



Watch Commander with supervisory duties over another Lieutenant. As it was found that he performed Watch Commander duties approximately 20% of the time, and that the overwhelming majority of the duties performed by the Watch Commander fall within the Police Lieutenant job specification, his position was properly classified as Lieutenant.) The appellant argues that he instructs sergeants and officers on the road, reviews criminal investigations and crash reports, receives complaints and investigates as necessary and ensures that staffing levels are met, among other duties. He states that he is scheduled to work the Desk Sergeant post for fifty percent (50%) of his time.

The appellant explains that Police Officers work a schedule consisting of five days on duty, two days off duty, then five days on duty, three days off duty. Officers are split into three platoons with two thirds of the platoon scheduled to work each day. He is assigned to C Platoon. There is generally one Lieutenant assigned to most squads, but due to the operation of the schedule, ten out of every twenty work days, or 50% of the time, there is no Lieutenant assigned to C Platoon. As the Senior Sergeant on his squad, he is scheduled to work as Desk Sergeant in the absence of a Lieutenant. He states that his supervisor agreed that he is scheduled as Desk Sergeant ten out of every twenty working days, although an off-duty Lieutenant may be asked to fill in as Desk Sergeant during some scheduled shifts.

The appellant indicates that the position of Desk Sergeant was formerly referred to as "Watch Commander," and acts as the Lieutenant when there is no Lieutenant on the shift, and is supervised by a Police Captain. The Desk Sergeant is responsible for all units of the police department in the absence of the Unit commanders, Bureau commanders and Chief of Police (Chief). He states that he prepares daily work assignments directing subordinates to specific patrol areas, takes daily attendance, grants days off and fills overtime assignments including scheduling Lieutenants for overtime, and supervises road sergeants, patrol officers, and public safety telecommunicators. He states that his supervisor agreed that Desk Sergeants may recommend discipline and give oral reprimands or counseling and have the authority to assign and reassign officers, arrange for overtime with approval of the Platoon Commander or Patrol Captain, and request assistance from other jurisdictions.

The appellant argues that, when assigned to the position of Desk Sergeant, he performs the duties of a Lieutenant, and demands that the Commission appoint an independent classification reviewer to conduct a review of his appeal. To that end, the appellant states that the terms "Desk Sergeant" and "Watch Commander" are used interchangeably in Clifton, that the duties of a Desk Sergeant are those of a Lieutenant, and that he performs those duties while serving as a Desk Sergeant. Agency Services indicated that "classification determinations are not based on duties performed in the absence of a supervisor," and that "more than 50% of the appellant's time is spent performing duties consistent with the title of Police

Sergeant.” However, the appellant maintains that his position should be reclassified on the basis that he is *scheduled* to work as the Desk Sergeant for 50% of his time. He argues that this is not an occasional occurrence whereby a Sergeant performs the duties of a higher rank on an *ad hoc* basis, and that no Lieutenant is present 50% of the time.

In response, the appointing authority states that the appellant does not work as a Desk Sergeant for a majority of his time working, and that the scheduling is irrelevant if he does not actually work all of the scheduled hours. It maintains that the appellant only spent 18% of his time as a Desk Sergeant. Further, the appointing authority maintains that Desk Sergeants do not exclusively perform Lieutenant duties. Therefore, even if the appellant was a Desk Sergeant for 50% of his time, which he was not, he would not be spending the majority of his time performing Lieutenant duties. The appointing authority indicates that an appropriate classification is determined by the duties that the employee actually performs. *See In the Matter of Jason Anderson, et al., Sheriff's Officer, Passaic County Sheriff's Department*, Docket No. A-4083-13T (August 3, 2016). The appointing authority explains that the Desk Sergeant performs the duties of a Police Officer, Sergeant, and Lieutenant. The supervisory duties are limited and only take place in the absence of a higher-ranking officer. It maintains that *Bielsten, supra*, is not applicable, as *Bielsten* was a Lieutenant, and therefore his primary duties were those of Lieutenant, *i.e.*, when he was not a Watch Commander. Lastly, it indicates that there is a binding settlement agreement between the City and PBA Local 36 which accounts for the added duties of a desk Sergeant by providing extra compensation for additional duties. As such, it argues that reclassification of the position to Lieutenant would contradict the expressed terms of the negotiated agreement. It explains that the negotiated agreement included \$4.00 per hour extra compensation for time worked as a Watch Commander, which is a small amount of compensation and which represents the small increase in duties required of the Desk Sergeant. It indicates that the appellant has already been compensated for hours worked as a Desk Sergeant, and he would be compensated twice for the same hours should the position be reclassified.

