



STATE OF NEW JERSEY

In the Matter of Randy Duran, Police
Officer (M0103D), Newark

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

CSC Docket No. 2022-1881

Request for Administrative Relief

ISSUED: APRIL 11, 2022

Randy Duran requests that the provisions of *N.J.A.C.* 4A:4-2.3(b) be relaxed in order to permit him to satisfy the United States citizenship requirement for the open competitive examination for Police Officer (M0103D), Newark after the closing date.

By way of background, the announcement for the subject examination was issued on January 3, 2022 with a February 28, 2022 closing date and was open to residents of Newark, Essex County and New Jersey. The subject announcement indicated that applicants must be a citizen of the United States. As of the February 28, 2022 closing date, Duran had not achieved citizenship. Accordingly, the Division of Agency Services found Duran ineligible for the subject exam. It is noted that the tentative timeframe to administer the subject test is Spring 2022.

On appeal, Duran explains that his “interview to become a U.S. Citizen was scheduled for January 29th, 2022 and it was cancelled due to weather conditions. If I was to go into the interview on this date, I would’ve been eligible to take this test. They have moved my interview to March 19th, 2022.” He requests “an extension to be able to take the Civil Service Test after my Naturalization interview.” In support of his appeal, the appellant provides additional documentation including: a notice dated December 10, 2021 from the U.S. Citizenship & Immigration Service (USCIS) indicating that the appellant’s naturalization interview was scheduled for January 29, 2022; a notice dated January 31, 2022 from USCIS indicating that the appellant’s naturalization interview scheduled for January 29, 2022 was cancelled “due to unforeseen circumstances;” and a notice dated January 31, 2022 from USCIS

indicating that the appellant's naturalization interview is scheduled for March 19, 2022; and a copy of the appellant's Certificate of Naturalization dated March 19, 2022.

CONCLUSION

N.J.A.C. 4A:4-2.3 provides that unless otherwise specified, all requirements must be met as of the announced closing date. *N.J.A.C.* 4A:1-1.2(c) provides that a rule may be relaxed for good cause shown in a particular situation.

As noted previously, subject announcement, which was issued with a closing date of February 28, 2022, states, "CITIZENSHIP: Applicants must be a citizen of the United States." However, *N.J.S.A.* 40A:14-122 provides, in pertinent part, that no person shall be *appointed* as a member of the police department and force, unless he is a citizen of the United States. Thus, *N.J.S.A.* 40A:14-122 only requires that an individual be a citizen at the time of appointment.

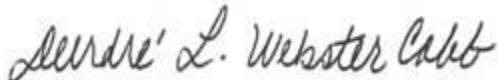
In the present matter, Duran became a United States citizen 20 days after the closing date. In this regard, through no fault of his own, his naturalization interview scheduled for January 29, 2022 was cancelled "due to unforeseen circumstances" and rescheduled for March 19, 2022. Given this and the lack of statutory basis for the possession of citizenship as of the closing date, good cause has been established to relax the provisions of *N.J.A.C.* 4A:4-2.3(b) and allow Duran to satisfy the citizenship requirement after the closing date. *See also, In the Matter of Roosevelt N. Cumberbatch* (Commissioner of Personnel, decided October 10, 1997).

ORDER

Therefore, it is ordered that that this request be granted and the appellant admitted to the subject examination.

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 6TH DAY OF APRIL 2022



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: Randy Duran
Division of Agency Services