's certificate of delivery. The Career Service Rules are available as a link at www.denvergov.org/csa.

All petitions for review must be filed with the:

Career Service Board
c/o OHR Executive Director's Office
201 W. Colfax Avenue, Dept. 412, 4th Floor
Denver, CO 80202
FAX: 720-913-5720
EMAIL: CareerServiceBoardAppeals@denvergov.org

AND

Career Service Hearing Office
201 W. Colfax, 1st Floor
Denver, CO 80202
FAX: 720-913-5995
EMAIL: CSAHearings@denvergov.org.

AND

Opposing parties or their representatives, if any.

I certify that on January 26, 2017, I emailed a correct copy of this Decision to the following:

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