



**STATE OF NEW JERSEY**

In the Matter of Mahmoud Tamimi,  
Sheriff's Officer Lieutenant  
(PC2094U), Essex County

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

CSC Docket No. 2018-1889

Examination Appeal

**ISSUED:** March 6, 2019 (JH)

Mahmoud Tamimi appeals his score on the promotional examination for Sheriff's Officer Lieutenant (PC2094U), Essex County. It is noted that the appellant failed to achieve a passing score.

The subject examination, which was administered on May 4, 2017, consisted of five questions in short answer format (questions 1 and 2) and essay format (questions 3, 4 and 5). Candidates were provided with a total of three hours to respond to all five questions. It is noted that at review, candidates were informed that question 4 had been omitted from scoring.

As noted in the 2017 Sheriff's Officer Lieutenant Orientation Guide (Orientation Guide), which was available on the Commission's website, the examination content was based on a job analysis that identified a number of work components. The test was worth 80 percent of the final average and seniority was worth the remaining 20 percent.<sup>1</sup> Of the test weights, 25% of the score was problem solving/critical thinking, 10% was the New Jersey Title 2C short answer, 10% was the Attorney General Guidelines essay raw score, 25% was the

<sup>1</sup> While the Orientation Guide noted that "a candidate's final score (and rank) on the promotional list consists of two weighted parts: the test score and the seniority score . . .," the Commission notes that their respective weights were not provided to candidates.

supervision/interpersonal relations essay raw score and 15% was written communication.<sup>2</sup>

During the development of the exam, law enforcement Subject Matter Experts (SMEs) determined the scoring criteria. Scoring decisions were based on SME-identified actions or statements which candidates should indicate in order to successfully address the situation described in the questions. The statements a candidate provided in his or her response were compared to these actions or responses, identified by the SMEs, to arrive at his or her score. Scoring independently, two assessors reviewed candidates' responses. Some actions or statements were determined, by SMEs, to be more critical than others. Thus, some actions or statements were worth more than others. If the statement was a response that matched one of the SME approved responses, the statement was recorded and assessors awarded credit for that statement. Each assessor used a 0-5 point scale to determine a candidate's score. A candidate's score was based on how well his or her response addressed the aspects of the scenario or question, that SMEs determined were needed to properly answer the question. A candidate's score for each question is an average of the scores from each assessor. On the 2017 Sheriff's Officer Lieutenant Essay Examination Combined Scoring Sheet (Combined Scoring Sheet), candidates were provided with "missed opportunities," *i.e.*, examples of additional actions or statements, that they could have provided to fully address the question. These were actions or statements that could have increased a candidate's score.

On appeal, Tamimi contends, with regard to question 1, that he "was not giv[en] credit because I did not write in my essay that traffic control would be utilized as well as road blocks. While I have never read any source material that indicated that this would be something that should be answered, I used my personal experience as a Supervisor assigned to the Courts Division . . . I have been involved in many high profile cases in the Courts Division and our focus was the security of the Courtroom [and] protection of the Judge, Attorney[s]. Traffic was not even a thought and I request the source reference to this answer." For question 2, he argues that the question "was too vague." In this regard, he asserts that "the reason I did not state any protected classes was because in [*N.J.S.A.*] 2C:12-1 those certain people would only be raised to aggravated assault while in the performance of their duties. For example[,] a teacher who is not working and is shopping at the local market and is smacked in the face by a complete stranger, while not in the performance of her/his duties, is no longer in that certain person category . . . [I]t is my contention that while the words certain persons were used in the question[,] it

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<sup>2</sup> At review, candidates were provided with a form entitled, "2017 Sheriff's Officer Lieutenant Exam Score Calculation Sheet," which provided a description of how the candidates test scores were calculated. It is noted that this weighting accounts for the omission of question 4, search and seizure/arrest, from scoring.

did not give enough adequate information to form an essay of the protected classes under such as the verbiage while in performance of their duties [*N.J.S.A.*] 2C:12-1.” Regarding question 3, he maintains that he “answered 95% of the question right.” For question 4, he inquires as to why this question was omitted. With regard to question 5, he presents that his answer was “almost from memory directly from the book that was given to me as a source material. I do not understand how I was giv[en] such a low score as the answer was exactly what it was in the source material.” Finally, he argues that he does not “believe I was scored fairly, as the subject matter being read is subjective to the individual who scored the test. Also, I would like to know the name of the scorer as I have a very unique Muslim name and feel this may have been a key factor in my test scores. I would like to know [that] . . . I was not singled out for failure due to my ethnicity.”