In reply, the appellant argues that the Desk Sergeant performs the duties of a Lieutenant as he is in charge of the Police Station and is responsible for all command decisions that would otherwise be made by a Lieutenant if one were on duty. Further, he states that in *Bielsten, supra*, the Commission determined that “the overwhelming majority of the duties performed by the Watch Commander fall within the Police Lieutenant job specification.” He argues that the Commission fully analyzed the duties of a Watch Commander and found that they were commensurate with a Lieutenant classification, and not a Sergeant classification. The appellant reiterates that he is scheduled to work as a Desk Sergeant for 50% of his time, that payroll records provided by Clifton are incomprehensible, and that

there is no reason for Clifton to call in a Lieutenant at a higher rate of pay. Next, the appellant argues that the settlement agreement proves that Desk Sergeants should properly be classified as Lieutenants. He maintains that \$4 an hour is the difference between the amount a senior Sergeant earns per hour and the amount of a first step Lieutenant earns per hour, and that the City would not voluntarily pay a Sergeant a Lieutenant's salary if Watch Commander duties were not those of a Lieutenant. Lastly, the appellant indicates that he has already been compensated for the hours his work and he would not receive additional compensation for those hours based on a reclassification of the position.

## CONCLUSION

*N.J.A.C.* 4A:3-3.9(e) states that in classification appeals the appellant shall provide copies of all materials submitted, the determination received from the lower level, statements as to which portions of the determination are being disputed, and the basis for appeal. Information and/or argument which was not presented at the prior level of appeal shall not be considered.

The definition section of the job specification for Police Sergeant states:

Under supervision of a Police Lieutenant during an assigned tour of duty, has charge of police activities intended to provide assistance and protection for persons, safeguard property, and assure observance of the laws, and apprehends lawbreakers; does related work as required.

The definition section of the job specification for Police Lieutenant states:

Under supervision of a Police Captain during an assigned tour of duty, has charge of a police platoon or performs specialized supervisory police duties; does related work as required.

Initially, it should be noted that the appellant improperly completed his Position Classification Questionnaire (PCQ). Directions state to describe in detail the work required of the position. The Work (Duties) Performed section (Section 8) instructions indicate, "The answer to this item requires an exact account of what you do. Describe your 'whole job' or year-round duties, not just those which might be performed during rush or peak periods of activity or when you are substituting for other persons. Start with your most important duties and describe your least important duties last. Use a separate paragraph for each major duty." In this section, the appellant wrote, "These are the duties performed when I am assigned to the Desk Sgt. position. When I am assigned to the road, I have different duties which I have NO contention or dispute with." Without a description of **all major duties**, the PCQ information is incomplete, and the percentages of time and order of difficulties are based only on a subset of duties assigned to the whole position.

This is not how a position is evaluated and only serves to render meaningless the percentages of time and order of difficulties. Nevertheless, as the appellant does not take umbrage with his duties as a road supervisor, it is assumed that those duties, while not articulated, reflect those of a Sergeant.

As provided in *Bielsten, supra.*, the Watch Commander description for the Clifton Police Department indicates that this position derives authority from and reports directly to the Captain of the Field Operations Bureau, who reports to the Chief. The Watch Commander has “charge of, and is responsible for the police station, prisoners, property, surgeons, patrol officers, and public safety telecommunicators during an assigned tour of duty in activities intended to provide assistance and protection for persons, safeguarding property, assure observance of laws, and apprehend lawbreakers.” They supervise Sergeants and Police Officers, are the highest-ranking officer on a shift, and they request major rule and regulation infractions and major discipline from the Captain. Thus, the Watch Commander in 2011 typically performed the duties of a Lieutenant, and much of the time a Lieutenant was filling that role. Bielsten was a Lieutenant assigned as Watch Commander, and worked in watch command over another Lieutenant without the presence of a Captain. The appellant works as a Desk Sergeant over another Sergeant without the presence of a Lieutenant. The Commission found that the position was properly classified as a Lieutenant based on the lack of authority over the second-level supervisor, a Lieutenant, for a majority of the time *i.e.*, third-level supervisory duties, more than 50% of the time.

