



**STATE OF NEW JERSEY**

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

In the Matter of Bobby Stubbs, Jr.,  
Juvenile Detention Officer (Special),  
Cumberland County

Administrative Appeal

CSC Docket No. 2021-439

**ISSUED: SEPTEMBER 7, 2021 (SLD)**

Bobby Stubbs, Jr., appeals his non-appointment from the Juvenile Detention Officer (Special), Cumberland County eligible list.

By way of background, the appellant received a regular appointment, effective November 2, 1998, from the April 14, 1998 certification (OL980667) of the eligible list for Juvenile Detention Officer (C1341T), Cumberland County. He then received a regular appointment, effective March 17, 2009 from the January 26, 2009 certification (PL090122) of the eligible list for Senior Juvenile Detention Officer (PC0983K), Cumberland County. Thereafter, he was laid off from employment, effective May 2, 2015, and his name was placed on a special reemployment list for both titles.<sup>1</sup>

Thereafter, on August 18, 2020, the appellant's name was certified (OL200664) from the special reemployment list for Juvenile Detention Officer to the appointing authority as the 13<sup>th</sup> listed eligible. In disposing of the certification, the appointing authority, in pertinent part, appointed the third and sixth ranked eligibles, and requested the removal of the appellant's name due to his failure to

<sup>1</sup> The appellant was sent a determination of layoff rights letter dated April 13, 2015. This letter notified the appellant he was laid off from employment, effective May 2, 2015, and that his name was to be placed on a special reemployment list for his current title and other titles as appropriate. Additionally, the letter stated, in pertinent part, that he could appeal the "determination of your layoff rights or seniority . . . within twenty (20) days of receipt of this letter" to the Civil Service Commission (Commission). However, there is no record that the appellant appealed.

respond to the certification notice. Agency records indicated that the appellant's certification notice was returned as undeliverable.<sup>2</sup>

On appeal to the Civil Service Commission (Commission), the appellant submitted a "layoff grievance," arguing that he had more seniority than the two individuals appointed from the subject certification. Additionally, the appellant claimed that he "never received any information on the rehiring of any personnel."

In a February 4, 2021 letter from the Division of Appeals and Regulatory Affairs (DARA), the appellant was notified of his restoration to the special reemployment list for Juvenile Detention Officer.<sup>3</sup> The appellant was also informed that his name was restored for future opportunities *only* as it was his responsibility to ensure that his address was kept current with the agency. *See N.J.A.C. 4A:3-3.2(e)*.

In response, the appellant argues that his reemployment rights were violated as he was not properly advised of the employment opportunity and that the appointing authority failed to publicly post the vacancies. The appellant also argues that the appointing authority failed to send out notifications to all of the eligibles on the certification and that the appointing authority did not contact those individuals or interview them. In support, he submits letters from the seventh, 14<sup>th</sup> and 17<sup>th</sup> listed eligibles, in which they claim that they did not receive a certification notice nor did they receive "any communication via letter correspondence, phone call or email" from the appointing authority.<sup>4</sup>

Moreover, the appellant maintains that he has more seniority than H.J., the sixth ranked female who was appointed instead of him. In this regard the appellant maintains that he was employed prior to H.J., and that in the "early 2000s [he] had an OAL [Office of Administrative Law] decision that was found in [his] favor and reinstated all of [his] seniority."<sup>5</sup> In support, he submits copies of H.J.'s time card report. The appellant also argues that he possesses more seniority than J.D.,<sup>6</sup> who

---

<sup>2</sup> In his appeal letter, the appellant provided a different mailing address than the one listed on the OL200664 certification.

<sup>3</sup> The appellant's name was restored to the eligible list as the appointing authority indicated that it did not object to his restoration to the special reemployment list.

<sup>4</sup> Agency records indicate that the seventh and 14<sup>th</sup> listed eligibles were also removed due to their failure to respond to the certification notice and that they failed to appeal those removals. With regard to the 17<sup>th</sup> listed eligible, agency records indicate that his name was retained as not reachable for appointment.

<sup>5</sup> Agency records that the appellant had appealed his removal from employment, which was ultimately modified to a six-month suspension.

<sup>6</sup> Agency records indicate that on the OL200664 certification, J.D.'s name appeared as the 16<sup>th</sup> listed eligible, below the appellant's name as the 13<sup>th</sup> listed eligible.

was appointed, effective February 1, 2021, from the November 17, 2020 certification (OL200892) of the Juvenile Detention Officer (Special) eligible list.<sup>7</sup>

The appellant claims that H.J.'s appointment was evidence of gender discrimination since the appointing authority had previously indicated that it prefers female officers to "manage female juveniles." Furthermore, he asserts that his layoff rights, as well as others, were violated to allow the appointing authority to "hand select" candidates. The appellant requests that his seniority be corrected, and that he be appointed retroactively to September 28, 2020, the date of H.J.'s appointment with all rights and backpay.

