

B-43



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE
ACTION OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Waleed Richardson,
Law Enforcement Series (S9999U)

CSC Docket No. 2017-1340

Examination Appeal

ISSUED: **JAN 23 2017** (RE)

Waleed Richardson appeals the test administration and his disqualification from the examination for Law Enforcement Series (S9999U), for possession of a cell phone.

The subject examination was administered on October 22, 2016 to 478 eligible candidates. Mr. Richardson was disqualified when he notified the monitor that he had his cell phone in his backpack. On appeal, Mr. Richardson states that he explained to the Associate Center Supervisor that he caught the bus to college and his paperwork and cellphone was in his backpack. Before proceeding up the stairs he stated that he would like to leave his bag downstairs in a vacant room and not bring it up. The Associate Center Supervisor insisted that he bring it upstairs with him because his cell phone was in the bag. He states that he put the bag in front of the class, next to the room monitor and away from him. He states that he was nearly completed when the Center Supervisor came into the room, picked up the bag, and told him to step outside. She asked him to empty the bag and said that his cell phone was going off and he was disqualified.

CONCLUSION

The record establishes that appellant was scheduled to take the subject examination on October 22, 2016, but was disqualified for possession of a cell phone. There is no dispute over whether the candidate had a cell phone. However, the Center Supervisor notes present a somewhat different version of events than that of the appellant. She stated that, prior to the test, Mr. Richardson tried to leave his

backpack in an empty room. The Associate Center Supervisor told him not to leave it there and asked if he had a cellphone in it because they are not allowed in the building, and he denied that he had one. During the exam, the cellphone went off and he was removed from the exam room. He had put his backpack in front of him in the room, and he explained that the Associate Center Supervisor made him bring the backpack to the exam room.

The appellant implies that he was not cheating during the examination as he notified staff about possession of a cell phone prior to the examination being administered. Nonetheless, the Civil Service Commission has a duty to ensure the security of the examination process and to provide sanctions for a breach of security. See *N.J.S.A.* 11A:4-1(c). In order to carry out this statutory mandate, *N.J.A.C.* 4A:4-2.10 identifies a number of prohibited actions in the conduct or administration of an examination and provides for the disqualification of candidates participating in such actions. Further, although the "no cell phone rule" may appear draconian, the importance of ensuring fair and equitable testing for all potential candidates cannot be overemphasized. Cell phones can cause interruptions to other test-taking candidates when they ring or vibrate.

The candidates were informed not to take a cell phone into the examination center on page 2 of the Orientation Guide of the current administration, which stated, "With the threat of high-tech cheating on the rise, **possession** of electronic devices such as cell phones, pagers, tablets, PDAs, MP3 players, photographic/recording equipment, or other similar electronic communication devices is prohibited at test centers. Candidates who are seen with these devices in the test center, **even in a power-off mode**, will be disqualified and dismissed immediately. The device may also be confiscated to ensure that an attempt was not made to compromise the testing process. In addition, briefcases and other personal items should not be brought inside the test center. The CSC is not responsible for any personal items. Upon completion of the written testing process, candidates must leave the testing premises so that other candidates (still involved in the testing) will not be disturbed/distracted by outside conversations." Also, this information was printed on the Notification to Appear for Examination sent to all candidates with notification of the test time and place. Further, there were signs prominently posted on the front door that no cell phones were allowed, and there were signs inside that there were no cell phones allowed. Lastly, the policy was broadly announced to all candidates. As such, candidates were informed of the cell phone policy in writing so they could leave their electronic devices at home or in the car. The verbal notices were reminders to those who did not follow those written instructions.

In the matter at hand, the appellant was in possession of a cell phone inside the examination building. Possession of a cell phone at the test center is a potential breach of examination security, as phones have digital voice recording features on

them which make it possible to record information, to take photographs and engage in instant text messaging. Test Center personnel are charged with prohibiting the use of unauthorized aids, information or assistance by candidates and preventing examination security material from leaving the exam center. In any event, due to the multiple capabilities of phones, the standard to which candidates are held is possession of a cell phone, not the use of one. In this case, while the appellant tried to abandon his backpack in an empty room, he was not allowed to leave his backpack unattended for security reasons. If he had mentioned to the Associate Center Supervisor that he had a cellphone in the backpack, he would not have been allowed to bring it up to the examination room.

The room monitor does not have the authority to decide whether a candidate should be disqualified, and she should not "hold" personal items for candidates. The Commission would be responsible for the item if it went missing, or was stolen and used by someone else to copy examination material. The policy in effect is to uphold the security of the examination in anticipation of possible fraudulent circumstances. Nevertheless, the appellant did bring his backpack into the examination room, and he left it at the front of the room, where a cellphone inside subsequently sounded during the examination. The Commission strives to provide a comfortable testing environment that is free from extraneous distractions. While the appellant attempted to distance himself from his cell phone, he did not turn it off. Aside from the fact that it could have been recording, this action showed a lack of consideration for other candidates given that the cellphone could sound and cause a disruption during the examination. Carrying a cell phone into an examination center is not appropriate for a participant in a formal examination setting for a public safety title, and the appellant was properly disqualified for possession of a cell phone.

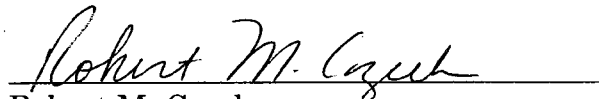
A thorough review of the record indicates that the appellant has failed to support his burden of proof in this matter.

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
CIVIL SERVICE COMMISSION ON
ON THE 18th DAY OF JANUARY, 2017


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