It has been well established in prior classification determinations that a position classified as Lieutenant is required to exercise full supervisory authority over Sergeants on a regular and recurring basis. *See In the Matter of Thomas Allegretta, et al.* (Commissioner of Personnel, decided April 23, 1990) (Desk Officer duties of Police Sergeants did not warrant their reclassification to Police Lieutenant since they did not have full supervisory authority over Police Sergeants on a regular and recurring basis). This supervisory requirement has consistently been applied to all law enforcement titles classified at the Lieutenant level. *See In the Matter of John Dougherty* (Commissioner of Personnel, decided May 14, 2007) (Sheriff's Officer Lieutenant who performed some of the duties performed by the former civilian Director of Security did not evidence position misclassification since the incumbent supervised Sheriff's Officer Sergeants and Security Guards providing security to county facilities in combination with courts). The key issue to be determined here is whether Desk Sergeant duties, including making decisions in this capacity over less senior Sergeants, exceed the responsibilities of a Sergeant and amount to supervision over one or more Sergeants. It is not seniority, but the consistent performance of tasks of a Desk Sergeant that elevate a position from Sergeant to Lieutenant. Additionally, aside from the fact that the Commission has no jurisdiction over local government compensation issues, compensation is not cognizable in this matter as classification appeals are strictly limited to a review of

the assigned duties and responsibility of the position. *See In the Matter of Jeffrey Kane* (CSC, decided March 22, 2017).

It is uncontested that the appellant is scheduled to Desk Sergeant duties for 50% of his time. However, the question is if he works these hours. The supervisor of the position indicates that if overtime is caused first preference is given to “off duty” Lieutenants to assume the role of Watch Commander and this became the standard procedure for filling overtime after a settlement. This procedure has allowed the “Watch Commander” position to be filled with Lieutenants with much more frequency, therefore reducing the actual hours the appellant must work in a “Watch Commander” capacity. The Lieutenant states that the appellant is scheduled to work 10 out of 20 days as a Desk Sergeant, but works closer to 37% to 43% of his time in that capacity, and that the majority of time he is on the road. The Chief finds that time to be lower. The Chief stated that, in 2017, the appellant worked 2,218 hours in total, and performed 364 hours of Desk Sergeant duty. This equates to 16.4% of his time. The Chief further explained that over the course of 2017, Sergeants in the department worked 23,808 hours in total, and 2,329 hours in the Desk Sergeant position, which is less than 10% of the total.

Next, the Lieutenant states that one Sergeant does not generally have supervisory power over another Sergeant, but that command decisions are deferred to the Desk Sergeant due to his seniority, experience and access to information not readily available to a road supervisor. Also, discipline is not the responsibility of the Desk Sergeant, who may recommend it, but final authority for discipline is with the Chief. Similarly, when arranging for overtime, the Desk Sergeant must receive approval from the Platoon Commander or the Captain prior to calling in additional personnel, unless a delay in authorizing additional manpower causes a risk to public safety. The Desk Sergeant is of equal rank to all Sergeants on duty, except that he is responsible for all command decisions that would otherwise be made by a Lieutenant if one were on duty. Moreover, the Chief indicates that he is the sole individual charged with the daily functionality of the department. He adds that the Lieutenants, the Captain and himself are always on call for consultation and detailed instructions, so the Desk Sergeant is not the highest-ranking officer on shift. He disagrees that the appellant works under “General Supervision,” as every task is delegated to him, a higher-ranking supervisor is always available, and all tasks have detailed instructions.

Also, performing the duties of a Desk Sergeant does not automatically establish that the position is second-level supervisor. Based on the job specification, the Lieutenant must exercise full supervisory authority over Sergeants and, based on the present record, the appellant does supervise Sergeants on a regular and recurring basis. The appellant does not have the responsibility for the preparation of performance evaluations for other Sergeants, and “supervision” of Sergeants while serving as Desk Sergeant it is not considered formal supervision for the

purposes of position classification. Similarly, final decision-making authority over an incident is not the sole breadth and scope of supervisory duties. An *essential component* of supervision is the responsibility for the administration of performance evaluations for subordinate staff, and the appellant has not established that he meets that criteria. See *In the Matter of Timothy Teel* (MSB, decided November 16, 2001). The Commission does not find it inappropriate to have two Sergeants on the same shift, with one considered as “in charge,” so long as those duties do not comprise the majority of the time.

As to an independent reviewer, *N.J.A.C.* 4A:3-3.9(e)(1) provides that the Commission may render a decision based on the written record **or** appoint an independent classification reviewer. In his appeal submissions, the appellant removed the clause, “render a decision based on the written record or” from the above rule and argues that an independent classification reviewer *must* be appointed. However, the Commission determines if the petition for classification review cannot be decided based on the written record and will order the appointment of an independent classification reviewer. In this case, there is nothing in the written record that indicates the appellant’s position should be reviewed by an independent classification reviewer. Rather, the appellant’s position classification was properly determined based on the written record.

Accordingly, a thorough review of the entire record establishes that the proper classification of Mohammad Droubi’s position is Police Sergeant.

### **ORDER**

Therefore, the position of Mohammad Droubi was properly classified as Police Sergeant.

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 10<sup>th</sup> DAY OF SEPTEMBER, 2019



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