



STATE OF NEW JERSEY

In the Matter of Richard Ramos, *et al.*, Police Lieutenant (PM0694V), Bergenfield

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

Reconsideration Request

CSC Docket Nos. 2019-2535,  
2019-2617 and 2019-2629

ISSUED: September 11, 2019 (JH)

Richard Ramos,<sup>1</sup> Daniel Brizek and Thomas Miller request reconsideration of the final administrative determination in *In the Matter of Nicolas DeLeon, Police Lieutenant (PM0694V), Bergenfield* (CSC, decided February 6, 2019). A copy of that decision is attached hereto and incorporated herein.

As provided in the original decision, the subject announcement was issued on July 1, 2017 with an application filing deadline of July 21, 2017, and indicated that the subject test was tentatively scheduled to be administered in October 2017. Notices dated September 24, 2017 informed candidates that the subject test was to be administered on October 5, 2017. In his make-up request, DeLeon indicated that he would be on an overseas trip on the exam administration date. In support of his request, he provided a copy of his airline confirmation which indicated a ticket purchase date of January 26, 2017, a departure date of October 3, 2017 and a return date of October 17, 2017. The Commission noted that Examination Information Alert Police Promotional Schedule (2017) (EIA) issued by the Division of Test Development and Analytics in April 2017 and available on the Commission website, indicated that announcements for Police Lieutenant were to be issued on July 1, 2017 and the tentative test administration date would be in October 2017. The subject announcement, as noted above, was issued on July 1, 2017, and indicated

<sup>1</sup> On April 30, 2019, staff was contacted telephonically by Robert Manetta, Esq., who indicated that he would be representing Ramos. However, it is noted that no further information was received from Manetta. In addition, in a submission filed July 9, 2019, Ramos indicated that Manetta would "not be sending over any further documents."

that the test was tentatively scheduled to be administered in October 2017. In addition, the Civil Service Commission Public Safety Testing Law Enforcement Status Report July/August 2017, which was available on the Commission website, indicated that the next announcements for Police Lieutenant were expected to be issued on July 1, 2017, Bergenfield was one of the anticipated jurisdictions and the test was anticipated to be held in early to mid-October. The Commission further noted that the earliest that candidates were on notice that the subject exam would be administered in October 2017 was July 1, 2017. The Commission indicated that DeLeon was unable cancel his vacation plans or make arrangements to return to New Jersey solely for the purpose of taking the test. Thus, the Commission determined that although the information presented by DeLeon did not technically meet the criteria for a make-up pursuant to *N.J.A.C. 4A:4-2.9(b)*, good cause existed to relax the controlling regulation given the unique circumstances presented and ordered that he be provided with a make-up for the subject examination.

In their requests, Ramos, Brizek and Miller contend that “Mr. De[L]eon has used the appeal process on several occasions throughout his career in order to obtain an unfair advantage.<sup>2</sup> He is also aware that promotional examinations are usually given during the month of October and all supervisors are advised to make sure you do not plan vacations around this time, due to vacations not being a valid excuse for a make-up date . . . [W]e believe Mr. De[L]eon planning a vacation, and being provided an addition[al] 1 year to take a promotional exam is an unfair advantage for a simple reason of, he did not believe he was eligible to take the exam . . . Mr. De[L]eon has stated to us on numerous occasions, he does not take exams when the Civil Service Commission wants, but he takes them when he wants to.”<sup>3</sup> In support of his request, Ramos submits “similar appeals that were heard and denied.” *In the Matter of Daniel Pereira, Fire Captain (PM1046V), Newark* (CSC, decided May 23, 2018); *In the Matter of Eugene Mara, County Correction Sergeant (PC2080U), Middlesex County* (CSC, decided April 18, 2018); *In the Matter of Robert Morse, Police Lieutenant (PM1405U), Elizabeth* (CSC, decided May 3, 2017); and *In the Matter of Steven Dixon, Police Lieutenant (PM1419U), Keyport* (CSC, decided January 18, 2017).

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<sup>2</sup> The appellants do not provide any additional information regarding this claim. However, it is noted that a review of the record finds that the appeal underlying this reconsideration request is the only appeal received by the Commission from DeLeon.

<sup>3</sup> Even assuming the accuracy and/or veracity of this claim, a review of the record finds that of the two Civil Service promotional examinations that DeLeon applied for and was admitted, he was only provided with a make-up examination for the PM0694V test. In addition, it is noted that the Civil Service Commission does not require individuals who may be eligible for a promotional announcement to submit an application. Rather, the decision as to whether or not to apply for a promotional examination rests with the individual.

## CONCLUSION

*N.J.A.C.* 4A:2-1.6(b) sets forth the standards by which the Commission may reconsider a prior decision. This rule provides that a party must show that a clear material error occurred or present new evidence or additional information which would change the outcome of the case and the reasons that such evidence was not presented during the original proceeding.

In the present matter, the appellants have failed to meet the standard for reconsideration. The appellants do not present new evidence or additional information which was not presented at the original proceeding which would change the outcome of the original decision, nor have the appellants proven that a clear material error has occurred in the original decision. Accordingly, based on the record presented, the appellants have failed to support their burden of proof in this matter.

It is noted that the appellants do not explain or provide any evidence of how the make-up examination conferred "an unfair advantage" to DeLeon. Moreover, despite their claim that "all supervisors are advised to make sure you do not plan vacations around [October]," the appellants have not provided any further information. In this regard, they do not indicate who advised "all supervisors" or when "all supervisors" were advised of the promotional examination for Lieutenant. Furthermore, they do not submit any evidence of such notice, *e.g.*, a departmental email or memorandum, being issued prior to January 26, 2017, the date on which DeLeon purchased airline tickets, to all eligibles for the PM0694V test.

