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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

JOSE GIRON,

Plaintiff and
Appellant,

v.

CIVIL SERVICE
COMMISSION OF THE
COUNTY OF LOS
ANGELES,

Respondent;

COUNTY OF LOS
ANGELES et al.,

Real Parties in
Interest and Respondents.

B283087

(Los Angeles County
Super. Ct. No.

BS155295)

APPEAL from judgment of the Superior Court of Los Angeles County, Mary H. Strobel, Judge. Affirmed.

Law Office of Esteban Lizardo and Esteban Lizardo, for Plaintiff and Appellant.

Liebert Cassidy Whitmore, David A. Urban, for Real Party in Interest and Respondent Los Angeles County Sheriff's Department.

Liebert Cassidy Whitmore, Geoffrey S. Sheldon, David A. Urban, for Real Parties in Interest and Respondents County of Los Angeles and Los Angeles County Sheriff's Department.

Plaintiff and appellant Jose Giron appeals from a judgment denying his petition for writ of administrative mandate following his discharge from Real Party in Interest Los Angeles County Sheriff's Department (the Department). On appeal, Giron contends (1) Respondent Civil Service Commission of the County of Los Angeles (the Commission) failed to "bridge the analytical gap" between the raw evidence and its ultimate decision discharging his employment, and (2) the penalty of discharge was unwarranted. We conclude the Commission rendered sufficient findings for administrative mandate review and acted within its discretion in selecting discharge as a penalty for Giron's misconduct.

FACTS AND PROCEDURAL HISTORY

Investigation

Giron worked at a correctional facility as a deputy sheriff between 2006 and 2012. In 2008, Giron came under investigation after another deputy sheriff was arrested for smuggling drugs for an inmate with gang affiliations.¹ During the investigation, Giron revealed that he knew the gang-affiliated inmate from outside of work because they had attended middle school together. Giron engaged with the inmate and interacted with him in jail for a few years prior to the investigation. The inmate passed along information and “might have asked” Giron to bring items from outside the jail.

During the investigation, Giron admitted to delivering shoes, a preferred means of smuggling narcotics into jail, to another inmate. Giron also admitted to recognizing another inmate as his fiancé’s uncle, who had present-day contact with Giron and his fiancé. Giron did not notify his watch commander of either prior relationship in writing and did not report the requests for favors because he did not view the inmates as threats to him or his family.

¹ Giron’s coworker was eventually convicted and sentenced for engaging in drug smuggling.

Departmental Policy

Giron received training on departmental policy at the Sheriff's Academy. Departmental policy includes the following provisions. Fraternization and Prohibited Associations with Inmates (section 3-04/020.00) mandates that "[a]ny employee . . . who comes in contact with an inmate who is either a relative, friend, associate, acquaintance, or other person known to the employee, past or present, shall immediately notify the watch commander in writing of this fact."

Fraternization and Prohibited Associations (section 3-01/050.85) states that "[m]embers shall not knowingly fraternize with . . . or maintain a business or personal relationship or association with persons who are in the custody of any . . . law enforcement agency."

General Behavior (section 3-01/030.05) prohibits acting or behaving "privately or officially in such a manner as to bring discredit upon himself or the Department."

Professional Conduct (section 3-01/000.10) prohibits conduct that "damage[s] the reputation of and/or erode[s] the public's confidence in the Department."

Performance to Standards (section 3-01/050.10) requires members to "maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions."

Bribes, Rewards, Loans, Gifts, Favors (section 3-01/030.75) prohibits Sheriff Department employees from

“solicit[ing] or accept[ing] any reward, fee, loan, or gratuity in conjunction with services rendered in the performance of their duties.”

Orthopedic Footwear (section 5-03/085.00) prohibits inmates from possessing street type tennis shoes unless prescribed or approved by a Sheriff's Department doctor. Court-ordered shoes must also be reviewed by the Chief Physician of Medical Services.

Notification and Compliance with Court Orders (section 4-11/060.00) states that court orders must “be directed to the unit commander or operations lieutenant for immediate review and processing,” and must be recorded in a “Court-Order Logbook.”

The Department's discipline guidelines provide options for disciplining employees who violate departmental policy. The discipline guidelines are “intended as a guide only and should not be imposed ‘automatically’ in relation to actual infractions.” In the event a section of departmental policy calls only for discharge, discipline may not be adjusted downward. The discipline guidelines list discharge as the only disciplinary option for violation of Fraternization and Prohibited Association (section 3-01/050.85).

