



Internal Affairs, ANTHONY STALTARI, individually and in his official capacity as Personnel Officer, Hudson County Department of Corrections, and OSCAR AVILES, Individually and in his official capacity as Director of Hudson County Department of Corrections, for preliminary and permanent injunctive and declaratory relief based upon Defendants' roles in their individual and official capacities in suspending plaintiff without pay and without a fair hearing from her position as a Correction Officer for the County of Hudson in violation of her due process rights as guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution, and Article 1, paragraph 1 of the New Jersey Constitution Article 1.

This action is filed pursuant to 42 U.S.C. § 1983 for declaratory judgment, injunctive relief, and damages to secure the rights of the plaintiff, Donna Jackson, under the Fifth and Fourteenth Amendments of the United States Constitution.

### **JURISDICTION**

1. This Court has jurisdiction over this matter pursuant to 28 USC §1331, in that it arises under the Constitution of the United States, under 28 USC §1343(a)(3), in that it is brought to redress deprivations, under color of state authority, of rights privileges and immunities secured by the United States Constitution, under 28 USC §1343 (a)(4), in that it seeks to secure equitable relief under an Act of Congress, specifically 42 USC §1983, which provides a cause of action for the protection of civil rights, under 28 USC §2201(a) in that one purpose of this action is to secure permanent injunctive relief, and under 28 USC §1367 in that it presents claims for relief under state law and seeks to invoke pendent jurisdiction over those claims.

**VENUE**

2. Venue is proper in this Court under 28 USC 1391(b) in that the plaintiff resides within this district, and the principle place of defendants' business is located within the jurisdiction of this district.

**PARTIES**

3. Plaintiff, DONNA E. JACKSON, (hereinafter "Plaintiff") is, and at all times relevant to this complaint, was a corrections officer for the County of Hudson, Department of Corrections.

4. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS, is a governmental and political subdivision of the State of New Jersey.

5. Defendant DAVID KRUNZNIS, is, and at all times relevant to this complaint, was a Captain in the Hudson County Department of Correction

6. Defendant TISH NALLS, is, and at all times relevant to this complaint, was a Lieutenant in the Hudson County Department of Correction.

7. Defendant EDWARD RYAN, is, and at all times relevant to this complaint, was an investigator in the Hudson County Department of Correction.

8. Defendant SERGEANT LAMBOS, is, and at all times relevant to this complaint, was a Corrections Officer in the Hudson County Department of Correction.

9. Defendant ANTHONY STALTARI is, and at all times relevant to this complaint, was Personnel Officer of the Hudson County Department of Corrections.

10. OSCAR AVILES, is and at all times relevant to this complaint was the Director of Hudson County Department of Corrections,

11. This is an action to redress the deprivation under color of statute, ordinance, regulation, custom, or usage of the right, privilege, and immunity secured to Plaintiff by the laws and Constitution of the United States of America, and the laws and constitution of the State of New Jersey.

12. Each and all of the acts of the Defendants, alleged herein, were done by the Defendants, their agents, servants and employees, and each of them, under color and pretense of the statutes, ordinances, regulations, customs and usage of the County of Hudson, State of New Jersey.

### **BACKGROUND AND BASIS OF CLAIM**

13. Plaintiff has been employed as a Corrections Officer with the Department of Correction County of Hudson for approximately four (4) years until her suspension without pay on August 29, 2006.

14. On August 29, 2006, Defendant KRUNZNIS issued to the plaintiff a "Notice of Immediate Suspension" alleging, *inter alia*, that plaintiff was "unfit for duty", a "hazard to other persons if permitted to remain on the job", based on the following factual allegations:

**Officer Donna Jackson, whose license is suspended, was witnessed operating a motor vehicle in an unsafe fashion. Officer Jackson was driving with her headlights out, vehicle swerving erratically, running over multiple curbs. Office Jackson was sent for a toxicology test based on probable cause for suspicion of drugs or alcohol. Subsequently, you were issued two (2) summons [sic] (1) [sic] for reckless driving, and [sic] (1) for driving suspended [sic].**

15. A reported dated August 29, 2006, purportedly signed by a physician, alleges that an examination of plaintiff was conducted on 11:55 p.m. and a urine sample was taken and sent to a lab for analysis.