### CONCLUSION

An independent review of the appellant’s test booklet, a listing of the SME identified actions, and other examination material, reveals no basis to award additional credit to the appellant.

Question 1 indicates that in a few months, there will be a high-profile case at the courthouse which you anticipate will receive a lot of media attention. Candidates were instructed to list the considerations they should make with respect to ensuring the safety and security of staff and citizens during this court proceeding. A review of the appellant’s Combined Scoring Sheet finds that the assessors noted three missed opportunities: road blocks/traffic control; relief officers; access points; and assign security to jury. As indicated above, law enforcement SMEs identified the actions or statements which candidates should indicate in order to successfully address the situation described in the questions. Thus, the SMEs determined that utilizing road blocks/traffic control was an appropriate response for Sheriff’s Officer Lieutenants. In addition, the appellant does not cite any of the sources that he claims do not indicate that “this would be something that should be answered” under the circumstances presented in the question. Moreover, while the appellant argues that his personal experience regarding high-profile cases focused on “the security of the Courtroom [and] protection of the Judge, Attorney[s],” the question was not limited to the interior of the courtroom.

Question 2 directed candidates to list the types of people identified in *N.J.S.A.* 2C:12-1 (Assault) that elevates the crime of simple assault to aggravated assault.<sup>3</sup> While the appellant argues that the question was “too vague,” he does not

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<sup>3</sup> *N.J.S.A.* 2C:12-1b(5) provides that a person is guilty of aggravated assault if he commits a simple assault as defined in paragraph (1), (2) or (3) of subsection a. of this section upon:

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- (a) Any law enforcement officer acting in the performance of his duties while in uniform or exhibiting evidence of his authority or because of his status as a law enforcement officer; or
  - (b) Any paid or volunteer fireman acting in the performance of his duties while in uniform or otherwise clearly identifiable as being engaged in the performance of the duties of a fireman; or
  - (c) Any person engaged in emergency first-aid or medical services acting in the performance of his duties while in uniform or otherwise clearly identifiable as being engaged in the performance of emergency first-aid or medical services; or
  - (d) Any school board member, school administrator, teacher, school bus driver or other employee of a public or nonpublic school or school board while clearly identifiable as being engaged in the performance of his duties or because of his status as a member or employee of a public or nonpublic school or school board or any school bus driver employed by an operator under contract to a public or nonpublic school or school board while clearly identifiable as being engaged in the performance of his duties or because of his status as a school bus driver; or
  - (e) Any employee of the Division of Child Protection and Permanency while clearly identifiable as being engaged in the performance of his duties or because of his status as an employee of the division; or
  - (f) Any justice of the Supreme Court, judge of the Superior Court, judge of the Tax Court or municipal judge while clearly identifiable as being engaged in the performance of judicial duties or because of his status as a member of the judiciary; or
  - (g) Any operator of a motorbus or the operator's supervisor or any employee of a rail passenger service while clearly identifiable as being engaged in the performance of his duties or because of his status as an operator of a motorbus or as the operator's supervisor or as an employee of a rail passenger service; or
  - (h) Any Department of Corrections employee, county corrections officer, juvenile corrections officer, State juvenile facility employee, juvenile detention staff member, juvenile detention officer, probation officer or any sheriff, undersheriff, or sheriff's officer acting in the performance of his duties while in uniform or exhibiting evidence of his authority or because of his status as a Department of Corrections employee, county corrections officer, juvenile corrections officer, State juvenile facility employee, juvenile detention staff member, juvenile detention officer, probation officer, sheriff, undersheriff, or sheriff's officer; or
  - (i) Any employee, including any person employed under contract, of a utility company as defined in section 2 of P.L.1971, c.224 (C.2A:42-86) or a cable television company subject to the provisions of the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) while clearly identifiable as being engaged in the performance of his duties in regard to connecting, disconnecting or repairing or attempting to connect, disconnect or repair any gas, electric or water utility, or cable television or telecommunication service; or
  - (j) Any health care worker employed by a licensed health care facility to provide direct patient care, any health care professional licensed or otherwise authorized pursuant to Title 26 or Title 45 of the Revised Statutes to practice a health care profession, except a direct care worker at a State or county psychiatric hospital or State developmental center or veterans' memorial home, while clearly identifiable as being engaged in the duties of providing direct patient care or practicing the health care profession; or
  - (k) Any direct care worker at a State or county psychiatric hospital or State developmental center or veterans' memorial home, while clearly identifiable as being engaged in the duties of providing direct patient care or practicing the health care profession, provided that the actor is not a patient or resident at the facility who is classified by the facility as having a mental illness or developmental disability;

explain why he was unable to list those individuals identified in *N.J.S.A. 2C:12-1b(5)* and indicate that the charge “would only be raised to aggravated assault while in the performance of their duties.” It is noted that the appellant provided the following response in his test booklet:

When discussing 2C:12-1 Assault it is in 2C that a person commits the act of Aggravated Assault when bodily injury or serious bodily injury occurs. This happens when a person knowingly and purposely assaults another person looking do extreme physical damage to the victim. Anytime a person breaks a limb or any other body part, externally or internally, this damage would be considered aggravated assault.<sup>4</sup>

As such, his answer was not responsive to the question.

