



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of David Hameier, *et al.*, Various Jurisdictions

CSC Docket Nos. 2016-3996  
2016-4171  
2016-4227  
2016-4054  
2016-4191  
2016-4485

Examination Appeal

ISSUED: **NOV 16 2016** (RE)

David Hameier, County Correction Lieutenant (PC2601T), Sussex County; James Hunsicker, Zachary Keller, and Michael Linhares, Correction Major (PS1857I), Department of Corrections; Christopher Mancuso, Correction Sergeant Juvenile Justice (PS1858P), Juvenile Justice Commission; and, Thomas Slinchak, Sheriff's Officer Lieutenant (PC2590T), Ocean County appeal the denial of their requests for make-up examinations. These appeals have been consolidated due to common issues.

The appellants were scheduled to take the subject examinations on May 12, 2016. When they received their notifications, they requested make-up examinations, stating that they would be participating in a five-day charity event, the Police Unity Tour, which involved riding a bicycle from northern New Jersey to Washington, D.C. This event was held from May 9 to 13, 2016, with an arrival ceremony on May 12, 2016 and an annual candlelight vigil on May 13, 2016. Some appellants provided a roster of participants with their names included, and indicated that their participation would raise funds for the National Law Enforcement Officer's Memorial and Museum in Washington, D.C. The appellants stated that they signed up for the Police Unity Tour in August 2015, and paid \$1800 to participate, which is nonrefundable. A letter from the Police Unity Tour Chapter 2 President confirms participation of some of the appellants in the event. Some appellants submit Requests for Approval for Attendance at Events form for the State Ethics Commission, which is signed by them and supervisors. The Division of Agency Services (DAS) denied these requests as they did not meet the criteria listed in *N.J.A.C. 4A:4-2.9*.

On appeal, the appellants state that the event raises awareness of Law Enforcement Officers who have died in the line of duty, and they had sponsors for their rides. Each rode in memory of a specific officer who died in the line of duty. They argue that this event was out-of-State, non-refundable, and planned in August 2015. They paid to participate, paid for their expenses and equipment, and trained for the event. Mr. Linhares cites several examples where the Commission relaxed the rules to allow for vacations or to attend a college graduation. Some appellants submit signed, sworn statements from the Police Unity Tour Chapter 2 President confirming their participation. Several appellants state that they did not know the Tour would conflict with the examination.

Each of these examinations was announced in November 2015. Additionally, there were three admitted candidates to County Correction Lieutenant (PC2601T), Sussex County; 143 candidates were admitted to the examination for Correction Major (PS1857I), Department of Corrections; 133 candidates were admitted to the examination for Correction Sergeant Juvenile Justice (PS1858P), Juvenile Justice Commission; and ten candidates were admitted to the examination for Sheriff's Officer Lieutenant (PC2590T), Ocean County.

*N.J.A.C. 4A:4-2.9(c)* provides, in pertinent part, that for police, fire, correction officer, sheriff's officer, juvenile detention officer and other public safety open competitive and promotional examinations, make-ups may be authorized only in cases of:

1. Death in the candidate's immediate family;
2. Error by the Civil Service Commission or appointing authority; or
3. A catastrophic health condition or injury, which is defined as either:
  - i. A life-threatening condition or combination of conditions; or
  - ii. A period of disability required by the candidate's mental or physical health or the health of the candidate's fetus which requires the care of a physician who provides a medical verification of the need for the candidate's absence from work for 60 or more work days.

## CONCLUSION

The record establishes that the appellants were scheduled to take the examination on May 12, 2016 and did not do so. Prior to the examinations, the appellants requested make-up examinations as they were attending a five-day event which occurred once a year. DAS denied these requests. The appellants provided confirmation that they were participating in this event.

The Civil Service Commission publishes Law Enforcement Status reports for public safety testing for use by candidates, appointing authorities, and union

representatives. These reports contain information regarding the announcements, tests administrations, and examination schedules for law enforcement titles. These reports list the jurisdictions and symbol numbers of examinations that have already been announced, and they provide an estimation of when tests will be administered. The Law Enforcement Status Report May/June 2016, which was posted online May 2, 2016, indicated that the subject examinations were tentatively scheduled for administration on May 12, 2016. The same information was given in the March/April 2016 Law Enforcement Status Report, issued in the beginning of March 2016. The November/December 2015 and January/February 2016 Law Enforcement Status Reports indicated that the examinations for all three titles were tentatively scheduled for May 2016. As such, the appellants were definitively informed of the test date by the beginning of the month of March 2016.

Additionally, Examination Information Alerts (EIAs) are documents also issued by the Division of Test Development and Analytics to inform all interested parties of projected deadlines and test dates for examinations. An EIA issued in January of 2015 indicated that the examinations for the County Corrections Officer and Sheriff's Officer Lieutenant title series were tentatively scheduled for announcement in November 2015 and administration in May of 2016. This information was repeated in the EIA issued in January of 2016. Thus, the appellants for local jurisdictions were informed of a tentative test date in May 2016 as early as January 2015. The purpose of the EIAs is to provide candidates with general timeframes so they can make informed decisions.

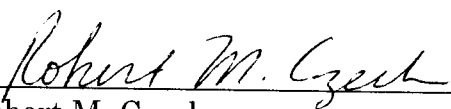
In this case, the appellants were faced, essentially, with a scheduling conflict, which is not a valid reason for a make-up. *See e.g., In the Matter of Rose Messere* (MSB, decided May 5, 2004) and *In the Matter of Douglas Green, Elida Ortiz and Elba Rosario-Diaz* (MSB, decided July 13, 2011). To participate in the Police Unity Tour, candidates were required to register beginning in August 2015, and to submit a registration fee. They were then notified afterwards of whether or not they were accepted. This was not a non-refundable vacation, nor a ceremony such as a college graduation, and the appellants were on notice of the date of the examination at least two months prior to the Police Unity Tour. Candidates for the County Correction Officer title series examinations were aware that the examination would be given in May 2016 as early as January 2015. Candidates for the State examinations were aware that the examination would be given in May 2016 as early as November 2015. The appellants had sufficient notice of the examination date to cancel their plans. Instead, they chose to participate in the tour rather than take the promotional examinations. Two of the examinations are extremely competitive with 143 and 133 admitted candidates. As such, the circumstances presented by the appellants do not meet the above noted criteria, and good cause is not presented to provide make-up examinations.

ORDER

Therefore, it is ordered that these appeals be denied.

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  
THE 10<sup>th</sup> DAY OF NOVEMBER, 2016



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