Termination

Following its investigation, the Department conducted a pre-disciplinary conference to determine the appropriate level of discipline to impose on Giron. On May 30, 2012, the

Department notified Giron that it intended to terminate his employment for violating sections 3-04/020.00; 3-01/050.85; 3-01/030.05; 3-01/000.10; 3-01/050.10; 3-01/030.75; 5-03/085.00; and 4-11/060.00 of departmental policy. The letter provided four grounds supporting its decision. First, Giron was aware that a childhood friend was incarcerated and failed to immediately notify his watch commander in writing. Second, Giron failed to report to his watch commander subsequent contacts with the inmate when favors and/or actions were requested by the inmate. Third, Giron was involved in smuggling narcotics for the inmate. Fourth, Giron provided another inmate a pair of shoes that were brought in by his family.

The letter stated that that the Department “must maintain a zero tolerance for any behavior on the part of our personnel which violates the basic tenets of our Fraternization policy,” as it could “open[] the Department to potential liability.” Giron’s conduct “failed to conform to the work standards established for [his] position as a deputy sheriff.” The letter referenced Giron’s receipt of investigative materials on which his discipline was based, and informed Giron that he had the right to respond to the intended action. On October 23, 2012, pursuant to *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194 (*Skelly*), the Department sent Giron notice that his employment had been terminated effective October 22, 2012.

Giron's Challenge to the Department's Intended Action

Giron was granted a seven-day hearing to review the discharge decision. Giron and one of his supervisors testified before a hearing officer that although the non-fraternization policy requires a written memorandum in each instance where an employee has a relationship with an inmate outside of jail, in practice written notification was the exception and given only in cases where the relationship between the employee and inmate was close. However, a commander testified that the fraternization and prohibited association policies must be followed to guarantee the personal safety of each employee and address the “grave concern” that an inmate would divulge personal information to other inmates for purposes of threatening, coercing, blackmailing, or otherwise taking advantage of the employee or compromising jail security. Because inmates travel through the jail system to the courts, a security compromise could spread to other jails, courthouses, or outside the jail. Inmates with personal relationships with an officer may be at risk for injury from other inmates who could use them as intermediaries. The Department must swiftly take action to segregate the officer and inmate. Giron's failure to provide written notification of his relationships with the inmates prevented the Department from assessing whether the inmates should be transferred.

Hearing Officer's Findings of Fact, Conclusions of Law, Recommendation, and Commission Decision

After hearing testimony, the hearing officer found the evidence supported sixteen findings of fact: (1) the Department terminated Giron's employment for his alleged failure to notify his commander in writing of the incarceration of a childhood friend, failure to notify requests for favors, being involved in an illegal drug transaction, and providing an inmate a pair of shoes; (2) the Department reasonably determined each act of fraternization would contravene the Department's core values, mission and creed; (3) just prior to the events at issue, another deputy was arrested for smuggling drugs in a nearly identical manner as that alleged against Giron; (4) Giron was being "groomed" to replace the other deputy to supply drugs; (5) Giron had a reputation for "doing favors" for inmates; (6) departmental fraternization policy requires deputies to provide written notification of any inmate known to the employee; (7) the past relationship between Giron and the inmate, spanning 1-2 months, was more than a "de minimis" acquaintanceship; (8) Giron did not provide written notification of the relationship to his watch commander; (9) Giron used the relationship to develop the inmate as an informant; (10) Giron did not report the incarceration of his fiancé's uncle who was in present-day contact with Giron and his fiancé; (11) Giron's rationale for not reporting his relationship with the inmate was not credible; (12) fraternization and prohibited associations policy requires written notification;

(13) Giron made no written notification to the watch commander regarding an inmate's request for shoes; (14) Giron did not confirm proper medical certification for shoes he delivered from the inmate's family to the inmate; (15) Giron failed to verify the proper protocol for delivery of the shoes; and (16) no competent evidence substantiated Giron being involved in drug smuggling.

The hearing officer found that the Department did not sustain its burden to prove the most serious allegations brought against Giron (i.e., that he was involved in an illegal narcotics transaction). The hearing officer found that the Department had established breaches of protocol by Giron relating to not providing written notice of his relationship with the inmate, and the request for and delivery shoes to the other inmate. The hearing officer recommended reducing the sanction of discharge to 60 days' suspension.

