



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Kyle Belle,
Department of Human Services

Reconsideration

CSC Docket No. 2019-2963

ISSUED: JUNE 14, 2019 (BW)

Kyle Belle, a Police Officer Recruit Human Services with the Department of Human Services, represented by Shelia D. Ellington, Esq., petitions the Civil Service Commission (Commission) for reconsideration of the decision, rendered on March 14, 2019, in which the Director of the Division of Appeals and Regulatory Affairs denied his request for a hearing with respect to his removal.

By way of background, in a December 18, 2019 Final Notice of Disciplinary Action (FNDA), the petitioner was removed on charges of conduct unbecoming a public employee and other sufficient cause. The FNDA was sent certified mail to the appellant. However, the signed and dated certified green card was not returned to the appointing authority, and there is no record in USPS tracking. The petitioner's letter of appeal of that FNDA was postmarked January 22, 2019. Therefore, the December 31, 2018 money order submitted with the appeal was used to determine timeliness. Since the appeal was not perfected within 20 days of receipt of the FNDA, the request for a hearing was denied.

In his petition for reconsideration, the petitioner's counsel submits a certification signed by petitioner stating that he received the FNDA on December 27, 2018. He then purchased the money order on December 31, 2018, and on the same day, he sent the money order to his attorney, who acknowledge receipt on January 4, 2019

The appointing authority, despite being provided the opportunity, did not present any arguments for the Commission to review.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) sets forth the standards by which a prior decision may be reconsidered. This rule provides that a party must show that a clear material error has occurred, or present new evidence or additional information not presented at the original proceeding, which would change the outcome of the case and the reasons that such evidence was not presented at the original proceeding. A review of the record in the instant matter reveals that reconsideration is not justified.

N.J.S.A. 11A:2-15 provides that appeals from major disciplinary matters be made in writing to the Commission no later than 20 days from receipt of the final written determination of the appointing authority. This 20-day time limitation is jurisdictional and cannot be relaxed or waived. *See Borough of Park Ridge v. Salimone*, 21 *N.J.* 28, 46 (1956); *See also, Mesghali v. Bayside State Prison*, 334 *N.J. Super.* 617 (App. Div. 2000), *cert. denied*, 167 *N.J.* 630 (2001); *Murphy v. Department of Civil Service*, 155 *N.J. Super.* 491, 493 (App. Div. 1978). Further, *N.J.A.C.* 4A:2-2.8(a) states that "An appeal from a Final Notice of Disciplinary Action must be filed within 20 days of receipt of the Notice by the employee. Receipt of the Notice on a different date by the employee's attorney or union representative shall not affect this appeal period."

In the instant matter, petitioner admits in his certification that he received the FNDA on December 27, 2018 giving him until January 16, 2019 to submit his appeal. Under these circumstances, the petitioner did not meet the 20-day filing requirement, and has not presented a basis to grant a hearing. Accordingly, the petitioner has not met the standard for reconsideration.

ORDER

Therefore, it is ordered that this petition 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 12TH DAY OF JUNE, 2019



Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

**Inquiries
and
Correspondence**

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

**c. Kyle Belle
Shelia D. Ellington, Esq.
Dept. of Human Services
Records Center**