Question 3 referred to the Attorney General Guidelines regarding Bias Incident Investigation Standards (revised January 2000) and contained three parts: Part A, Part B and Part C. It is emphasized that the “missed opportunities” indicated on a candidate’s Combined Scoring Sheet did not constitute a complete list of the responses missed by the candidate but rather, as noted above, they were examples of some of the actions or statements that a candidate could have provided to fully address the question.<sup>5</sup> In this regard, the Combined Scoring Sheet identified three examples of missed opportunities that the appellant could have provided: offense based on handicap; offense based on ethnicity; and confer with the initial responding officer. Again, these were not the only missed opportunities.<sup>6</sup> It is noted that a review of the appellant’s test booklet finds that the appellant failed to identify approximately 70% of the SME approved responses for this question. As such, the appellant’s claim that he “answered 95% of the question right” is misplaced.

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<sup>4</sup> *N.J.S.A. 2C:12-1b* provides, in pertinent part, that a person is guilty of aggravated assault if he:

- (1) Attempts to cause serious bodily injury to another, or causes such injury purposely or knowingly or under circumstances manifesting extreme indifference to the value of human life recklessly causes such injury; or
- (2) Attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon; or
- (3) Recklessly causes bodily injury to another with a deadly weapon; or
- (4) Knowingly under circumstances manifesting extreme indifference to the value of human life points a firearm, as defined in section 2C:39-1f., at or in the direction of another, whether or not the actor believes it to be loaded; . . .

<sup>5</sup> The Combined Scoring Sheet advises candidates, “Examples of missed opportunities in the candidate’s response can be found below. (*Note: This is not an exhaustive list of missed opportunities.*)”

<sup>6</sup> In addition, the appellant does not argue that he provided any of the listed opportunities.

For question 4, during the scoring process, the Division of Test Development and Analytics found that overall, the candidates' essays were not responsive to the issues presented and they were not consistent with the actions that would address the situation as determined by the SMEs. In addition, the Division of Test Development and Analytics determined that a portion of the question was affected by a recent change in relevant case law. As a result, the question was determined to be deficient and was omitted from scoring.

Question 5 referred to Donald J. Schroeder and Frank Lombardo, *Management and Supervision of Law Enforcement Personnel* (5th ed. 2013) in regard to performance evaluations. The question contained three parts: Part A, Part B and Part C. As noted above, the "missed opportunities" indicated on the appellant's Combined Scoring Sheet was not a complete list of the responses missed by the appellant. The appellant's Combined Scoring Sheet identified three examples of missed opportunities for this item: help the supervisor know his subordinate; provide a plan for future improvement of an employee and overshadowing (halo) effect. Again, these were not the only missed opportunities.<sup>7</sup> The relevance of the appellant's argument that his response is "almost from memory directly from the book" is not clear given that presumably all of his responses on the subject test came from memory. Based on the appellant's performance on the subject test, his reliance on his self-assessment of his memory skills is misplaced. In this regard, a review of the appellant's test booklet finds that the appellant failed to identify approximately 70% of the SME approved responses for this item.

With respect to the appellant's argument that the scoring of the examination was subjective, candidates were scored in accordance with pre-established, SME identified actions to insure objectivity. In this regard, as indicated above, the SMEs helped determine acceptable responses based upon the material presented to the candidates. Prior to the examination, the assessors were thoroughly trained to score candidate responses. In addition, each test booklet was evaluated by **two** assessors.

Regarding the appellant's claim that his name affected the scoring of his test, it is noted that the Division of Test Development and Analytics indicated that the assessors received the front cover of the candidates' test booklet, which contained their Social Security Numbers and signatures but not their printed names, attached to their essay responses. The Division of Test Development and Analytics further indicated that the assessors did **not** receive the candidates' pledge form on which candidates printed their names as well as signed. A review of the appellant's test booklet cover sheet finds that his signature is illegible.

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<sup>7</sup> In addition, the appellant does not argue that he provided any of the listed opportunities.

**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  
THE 6TH DAY OF MARCH, 2019

*Deirdre' L. Webster Cobb*

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