The County objected to the recommended discipline, and the matter went before the Commission for a final determination. The Commission "ratified and accepted all" of hearing officer's findings of fact, but announced as its new proposed decision that it would sustain the Department's decision to discharge Giron. Giron objected to the new proposed decision, but the Commission² overruled his objections and upheld Department's decision to discharge. The Commission's conclusions of law recognized that the

² Three of the five members of the Commission voted to sustain the Department's decision to discharge, while two members dissented.

Department had not established Giron's involvement in an actual narcotics transaction; however, Giron's violations of policies had the potential for compromising jail security, including the introduction of narcotics into the jail. Specifically, Giron failed to report his past relationships with two inmates and his providing shoes to an inmate, a preferred method of bringing in narcotics. The Commission also concluded that Giron had a reputation for doing improper favors for inmates and was being groomed to supply narcotics to inmates.³ The Commission stated, "The Department's Discipline Guidelines include discharge as proper discipline for [Giron's] proven violations of policy. The discipline of discharge is appropriate in this case."

Petition for Writ of Administrative Mandate and Interlocutory Remand Order

On May 19, 2015, Giron filed a petition for writ of administrative mandate seeking reversal of the Commission's decision to discharge him. In support, Giron admitted to violating departmental policy, but claimed his actions conformed to the procedures "he saw practiced" at the facility. Giron's petition also highlighted his work history and accolades.

The petition for writ of administrative mandate came on for hearing on February 18, 2016, and the court issued a

³ The Commission's conclusions of law did not specify by section number the precise policies violated.

written decision that day. The court noted that Giron did not challenge the Commission’s findings that he violated policy by failing to report his past relationship with an inmate, that he did not report his relationship with his fiancé’s uncle, or that he violated policy by delivering and failing to report delivery of shoes to another inmate. Given that the Commission had specifically relied on findings of fact 4 and 5, among others, and that these findings might have affected the Commission’s decision to discharge Giron, the court issued an interlocutory remand order instructing the Commission to reconsider the penalty without holding a new evidentiary hearing.⁴ However, the court ruled that findings of fact 4 and 5—regarding Giron being “groomed” to supply drugs and his reputation for “doing favors” for inmates—were not supported by the weight of the evidence. It set a status conference to occur after the Commission reconsidered a penalty.

The Commission’s Decision after Remand

On June 29, 2016, the Commission struck findings of fact 4 and 5 but adopted as unaltered the remaining findings of fact. In its conclusions of law, the Commission specified four instances in which Giron violated departmental policy.

⁴ The court noted that the administrative record includes evidence that the recommended discipline for fraternization is discharge, but that the Commission itself did not find discharge to be mandatory.

First, the department established that Giron breached the fraternization and prohibited associations policy by not providing written notification of his more than “de minimis” prior relationship with an inmate. Second, the Department established that Giron breached the fraternization and prohibited associations policy by not providing written notification of an inmate’s inappropriate requests for shoes and Giron’s delivery of the shoes. Third, the Department established Giron breached the policy pertaining to medical certification of orthopedic footwear. Fourth, the Department established Giron breached the fraternization and prohibited associations policy by not providing written notification that he recognized his fiancé’s uncle as a recently incarcerated inmate. The Commission also included in its conclusions of law that the Department met its burden to prove violations of section 3-01/050.85 (fraternization), section 3-04/020.00 (fraternization and prohibited associations), and section 5.03/085.00 (certification of orthopedic footwear). The Commission found these violations “egregious and significant” warranting discharge as the appropriate discipline.

Denial of Giron’s Petition for Writ of Administrative Mandate

Giron filed a brief contesting the Commission’s new final order. Following a hearing, the trial court entered judgment denying Giron’s petition for writ of administrative mandate. The court noted that in its prior order, it found

findings of fact 6 through 10 (failure to report relationships with inmates) and 13 through 15 (failure to report request and delivery of shoes) supported by the weight of the evidence. Giron did not challenge findings of fact 1 through 3, 11 and 12, and the Commission complied with the court's interlocutory order by striking findings of fact 4 and 5. The court concluded that all of the Commission's findings of fact were supported by the weight of the evidence. The Commission acted in accordance with the discipline guidelines when choosing to discharge Giron. The guidelines (which the court concluded did not mandate discharge, but rather supported the case of discharge as recommended discipline), as well as testimony establishing how safety at the jail could be compromised by an inmate with personal knowledge of a Department member, generally supported discharge as an appropriate penalty.

