



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Michael Kelly,
Police Captain (PM1327U),
Elizabeth

Examination Appeal

CSC Docket No. 2017-3625

ISSUED: July 31, 2017 (RE)

Michael Kelly appeals his score on the oral portion of the promotional examination for Police Captain (PM1327U), Elizabeth. It is noted that the appellants received a final average of 86.480 and ranks 6th on the resultant eligible list.

This was a two-part examination consisting of a multiple-choice portion and an oral portion, and seniority was scored as well. The test was worth 70 percent of the final average and seniority was worth the remaining 30 percent. Of the test weights, 51.7% of the score was the written multiple-choice portion, 32.4% was the technical component and 15.9% was the oral communication component. The examination content was based on a comprehensive job analysis. Senior command personnel from police departments, called Subject Matter Experts (SMEs), helped determine acceptable responses based upon the stimulus material presented to the candidates, and they scored the performances. In the oral portion of the examination, candidates were presented with a scenario. They were given thirty minutes to read the scenario and questions, and to decide how to answer. In the examination room, candidates were given instructions and read the questions, and then they were given fifteen minutes to give their response to all the questions.

Performances were audio and digitally recorded and scored by SMEs. Each performance was rated on a five-point scale, with 5 as the optimal response, in two components: (1) Oral Communication and (2) Technical Supervision/Problem Solving/Decision-Making. The appellant scored a 3.5 for the technical component, and a 4.5 for the oral communication component.

CONCLUSION

The scenario involved an accident with an officer in unmarked vehicle. The officer saw a green sedan driving erratically. It sideswiped a parked car, nearly struck two pedestrians, and drove away. The officer activated his vehicle's emergency lights and audible device, and attempted a motor vehicle stop. However, the driver would not stop, but increased his speed. Dispatch notified the officer that the car was stolen. He initiated pursuit with his supervisor's approval. One minute later, the officer lost control of his vehicle and traveled onto the sidewalk where he struck a man standing at a bus stop. The candidate reports to the scene and sees the man, who has sustained severe injuries, being placed into an ambulance. Question 1 asked for specific actions to take, or ensure are being taken, in response to the incident from the time the candidate arrives on-scene through the investigative process.

After reviewing his test materials, the appellant disagreed with his score for the technical component. The appellant received a score of 3.5, and the assessors indicated that the appellant missed the opportunities to establish a command post or take command of the scene (question 1) and to secure or investigate the accident scene of the sideswiped car (question 1). On appeal, the appellant states that he established an inner and outer perimeter of the crime scene; requested detectives, accident investigation, and the crime scene unit respond to the scene to process it and locate and secure witnesses; canvassed the area for witnesses and video surveillance; requested aviation support for locating the suspect vehicle; cleaned up the crime scene, removed all crime scene tape and washed down fluids.

In reply, a review of the video reveals that that appellant did not take either action listed by the assessors. The appellant stated that upon arrival he would ensure an inner and outer perimeter of the crime scene to keep everyone back. He then took the other actions such as notifying various agencies and personnel. This was a formal examination setting, and candidates were required to state what they meant. That is, credit is not given for information that is implied or assumed. Without stating that he would establish a command post or take command of the scene, the appellant has not indicated that he knew to do so. The other actions listed by the appellant are not the same, and credit will not be given for the implication that the appellant established command by taking those actions.

The appellant received credit for securing the scene and setting up a perimeter, which was a separate response. However, he did not secure or investigate the accident scene of the sideswiped car. That scene was at a different location from the bus stop accident, as the officer had been driving for at least one minute. As such, the perimeters of the bus stop scene could not have included the side-swiped car accident. Notifying accident investigators, notifying crime scene

detectives, identifying and interviewing witnesses, securing and watching recordings and surveillance cameras, and looking for the stolen car and suspect, were separate responses for which the appellant received credit. In this case, the appellant missed the actions noted by the assessors.

Nevertheless, the assessor notes are examples of missed opportunities to take actions to address the situation, they are not all-inclusive of all possible acceptable actions. The appellant's entire performance has been reviewed again, and it is determined that he took an additional action, calling for the State Police Aviation Unit, which one assessor did not credit, but which has been determined to be an acceptable response. As such, the appellant's score for this component should be raised from 3.5 to 4. However, the performance does not warrant a score of 5.

ORDER

Therefore, it is ordered that this appeal be granted in part and the score for the technical component be raised from 3.5 to 4.

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 26th DAY OF JULY, 2017



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