



STATE OF NEW JERSEY

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

In the Matter of Taywan Jones Jr.,
Fire Captain (PM1046V),
Newark

Examination Appeal

CSC Docket No. 2019-2397

ISSUED: May 9, 2019 (RE)

Taywan Jones Jr. appeals his score for the oral portion of the promotional examination for Fire Captain (PM1046V), Newark. It is noted that the appellant passed the subject examination with a final score of 79.130 and his name appears as the 66th ranked eligible on the subject list.

It is noted for the record that this two-part examination consisted of a written multiple-choice portion and an oral portion. Candidates were required to pass the written portion of the examination, and then were ranked on their performance on both portions of the examination. The test was worth 80 percent of the final score and seniority was worth the remaining 20 percent. Of the test weights, 31.35% of the score was the written multiple-choice portion, 22.49% was the technical score for the evolving exercise, 7.53% was the supervision score for the evolving exercise, 4.28% was the oral communication score for the evolving exercise, 19.23% was the technical score for the arriving exercise, 7.53% was the supervision score for the arriving exercise, and 7.59% was the oral communication score for the arriving exercise.

The oral portion of the Fire Captain examination consisted of two scenarios: a fire scene simulation with questions designed to measure the knowledge of safe rescue tactics and procedures to safeguard citizens, supervision of fire fighters and the ability to assess fire conditions and hazards in an evolving incident on the fireground (evolving); and a fire scene simulation designed to measure the knowledge of safe rescue tactics and procedures to safeguard citizens, supervision of firefighters and the ability to plan strategies and tactics based upon a building's

structure and condition (arriving). Knowledge of supervision was measured by questions in both scenarios, and was scored for each. For the evolving scenario, candidates were provided with a 15-minute preparation period, and candidates had 10 minutes to respond. For the arriving scenario, a five minute preparation period was given and candidates had 10 minutes to respond.

The candidates' responses were scored on technical knowledge and oral communication ability. Prior to the administration of the exam, a panel of Subject Matter Experts (SMEs) determined the scoring criteria, using generally approved fire command practices, firefighting practices, and reference materials. Scoring decisions were based on SME-approved possible courses of action (PCAs) including those actions that must be taken to resolve the situation as presented. For a performance to be acceptable, a candidate needed to present the mandatory courses of action for that scenario. Only those oral responses that depicted relevant behaviors that were observable and could be quantified were assessed in the scoring process.

Candidates were rated on a five-point scale, with 5 as the optimal response, 4 as a more than acceptable passing response, 3 as a minimally acceptable passing response, 2 as a less than acceptable response, and 1 as a much less than acceptable response. For each of the scenes, and for oral communication, the requirements for each score were defined.

For the evolving scenario, the appellant scored a 3 for the technical component, a 4 for the supervision component, and a 5 for the oral communication component. For the arriving scenario, the appellant scored a 3 for the technical component, a 5 for the supervision component, and a 4 for the oral communication component. The appellant challenges his scores for the technical and supervision components for the evolving scenario, and the technical and oral communication components for the arriving scenario. As a result, the appellant's test material, video, and a listing of PCAs for the scenarios were reviewed.

The evolving scenario involved a report of fire on the second floor of five-story hotel of ordinary construction built in 1910. The Incident Commander (IC) orders the candidate to perform an immediate primary search and horizontal ventilation of the building.

For the technical component, the assessor assigned a score of 3, using the "flex rule," and indicated that the appellant failed to use a thermal imaging camera (TIC), which was a mandatory action for question 1. It was also noted that the appellant missed the opportunity to mention senses (sight, touch, yelling[hearing]) to locate victims. On appeal, the appellant argues that he used a TIC after removing all victims with a systematic search and by using information such as the

firefighters' location, unit, name, assignment, resources and what is needed (LUNAR).

Regarding the flex rule, mandatory responses are responses that are requirements for a performance to be acceptable (a score of 3). Sometimes, a candidate states many additional responses but does not give a mandatory response. The flex rule was designed to allow the SMEs to assign a score of 3 to candidates who fail to give a mandatory response but who provide many additional responses. However, the SMEs cannot provide a score higher than a 3 in those cases. All mandatory responses must be given in order for a performance to be acceptable, whether there is one mandatory response or five of them. It is not assumed that candidates receive a score of 5 which is then lowered for lack of responses. Performances that include mandatory responses get a score of 3, and those without mandatory responses get a score of 1 or 2. Additional responses only increase a score from 3 to 4 or from 3 to 5.

