



**STATE OF NEW JERSEY**

In the Matter of Bennie Wadley, Jr.,  
Essex County

**FINAL ADMINISTRATIVE ACTION  
OF THE CHAIR/  
CHIEF EXECUTIVE OFFICER  
CIVIL SERVICE COMMISSION**

CSC Docket No. 2022-1658

Classification Appeal

**ISSUED: April 10, 2023 (ABR)**

Essex County, represented by Sylvia Hall, Esq., Director of Labor Relations, appeals the determination of the Division of Agency Services (Agency Services), which found that Bennie Wadley, Jr.'s position with the Essex County Department of Corrections was properly classified as Investigator Secured Facilities. Essex County seeks a County Correctional Police Officer classification.

The record in the present matter establishes that at the time of the Essex County Superior Officers' Association's (Association) request for a classification review on behalf of Wadley, Wadley was serving in his permanent title of County Correctional Police Officer. In March 2021, the Association requested a classification review of Wadley's position with the Essex County Department of Corrections. In support of the classification review request, Wadley submitted a Position Classification Questionnaire (PCQ) detailing the different duties he performed. In his PCQ, Wadley stated, in relevant part, that on a daily basis, he spent 30 percent of his time investigating and preparing reports, securing contraband, and investigating and reporting escapees, inmate misconduct and alleged assaults within the facility; 10 percent assisting law enforcement agencies and county prosecutors in investigations into crimes and offenses committed at the facility, and investigating incidents, complaints, altercations, discharges of firearms and gang activities; 10 percent preparing investigative statistical reports and investigating inmate deaths; 10 percent investigating allegations made by outside agencies involving inmates incarcerated at the facility; and 15 percent answering inquiries in person, via phone

or written correspondence and assisting custody personnel in searching all visitors entering the facility.

Agency Services conducted a review of Wadley's PCQ and a telephone audit. Agency Services found that the primary focus of Wadley's position was conducting investigations of alleged criminal acts and administrative violations committed by inmates, visitors and staff in the Internal Affairs Bureau at the Essex County Juvenile Detention Center. Agency Services noted that there was not a dispute as to whether Wadley performed investigative duties. Based upon these findings and the fact that there was no dispute as to whether Wadley performed investigative duties, Agency Services found that Wadley's position was most appropriately classified by the Investigator Secured Facilities title. Therefore, he was considered to be serving in that title provisionally, pending promotional procedures (PAP), effective January 20, 2022.

On appeal to the Civil Service Commission (Commission), the appointing authority argues that duties described in Wadley's PCQ, including "securing crime or emergency scenes" and "may photograph and/or collect evidence," reference day-to-day custodial duties or duties which may arise due to a custodial tour of duty. As such, it contends that Wadley's permanent title of County Correctional Police Officer is the proper classification for his position. Additionally, on August 23, 2022, the appointing authority furnished a new PCQ for Wadley<sup>1</sup> with updated duties it maintained were consistent with the title of County Correctional Police Officer. It is noted that the appointing authority has removed Wadley's investigative duties and instead assigned him various tasks related to the safety, security and welfare of inmates, facility personnel and visitors.

In response, the Association argues that Agency Services' determination should be affirmed, as his assigned duties in March 2021 were consistent with the Investigator Secured Facilities title. The Association complains that the appointing authority has repeatedly engaged in a "pattern of placing officers into investigator positions, getting caught with people working out of title [sic], moving them out, assuring the CSC it has been corrected, and then months later assign[ing] a new group of people and repeat[ing this pattern]." In support, it submits a series of decisions from the Commission and its predecessors<sup>2</sup>, and the Public Employment Relations Commission. Furthermore, it alleges that three less senior provisional investigators, who did not submit classification appeals to this agency, have remained in internal affairs and were rewarded with pay increases, while Wadley and another investigator had those responsibilities removed in retaliation for cooperating with the

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<sup>1</sup> The PCQ was prepared by Wadley's immediate supervisor, a County Correctional Police Sergeant. County Correctional Police Warden Guy Cirillo states in the PCQ that Wadley's immediate supervisor prepared the PCQ due to Wadley's medical leave of absence and in accordance with instructions from County Counsel.

<sup>2</sup> Specifically, the Department of Personnel and the Merit System Board, which were reconstituted as the Civil Service Commission, effective June 30, 2008, pursuant to P.L. 2008, c. 29.

Association's request for classification reviews. Moreover, the Association complains that the appointing authority has not requested a competitive examination since the Investigator Secured Facilities (PC1032T) eligible list was exhausted and expired in 2018. The Association contends that the August 17, 2022, PCQ submitted regarding Wadley's position should not be determinative, as Wadley did not consent to others completing it on his behalf and the Association avers that the appointing authority cannot, in good faith, report on Wadley's daily duties and assignments in August 2022 given that he had been on a medical leave of absence since January 15, 2022, he remained scheduled to be out on leave through October 24, 2022, and the County Correctional Police Sergeant listed as Wadley's immediate supervisor on the August 2022 PCQ was not his supervisor at the time of the March 2021 PCQ and had not supervised him for at least seven months prior to being ordered to prepare the August 2022 PCQ.