The court considered Giron's relationship with a known drug smuggler who used another deputy sheriff to further his enterprise as a circumstance surrounding the policy violations and the likelihood of recurrence. Under the circumstances, the Commission could reasonably conclude the violations were "egregious and significant." The court acknowledged Giron's work record, performance evaluations, lack of prior discipline, the "customary" reporting practices, and his participation in the investigation as mitigating factors but found them insufficient to show that discharge was unreasonable. The Commission's findings cast doubt on Giron's credibility and suggested a likelihood of recurrence

because he failed to disclose personal relationships with multiple inmates.

The court also found the Commission's decision after remand "bridge[d] the analytical gap" between the raw evidence and its decision discharging Giron because the findings of fact and conclusions of law thoroughly described the evidence and violations so Giron could understand the reasoning and grounds upon which he could (and did) seek judicial review. Giron was able to "respond[] at length to the substance of the Commission's findings" in his legal briefs both before and after remand. Giron filed a timely notice of appeal.

DISCUSSION

Inadequate Record

Following our initial review of the record, we directed the parties to brief the issue of whether Giron's failure to provide a reporter's transcript or suitable substitute of the relevant trial court hearings warranted affirmance based on the inadequacy of the record. Giron did not brief the issue. The Department contends Giron's failure to provide the reporter's transcript of the hearing on the writ petition precludes this court from determining how the trial court reasoned. Although Giron failed to provide a complete record on appeal, it is adequate for review. As we discuss *post*, we review whether the Commission rendered sufficient

findings de novo, and review the Commission's penalty decision for abuse of discretion. This requires us to evaluate the administrative record; a reporter's transcript of the trial court proceedings is not indispensable to our resolution of the issues.

The Commission Rendered Sufficient Findings

Giron contends the Commission failed to comply with *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506 (*Topanga*), because it did not “bridge the analytical gap between the raw evidence” and its decision to discharge Giron. We disagree.

In *Topanga*, the California Supreme Court held that an administrative agency must render findings when the agency's decisions are subject to judicial review by way of administrative mandamus, to allow the parties to determine if there is a basis for review and to apprise the reviewing court of the basis for the agency's action. (*Topanga, supra*, 11 Cal.3d at pp. 513–514.) The *Topanga* court concluded that “implicit . . . is a requirement that the agency which renders the challenged decision must set forth findings to bridge the analytic gap between the raw evidence and ultimate decision or order.” (*Id.* at p. 515.) Giron's contention on appeal presents a question of law and thus, our review is de novo. (*Telish v. State Personnel Bd.* (2015) 234 Cal.App.4th 1479, 1487.)

The basis for the Commission's decision in this case is clear. Fourteen findings of fact were made, ratified, and accepted. Based upon the evidence and arguments at the review hearing, trial, and on appeal, Giron does not dispute (1) that he failed to provide written notification of his prior relationship with an inmate, even though Giron was using that past relationship to develop the inmate as an informant; (2) while not known to Giron, that same inmate had been involved in smuggling drugs into jail through another correctional officer; (3) that Giron failed to provide written notification of then present-day contact with an inmate who was his fiancé's uncle; (4) that he failed to provide written notification of an inmate's requests for and delivery of shoes; and (5) that he failed to confirm proper medical certification for the delivered shoes. *Topanga* requires findings that "facilitate orderly analysis." (*Topanga, supra*, 11 Cal.3d at p. 516.) The Commission's findings of fact and conclusions of law meet that requirement. Giron's detailed post-review briefs filed with the trial court and on appeal demonstrate that he understood the bases for the Commission's decision. Giron simply disagrees with the decision.

