



STATE OF NEW JERSEY

In the Matter of Paul Hasselberger,
et al., Police Captain (various),
various jurisdictions

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

CSC Docket Nos. 2022-1201, *et al.*

Examination Appeals

ISSUED: MARCH 25, 2022 (ABR)

Paul Hasselberger (PM3422C), City of Clifton; Dennis Winters (PM3447C), City of Jersey City; and Ryan Uzunis (PM3476C), Township of North Brunswick; appeal the promotional examination for Police Captain (various jurisdictions). These appeals have been consolidated due to common issues presented by the appellants.

The subject examination was administered on October 23, 2021 and consisted of 80 multiple choice questions and one essay question.

An independent review of the issues presented under appeal has resulted in the following findings:

Question 4 states that an officer needs to fill out a report about an incident involving a transgender individual. The individual’s name on the provided driver’s license does not match the chosen name the individual has asked to be addressed by. The question asks what the appropriate action to take is when filling out the report, based on the N.J. Attorney General’s Directive on Law Enforcement Interactions with Transgender Individuals (No. 2019-3). The keyed response is option c, to “[i]nclude the individual’s name as it appears on the driver’s license under ‘legal name,’ but also include the chosen name and label it as such.” Uzunis argues that the best response is option a, to “[o]nly include the individual’s name as it appears on the driver’s license since that is the legal name.” In this regard, he contends that because arrest reports are public and page 4 of Directive No. 2019-3 provides that “[l]aw enforcement officers

shall not disclose an individual's LGBTQ+ status or gender assigned at birth to members of the public," and the directive says the chosen name "should" be noted appropriately, rather than "shall," the chosen name should not be included in the report. The Commission observes that Part I.B of Directive No. 2019-3, entitled Respectful Communication, provides, in pertinent part,

Transgender individuals' chosen names and pronouns are critical to their dignity and identity. Law enforcement officers therefore shall:

* * *

2. Include chosen names and chosen pronouns in all relevant documentation, as discussed further in Appendix A to this Directive; and
3. Use chosen names and pronouns in any communications about that individual with members of the public, including with the press, except where doing so would disclose an individual's LGBTQ+ status in violation of Part I.A.3, and except where necessary in legal filings and in communications about those filings.

Thus, contrary to Uzunis' assertion, Directive No. 2019-3 utilizes the word "shall" when discussing including chosen names and chosen pronouns in all relevant documentation. Therefore, the Commission finds that Question 4 is correct as keyed.

Question 5 presents a scenario where the chief has assigned the examinee to oversee the property and evidence function for the department. It notes that the chief expects the examinee to ensure compliance with the audit requirements outlined in the N.J. Attorney General (AG) Guideline entitled "The Property and Evidence Function" and asks the examinee which of the following audits are required to be conducted under that guideline:

- I. A complete audit of stored property on a routine annual basis
- II. Selected or random audits of completed transactions on a routine annual basis
- III. An audit when there is any indication or suspicion of a breach of integrity in the property system
- IV. A complete audit whenever there is a change of property officer, unit supervisor, chief law enforcement officer, or any other personnel with responsibility over or access to the property

The keyed response is option d, "I, II, III and IV." Uzunis argues that the best response is option b, "II and III only." In this regard, he indicates that the subject AG

Guideline states that “there should be a complete audit of stored property as well as selected or random audits of completed transactions on a routine annual basis.” He notes that Question 5 breaks this sentence into two separate statements and omits the “as well as” language. He notes that “[a]s well as means, in addition to,” meaning that “you cannot have one and not the other.” As such, he asserts that statements I and II¹ are flawed because they are “improperly stated.” Uzunis acknowledges that statements III and IV are stated correctly because each has its own sentence in the subject guideline. The Commission finds the reasoning behind Uzunis’ arguments to be deeply flawed. Initially, he acknowledges on appeal that statements III and IV are correct statements and argues that statements I and II are incorrect statements, but maintains that the best response is option b, “II and III only”—an option that contains one statement he argues is correct (statement III) and one statement he argues is incorrect (statement II), while also omitting a second statement that he acknowledges is correct (statement IV). Additionally, despite arguing that “as well as” language in the cited AG Guideline means that one cannot have “selected or random audits of completed transactions on a routine annual basis” without also having “a complete audit of stored property on a routine annual basis,” the option he argues for is one which states that one can have “selected or random audits of completed transactions on a routine annual basis” without also having “a complete audit of stored property on a routine annual basis.” Finally, it appears that Uzunis would agree that a single statement that on an annual basis “there should be a complete audit of stored property *and* selected or random audits of completed transactions,” would be correct because all of those appear together in the same sentence in the subject AG Guideline. The Commission observes that selecting the keyed response is tantamount to making a singular statement that pursuant to the cited AG Guideline, “a complete audit of stored property on a routine annual basis, AND selected or random audits of completed transactions on a routine annual basis; AND an audit when there is any indication or suspicion of a breach of integrity in the property system; AND a complete audit whenever there is a change of property officer, unit supervisor, chief law enforcement officer, or any other personnel with responsibility over or access to the property” are all required. In other words, by selecting the keyed response, one is saying, in part, that you need to have both “a complete audit of stored property on a routine annual basis” and “selected or random audits of completed transactions,” as conveyed by the subject sentence in the AG Guideline. Accordingly, the Commission finds Question 5 correct as keyed.

