



STATE OF NEW JERSEY

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

In the Matter of Chief Clerk (C0543W),
Bergen County Clerk

CSC Docket No. 2020-218

Appointment Waiver
CORRECTED

ISSUED: AUGUST 15, 2019 (BW)

The Bergen County Clerk requests permission not to make an appointment from the February 4, 2019 certification for Chief Clerk (C0543W).

The record reveals that the Bergen County Clerk provisionally appointed Mark Romano, pending open competitive examination procedures, to the subject title, effective February 12, 2018. An examination was announced with a closing date of May 7, 2018 that resulted in a list of eight eligibles with an expiration date of December 26, 2021. A certification containing the names of the eight eligibles was issued on February 4, 2019.

The appointing authority returned the certification indicating that a permanent appointment would not be made from the subject list because the provisional appointee was no longer serving. Specifically, it explained that the provisional resigned from his position on February 22, 2019.

In requesting an appointment waiver and a waiver of the selection costs, the appointing authority indicated that the provisional employee has resigned. It also states that it plans on using the list before it expires on December 26, 2021.

The appointing authority's request for an appointment waiver was acknowledged, and it was advised that if its request were granted, it could be assessed for the costs of the selection process in the amount of \$2,048. However, the appointing authority did not provide any additional information for the Civil Service Commission (Commission) to review.

It is noted that Romano is no longer serving as a Chief Clerk (C0549W) and there are currently no employees serving provisionally pending open competitive examination procedures in the subject title with the appointing authority.

CONCLUSION

In accordance with *N.J.S.A.* 11A:4-5, once the examination process has been initiated due to the appointment of a provisional employee or due to an appointing authority's request to fill a vacancy, the appointing authority must make an appointment from the resulting eligible list if there are three or more interested and eligible candidates. The only exception to this mandate may be made for a valid reason such as fiscal constraints.

Although an appointment waiver is granted in this matter, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse for the costs of the selection process. While administering examinations and providing the names of eligible job candidates to the jurisdictions under the civil service system are two of the primary activities of this agency, these costly efforts are thwarted when appointing authorities fail to utilize the resulting eligible lists to make appointments and candidates have needlessly expended their time, efforts and money to take these examinations in hopes of being considered for a permanent appointment.

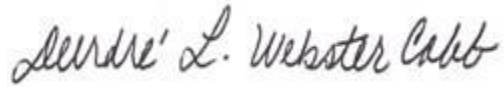
In the instant matter, the examination for the subject title was generated based on the appointing authority's appointment of provisional employees. However, after a complete certification was issued, the appointing authority requested an appointment waiver. The provision resigned on February 22, 2019. It also indicated that it plans on using the list before it expires on December 26, 2021. Under these circumstances, the appointing authority has presented adequate justification for granting an appointment waiver and a deferral of the imposition of costs.

ORDER

Therefore, it is ordered that the request for the waiver of appointment be granted and no selection costs presently be assessed.

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 14TH DAY OF AUGUST, 2019



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher S. Myers
Director
Division of Appeals and
Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: John Hogan
Kelly Glenn
Beth Wood
Diane Lukasewycz