The Civil Service Commission Acted Within its Discretion in Selecting Discharge

““[I]n a mandamus proceeding to review an administrative order, the determination of the penalty by the administrative body will not be disturbed unless there has been an abuse of its discretion.” (*Skelly[, supra]*, 15

Cal.3d [at p.] 217; accord, *Deegan v. City of Mountain View* (1999) 72 Cal.App.4th 37, 46; *West Valley–Mission Community College Dist. v. Concepcion* (1993) 16 Cal.App.4th 1766, 1778–1779.) ‘Neither an appellate court nor a trial court is free to substitute its discretion for that of the administrative agency concerning the degree of punishment imposed.’ [Citation.] ‘It is only in the exceptional case, when it is shown that reasonable minds cannot differ on the propriety of the penalty, that an abuse of discretion is shown.’ [Citation.]” (*Bautista v. County of Los Angeles* (2010) 190 Cal.App.4th 869, 879; accord *Pollak v. State Personnel Bd.* (2001) 88 Cal.App.4th 1394, 1404.) “‘The fact that reasonable minds may differ as to the propriety of the penalty imposed fortifies the conclusion that the administrative body acted within the area of its discretion. [Citation.]’ [Citation.]” (*Cate v. California State Personnel Board* (2012) 204 Cal.App.4th 270, 284 (*Cate*); see also *Pegues v. Civil Service Com.* (1998) 67 Cal.App.4th 95, 107 [trial court errs when it second-guesses an agency’s decision that discharge was warranted]; *Szmaciarz v. State Personnel Bd.* (1978) 79 Cal.App.3d 904, 921 [even where the court believes the penalty too harsh, it cannot interfere with an agency’s imposition of a penalty].)

In *Skelly, supra*, 15 Cal.3d 194, our Supreme Court recognized the standards for assessing an appropriate penalty for a public employee’s misconduct. “In considering whether such abuse occurred in the context of public employee discipline, we note that the overriding

consideration in these cases is the extent to which the employee's conduct resulted in, or if repeated is likely to result in, '[h]arm to the public service.' [Citations.] Other relevant factors include the circumstances surrounding the misconduct and the likelihood of its recurrence." (*Id.* at p. 218.) Harm to the public service is the overriding consideration because "[t]he public is entitled to protection from unprofessional employees whose conduct places people at risk of injury and the government at risk of incurring liability. [Citation.]' [Citations.]" (*Kolender v. San Diego County Civil Service Com.* (2007) 149 Cal.App.4th 464, 471.)

In selecting an appropriate penalty, an administrative agency may take into account that "[t]here are certain professions which impose upon persons attracted to them, responsibilities and limitations on freedom of action which do not exist in other callings. Public officials such as judges, policemen, and school teachers fall into such a category." (*Ackerman v. State Personnel Bd.* (1983) 145 Cal.App.3d 395, 400; accord *Cate, supra*, 204 Cal.App.4th at p. 285.)

We conclude the Commission did not abuse its discretion by selecting discharge. Giron's policy violations implicate broad concerns for the safety of inmates, correctional staff, and the public. Giron testified that he failed to disclose personal relationships with a soon-to-be relative as well as a gang-affiliated inmate who previously smuggled drugs into jail through another deputy sheriff. Giron's continued contact with the inmate could result in Giron being coerced or blackmailed into smuggling drugs or

engaging in other illicit activity. Giron's present-day relationship with his fiancé's uncle put Giron, his fiancé, and her uncle at risk of being threatened, coerced, or blackmailed. Providing an inmate with shoes in violation of departmental policy placed the jail at risk of harm or liability because the shoes may have been used to smuggle drugs into the jail. Failing to report these matters demonstrates poor judgment and brings Giron's integrity into question.

Giron seeks to downplay these violations as "minor" or "minimal," in part because he contends he voluntarily admitted to them. To the contrary, Giron's admissions were not volunteered, but made only after the Department began its investigation. Giron was asked questions that called for the information in an investigative interview, and he responded to the questioning. Under the circumstances, Giron's admissions were not "voluntary" but were provoked by the Department's investigation. (See *Alberts v. Aurora Behavioral Health Care* (2015) 241 Cal.App.4th 388, 410 ["A 'voluntary' act is defined by Black's Law Dictionary as one being '[u]nconstrained by interference; not impelled by outside influence'"]; Webster's 3d Internat. Dict. (2002) p. 2564 ["voluntary" defined as "acting of oneself; not constrained, impelled, or influenced by another"].)

