



STATE OF NEW JERSEY

**DECISION OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Arminda Medina,
Union County Superior Court,
Judiciary

Request for Reconsideration

CSC Docket No. 2016-3718

ISSUED: JANUARY 31, 2020 (HS)

Arminda Medina, a former Judiciary Clerk 3 with Union County Superior Court, Judiciary, represented by Dayna R. Katz, Esq., petitions the Civil Service Commission (Commission) for reconsideration of the attached final administrative decision, rendered on March 22, 2016, in which the Director of the Division of Appeals and Regulatory Affairs denied her request for a hearing with respect to her removal.

By way of background, in a January 25, 2016 Final Notice of Disciplinary Action (FNDA), the petitioner was removed, effective that same date, on a charge of inability to perform duties. Specifically, the appointing authority asserted that the petitioner had been on leave since September 26, 2012 and therefore had been unable to perform her duties for the past two years and four months; the Family Division had been without a Judiciary Clerk 3 to perform the critical court clerk duties, creating issues with coverage; and Union Vicinage had been unable to fill this position, as it had been held open for the petitioner during her extended absence. The record indicates that the petitioner's FNDA was sent by certified mail on January 27, 2016 to her address on file. The tracking record of the certified mail shows delivery was made on January 30, 2016. By letter postmarked March 7, 2016, the petitioner submitted an appeal to the Commission. However, since the petitioner did not submit her appeal within 20 days of receipt of the FNDA, the request for a hearing was denied.

In her request for reconsideration, the petitioner submits an affidavit in which she presents the following narrative. The FNDA was received on or about

January 28 or 29, 2016. On February 8, 2016, she timely mailed a completed Major Disciplinary Appeal Form and the FNDA to this agency through the United States mail. She believes that this mail was received because it was not returned to her. She was never advised by this agency that anything was wrong with her appeal. She later learned that her attorneys contacted this agency and were advised that despite her timely filing of the appeal, there was no record of it. Her attorneys immediately filed another appeal on March 7, 2016, and that appeal was rejected.

Based on the foregoing sequence of events, the petitioner contends that she has presented a valid explanation for the untimeliness of her appeal and a basis to relax the time limitation. In her view, the purpose of the time limitation would not be properly served in this case in that her right to appeal her unjust removal would be eliminated. In addition, it is a long-standing principle of the Superior Court that the errors of an attorney should not be visited upon the client. *Jansson v. Fairleigh Dickinson Univ.*, 198 N.J. Super. 190, 194 (App. Div. 1985).

The appointing authority, despite being provided the opportunity, did not present any arguments or documentation for the Commission's review.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) sets forth the standards by which a prior decision may be reconsidered. This rule provides that a party must show that a clear material error has occurred or present new evidence or additional information not presented at the original proceeding, which would change the outcome of the case and the reasons that such evidence was not presented at the original proceeding. A review of the record in the instant matter reveals that reconsideration is justified.

N.J.S.A. 11A:2-15 provides that appeals from major disciplinary matters be made in writing to the Commission no later than 20 days from receipt of the final written determination of the appointing authority. This 20-day time limitation is jurisdictional and cannot be relaxed or waived. *See Borough of Park Ridge v. Salimone*, 21 N.J. 28, 46 (1956); *See also, Mesghali v. Bayside State Prison*, 334 N.J. Super. 617 (App. Div. 2000), *cert. denied*, 167 N.J. 630 (2001); *Murphy v. Department of Civil Service*, 155 N.J. Super. 491, 493 (App. Div. 1978). Further, *N.J.A.C.* 4A:2-2.8(a) states that "An appeal from a Final Notice of Disciplinary Action must be filed within 20 days of receipt of the Notice by the employee. Receipt of the Notice on a different date by the employee's attorney or union representative shall not affect this appeal period."

In the instant matter, the FNDA was sent to the petitioner by certified mail on January 27, 2016. The tracking record of the certified mail shows delivery was made on January 30, 2016. Thus, her appeal had to be made no later than February 19, 2016 to meet the 20-day filing requirement. In an affidavit, the petitioner states that she mailed her appeal on February 8, 2016. The appointing

authority did not submit any response. Under these circumstances, the record reflects that the petitioner made a timely appeal on February 8, 2016. Accordingly, the petitioner has met the standard for reconsideration, and it is appropriate to grant a hearing.

ORDER

Therefore, it is ordered that this request be granted and the petitioner be granted a hearing on her removal. It is further ordered that the matter be transmitted to the Office of Administrative Law for a hearing as a contested case.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 29TH DAY OF JANUARY, 2020



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

Attachment

- c. Armindá Medina
- Dayna R. Katz, Esq.
- Elisa Aloe
- Kelly Glenn
- Beth Wood (w/ file)
- Records Center



STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION

In the Matter of :
Armind Medina :
Union County Superior Court, :
Judiciary :
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CSC DKT. NO. 2016-3130 :
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Hearing Denied

ISSUED: *MAR 23 2016*

The Civil Service Commission considered the request for a hearing concerning Armind Medina, represented by Richard P. Flaum, Esq., from her appeal of removal, Union County Superior Court, Judiciary, and made the following findings of fact:

1. The Final Notice of Disciplinary Action was served January 30, 2016.
2. The letter of appeal was post marked March 7, 2016.

Since the appeal in this matter was not perfected within 20 days of receipt of the Final Notice of Disciplinary Action, the request for a hearing was denied.

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

DECISION RENDERED BY THE
DIRECTOR, DIVISION OF APPEALS
AND REGULATORY AFFAIRS
ON *MARCH 22, 2016*

Henry Maurer
HENRY MAURER
DIRECTOR

RE: Arminda Medina

Inquiries
And
Correspondence

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c: Arminda Medina
Richard P. Flaum, Esq.
Agency Services
Pensions
Union County Superior Court, Judiciary