At the end of every scenario and prior to the questions, instructions state, "In responding to the questions, make sure your actions directly relate to the scenario. Do not assume or take for granted that general actions will contribute to your score." Question 1 asked for the details of the orders to give to your crew to carry out the assignment. The scenario indicated that there is a huge crowd of people milling around on side A, and that the building contains conference rooms, a lobby area and eating and drinking establishments, banquet halls, kitchen, and guest rooms. Clearly there will be people inside this building and the SMEs determine that using a TIC was a mandatory response. They also indicated that locating victims using senses (sight, touch, yelling) was an additional response that should be mentioned. This was a formal examination setting, and candidates were required to articulate what they meant.

A review of the appellant's presentation indicates that he did not take the actions mentioned by the assessors. In addition, the candidate was the supervisor of the first arriving ladder company and his orders were to perform an immediate primary search and horizontal ventilation of the building. The appellant indicated that he went to the Incident Commander (IC) to acknowledge his orders, and then stated, "We're going to start salvage and overhaul." The IC has sounded three more alarms and this fire is not contained on the second and third floors. Additionally, the fire building is a five-story hotel of ordinary construction and the appellant states that he is going to ladder the building to the fire floor, to the roof, and to other floors in-between. The appellant stated, "And for victims at each window ladders will be placed at the ah, at the tip of the window, the bottom wind...ah, windshield. I'll do salvage and overhaul, recheck for hidden fire um, hidden in certain areas of the structure and we'll vent horizontally work in coordination with the ladder company, with the engine companies, work in coordination with each other. Also to prevent

flashover and backdraft.” Windshields had nothing to do with this incident, the orders were not salvage and overhaul but searching and ventilation, and there were no indications in this large building of flashover and backdraft. The appellant did not use a TIC in his primary search, or explain that the crew was to use their senses to find victims.

Question 2 indicated that in the middle of the primary search, the crew finds an unconscious pregnant victim in the second floor restroom on side C. The IC has indicated that power is secured to the building and Ladder 2 has arrived. This question asked for initial actions and then specific detail required to safely remove the victim. In response, the appellant called for additional units and called for a first and second alarm, mutual aid, tower ladders, rescue crews and USAR [Urban Search and Rescue]. First, he should not be calling for resources as he is not the IC, and secondly the scenario indicated that the IC has already sounded three alarms. Next, the appellant called for a Personnel Accountability Report (PAR) and a LUNAR which he defined as name, assignment, resources needed to the area, in order to remove the victim from the structure, and he activated the RIT (Rapid Intervention Team). These actions do not pertain to the situation, as the appellant’s crew is not lost or trapped. These actions are not substitutable for the noted actions. The appellant’s score for this component will not be changed.

The supervision question involved a firefighter using a hand tool inappropriately during overhaul, and he almost injures another member. When the candidate tries to correct him, he becomes disrespectful and does not comply. The question asked for actions to take now and back at the firehouse. For this component, the assessor indicated that the appellant missed the opportunity to interview potential witnesses. On appeal, the appellant stated that he witnessed the firefighter not wearing gloves and ordered him to put them on. In this case, the appellant’s actions pertain to the arriving scenario, not the evolving scenario, he missed the action noted by the assessor, and his score for this component is correct.

The arriving scenario involved a train derailment. For the technical component, the assessor assigned a score of 3 using the flex rule, and noted that the candidate failed to establish command uphill and upwind, separate from the staging area (Question 2). He also noted that the appellant missed the opportunity to use or reference the Emergency Response Guidebook (ERG) CHEMTREC, or NIOSH, an additional action for question 2. On appeal, the appellant states that he established command on Denholm Drive, and roped off hot and warm zones, and that he had hazmat identify the chemical and he called the Environmental Protection Agency.

In reply, in this presentation, the candidate is the Incident Commander (IC) as he is the highest-ranking officer on scene, the wind is blowing east to west at 10 mph, and there is a significant hydraulic leak on the green train which has been

contained. Both trains are commuter trains with electronic locomotives. A hazardous material is any material that, because of its quantity, concentration, or physical or chemical characteristics, may pose a substantial hazard to human health or environment when purposefully released or accidentally spilled. In this scenario, hydraulic fluids have leaked from the green train. As such, the SMEs determined that it was mandatory that a command post should be established uphill and upwind. An additional response would be to use or reference the Emergency Response Guidebook (ERG) CHEMTREC, or NIOSH.