16. The physician report of August 29, 2006 indicated that plaintiff was “unfit for duty.”

17. On August 29, 2006, Defendants TISH NALLS issued to the Plaintiff a “Disciplinary Action” alleging, “insubordination”, “inability to perform duties”, “Conduct unbecoming a public employee,” “neglect of duty”, and “other sufficient case” based on the following factual allegations:

**On August 29, 2006, you were witnessed operating a motor vehicle in an erratic fashion. You recently served a suspension for driving with a revoked license, and are fully aware that your driving privileges have not been restored. In addition, you behaved in an irrational manner and was [sic] sent for a fitness for duty. The on-call doctor found you unfit to perform your duties as a corrections officer.**

18. Later during the same evening, Defendants TISH NALLS completed a “Confidential County of Hudson Fitness for Duty Form” alleging the following:

**Office Jackson was witnessed operating a motor vehicle in an unsafe fashion. Officer Jackson was driving [vehicle] without lights swerving out of control, running over multiple curves. I am sending officer Jackson for toxicology tests based on probable cause for the suspicion of drugs or alcohol**

19. On August 29, 2006, Defendant EDWARD RYAN prepared a report stating as following:

**On 8/29/06 at approximately (1300 hrs.) Sgt. Lambos instructed me to issue (2) motor vehicle violation to Corrections Officer Donna Jackson. Sgt. Lambos informed me that he established OIA file # 0608-0036 alleging that officer Jackson was operating a motor vehicle recklessly and possibly under the influence of alcohol/drugs.**

**Officer Jackson arrived at the office at approximately (1145 hrs.) with Sgt. Lambos to conduct a urinalysis (see reports.) He also instructed me to issue (2) motor vehicle violations for driving while suspended and reckless driving to officer Jackson. I issued summons (00056-67) for these infractions and scheduled a Court appearance for 9/08/06 at 0900 hrs. at Kearney Municipal Court.**

**The violations were signed by myself but the alleged incident was observed by several officers at the facility (see reports.) Sgt. Lambos informed me that the order to issue these violations came from the Director's Office. The tickets were taken to Kearney Municipal Court on 8/30/06 and processed. No further action is necessary.**

20. Neither Defendant RYAN, nor any other corrections officer or any other person directly observe any alleged traffic incident involving the plaintiff, although it was alleged that a "civilian" and a corrections officer observed the alleged traffic infractions.

21. Defendant RYAN signed and issued two (2) traffic summons to plaintiff alleging "reckless driving" and "suspended license."

22. Defendant RYAN did not conduct an independent investigation as to the validity of the two (2) motor vehicle charges he filed against plaintiff.

23. On August 29, 2006, Defendant NALLS suspended plaintiff from her position as a corrections officer without pay.

24. On September 5, 2006, Defendant STALTARI, a personal officer of the County of Hudson, issued a finding in a hearing in which no witnesses were present including plaintiff.

25. Defendant STALTARI found that "Jackson's suspension shall continue pending final toxicology report."

26. Subsequently, plaintiff was "told" that the toxicology report was "negative."

27. The aforementioned toxicology report found no evidence of intoxication or drugs.

28. None of the Defendants ever provided a written toxicology report to the plaintiff.

29. On January 18, 2007, plaintiff appeared in Kearney Municipal Court pursuant to the two traffic offences.

30. Defendant RYAN also appeared.

31. Neither the “civilian” nor the officer alleged to observe the traffic infractions appeared in Kearny Municipal Court.

32. Unable to continue with the traffic charges, Defendant RYAN requested that plaintiff sign a “release.”

33. The “release” indicates ad follows:

**TO: Corrections Officer E. Ryan [ ]**

**In connection with complaint # [ ] now pending in the Kearney Municipal Court occurring on 8/28/06.**

**It is understood that if a mutual complaint has been filed against a [ ] Police Officer [ ] that all complaints are being withdrawn upon mutual release being exchanged and that neither party makes any admission of liability to the other; that the complaint is being withdrawn to save the expense of a trial and that release, by signing this release concedes that any [ ] complaint issues in the within matter was with probable cause.**

34. By signing this “release,” plaintiff believed that she would resume her duties as a corrections officer with back pay.

35. Despite this “release” defendants refused to reinstate plaintiff to her position as a corrections officer.

36. Despite a toxicology report indicating that there was no finding of drugs or alcohol in the body of plaintiff, defendants refused to reinstate plaintiff to her position as a correction officer.

37. Defendants continually insist that plaintiff must attend a hearing conducted by Defendant STALTARI for the purpose of “reinstatement” despite the grounds upon which her suspension was predicted were removed by a “release” and a negative toxicology report.

38. Plaintiff, in signing the “release,” believed that she would be reinstated to her employment with without any additional hearing or determination.

39. On July 24, 2006, the Jersey City Municipal Court issued a letter to the New Jersey Division of Motor Vehicles that plaintiff's drivers' license was suspended "in error."

40. On August 30, 2006, the Division of Motor Vehicle restored plaintiff's driving privileges which was suspended 'in error.'

