STATE OF NEW JERSEY

In the Matter of Thomas Lozinski, Department of Law and Public Safety	: : : :	**FINAL ADMINISTRATIVE ACTION OF THE CHAIR/ CHIEF EXECUTIVE OFFICER CIVIL SERVICE COMMISSION**
CSC Docket No. 2024-1148	: : : : : : : : : :	Classification Appeal

ISSUED: December 19, 2023 **(SLK)**

Thomas Lozinski appeals the determination of the Division of Agency Services (Agency Services) that the proper classification of his position with the Department of Law and Public Safety is Forensic Scientist 2. The appellant seeks a Forensic Scientist 3 classification.

The record in the present matter establishes that the appellant's permanent title was Forensic Scientist 2 at the time he submitted the subject classification appeal.[1] The appellant sought reclassification of his position, alleging that his duties were more closely aligned with the duties of a Forensic Scientist 3. In support of his request, the appellant submitted a Position Classification Questionnaire (PCQ) detailing the duties that he performed as a Forensic Scientist 2. Agency Services reviewed and analyzed the PCQ, an organizational chart, a performance assessment review (PAR), and all information and documentation submitted. Agency Services found that the appellant's primary duties and responsibilities entailed, among other

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[1] Agency Services' determination letter states that the appellant submitted his request for the classification of his position to be reviewed in 2017. The appellant's PCQ is dated August 11, 2015. The determination indicates that at the time of the appeal, Forensic Scientist 2 was represented by the R bargaining unit, which created an organizational problem because a position in the R bargaining unit cannot report to nor supervise another person in the R bargaining unit. The title was recently changed to the P bargaining unit to resolve this issue. Additionally, personnel records provide that the appellant was permanently appointed as a Forensic Scientist 3 on August 13, 2022. It is also noted that Agency Services received and reviewed a May 25, 2023, updated PCQ and found the appellant's current duties were consistent with Forensic Scientist 3.

things: assigning and reviewing work, but he was not responsible for the supervision of subordinate staff. In its decision, Agency Services determined that the duties performed by the appellant were consistent with the definition and examples of work included in the job specification for Forensic Scientist 2.

On appeal, the appellant asserts that he submitted his position classification review request in 2015, and not 2017, as indicated by the date that he signed the original PCQ. He claims that he did sign the PARs for subordinate staff from February 2018 until November 2020. The appellant attaches a Table of Organization from February 2018 to demonstrate that there were three staff reporting to him at that time. Further, he submits an October 27, 2020, email from the Assistant Chief Forensic Scientist which states that supervisory responsibility was being removed from Forensic Scientist 2s, noting they are still lead workers, and supervisors would be opening new PARs in November. The appellant argues that because the actual time preparing PARs was less than one percent of his time, this duty should not be the key differentiator between Forensic Scientist 2 and Forensic Scientist 3 classifications. He presents that during this time, he assigned 901 cases and reviewed 12,335 completed cases. Therefore, he believes that he has met most of the criteria for being a supervisor during this time.

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 Forensic Scientist 2 (01593) job specification states:

> Under the general supervision of a Forensic Scientist 3, or other supervisory official, in the Department of Law and Public Safety or in the Department of Health, conducts the more difficult and specialized work involved in the chemical analysis of various matter, substances, specimens, and materials submitted to the laboratory by law enforcement agencies and Medical Examiners Offices for identification in connection with criminal investigations and prosecutions; functions as a lead worker, providing guidance to Forensic Scientists 1, Chemists, Laboratory Technicians, or other laboratory personnel; performs related field and laboratory work; does other duties as required.

The definition section of the Forensic Scientist 3 (01594) job specification states:

Under the direction of an Assistant Chief Forensic Scientist or the Chief Forensic Scientist, or other supervisory official, in the Department of Law and Public Safety or in the Department of Health, supervises the technical operation of a component within a Regional Forensic Laboratory, and supervises designated research projects within the Office of Forensic Sciences; supervises staff and work activities; prepares and signs official performance evaluations for subordinate staff; performs other related field and laboratory work; does other related duties as required.

In this present matter, a review of the job specifications indicates that the key distinction between the two titles is that Forensic Scientist 3s are supervisors while Forensic Scientist 2s are lead workers. Initially, it is noted that regardless as to whether the appellant's request for classification review was in 2015 or 2017, the appellant acknowledges that he did not sign PARs at the time. Referencing the appellant's claim that he signed PARs from February 2018 to November 2020, there is nothing in the record that indicates that he submitted updated evidence to Agency Services, such as PARs where he signed as a supervisor, which would have demonstrated that he had PAR responsibility during this time. Therefore, the evidence that the appellant presents on appeal to support his claim that he had PAR responsibility for that time cannot be considered under *N.J.A.C.* 4A:3-3.9(e). It was incumbent of the appellant to update his PCQ at the time if his duties changed such that it may have affected his classification. In this regard, classification reviews are made based solely on duties performed at the time of the request. Further, even if the appellant had submitted the February 2018 Table of Organization and the October 27, 2020, email that the appellant now submits on appeal, the February 2018 Table of Organization only demonstrates that he oversaw staff; however, it does not signify as to whether the appellant signed the PARs for these employees, or he was reviewing their work as a lead worker. Additionally, while the October 27, 2020, email implies that the appellant signed PARs for some unknown time since he was a Forensic Scientist 2 at that time, it does not specifically indicate that he signed PARs, and the appellant did not supply PARs or some other conclusive proof that he had PAR responsibility. Moreover, the appellant acknowledges that he did not sign subordinate PARs after November 2020.

Concerning the appellant's belief that PAR responsibility should not be the differentiator to determine whether his position should be classified as a Forensic Scientist 2 or Forensic Scientist 3 because the completing of PARs took up less than one percent of his time, it is not the amount of time that it takes to complete PARs that demonstrates that this duty constitutes the key component of a supervisor. Rather, it is the significance of this responsibility. Specifically, performance evaluation authority is a reasonable standard to differentiate an actual supervisor from a lead worker because it is the means by which it can be demonstrated that a
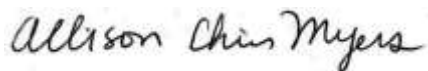
supervisor can exercise his or her authority to recommend hiring, firing, and disciplining of subordinate employees. Simply stated, the actual authority and exercise of performance evaluation of subordinate staff is what makes a supervisor a supervisor. Performance evaluation of subordinates, and its myriad of potential consequences to the organization, is the key function of a supervisor which distinguishes him or her from a lead worker. *See In the Matter of Alexander Borovskis, et al.* (MSB, decided July 27, 2005). Moreover, the appellant's assigning and reviewing cases are duties consistent with Forensic Scientist 2 lead worker duties. Therefore, as the record indicates that the appellant did not have PAR responsibility at the time of the original submission of his PCQ, and he did not submit updated evidence that he had PAR responsibility from February 2018 to November 2020 to Agency Services before it ultimately evaluated his position, the appellant's position was properly classified as Forensic Scientist 2.

ORDER

Therefore, it is ordered that this appeal 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
THE 15TH DAY OF DECEMBER, 2023

Allison Chris Myers

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Chair/Chief Executive Officer
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