



**STATE OF NEW JERSEY**

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

In the Matter of Dillon Kelly, Police  
Officer (S9999R), Trenton

CSC Docket No. 2017-4068

List Removal Appeal

**ISSUED: MARCH 28, 2018 (CSM)**

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Dillon Kelly appeals the appointing authority’s request to retain his name on the Police Officer (S9999R), Trenton eligible list for future certifications.

The appellant’s name was certified in the 109th position on certification OL161160. In disposing of the certification on April 11, 2017, the appointing authority requested that the appellant’s name be retained on the list for future certification until the list expires on the basis of not being interested in the current position. It is noted that the subject list expired on March 22, 2017.

On appeal to the Civil Service Commission (Commission), the appellant states that by letter dated October 15, 2016, he sent a letter of interest and copy of his resume via certified mail to the appointing authority. The appellant provides a copy of a certified mail receipt date stamped October 15, 2016 and a certified mail tracking information report indicating that his letter was delivered on October 17, 2016. Further, he states that while the list may have expired, he requests that his record be corrected to show that he was interested in the position.

In response, in disposing of the certification, the appointing authority provided an Administrative Report dated January 9, 2017 indicating that the appellant did not respond to the October 12, 2016 certified letter that was sent to his listed address. In support, the appointing authority provided a copy of a certified mail receipt (70091680000191965963) and certified mail tracking information report indicating that the letter was delivered on October 19, 2016.

In reply, the appellant states that the information received by the Commission is not correct. Rather, the appellant explains that during the week of October 17, 2016, he received a call from the appointing authority regarding the letter of interest that he sent and was advised to meet with a detective on October 20, 2016. The appellant states that he attended the meeting on October 20, 2016, was given a packet to complete, and that he completed the packet and delivered it to the detective on October 21, 2016. Additionally, he notes that as part of the process, he was required to have three people send character references letter. In support, he provides a copy of a certified mail receipts and a hand delivery receipt that he sent to internal affairs on October 14, 2016 and October 28, 2016. The appellant reiterates that he provided the detective with all of the documents that were requested on October 21, 2016, attaches copies of the check-list of documents and forms he was provided, and maintains that he indicated his interested in a position with the appointing authority. Finally, as the error was not on his part in recording his disposition, the appellant maintains that he is entitled to a refund of the appeal fee.

### CONCLUSION

*N.J.A.C.* 4A:4-6.3(b) provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision in examination and selection appeals was in error.

In the matter at hand, the appointing authority requested that the appellant's name be retained on the list for future certification until the list expires on the basis of not being interested in the current position. However, the appellant states that he indicated that he was interested in the position and provided copies of certified mail receipts and various documents provided to him by the appointing authority in the selection process for him to fill out or use as a check list to obtain requested information. Therefore, the Commission is satisfied that the appellant indicated to the appointing authority that he was interested in a position in response to certification OL161160. However, a review of the record indicates that the last permanent appointment made from OL161160 by the appointing authority was of the eligible in the 69<sup>th</sup> position. Given that the appellant's name was in the 109<sup>th</sup> position on the certification and his appointment is not otherwise mandated, even though the Commission has determined that he indicated interest, he we not reachable for appointment consideration. Further, as the list expired, no other certifications were issued from this list. Accordingly, certification OL161160 should be amended to reflect that the appellant indicated his interest in the position, but not reachable for appointment. There is no other relief the Commission can provide the appellant in this situation.

With respect to the appeal fee, the appellant argues that it should be refunded because this situation was not a result of an error on his part. However, *N.J.A.C.* 4A:2-1.8(f) states that the appeal fee is for processing purposes only and

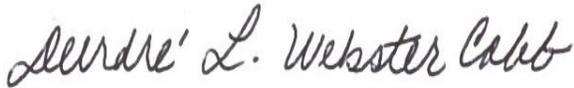
shall not be refunded for any reason except when submitted in error for an exempt appeal. Thus, notwithstanding which party may have been in error in a situation that resulted in the filing of an appeal, there is no basis on which to refund the appellant's appeal fee.

**ORDER**

Therefore, it is ordered that this appeal be granted.

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  
27<sup>TH</sup> DAY OF MARCH, 2018



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