



STATE OF NEW JERSEY

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

Examination Appeals

In the Matter of Elzbieta Wojtylo,
Supervising Family Services
Specialist 1 (PS4823K), and
Lisa Braxton, Supervising Family
Services Specialist 2 (PS4837K),
Department of Children and Families

CSC Docket Nos. 2019-3263
2019-3249

ISSUED: July 31, 2019 (RE)

Elzbieta Wojtylo appeals her disqualification from the promotional examination for Supervising Family Services Specialist 1 (PS4823K), Department of Children and Families, and Lisa Braxton her disqualification from the promotional examination for Supervising Family Services Specialist 2 (PS4837K), Department of Children and Families. These appeals are consolidated due to common issues.

The subject examinations were administered on May 4, 2019 to 539 and 938 eligible candidates, respectively. The appellants were disqualified when they were found with cellphones at the examination center.

On appeal, Wojtylo states that she was dropped off at the test center by a coworker. She states that she could not leave her phone at home because she had a young child who was not feeling well and she needed to be reached in case of an emergency, and also she needed to arrange transportation after the test. She states that it was in her wallet and turned off, and she did not compromise the test in any way. She argues that there were numerous people with their phones and smart watches inside the test room and that smart watches can be used as phones to compromise the test. She questions why those are allowed while cellphones that are turned off are not.

Braxton states that her cellphone was in her purse and she was unaware that it was on vibrate. She states that she needed her phone prior to the examination to find the building, as there were no signs, and the building location was not on her notification card. She states that she and another seven candidates finally found

the test location but she did not have time to put the phone back and she thought that it was off. She states that she did not reach into her purse to use the device, but was still disqualified. She requests to be allowed to retake the test, while Wojtylo did not request a remedy.

CONCLUSION

N.J.A.C. 4A:4-2.10(b)1 states, in pertinent part, that bringing cell phones (including work-issued phones) smart phones, and/or any type of electronic recording/imaging device into the building where the examination is being conducted shall be considered a prohibited action. *N.J.A.C.* 4A:4-2.10(c) states that anyone participating in a prohibited action shall be disqualified from the examination and maybe rejected from future examinations and subject to punishment as provided by law.

The record establishes that appellants were scheduled to take the subject examination on May 4, 2019. The Monitors and Center Supervisors file reports on unusual circumstances during examination administrations. In Wojtylo's case, the Center Supervisor indicated that this appellant was caught with a cell phone while leaving the building. She showed the Center Supervisor her phone and said it was off during the exam. The Center Supervisor reminded her of the signs which indicate that no cell phones were allowed, and indicated that the Monitor reminded her that she was told that cellphones were allowed in the building.

In Braxton's case, the Monitor noted that at 10:11 am she heard a phone vibrate but could not pinpoint the location. It could not have come from a drawer in a desk and only one candidate had a purse from the rows affected. At 10:40 am, she heard a phone vibrate again and determined that it belonged to the appellant. The appellant removed it from her purse and turned it off. The Center Supervisor was called, and Braxton was removed from the room. The Center Supervisor indicates that at 10:11 am the Monitor reported that she heard a phone vibrate and checked but could not detect the phone. At 10:46, the Monitor told her that Braxton admitted to having a phone, and Braxton was asked to step outside of the room, with her belongings. The Center Supervisor indicates that Braxton told her she had her purse and phone with her because she could not find the building, which was not printed on the notice. She states that she had initially left the purse and phone in the car and went back for it when she could not find the building.

The Civil Service Commission has a duty to ensure the security of the examination process and to provide sanctions for a breach of security. See *N.J.S.A.* 11A:4-1(c). In order to carry out this statutory mandate, *N.J.A.C.* 4A:4-2.10 identifies a number of prohibited actions in the conduct or administration of an examination and provides for the disqualification of candidates participating in such actions. The Civil Service Commission has a responsibility to provide an

environment that is as free from distractions as is possible. Candidates are asked in writing not to bring cell phones. Signs on walls indicate that no cell phones are allowed in the building. Monitors repeat that no cell phones are allowed. While the words “cell phones” are used, *N.J.A.C. 4A:4-2.10(b)1* includes any type of electronic recording/imaging device into the building. This includes smart watches, although they are not specifically mentioned. While Wojtylo claims that other candidates had cell phones and smart watches, she does not identify any particular candidate who had one. In any event, if another candidate is involved in a prohibited action and is not caught, this is not justification for her to commit the same prohibited action. This is equivalent to saying that if other candidates cheat and are not caught, that there should be no consequences if she cheats. This is not to say that she was cheating, but that her argument that she should not be disqualified for a prohibited action because other unidentified candidates were involved in the same prohibited action, is juvenile. The title Supervising Family Services Specialist 1 is a second-level supervisory title, and incumbents serve as role models. Thus, a greater understanding of the rules and regulations, as well as a higher standard of behavior is expected of candidates for this level. The Multiple-Choice Exam Orientation Guide, available to all candidates on the Civil Service Commission’s (Commission) website, states that, “With the threat of high tech cheating on the rise, possession of personal communication devices such as cellphones, blackberries, pagers/beepers, photographic equipment, and MP3 players, or other similar electronic communication devices is prohibited at test centers. Candidates who are seen with these devices in the test center, even if in the power-off mode, will be disqualified and dismissed immediately.” These disqualifications should not have been a surprise to either appellant.

As to Braxton’s issues, candidates are reminded that it is their responsibility to arrive on time. The orientation guide states that one’s candidates are notified of their scheduled examination center, directions can be obtained by calling the Commission information center, or can be found on the Commission’s web site. It indicated that candidates should make sure to map out a travel route in advance of the date and plan to arrive early. On the website, under About Us, there is a link to contact and directions. Once on that page, there is a link to directions to test centers. The test centers are all listed, and the building is identified in the address where Braxton took the test. The appellant had the information she needed to find the test center without her phone if she had looked for it prior to exiting her vehicle. Other candidates did so, and many were tested that evening.

There is no dispute over whether the appellants each had a cell phone, and they maintain that they were not cheating during the examination. Nonetheless, the Civil Service Commission has a duty to ensure the security of the examination process and to provide sanctions for a breach of security. See *N.J.S.A. 11A:4-1(c)*. It was made clear both in writing and verbally that candidates were not to have cell phones in their possession while in the examination center, yet each chose to bring

one, and Braxton's phone vibrated during the examination, potentially disrupting other candidates. Although the "no cell phone rule" may appear draconian, its importance in ensuring fair and equitable testing for all potential candidates cannot be overemphasized. Test Center personnel are charged with prohibiting the use of unauthorized aids, information or assistance by candidates and preventing examination security material from leaving the exam center. Due to the multiple capabilities of phones, the standard to which candidates are held is possession of a cell phone, not the use of one. The appellants each intentionally brought a cell phone into the examination center and were properly disqualified for possession of a cell phone.

A thorough review of the record indicates that the appellants have failed to support their burden of proof in these matters.

ORDER

Therefore, it is ordered that these appeals 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 31st DAY OF JULY, 2019



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