



STATE OF NEW JERSEY

In the Matter of Peter Celeste and
Josue Ortolaza, County Correction
Captain (PC2522T), Camden County

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket Nos. 2016-2635 and
2016-2584

Examination Appeal

ISSUED: OCT 19 2016 (JH)

Peter Celeste and Josue Ortolaza appeal the determinations of the Division of Agency Services, which found that they were ineligible for the promotional examination for County Correction Captain (PC2522T), Camden County.

The subject examination was open to employees in the competitive division who had an aggregate of one year of continuous permanent service and were serving in the County Correction Lieutenant title in the Camden County Department of Corrections as of the November 21, 2015 closing date. A review of their respective employment records finds that Messrs. Celeste and Ortolaza received regular appointments to the County Correction Lieutenant title effective December 7, 2014. Thus, the Division of Agency Services concluded that the appellants did not possess the requisite year in grade. Consequently, the appellants were found ineligible for the subject promotional examination.

On appeal, Mr. Celeste argues that on October 8, 2014, he was informed by the Warden that he "was being promoted from an ACTIVE ELIGIBLE LIST, to the position of Lieutenant. He said that I would be officially approved on October 16, 2014, at the next meeting of the Camden County Board of Chosen Freeholders." He maintains that he was sworn in on the same day with three other Lieutenants who were appointed on October 6, 2014. He indicates that upon contacting the Camden County Division of Human Resources, he was informed that he received a provisional appointment. He argues that pursuant to *N.J.A.C. 4A:4-1.5*, he could not have received a provisional appointment since there was an active, complete list for County Correction Lieutenant. In support of this appeal, he submits a copy of

"Resolution Approving Personnel Actions By Or On Behalf of Freeholder McCray," Introduced on October 16, 2014 (Resolution). It is noted that the Resolution indicates that Mr. Celeste received a title and salary change and a temporary appointment ("TA") to the County Correction Lieutenant title effective October 19, 2014.¹

Mr. Ortolaza also argues that he could not have received a provisional appointment pursuant to *N.J.A.C. 4A:4-1.5*. Mr. Ortolaza also submits a copy of the above noted Resolution which indicates that he received a title and salary change and a temporary appointment ("TA") to the County Correction Lieutenant title effective October 19, 2014.²

CONCLUSION

N.J.A.C. 4A:4-2.6(a)1 provides that applicants for promotional examinations must have one year of continuous permanent service for an aggregate of one year preceding the closing date in a title or titles to which the examination is open.

A review of the record finds that the list for County Correction Lieutenant (PC2067R), Camden County, promulgated on August 21, 2014 and expires on August 20, 2017. It is noted that Mr. Ortolaza's name appears at rank eight and Mr. Celeste's name appears at rank nine on the PC2067R list. The first certification of the PC2067R list, which issued on September 19, 2014 (Certification No. PL141183), contained the names of the eligibles who appeared at ranks 1 through 8. In disposing of Certification No. PL141183, the appointing authority appointed three eligibles, Dimitiri Collins (rank 1), Sergio Monroe (rank 2) and Earl O'Connor (rank 4), effective October 6, 2014. The second certification of the PC2067R list, which issued on November 24, 2014 (Certification No. PL141463), contained the names of the eligibles who appeared at ranks 2, and 5 through 11. In disposing of Certification No. PL141463, the appointing authority appointed two eligibles, Messrs. Ortolaza and Celeste, effective December 7, 2014, and one eligible, Denita Forrest (rank 9),³ effective February 22, 2015.

The Camden County Division of Human Resources indicates that Certification No. PL141183 was returned on October 7, 2014. However, "two weeks after the Warden received approval to promote more Lieutenants, unfortunately, this certification had not been disposed by the certification unit and I could not request the new certification until PL141183 was disposed. The Warden Gross Paid Adjusted, temporarily appointed for payroll purposes Mr. Celeste and Mr. Ortolaza

¹ It is noted that this appointment was not recorded in Mr. Celeste's employment record.

² It is noted that this appointment was not recorded in Mr. Ortolaza's employment record.

³ Mr. Celeste and Denita Forrest tied at rank 9 on the PC2067R list.

on October 19, 2014. I sent a request in for a new certification and could not get one until PL141183 was disposed. The new certification was issued on November 24, 2014, and the appointments were made on December 7, 2014 after I received letters from three of the individuals [who ranked above Messrs. Celeste and Ortolaza] that they were not interested [in appointment]. Both Mr. Ortolaza and Mr. Celeste accepted the promotions from the Warden on October 19, 2014 as Temporary Gross Paid Adjustments not knowing if they could be reached on the certification PL141463 because at this time there was only approval for two and Mr. Ortolaza and Mr. Celeste were [at positions] 5 [and] 6 [on the certification].”

The Commission notes that generally, an award of a retroactive appointment date “for seniority purposes only” is limited to situations in which an appellant could have been appointed on the subject date, but through administrative error or administrative delay, received a later appointment date, or for other good cause. *See N.J.A.C. 4A:4-1.10(c)*. In the present matter, the appellants argue that they were appointed effective October 19, 2014, pursuant to conversations they had with the Warden and based on the Resolution. However, as noted above, the Resolution did not indicate that Messrs. Celeste and Ortolaza received permanent appointments on October 19, 2014.⁴ In addition, the record does not demonstrate that an administrative error or administrative delay occurred. In this regard, there is nothing in the record that indicates Camden County erred in failing to permanently appoint Messrs. Celeste and Ortolaza on October 19, 2014. Mr. Ortolaza’s name appeared last on Certification No. PL141183 and, as noted above, three higher ranked individuals were appointed. Further, as noted above, Mr. Celeste’s name did not appear on Certification No. PL141183. The Camden County Division of Human Resources explains that it could not request another certification until Certification No. PL141183 had been disposed. When the second certification was issued, the Camden County Division of Human Resources notes that it only had approval for two appointments. Thus, even if the above circumstances could be considered “administrative delay,” since Messrs. Celeste and Ortolaza appeared at positions 6 and 5, respectively, on the certification, it was unclear whether they were reachable for appointment. Moreover, the record does not evidence bad faith or some invidious reason for the December 7, 2014 regular appointment date.

Accordingly, based on the foregoing, the appellants have not met their burdens of proof, and have not provided a basis to disturb the determinations of the Division of Agency Services.

ORDER

Therefore, it is ordered that these appeals be denied.

⁴ It is noted that the Resolution indicates that Messrs. Collins, Monroe and O’Connor received permanent appointments (“RA”) effective October 6, 2014.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 19TH DAY OF OCTOBER, 2016



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Director
Division of Appeals and Regulatory Affairs
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Peter Celeste
Josue Ortolaza
Frank E. Ciri
Kelly Glenn
Records Center