Giron also contends discharge is excessive because his conduct conformed to "practice" he observed in the jail. Giron's termination did not result from technical violations. He engaged in numerous instances of questionable conduct,

each against express policies known to him. The Department could reasonably question Giron's judgment and ability to identify, avoid, and report future situations involving violations of other departmental policy, or potentially engage in more flagrant conduct that could pose a risk of harm to the public or liability to the Department. "[P]olice officers 'are the guardians of the peace and security of the community, and the efficiency of our whole system, designed for the purpose of maintaining law and order, depends upon the extent to which such officers perform their duties and are faithful to the trust reposed in them.' [Citation.]" (*Hankla v. Long Beach Civil Service Com.* (1995) 34 Cal.App.4th 1216, 1224.) A police officer's job "is a position of trust and the public has a right to the highest standard of behavior from those they invest with the power and authority of a law enforcement officer." (*Kolender v. San Diego County Civil Service Com.* (2005) 132 Cal.App.4th 716, 721 (*Kolender*)). Based on this principle, numerous authorities establish that an agency may terminate a law enforcement officer's employment when it has lost confidence in his or her good judgment or honesty.

In *Bautista, supra*, 190 Cal.App.4th 869, the court concluded that the civil service commission did not abuse its discretion in terminating a deputy sheriff when his actions caused the sheriff's department to lose confidence in his judgment. (*Id.* at p. 879.) Specifically, the appellate court held that the commission could reasonably conclude that a deputy sheriff who engaged in a "close personal relationship

with [a prostitute and heroin user] over a two-year period, while she was engaged in illegal activities, had evidenced his poor judgment and undermined the [d]epartment's trust and confidence in [him] as a law enforcement officer." (*Ibid.*)

In *Kolender, supra*, 132 Cal.App.4th 716, the appellate court upheld termination of a correctional officer for lying to protect a coworker who harmed an inmate, even though his misconduct was the first actionable offense. (*Id.* at p. 719.) The officer's "wrongdoing implicated important values essential to the orderly operation of the office. He lied regarding a grave matter, and thereby forfeited the trust of his office and the public." (*Id.* at p. 721; accord, *Cate, supra*, 204 Cal.App.4th 270, 280, 285 [neglect of duty, dishonesty, discourteous treatment and failure of good behavior might be repeated and "would likely result in harm to the public service"].)

Similarly, in *Paulino v. Civil Service Com.* (1985) 175 Cal.App.3d 962, a deputy sheriff sought to overturn his termination for inefficiency, dishonesty, improper use of sick leave, and conduct unbecoming an officer. (*Id.* at p. 966.) The deputy falsely reported ill on certain days, and provided false statements and omitted material facts in oral and written reports. (*Id.* at p. 972.) The court of appeal upheld termination, noting that "[f]alse statements, misrepresentations and omissions of material facts in official reports, if repeated, were likely to result in harm to the public service. Under the county's progressive discipline guidelines, dismissal was within the range of punishment for

the first offense of dishonesty.” (*Ibid.*; accord *Blake v. State Personnel Board* (1972) 25 Cal.App.3d 541, 554 (*Blake*) [court may consider evidence of the Department’s policies regarding penalties although they do not circumscribe the discretion in imposing a penalty].)

Here, Giron’s conduct could reasonably cause the Department to lose faith in his judgment and in his ability to function at the levels required of a deputy sheriff. The lack of confidence in Giron’s judgment reasonably arises regardless of whether he intended to commit misconduct or believed his conduct conformed to practices he observed in the jail. Notwithstanding his work history, performance evaluations, and lack of prior discipline, the Commission could reasonably find the series of workplace violations “egregious and significant” such that the Department could no longer rely on Giron to consistently perform his primary responsibility to ensure the safety and welfare of the inmates, staff, and public. (Compare, e.g., *Blake, supra*, 25 Cal.App.3d at p. 554 [termination found excessive for single incident of poor judgment that did not involve a peace officer, and was not likely to reoccur because the incident took place off-duty].)

Under the discipline guidelines, discharge is the only disciplinary option listed for violating the Department’s fraternization policy. Per the guidelines, Giron committed at least two terminable offenses. Under the circumstances, the Commission was within its discretion to conclude that discharge was the proper penalty.

DISPOSITION

The judgment is affirmed. Real Party in Interest Los Angeles County Sheriff's Department is awarded its costs on appeal.

MOOR, J.

We concur:

BAKER, Acting P.J.

JASKOL, J.*

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.