

FILED

NOV 05 2015

PREPARED BY THE COURT

SUPERIOR COURT OF NJ

MERCER VICINAGE
CIVIL DIVISION

STATE OF NEW JERSEY,

Plaintiff,

v.

ALFRED VARGAS,

Defendant.

SUPERIOR COURT OF NEW JERSEY
- LAW DIVISION -
MERCER COUNTY

DOCKET NO. L-1777-15

CIVIL ACTION

ORDER GRANTING FORFEITURE OF
PUBLIC OFFICE

Attorneys for Plaintiff

Adam Verone, DAG
John J. Hoffman, Acting Attorney General
Richard J. Hughes Justice Complex
P.O. Box 112
Trenton, New Jersey 08625

Defendant

Alfred Vargas
215 Burlington Rd. South
Bridgeton, NJ 08302

Attorney for Defendant

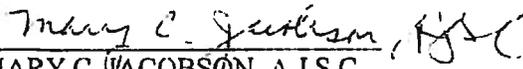
Barry J. Serebnick, Esq.
Helmer, Conley & Kasselmann, P.A.
92 West Main Street
Freehold, NJ 07728

THIS MATTER having been brought before the court by John J. Hoffman, Acting Attorney General of New Jersey (Adam Verone, Deputy Attorney General, appearing for Plaintiff State of New Jersey); and the Court having considered the papers submitted in support of the application and finding that, as of February 17, 2015, Defendant Alfred Vargas was employed by the New Jersey Department of Corrections; and the Court noting further that the Department of Corrections is a State agency and, therefore, that Vargas held a position of public employment as of February 17, 2015; and the Court taking notice that on February 17, 2015,

Vargas was convicted of Criminal Restraint-Risk of Serious Bodily Injury in the third degree in violation of N.J.S.A. 2C:13-2A; and for good cause shown; and for the reasons set forth below:

IT IS on this 5th day of November, 2015, HEREBY ORDERED that:

1. Defendant has forfeited his position as a Senior Correction Officer at the New Jersey Department of Corrections as a result of his conviction of a criminal offense in the third degree.


MARY C. JACOBSON, A.J.S.C.

STATEMENT OF REASONS

Defendant Alfred Vargas was employed as a Senior Correction Officer with the New Jersey Department of Corrections, assigned to South Woods State Prison in Bridgeton, New Jersey. On December 19, 2013, Defendant was suspended without pay after issuance of a Preliminary Notice of Disciplinary Action and was not permitted to return to work after that date. That Notice informed him that forfeiture of his job was being sought under N.J.S.A. 2C:51-2. The Notice also referenced criminal charges lodged against him. On January 31, 2014, Defendant was arrested by the police for an incident involving his teenage daughter. He was charged with violating N.J.S.A. 2C:14-3A and N.J.S.A. 2C:14-B for Aggravated Criminal Sexual Contact, and N.J.S.A. 2C:14-3B for Endangering Welfare of Children. On February 17, 2015, Defendant was convicted of Criminal Restraint-Risk of Serious Bodily Injury in the third degree as part of a plea agreement with the Cumberland County Prosecutor. Afterwards, Plaintiff applied to this court for an order

to declare that, as a result of this conviction, Defendant Vargas forfeited any public position, office, or employment that he held on February 17, 2015.

A person holding public office in the State of New Jersey forfeits such office if he is “convicted under the laws of this State of an offense involving dishonesty or of a crime of the third degree or above or under the laws of another state or of the United States of an offense or a crime which, if committed in this State,” would constitute “an offense involving dishonesty or of a crime of the third degree or above.” N.J.S.A. 2C:51-2(a)(1). A person also forfeits public office if he is convicted of an offense involving or touching upon such office, position or employment. N.J.S.A. 2C:51-2(a)(2). If one or both of these statutory provisions apply to a particular public office holder, a State court must order that the public official has forfeited his or her office “upon application of the county prosecutor or the Attorney General.” N.J.S.A. 2C:51-2(b)(2). However, conviction of crimes of the third degree or above need not involve dishonesty or touch the office held to result in forfeiture. N.J.S.A. 2C:51-2a(1). Conviction of *any* offense results in forfeiture if it involves dishonesty or an offense of the third degree or higher, or touches the office held. State v. Kueny, 411 N.J. Super. 392, 408 (App. Div. 2010). When an order of forfeiture is issued, the order “shall be deemed to have taken effect on the date the person was found guilty by the trier of fact.” Ibid. Even when the issue of forfeiture of public office is not raised in a court at the time of a finding of guilt, entry of a guilty plea, or sentencing, a forfeiture may still be ordered by this court upon application of the Attorney General. N.J.S.A. 2C:51-2(g).

Here, Defendant pled guilty to Criminal Restraint-Risk of Serious Bodily Injury charges, which is a crime of the third degree and he had been in a position of public employment within the meaning of N.J.S.A. 2C:51-2. Therefore, under N.J.S.A. 2C:51-2(a)(1), Defendant has been convicted a crime of the third degree or above in this State and must forfeit his public office.

Moreover, there is no need to determine whether his offense touched upon his office, position, or employment because forfeiture of public office occurs when either N.J.S.A. 2C:51-2(a)(1) or N.J.S.A. 2C:51-2(a)(2) is violated. Though the issue of forfeiture of public office was not raised in the prior criminal proceeding, a forfeiture may still be ordered by this court upon application of the Attorney General. N.J.S.A. 2C-51-2(g). Here, the Attorney General has filed that application.

Therefore, Defendant has forfeited the public position that he held on February 17, 2015 as a Senior Correction Officer in the New Jersey Department of Corrections. The State's application for an order of forfeiture is hereby granted.