The appellant established command and set up a command post away on Denholm Drive, and he received credit for this response in question 1, which asked candidates to provide an initial report using proper radio protocols. However, this response lacks the detail to provide credit in question 2, which asks for specific actions, as it does not account for the wind or terrain. The appellant called for two additional alarms and he staged *them* upwind, but he did not establish his command post upwind, which was a mandatory response, regardless of the zone. The appellant is taking a risk by not establishing his command post upwind and uphill, because if the fluid catches fire the post will be in the smoke and toxic fumes, or if it is not contained it may run to the post. Further, the appellant did not use or reference the Emergency Response Guidebook (ERG) CHEMTREC, or NIOSH. A review of his presentation indicates that the appellant called for Hazmat for unknown substances, a response for which received credit, and he called for EPA for “environmental protection” for the environment. Neither of these actions is the same as using or referencing the ERG. The IC should reference to ERG so he knows for sure what the substance is, and its toxicity and flammability. The appellant missed the actions noted by the assessor, and his score for this component will not be changed.

For the oral communication component of the arriving scenario, the assessor indicated a minor weakness in rate, stating that the appellant spoke too rapidly at times, which caused him to stumble and repeat words and phrases. On appeal, the appellant states that he has a northern accent, and he repeated words and phrases to highlight them. He states that he was also concerned about camera positioning at the start of the presentation.

In reply, a weakness in inflection/rate/volume is defined as failing to speak at an appropriate rate (long pauses/too fast/stumbling), failing to maintain appropriate pitch and volume, or improperly using pitch to convey meaning or emphasis. In this case, the assessor stated that the appellant spoke too fast, not that he had an accent. A foreign accent occurs when a person speaks one language using some of the rules or sounds of another one. For example, if a person has trouble pronouncing some of the sounds of a second language, they may substitute similar sounds that occur in their first language. This sounds wrong, or “foreign,” to native

speakers of the language. In this case, a review of the appellant's presentation indicates that his English was easily understood, no accent was present, but his speech was rapid at times.

The appellant spoke more rapidly than normal at times, making his presentation difficult to follow. Slight pauses that are heard in normal speech, such as after the end of a sentence were not there, making the presentation seem to be a quick stream of words at some points. For some sentences, the cadence of normal speech was absent, and the articulation rate was fast. For example, while answering question 1, the appellant stated, "We have a 10 miles per hour in-box so I'll be aware of wind-driven fire if needed. I'll have um, EPA, and ah, ATF, EPA for environmental protection for the environment and ah, ATF for alcohol, tobacco or firearms. And ah, police to ah, for members ah, to stop all traffic or to rope off the area. Transit to stop all transit. Vibrations, and um, ignition sources ah will be ah utility companies. My mode of attack will be offensive. I'll place the radios for fireground frequency for good communication. And ah, place apparatus in tactical position." The appellant was speaking quickly, and made many grammatical errors in his speech.

He began answering question 2 with, "With question number two, my initial ah, my initial report and actions will be, added to that will be that I will call for, I will establish command, ah you know, command and ah call for my utility, my ah, additional companies, second and third alarm utilities stay upwind uphill, utilities, police for traffic and crowd control, EMS for triage, treatment and transportation rapid intervention team for downed and missing firefighter safety officer for safety of the incident. And um, all my units ah my mode of attack will be offensive. I change radio to fireground frequency for good communication. I'll place the apparatus in tactical positions to block off all traffic." This passage significantly repeats information already given, is grammatically incorrect, and the appellant spatters the word "utilities" within sentences where it clearly does not belong. The section that reads, "police for traffic and crowd control, EMS for triage, treatment and transportation rapid intervention team for downed and missing firefighter safety officer for safety of the incident," was given with no breaths taken or even slight pauses between words. It is noted that the camera positioning issue was at the beginning of the evolving scenario, not the arriving scenario, and does not pertain to this score. The appellant's presentation clearly had a weakness and his score of 4 will not be changed.

CONCLUSION

A thorough review of the appellant's submissions and the test materials indicates that the decision below is amply supported by the record, and the appellant has failed to meet 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
THE 9th DAY OF MAY, 2019



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