



STATE OF NEW JERSEY

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

In the Matter of Daniel Mitchell and
Kurt Carter, Police Sergeant
(PM5162N), Union Township

Administrative Appeal

CSC Docket Nos. 2018-236, *et al.*

ISSUED: October 5, 2017 (ABR)

Union Township requests that the appointments of Daniel Mitchell and Kurt Carter be recorded from the eligible list for Police Sergeant (PM5162N), effective December 8, 2015. Mitchell and Carter also request that they be admitted to the promotional examination for Police Lieutenant (PM0751V), Union Township. Since these matters address similar issues, they have been consolidated herein.

By way of background, Mitchell and Carter appeared respectively as the 10th and 11th ranked eligibles on the Police Sergeant (PM5162N), Union Township eligible list, which promulgated on August 7, 2014 and expires on August 6, 2018. Eight of the first nine ranked eligibles were appointed following the disposition of August 14, 2014 (PL140990) and September 28, 2015 (PL151083) certifications and a request for administrative relief.¹ The appointing authority appointed Mitchell and Carter, effective December 8, 2015, the same date as the ninth ranked eligible, who was appointed from the September 28, 2015 certification.

Subsequently, an examination (PM0751V) for Police Lieutenant, Union Township was announced, which was open to applicants who possessed one year of a permanent service as a Police Sergeant as of the September 30, 2017 closing date. Mitchell and Carter applied for the PM0751V examination, but were deemed

¹ In *In the Matter of Walter Stinner* (CSC, decided December 16, 2015), the Commission approved the retroactive appointments of the fifth and sixth ranked eligibles, effective February 24, 2015, and the seventh and eighth ranked eligibles, effective June 23, 2015, from the subject eligible list. The ninth-ranked eligible was appointed, effective December 8, 2015, from the September 28, 2015 certification.

ineligible, as they were not permanent in the Police Sergeant title as of the July 21, 2017 application deadline.

Thereafter, a certification (PL170704) from the PM5162N eligible list, containing four names, was issued on June 9, 2017. Mitchell and Carter were listed as the first and second eligibles, respectively, on the certification. The appointing authority returned the certification, indicating that all four eligibles were appointed.²

In its instant request, the appointing authority maintains that Mitchell and Carter should be provided with retroactive appointments to the title of Police Sergeant, effective December 8, 2015. The appointing authority explains that due to an administrative oversight, it did not obtain a certification to coincide with its intention to promote Mitchell and Carter. The appointing authority maintains that it requested a certification for the title of Police Sergeant from this agency on October 22, 2015. However, it failed to recognize that it did not receive the requested certification until June 2017. It argues that Mitchell and Carter would have been listed as the first and second eligibles, respectively, on such a certification. In support of its request, the appointing authority provides signed copies of Oaths of Office and Payroll Change Forms for both individuals, demonstrating that they were in fact appointed to the title of Police Sergeant, effective December 8, 2015. Moreover, the appointing authority confirms that both Mitchell and Carter successfully completed their working test periods for Police Sergeant.

The Division of Agency Services supports the request to retroactively appoint Mitchell and Carter to the title of Police Sergeant.

Additionally, the parties request that Mitchell's and Carter's applications be processed and they be admitted to the Police Lieutenant (PM0751V), Union Township examination.

CONCLUSION

N.J.A.C. 4A:4-1.10(c) states that an individual may receive a retroactive date of appointment to correct an administrative error, for an administrative delay or for other good cause, on notice to affected parties. Generally, the award of a retroactive appointment date is for seniority purposes only and is limited to situations in which an appellant could have been appointed on the requested retroactive date, but as a result of an administrative error, he or she received a later appointment date.

² Mitchell and Carter were appointed, effective June 11, 2017, and the remaining two eligibles were appointed effective June 13, 2017. The appointing authority also noted its pending requests to provide Mitchell and Carter with retroactive appointment dates of December 8, 2015.

In the instant matter, the record establishes that the appointing authority intended to promote Mitchell and Carter to the title of Police Sergeant, effective December 8, 2015, as evidenced by signed Oaths of Office and Payroll Change Forms for each individual. However, due to administrative oversight, the appointing authority did not obtain a certification to coincide with the planned appointment date. Nevertheless, had a certification been issued in October 2015, Mitchell and Carter would have been listed in the first and second positions, respectively and they would have been reachable for appointment. Under these circumstances, good cause has been presented to effectuate Mitchell's and Carter's regular appointments. Furthermore, since the appointing authority verifies that Mitchell and Carter have successfully performed the duties of a Police Sergeant, Mitchell and Carter should each be considered as having successfully completed his working test period. *See e.g., In the Matter of Winfred Christy* (MSB, decided January 15, 2003). Therefore, based on the foregoing, ample cause exists to grant Mitchell and Carter retroactive dates of appointment to the title of Police Sergeant. As Mitchell and Carter have completed their working test period as Police Sergeants, their permanent appointments should be recorded as December 8, 2015.

Finally, as Mitchell and Carter are deemed to have been permanent in the Police Sergeant title since September 8, 2015, the Civil Service Commission finds that they should be admitted to the Police Lieutenant (PM0751V), Union Township examination.

ORDER

Therefore, it is ordered that Union Township's requests be granted and the June 9, 2017 certification of the Police Sergeant (PM5162N), Union Township eligible list be amended to reflect the permanent appointments of Daniel Mitchell and Kurt Carter, effective December 8, 2015. Additionally, it is ordered that Daniel Mitchell and Kurt Carter be admitted to the promotional examination for Police Lieutenant (PM0751V), Union Township.

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 4TH DAY OF OCTOBER, 2017



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