Agency records reveal that after this agency's restoration of the appellant's name to the special reemployment list for Juvenile Detention Officer, his name was certified (OL210298) on April 13, 2021. The appointing authority returned the certification, requesting the removal of the appellant's name due to his failure to respond to the certification notice.<sup>8</sup>

## CONCLUSION

Initially, *N.J.A.C.* 4A:8-2.6(b) provides in pertinent part that an appeal to the Commission concerning an individual's determination of rights during a layoff shall be filed within 20 days of receipt of the determination of rights letter. *N.J.A.C.* 4A:8-2.2(a)1 provides that for purposes of the exercise of layoff rights, employees in local service shall be ranked in order of seniority. *N.J.A.C.* 4A:8-2.4(b) provides, in part, that for police and fire titles, seniority is the amount of continuous permanent service in an employee's current permanent title and other titles that have (or would have had) lateral or demotional rights to the current permanent title. Furthermore, *N.J.A.C.* 4A:8-2.6 provides that the appellant has the burden of proof in appeals of this type.

Although the appellant presents a substantive challenge regarding events that took place in 2015, the controlling issue in this matter is whether the appellant's appeal of his seniority determination at the time of the layoff was timely filed. In the instant matter, the record establishes that the appellant did not appeal the April 13, 2015, determination of rights letter. The purpose of time limitations is not to eliminate or curtail the rights of appellants, but to establish a threshold of finality. In the instant case, the delay in filing the appeal unreasonably exceeds that threshold of finality. Thus, it is clear that the appellant's appeal of his seniority determination is untimely.

---

<sup>7</sup> The appellant's name did not appear on this certification, as he had not yet been restored to the special reemployment list.

<sup>8</sup> Agency records indicate that the certification notice was returned as undeliverable. Agency records further indicate that the appellant has not updated his address.

Nor is there any basis in this particular case to extend or to relax the time for appeal. See *N.J.A.C.* 4A:1-1.2(c) (the Commission has the discretionary authority to relax rules for good cause). In this regard, it is appropriate to consider whether the delay in asserting his right to appeal was reasonable and excusable. *Appeal of Syby*, 66 *N.J. Super.* 460, 464 (App. Div. 1961) (construing “good cause” in appellate court rules governing the time for appeal); *Atlantic City v. Civil Service Com’n*, 3 *N.J. Super.* 57, 60 (App. Div. 1949) (describing the circumstances under which delay in asserting rights may be excusable). Among the factors to be considered are the length of delay and the reasons for the delay. *Lavin v. Hackensack Bd. of Educ.*, 90 *N.J.* 145 (1982). In this case, the appellant has not presented any reason that would excuse his delay in filing his appeal. Instead, the appellant simply reiterates that his seniority is incorrect. Moreover, the Commission notes that the failure to recognize or to explore the legal basis for an appeal, without more, does not constitute good cause to extend or relax the time for appeal under the Commission’s rules. See *Savage v. Old Bridge-Sayreville Med. Group*, 134 *N.J.* 241, 248 (1993) (ignorance of the specific basis for legal liability does not operate to extend time to initiate legal action). Accordingly, the appellant’s appeal is untimely, and he has failed to show good cause to justify relaxing the requirements of *N.J.A.C.* 4A:4-6.6(a)1.

Nevertheless, the Commission will address the removal of his name from the Juvenile Detention Officer special reemployment list due to his failure to respond to the certification notice. *N.J.A.C.* 4A:4-4.7(a)6 provides that an eligible’s name may be removed from a list for non-compliance with the instructions listed on the notice of certification. *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority’s decision to remove the appellant’s name from an eligible list was in error. Moreover, there is a presumption that mail correctly addressed, stamped and mailed was received by the party to whom it was addressed. See *SSI Medical Services, Inc. v. State Department of Human Services*, 146 *N.J.* 614 (1996); *Szczesny v. Vasquez*, 71 *N.J. Super.* 347, 354 (App. Div. 1962); *In the Matter of Joseph Bahun*, Docket No. A-1132-00T5F (App. Div. May 21, 2001).

In the instant matter, the record indicates that the appellant had not updated his address with this agency and therefore the certification notices were sent to an incorrect address. As indicated on this agency’s website, it is an eligible’s responsibility to notify this agency and the appointing authority of all changes to their mailing address. The appellant was initially restored as the appointing authority did not object to his restoration; and the appellant was notified of this restoration and that his address had not been updated. However, as it was the appellant’s responsibility to update his address and he failed to do so, he has not met his burden of proof to restore his name to the Juvenile Detention Officer special reemployment list.

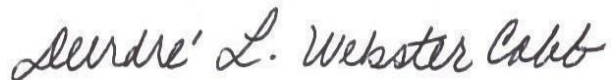
The appellant is reminded that it is his responsibility to update his address with this agency and his failure to do so may result in his removal from any other special reemployment lists that his name may appear on.

**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 1<sup>ST</sup> DAY OF SEPTEMBER, 2021



---

Deirdre L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Allison Chris 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: Bobby Stubbs  
Paige Desiere  
Division of Agency Services  
Records Center