41. On October 19, 2006, Derrick L. James, Sr., president of the Policemen Benevolent Association (plaintiff's union) sent a letter to Defendant OSCAR AVILES, Director of the Hudson County Department of Corrections, requesting that plaintiff be reinstated on the basis of a negative toxicology report.

42. Defendant Aviles refused.

43. On January 31, 2007, plaintiff's attorney sent a letter to Defendant STALTARI requesting that plaintiff be reinstated with back pay.

44. Defendant STALTARI refused contending that plaintiff must attend a "departmental hearing" to determine whether she would be reinstated "base[d] on the evidence and testimony that both parties present."

45. Despite the dismissal of the traffic offenses, the signing of the 'releases,' a Division of Motor Vehicle notice that plaintiff's license suspension was in error, and a negative toxicology report, the defendants have continued to refuse to permit plaintiff to resume her duties with full back pay, without a hearing.

FEDERAL CLAIMS

COUNT 1

**Fifth and Fourteenth Amendments of the U.S. Constitution**

46. Plaintiff repeats and re-alleges each allegation heretofore alleged.

47. That the Fifth and Fourteenth Amendments to the United States Constitution provide that no state shall deprive any person of life, liberty, or property without due process of law.

48. That 42 U.S.C. § 1983 provides that “every person who, under color of any statute, ordinance, regulation, custom, or usage, of any state or territory ... subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress ... “

49. That plaintiff has a property interest in her employment as a corrections officer.

50. That the defendants, individually and collectively, deprived the Plaintiff of her employment and continued employment as a corrections officer without due process as secured by the Fifth and Fourteenth Amendments to the United States Constitution by arbitrarily and capriciously suspending Plaintiff from her position as a corrections officer without a hearing and without pay.

51. That the defendants, each of them individually and collectively, deprived plaintiff of her right to due process secured by the Fifth and Fourteenth Amendments to the United States Constitution by suspending plaintiff without pay without the benefit of a hearing based solely on competent and admissible evidence.

52. That the defendants, each of them individually and collectively, deprived plaintiff of her right to due process secured by the Fifth and Fourteenth Amendments to the United States Constitution by refusing to reinstate plaintiff to her position as a corrections officer without any additional determination after having found no evidence of drugs or alcohol in her body.

53. That the defendants, each of them individually and collectively, deprived plaintiff of her right to due process secured by the Fifth and Fourteenth Amendments to the United States Constitution by refusing to reinstate plaintiff to her position as a corrections officer without any additional determination after having the aforementioned traffic offenses dismissed.

54. That the defendants, each of them individually and collectively, deprived plaintiff of her right to due process secured by the Fifth and Fourteenth Amendments to the United States Constitution by refusing to reinstate plaintiff to her position as a corrections officer without any additional determination after having obtain a “release” of all claims and defenses relating to the traffic offenses, as well as evidence that plaintiff’s license was suspended in error.

55. As a result of the aforementioned conducts, acts and/or omissions constituting a violation of plaintiff’s rights secured by the Fifth and Fourteenth Amendments to the United States Constitution, plaintiff suffered damages, including, lost employment, lost wages, lost employment opportunities, humiliation, emotional distress and legal fees and costs.

WHEREFORE, Plaintiff demands judgment against Defendants for reinstatement without any hearing, compensatory damages, punitive damages, lost wages, lost benefits, lost employment opportunities, and reasonable attorneys’ fees and costs of suit under 42 U.S.C § 1988.

COUNT II  
**42 U.S.C. 1985(3)**

56. Plaintiff repeats and re-alleges each allegation heretofore alleged.

57. That each of the defendants, individually and collectively, conspired with each other to deprive plaintiff of her property rights in her public employment without due process in accordance with the Fifth and Fourteenth Amendments of the United States Constitution.

58. That each of the defendants, individually and collectively, conspired with each other by suspending plaintiff without pay based on legally insufficient evidence and subsequently refused to reinstate plaintiff to her position as a corrections officer despite the signing of a “release,” a notice that plaintiff’s license was improperly suspended, and a negative toxicology report.

59. That in furtherance of the conspiracy to deprive plaintiff of her employment without due process, each of the defendants was part of the chain of events leading to the unlawful suspension of the plaintiff and the refusal to reinstate plaintiff to her position as a correction officer.

60. That act(s) in furtherance of conspiracy included suspending plaintiff without just cause, issuing two (2) traffic summons without any reasonable basis, making a legal finding without the presence of the plaintiff nor any other witnesses, and without reliance on legally sufficient evidence, requiring plaintiff to attend another such “hearing” despite the dismissal of the two (2) traffic summons, the absent of a toxicology report, and evidence that plaintiff’s license was suspended in error.

