



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Charles Brown,  
County Correction Officer (S9999W),  
Union County

CSC Docket No. 2018-1197

Administrative Appeal

ISSUED: April 10, 2018 (RE)

Charles Brown, a County Correction Officer with Union County, requests that his record be adjusted to reflect continuous permanent service.

By way of background, the petitioner was on the eligible list for County Correction Officer (S9999W), Union County. Upon disposing of the certification (OL991381), the appointing authority requested to remove the petitioner's name from the eligible list. The petitioner appealed the matter to the former Merit System Board (Board) which found that the appointing authority did not meet its burden of proof, and the appellant's name was restored to the eligible list. The Board noted that the petitioner should be granted a retroactive date of appointment to the date he would have been appointed had his name had not been removed from the subject eligible list, and that this date was for salary step placement and seniority based purposes only. No other relief was granted, such as back pay or counsel fees, except the relief enumerated above. *See In the Matter of Charles Brown, County Correction, (S9999W), Union County* (MSB, decided December 19, 2000). Although the petitioner's appeal was granted in December 2000, due to a large layoff action, the petitioner did not actually commence duties of the position until August 24, 2002. However, in compliance with the Board's order, his permanent appointment date was recorded as February 20, 2000.

After the Board's decision was issued, but prior to hiring the petitioner, the Union County Department of Public Safety underwent a layoff targeting 107 County Correction Officers. Layoff notices were sent on February 15, 2001 and the layoffs occurred on March 31, 2001. A total of 97 County Correction Officers were

laid off or accepted intergovernmental transfers to various prisons operated by the New Jersey Department of Corrections. In this regard, it is noted that in *In the Matter of Richard Andrews, et al., Union County* (Commissioner of Personnel, decided May 15, 2001) and *In the Matter of Giovanni Abad, Union County* (Commissioner of Personnel, decided June 14, 2001), the former Commissioner of Personnel permitted the intergovernmental transfers of 77 Union County Correction Officers to transfer to the title of Senior Correction Officer with the Department of Corrections in lieu of the layoff, effective April 1, 2001. In accordance with these decisions, the impacted employees who completed a specific four-week Police Training Commission (PTC) refresher course for Senior Correction Officer would have their names placed on the Special Reemployment List (SRL) for County Correction Officer in Union County. However, those who did not complete the required PTC training would have their name restored to the original list Union County used to hire them.

Subsequently, the SRL for County Correction Officer was certified (OL011524) and 15 of the County Correction Officers impacted by the layoff were appointed effective July 18, 2001, and one was appointed effective December 17, 2001. Additionally, appointments were made of individuals impacted by the layoff via intergovernmental transfers who were on eligible lists prior to the one on which the petitioner is listed up to July 27, 2002. As noted earlier, the petitioner actually began employment on August 24, 2002, but in compliance with *Brown, supra*, his permanent appointment date was recorded as February 20, 2000. Thereafter, in response to an inquiry, by letter dated October 3, 2002, this agency informed the appointing authority that the petitioner was not entitled to more seniority than others appointed from the certification (OL991381) and who were subsequently laid off on April 1, 2001 and reappointed from SRL on July 18, 2001. Rather, the petitioner was entitled to the same aggregate seniority as those County Correction Officers and his County and Municipal Personnel System (CAMPS) record indicates a break in service from April 1, 2001 to July 18, 2001.

On appeal, the petitioner argues that the appointing authority, the Director of Corrections, and the President of PBA Local 199 committed unlawful hiring actions. Specifically, he contends that they colluded to discriminate against him and disregarded his rights by violating *Brown, supra*. He maintains that the appointing authority did not provide the appointments in “the proper order,” when they made appointments from (OL991381) from September through December, 2000. He believes that instead of transferring County Correction Officers from the State Department of Corrections back to Union County or hiring from the SRL, in June 2001 the appointing authority made 18 provisional appointments of individuals who “were connected within the County or good friends with members of the County [who were] in charge of hiring officers.” He maintains that minority officers were replaced with Caucasian officers in the new jail when the appointing authority did not bring back officers that were “forced” to take a lateral transfers,

made appointments “out of order of seniority,” and “never put the senior officers back in their original positions.” He states that a cover-up occurred when the appointing authority made “new hires” of the County Correction Officers who transferred back to Union County, rather than allowing them lateral transfers.

As to the Union, at the time of his hiring in August 2002, the petitioner advises that the PBA president suggested that his pay would be adjusted, and told him he would have the opportunity to make money by working overtime. The petitioner believes this was an unacceptable response to his inquiry and was an injustice, which caused him to miss three years, three months of his career, as well as time towards his pension. He states that the Union President “called different places and talked to various people,” without informing “them” of the provisional appointments. He states that the Union will not help officers get back what they lost as result of this discriminatory behavior. The petitioner requests that his seniority from the 2001 layoff be restored to himself and to all other officers who transferred to Union County from State facilities after the layoff.

