



STATE OF NEW JERSEY

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

In the Matter of Aleli Crawford,
Office of the Public Defender

CSC Docket No. 2019-1783

Classification Appeal

ISSUED: FEBRUARY 22, 2019 (SLK)

Aleli Crawford appeals the determination of the Division of Agency Services (Agency Services) that the proper classification of her position with the Office of the Public Defender is Assistant Deputy Public Defender 2. The appellant seeks an Assistant Deputy Public Defender 1 classification.

The record in the present matter establishes that the appellant's title is Assistant Deputy Public Defender 2 (P30), an unclassified title. The appellant sought reclassification of her position, alleging that her duties were more closely aligned with the duties of an Assistant Deputy Public Defender 1 (P33). The appellant is assigned to the Office of Law Guardian, Shore Region, and reports to Gilbert Zlock, Deputy Public Defender 2. The appellant has no direct supervisory responsibility. In support of her request, the appellant submitted a Position Classification Questionnaire (PCQ) detailing the different duties that she performs. Agency Services reviewed and analyzed the PCQ completed by the appellant and all information and documentation submitted. Additionally, Agency Services conducted a telephone interview with the appellant and Zlock. Agency Services found that the appellant's primary duties and responsibilities entailed, among other things, litigating cases, interviewing children and witnesses, acting as a liaison between the Cape May County Office and the courts and the Juvenile Public Defender, mentoring staff, aiding other attorneys as needed, completing the appellant review form, compiling data to assist others with case management and otherwise managing her caseload. 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 Assistant Deputy Public Defender 2.

On appeal, the appellant presents that preparing performance evaluations is not an example of work for an Assistant Deputy Public Defender 1. She represents that she “supervises” specifically named attorneys in her office. The appellant contends that historically incumbents in the Assistant Deputy Public Defender 1 title in her office have not been supervisors. Instead, she asserts that employees who have “maxed out,” like herself, as Assistant Deputy Public Defender 2s, have traditionally been appointed as Assistant Deputy Public Defender 1s. Further, the appellant claims that she has been performing certain supervisory functions. She highlights that she is one of four essential employees in her office, the others (Deputy Public Defender, Acting Assistant Chief Investigator and Head Secretary) are supervisors in their domains. The appellant states that she is the senior trial attorney and team leader in her office. She provides examples of her “supervision” where she provided guidance for other attorneys. The appellant indicates that she is the one responsible for addressing any issues that the court has for her office. She presents that she is the one who assigns cases for her office and deals directly with the court and acts as the liaison between her office and the Division of Child Protection and Permanency litigation staff. The appellant highlights a circumstance where an attorney had to go on leave and she was responsible for both finding coverage for this attorney’s assignments as well as completing approximately 70-75 percent of the cases for the county. Additionally, the appellant submits e-mails to show, as the Team Leader for the Cape May County office, she has been involved in interviewing staff.

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 job specification Assistant Deputy Public Defender 2 (P30) states:

Under the direction of the Deputy Public Defender 1, Deputy Public Defender 2, or an Assistant Deputy Public Defender 1, serves in a professional capacity as the civil or criminal attorney to indigent persons who are formally charged with an offense of an indictable nature or juvenile offense, or children who are abused/neglected, or committees to mental institutions, or resolves disputes, or persons on intense supervision parole, or in need of guardianship, or who are

alleged to have abused/neglected children, or are facing termination of their parental rights, or who are sexually violent predators, or who are subject to Megan's Law; performs bench trials and appeals arising from these offenses; does other related work as required.

The definition section of the job specification Assistant Deputy Public Defender 1 (P33) states:

Under the direction of the Deputy Public Defender 1 or the Deputy Public Defender 2, serves in a professional capacity as the civil or criminal attorney to indigent persons who are formally charged with an offense of an indictable nature or juvenile offense, or children who are abused/neglected, or committees to mental institutions, or resolves disputes, or persons on intense supervision parole, or in need of guardianship, or who are alleged to have abused/neglected children, or are facing termination of their parental rights, or who are sexually violent predators, or who are subject to Megan's Law; may serve as a Senior trial or appellate attorney responsible for the representation of indigent persons charged with serious offenses; does other related work as required.