In regard to the Commission decisions submitted by Ramos, a review of these matters finds that *In the Matter of Eugene Mara, supra*, and *In the Matter of Steven Dixon, supra*, involve make-up requests based on illness or injury. As such, it is neither clear how these matters are relevant nor does Ramos explain their relevance. While the make-up requests in *In the Matter of Daniel Pereira, supra*, and *In the Matter of Steven Dixon, supra*, were based on travel plans, the appellants in both of those matters, unlike DeLeon, were on notice of the tentative test dates prior to making their vacation plans.

A thorough review of the record indicates that the appellants have failed to support their burden of proof in this matter.

## ORDER

Therefore, it is ordered that this 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 10TH DAY OF SEPTEMBER, 2019

*Deirdre L. Webster Cobb*

Deirdré L. Webster Cobb  
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
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Attachment

c: Richard Ramos (2019-2535)  
Daniel Brizek (2019-2617)  
Thomas Miller (2019-2629)  
Nicolas DeLeon  
Corey Gallo  
Michael Johnson  
Records Center



## STATE OF NEW JERSEY

In the Matter of Nicolas DeLeon,  
Police Lieutenant (PM0694V),  
Bergenfield

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket No. 2018-1020

Examination Appeal

ISSUED: May 24, 2018 (JH)

Nicolas DeLeon appeals the determination of the Division of Administrative Support and Logistics denying his request for a make-up for the promotional examination for Police Lieutenant (PM0694V), Bergenfield.

By way of background, the subject announcement was issued on July 1, 2017 with an application filing deadline of July 21, 2017, and indicated that the subject test was tentatively scheduled to be administered in October 2017. Notices dated September 24, 2017 informed candidates that the subject test was to be administered on October 5, 2017. On September 25, 2017, the appellant filed a make-up request in which he indicated that he would be on an overseas trip on the exam administration date. In support of his request, he provided a copy of his airline confirmation which indicated a ticket purchase date of January 26, 2017, a departure date of October 3, 2017 and a return date of October 17, 2017. In a letter dated September 27, 2017, the Division of Administrative Support and Logistics indicated that the appellant's request did not meet the criteria pursuant to *N.J.A.C. 4A:4-2.9*.

On appeal, the appellant explains that he "scheduled an overseas trip . . . several months ago (January 26, 2017) as I was unaware that I would be eligible to take the next promotional exam. Once it was determined that I would be eligible, I contacted (July 20, 2017) the NJ CSC Customer Service phone number" and he was advised that "since I scheduled this trip several months ago, I would not have an issue obtaining a new test date. I would just need to provide a receipt showing the date that the airline tickets were purchased."

## CONCLUSION

*N.J.A.C.* 4A:4-2.9(b)<sup>1</sup> provides that for professional level engineering, police, fire, correction officer, sheriff's officer, juvenile detention officer and other public safety promotional examinations, make-ups may be authorized only in cases of:

1. Debilitating injury or illness requiring an extended convalescent period, provided the candidate submits a doctor's certification containing a diagnosis and a statement clearly showing that the candidate's physical condition precluded his or her participation in the examination;
2. Death in the candidate's immediate family as evidenced by a copy of the death certificate;
3. A candidate's wedding which cannot be reasonably changed as evidenced by relevant documentation;
4. When required for certain persons returning from military service;  
or
5. Error by the Civil Service Commission or appointing authority.

*N.J.A.C.* 4A:1-1.2(c) provides that a Civil Service Commission rule may be relaxed for good cause in a particular situation, on notice to affected parties, in order to effectuate the purposes of Title 11A, New Jersey Statutes.

In the present matter, the appellant indicates that on January 26, 2017, he booked airline tickets for overseas travel during the test administration date. The Examination Information Alert Police Promotional Schedule (2017) (EIA) issued by the Division of Test Development and Analytics in April 2017 and available on the Commission website, indicated that announcements for Police Lieutenant were to be issued on July 1, 2017 and the tentative test administration date would be in

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<sup>1</sup> It is noted that effective July 17, 2017, *N.J.A.C.* 4A:4-2.9 was amended and section b and section c were rewritten. Previously, *N.J.A.C.* 4A:4-2.9(c) provided 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.

October 2017. The subject announcement, as noted above, was issued on July 1, 2017, and indicated that the test was tentatively scheduled to be administered in October 2017. In addition, the Civil Service Commission Public Safety Testing Law Enforcement Status Report July/August 2017, which was available on the Commission website, indicated that the next announcements for Police Lieutenant were expected to be issued on July 1, 2017, Bergenfield was one of the anticipated jurisdictions and the test was anticipated to be held in early to mid-October.

Thus, the earliest that candidates were on notice that the subject exam would be administered in October 2017 was July 1, 2017. As a result, the appellant was unable cancel his vacation plans or make arrangements to return to New Jersey solely for the purpose of taking the test.<sup>2</sup> Although the information the appellant presents does not technically meet the criteria for a make-up pursuant to *N.J.A.C. 4A:4-2.9(b)*, good cause exists to relax the controlling regulation given the unique circumstances presented. Thus, the appellant should be provided with a make-up for the subject examination.

### ORDER

Therefore, it is ordered that this appeal be granted and the appellant be scheduled for a make-up examination.

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 23RD DAY OF MAY, 2018



Deirdre L. Webster Cobb  
Chairperson  
Civil Service Commission

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<sup>2</sup>It is noted that *N.J.A.C. 4A:4-2.9(a)* provides, in pertinent part, that make-up examinations, except for professional level engineering promotional examinations and public safety open competitive and promotional examinations may be authorized for prior vacation or travel plans outside of New Jersey or any contiguous state which cannot be reasonably changed, as evidenced by a sworn statement and relevant documentation.

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and  
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