### 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.

*N.J.A.C.* 4A:3-3.1(b)1 provides that positions shall be assigned by the Commission and be assigned the title which describes the duties and responsibilities to be performed and the level of supervision exercised and received.

*N.J.A.C.* 4A:3-3.5(c)1 states, in pertinent part, that within 30 days of receipt of the reclassification determination, unless extended by the Chairperson or designee in a particular case for good cause, the appointing authority shall either effect the required change in the classification of an employee's position; or reassign the employee to the duties and responsibilities to which the employee has permanent rights.

The definition section of the job specification for County Correctional Police Officer states:

Under supervision during an assigned tour of duty within an adult county correctional facility or institution, performs a wide variety of tasks in support of the safety, security and welfare of inmates, facility personnel and visitors; performs other related duties as required.

The definition section of the job specification for Investigator Secured Facilities states:

Under the direction of a supervisory official responsible for internal affairs investigations for a state adult correctional or juvenile treatment facility, or county correctional facility, performs the field and office work involved in the investigation of alleged criminal activities and disciplinary charges at the institution and satellite units; does other related duties as required.

In the instant matter, the appointing authority disputes Agency Services' characterization of the primary focus of Wadley's duties, effective January 20, 2022. Namely, it contends that the majority of his duties are consistent with the Examples of Work portion of the job specification for the County Correctional Police Officer title. However, a thorough review of the information presented in the record establishes that Wadley's position at the time of the audit was Investigator Secured Facilities and that the appointing authority has not presented a sufficient basis to establish that his position should have been classified as County Correctional Police Officer as of January 20, 2022. In making classification determinations, emphasis is placed on the Definition section to distinguish one class of positions from another. The Definition portion of a job specification is a brief statement of the kind and level of work being performed in a title series and is relied on to distinguish one class from another. On the other hand, the Examples of Work portion of a job description provides typical work assignments which are descriptive and illustrative and are not meant to be restrictive or inclusive. *See In the Matter of Darlene M. O'Connell* (Commissioner of Personnel, decided April 10, 1992). The record demonstrates that Wadley, at the time of the initial PCQ in this matter, was serving with the appointing authority's Internal Affairs Bureau and primarily responsible for investigating alleged criminal acts and administrative violations committed by inmates, visitors and staff in the Essex County Juvenile Detention Center. Such duties are consistent with the primary focus of the Investigator Secured Facilities title. Therefore, Agency Services properly determined that Wadley was properly classified as an Investigator Secured Facilities, effective January 20, 2022. However, Agency Services' March 1, 2023, review of the PCQ submitted to this agency on August 23, 2022, has established that the appointing authority subsequently assigned Wadley duties commensurate with his permanent title of County Correctional Police Officer and removed duties inconsistent with that classification. Therefore, pursuant to *N.J.A.C. 4A:3-3.9(e)3ii*, effective August 23, 2022, the appropriate classification of Wadley's position is County Correctional Police Officer.

One final comment is warranted. The record shows that the appointing authority took seven months to establish that it had assigned duties to Wadley consistent with his permanent title (January 2022 to August 2022). In this regard, *N.J.A.C. 4A:3-3.5(c)1* states that an appointing authority needs to act within 30 days of receipt of a reclassification action. Nevertheless, when an employee is granted an upward reclassification by Agency Services, the appointment is considered provisional pending applicable examination procedures. As a provisional, an employee has no vested right to a permanent position and can be separated from that

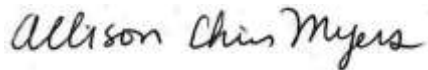
provisional position at any time. Accordingly, while the appointing authority should have effected the removal of the Investigator Secured Facilities duties earlier, Wadley is not entitled to any further remedy as the reclassification of his position from the date awarded by Agency Services to the date he was assigned duties commensurate with his permanent title is, in essence, the appropriate remedy. However, the appointing authority is cautioned to strictly follow the provisions of *N.J.A.C. 4A:3-3.5(c)1* in the future. Failure to do so may subject it to fines or other action in accordance with *N.J.A.C. 4A:10-1.1* and *N.J.A.C. 4A:10-2.1*.

### ORDER

Therefore, the position of Bennie Wadley, Jr. was properly classified as Investigator Secured Facilities, effective January 20, 2022, through August 22, 2022. It is further ordered that Wadley's position is properly classified as County Correctional Police Officer, effective August 23, 2022.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED ON  
THE 6<sup>TH</sup> DAY OF April, 2023




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