A review of the definitions for the job specifications for the two titles indicates that the main difference is that incumbents in the Assistant Deputy Public Defender 2 title performs bench trials while an Assistant Deputy Public Defender 1 may serve as a "Senior" attorney. However, the term "Senior" is not defined. Further, there is no uniform definition of a "Senior" attorney. This term could mean incumbents handle their own, but complex cases, manage other attorneys who are handling their own cases, act as the lead attorney on cases with junior attorneys assisting the Senior attorney, and/or some other definition. Further, these titles are in the "P" Employee Relations Group (ERG), which is a non-supervisory ERG. However, while Examples of Work are meant to be illustrative only, it cannot be ignored that that the Examples of Work for Assistant Deputy Public Defender 1 indicates that incumbents in this title perform supervisory duties and such duties should not be indicated unless it is a supervisory title. Moreover, a review of the job specifications for Assistant Deputy Public Defender 2 and Assistant Deputy Public Defender 3 (P25) reveals that the definitions for these titles are identical.

In this matter, the record indicates that the appellant is a lead worker for the Cape May County office, as she not only handles her own cases, she regularly assigns and provides guidance and training to other attorneys in her office, acts as the liaison between her office and the courts and other offices, and handles other issues for the Cape May office. A leadership role refers to those persons whose titles are non-supervisory in nature, but are required to act as a leader of a group of employees in titles at the same or a lower level than themselves. Duties and

responsibilities would include training, assigning and reviewing work of other employees on a regular and recurring basis, such that the lead worker has contact with other employees in an advisory position. However, such duties are considered non-supervisory since they do not include the responsibility for the preparation of performance evaluations. Being a lead worker does not mean that the work is performed by only one person, but involves mentoring others in work of the title series. *See In the Matter of Henry Li* (CSC, decided March 26, 2014). However, the appellant is not a supervisor as she does not sign performance evaluations. Performance evaluation authority is a reasonable standard 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). Further, while the appellant claims that historically the Assistant Deputy Public Defender 1 title has not been used in her office for supervisors and is used when an Assistant Deputy Public Defender 2 “maxes out,” a classification appeal cannot be based solely on a comparison to the duties of another position, especially if that position is misclassified. *See In the Matter of Carol Maita, Department of Labor* (Commissioner of Personnel, decided March 16, 1995); *In the Matter of Dennis Stover, Middletown Township* (Commissioner of Personnel, decided March 28, 1996). *See also, In the Matter of Lorraine Davis, Office of the Public Defender* (Commissioner of Personnel, decided February 20, 1997), *affirmed*, Docket No. A-5011-96T1 (App. Div. October 3, 1998). However, it is unclear if the job specification for Assistant Deputy Public Defender 1 designates it as a supervisory title as the term “Senior” is undefined and the supervising responsibilities are indicated in the Examples of Work section, but not in the job specification definition. Further, the definition section for Assistant Deputy Public Defender 1, uses the term “may,” but does not clearly indicate that incumbents are required to be “Senior” attorneys. Finally, all the titles in the title series are in the “P” ERG, a non-supervisory ERG.

Considering this background, the Civil Service Commission (Commission) is unable to decide this matter. Accordingly, this matter shall be remanded to Agency Services to review and revise the job specification, as necessary, for the entire title series to ensure that the duties and differentiation between the Assistant Deputy Public Defender 1, 2 and 3 titles are clear within the definition sections of the job specifications. Further, the Examples of Work shall be updated to only include examples that correspond to the revised definitions. Moreover, Agency Services shall review these titles to ensure that they are in the appropriate ERG. Upon completion of this review and these revisions, Agency Services shall issue a new determination letter using these revised specifications. Agency Services shall

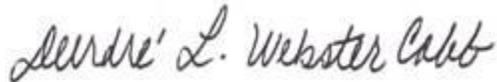
complete these tasks as soon as reasonably possible. Finally, after receiving the new determination letter, if the appellant receives an unfavorable result, she shall have the right to appeal that decision to the Commission.

ORDER

Therefore, it is ordered that this appeal be remanded to the Division of Agency Services as set forth above.

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

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 20th DAY OF FEBRUARY, 2019



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