Question 15 presents a scenario involving the search of a house located at 675 Clover Street in the examinee’s jurisdiction. A confidential informant and an

¹ It is noted on appeal that Uzunis refers to the statement “[s]elected or random audits of completed transactions on a routine annual basis” as “answer III.” However, this statement is listed as statement II under Question 5. Therefore, the Commission will refer to this statement as “statement II” when addressing Question 5 and it will reference “[a]n audit when there is any indication or suspicion of a breach of integrity in the property system” as “statement III.”

undercover detective each made a purchase of controlled dangerous substances from an individual identified as Jeff Samson at this house. Thereafter, it was revealed that the house was owned by Darlene Hooper. Subsequently, a detective submitted an affidavit seeking a search warrant “devoid of any statement as to whether the premises constituted a single or multi-family dwelling,” but “a fair reading of the detailed description of the residence contained in the affidavit supported the detective’s conclusion that the house was a single-family residence.” Based upon the facts presented, a warrant was issued, authorizing a search of the entire residence. During the search, the detective first became aware of the fact that Charles Hooper and his sister resided in the house along with Samson and that each had a separate bedroom. Question 15 then asks, based on relevant New Jersey case law, which statement regarding the search warrant is true. The keyed response is option c, the “search warrant for the entire house was valid, based on the multiple-occupancy or community living exception to the particularity requirement.” Uzunis argues that the best response is option b, “the house located at 674 Clover Street was found to be a multiple-occupancy dwelling; therefore, the search warrant for the entire house was invalid.” In this regard, he maintains that the question resembles *State v. Sheehan* (*Sheehan*), 217 N.J.Super. 20 (App. Div. 1987), and he notes that the court in that decision specifically stated that “a fair reading of the detailed description contained therein supports the thesis that the house was a single-family residence.” Uzunis argues that because the examiner used the word “devoid,” meaning “completely lacking in something,” in the fact pattern, they signaled that the particularity requirement of the Warrant Clause of the Fourth Amendment to the United States Constitution was not satisfied and the search warrant should be deemed unreasonable and unconstitutional. In this regard, he maintains that “[i]f the place to be searched in this question was devoid of addressing whether it was a single family house, then one would think it could be an apartment, boarding house, or a multiple-unit building which, according to the *Sheehan* court would have invalidated the search.” The Commission emphasizes that an important aspect of competitive testing for law enforcement positions is to measure candidates’ understanding of relevant criminal law, including case law. A highly beneficial way to develop a proper understanding of the law is to review the source material, such as a judicial decision. When discussing the fact pattern in *Sheehan*, the Appellate Division stated as follows “[a]lthough *the affidavit is devoid of any statement disclosing whether the premises constituted a single or multi-family dwelling*, a fair reading of the detailed description contained therein supports the thesis that the house was a single-family residence.” *See Sheehan*, 127 N.J.Super. at 22-23 (emphasis added). Thus, because the language Uzunis complains about in Question 15 mirrors, almost verbatim, the Appellate Division’s language in *Sheehan*, the Commission finds the fact pattern presented in Question 15 to be crystal clear and Question 15 to be correct as keyed based upon applicable case law.

Question 55 asks, according to Kenneth J. Peak, *et al.*, *Managing and Leading Today’s Police* (4th ed. 2019), which of the listed options “does not resolve the

underlying cause of a conflict and may cause it to recur at a later time, and also involves a maximum degree of assertiveness with little or no cooperation on the part of the supervisor?” The keyed response is option c, competition. Hasselberger and Winters argue that there is a conflict in the text, as one section² describes the conflict strategy with the “maximum degree of assertiveness with little or no cooperation on the part of the supervisor” as “competition,” but Figure 4-5 shows “accommodation” as having a high degree of assertiveness and “competition” as having a low degree of assertiveness.³ As such, they argue that the question should be double keyed. The Division of Test Development, Analytics and Administration has determined to double key this item to option b and option c prior to the lists being issued.

CONCLUSION

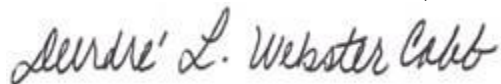
A thorough review of the appellants’ submissions and the test materials reveals that, other than the scoring change noted above, the appellants’ examination scores are amply supported by the record, and the appellants have failed to meet the burden of proof in this matter.

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 23RD DAY OF MARCH, 2022



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

² See *id.* at 81-82.

³ See *id.* at 81.

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