### CONCLUSION

*N.J.A.C.* 4A:2-1.1(b) states that, unless a different time period is stated, an appeal must be filed within 20 days after either the appellant has notice or should reasonably have known of the decision, situation, or action being appealed.

Initially, the petitioner’s appeal of this matter is untimely. By letter dated October 3, 2002, this agency advised the appointing authority that the petitioner would receive a retroactive date of appointment in accordance with *Brown, supra*, but that he was not entitled to more seniority than others appointed from certification OL991381. Further, in a memo provided by the petitioner dated November 18, 2003, the Union County Department of Finance, Division of Pensions, indicated that the Board only granted him a retroactive date of appointment, but did not grant any other relief such as back pay or counsel fees. Therefore, because the petitioner was not actually employed for the period of February 12, 2000 to August 23, 2002, he was not entitled to purchase pension time. In a letter dated July 22, 2005 provided by the petitioner, the Department of Treasury, Division of Pensions advised him that he could not be enrolled in the Police and Firemen’s Retirement System (PFRS) prior to his actual enrollment date of September 1, 2002 because the Board only granted him a retroactive appointment date for salary step placement and seniority based purposes only, but no other relief such as back pay or counsel fee. In a letter provided by the petitioner dated March 15, 2013, the petitioner’s counsel advised him that at a legal attack to purchase pension time was unlikely to be successful, as an appeal of this issue would be untimely. Clearly, the petitioner was aware of the matter concerning his continuous permanent service and appointment date since October 2002 but did not pursue the matter with the

Civil Service Commission (Commission). Therefore, his October 25, 2017 appeal of this matter is untimely and can be dismissed on those grounds alone.

Even assuming *arguendo* that the petitioner timely appealed this matter, his request is denied on the merits. Pursuant to *N.J.A.C.* 4A:8-2.3(b)1, special reemployment lists shall take priority over all other reemployment lists, open-competitive lists and lateral title changes pending examination. In the instant matter, the petitioner commenced the duties of County Correction Officer on August 24, 2002. He was given a retroactive appointment date of February 12, 2000, but due to the layoff, his record reflects a break in service from April 1, 2001 to July 18, 2001. When the other individuals who were also appointed from certification (OL991381) effective February 12, 2000 were subsequently laid off on April 1, 2001 and reappointed from the SRL on July 18, 2001, the petitioner's record was revised to reflect this break in service due to the layoff. Although the petitioner claims appointments were made out of order on certification OL991381, it is noted that the eligibles from position number 5 to number 33 were appointed effective January 1, 2002 and the eligibles from position number 35 to number 208 received appointment dates effective February 12, 2000. Thus, since the petitioner's name was listed in position number 156, he was correctly awarded an appointment date, for seniority and salary step purposes only, of February 12, 2000. However, since all of the individuals appointed from the OL991381 certification were laid off effective April 1, 2001, the petitioner would have been laid off. As such, it was appropriate to record his break in service for the period up until appointments were made from the SRL on July 18, 2001.

As noted earlier, a number of County Correction Officers intergovernmentally transferred to the State Department of Corrections on April 1, 2001. When positions became available in Union County, the SRL was certified and appointments were made from that list effective July 18, 2001 and December 17, 2001. Additionally, in accordance with *Abad, supra*, and *Andrews, supra*, appointments were made of individuals impacted by the layoff via intergovernmental transfers or who were on eligible lists issued prior to the one on which the petitioner was appointed up to July 27, 2002. Thus, the appointing authority was not required to commence the petitioner's actual employment until August 24, 2002 since other individuals had a higher right to the positions. Regardless, the petitioner was awarded seniority to the date he would have been appointed, less the time he would have been impacted by the layoff. The appellant submits a newspaper article from December 14, 2001 indicating that the "promotion of officers leads to rehiring by County jail." This article merely indicates that vacancies due to the promotions would be filled by individuals who transferred to other corrections departments after the layoff. The appellant has not provided any evidence to support his contention that provisional appointments were made prior to the date he actually commenced employment.

**ORDER**

Therefore, it is ordered that the request 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 ON  
THE 4<sup>TH</sup> DAY OF APRIL, 2018



Deirdre L. Webster Cobb  
Acting Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Christopher S. Myers  
Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P. O. Box 312  
Trenton, New Jersey 08625-0312

c: Charles Brown  
Michael Yuska  
Kelly Glenn  
Records Center