61. As a result of the aforementioned conducts, acts and/or omissions, plaintiff suffered damages, including lost employment, lost wages, lost employment opportunities, humiliation, emotional distress and legal fees and costs

WHEREFORE, Plaintiff demands judgment against defendants for reinstatement without any hearing, compensatory damages, punitive damages, lost wages, lost benefits, lost employment opportunities, and reasonable attorneys' fees and costs of suit under 42 U.S.C § 1988.

COUNT III

**42 U.S.C. 1986**

62. Plaintiff repeats and re-alleges each allegation heretofore alleged.

63. That the defendants, supervisors and employer of the plaintiff negligently failed prevent a conspiracy to deprive the plaintiff of her property rights without adequate due process, as guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution.

64. As a result of the aforementioned conducts, acts and/or omissions, plaintiff suffered damages, including, lost wages, humiliation, emotional distress and lost employment opportunities.

WHEREFORE, Plaintiff demands judgment against Defendants for reinstatement without any hearing, compensatory damages, punitive damages, lost wages, lost benefits, lost employment opportunities, and reasonable attorneys' fees and costs of suit under 42 U.S.C § 1988.

STATE CLAIMS

COUNT IV

**Art. 1., ¶1 New Jersey Constitution**

65. Plaintiff repeats and re-alleges each allegation heretofore alleged.

66. That the aforementioned acts, conducts, and/or omissions violate Article 1, paragraph 1 of the New Jersey Constitution.

WHEREFORE, Plaintiff demands judgment against Defendants for reinstatement without any hearing, compensatory damages, punitive damages, lost wages, lost benefits, lost employment opportunities, and reasonable attorneys' fees and costs of suit.

COUNT V  
**Breach of Contract**

67. Plaintiff repeats and re-alleges each allegation heretofore alleged.

68. That plaintiff's suspension was governed by a collective bargaining agreement (CBA) which provides that plaintiff shall not be disciplined except for just cause.

69. That plaintiff's indefinite suspension without pay was without just cause.

70. That plaintiff's indefinite suspension without pay was based on hearsay observation by others who did not witness any alleged incident, and therefore the suspension was without any just cause.

71. That plaintiff's indefinite suspension based on suspicion of drugs and alcohol was without just cause where there was no evidence of drugs and/or alcohol.

72. That defendant's refusal to reinstate the plaintiff after the dismissal of the two (2) traffic offenses, a negative toxicology report, and a "release" and without just cause.

WHEREFORE, Plaintiff demands judgment against Defendants for reinstatement without any hearing, compensatory damages, lost wages, lost benefits, lost employment opportunities, and reasonable attorneys' fees and costs of suit.

COUNT VI  
**Breach of Covenant of Good Faith**

73. Plaintiff repeats and re-alleges each allegation heretofore alleged.

74. That defendant violated the covenant of good faith implied in the CBA by

suspending plaintiff from her duties as a corrections officer without a reasonable basis and then refused to reinstate her to such position even when the cited reasons for her termination no longer existed.

75. That both the suspension of the plaintiff as well as the refusal to reinstate her to her employment was arbitrary and capricious and in done in bad faith.

WHEREFORE, Plaintiff demands judgment against Defendants for reinstatement without any hearing, compensatory damages, punitive damages, lost wages, lost benefits, lost employment opportunities, and reasonable attorneys' fees and costs of suit.

COUNT VII  
**Negligent Hiring, Training and Retention**

76. Plaintiff repeats and reincorporates each allegation heretofore alleged.

77. Defendants, its employees and agents, failed to properly hire, train, and educate its employees with respect to preventing the deprivation of the civil rights of the plaintiff, and such failure to properly hire, train, and educate, directly contributed to the conducts mentioned above.

78. As a result of defendants' failure and/or omissions, plaintiff was suspended from her position as corrections officer, lost wages, humiliation, emotional distress and lost employment opportunities.

WHEREFORE, Plaintiff demands judgment against Defendants for reinstatement without any hearing, compensatory damages, punitive damages, lost wages, lost benefits, lost employment opportunities, and reasonable attorneys' fees and costs of suit.

COUNT VIII  
**(Intentional Infliction of Emotional Distress)**

79. Plaintiff repeats and re-alleges each allegation heretofore alleged.

80. That the conducts, actions, omissions, statements of the Defendant, its agents and Employees, as mentioned above, were intentional, reckless and outrageous, and which caused severe emotional distress to the Plaintiff.

WHEREFORE, Plaintiff demands judgment against each of the defendants for compensatory damages, punitive damages, reinstatement without any hearing, lost wages, lost benefits, lost employment opportunities, and reasonable attorneys' fees and costs of suit.

Respectfully submitted,

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By: /s/  
Jay Chatarpaul (JC 4425)

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