



**STATE OF NEW JERSEY**

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

In the Matter of Carmen DeLorenzo,  
Police Chief (PM3051C), Milltown

CSC Docket No. 2022-1706

Examination Appeal

**ISSUED: APRIL 11, 2022**

Carmen DeLorenzo, represented by Annette Verdesco, Esq., appeals the validity of the test, and his score on the examination for Police Chief (PM3051C), Milltown. It is noted that the appellant failed the examination.

The subject promotional examination was held on September 9, 2021. It is noted for the record that this was an oral examination consisting of four questions, relating to Police Administration, Police Management, Criminal Law, and Leadership/Supervision. The examination content was based on a comprehensive job analysis. Senior command personnel from police departments, called Subject Matter Experts (SMEs), helped determine acceptable responses based upon the stimulus material presented to the candidates, and they scored the performances. In each question, candidates were presented questions, or with a scenario and had to respond to a series of questions about the scenario.

The appellant’s performance was video recorded and scored by SMEs. Each question, and overall oral communication, was rated on a five-point scale, with 5 as the optimal response, 4 as a more than acceptable passing response, 3 as a minimally acceptable passing response, 2 as a less than acceptable response, and 1 as a much less than acceptable response. The appellant received a score of 4 for Police Administration, 1 for Police Management, 1 for Criminal Law, 2 for Leadership/Supervision, and a 4 for oral communication. On appeal, the appellant disagrees with his scores for Police Management and Leadership/Supervision. Further, he argues that the scoring was arbitrary and capricious as he received a limited critique in examination review. Barring the changing of his scores to reflect

that he has passed the examination, the appellant requests a copy of the examination and a hearing to address disputed material facts and to compare his responses to the “arbitrary and capricious grading.”

At the outset, the appellant challenges the validity of the test, but provides no arguments to substantiate his claim. As noted above, the examination content was based on a comprehensive job analysis, which identified the knowledge brought to the job that should be tested. The appellant provides no arguments in support of his contention that the examination was invalid, except to state that it was. There is no merit to this claim. Further, hearings are granted only in those limited instances where the Civil Service Commission (Commission) determines that a material and controlling dispute of fact exists which can only be resolved through a hearing. See *N.J.A.C.* 4A:2-1.1(d). No material issue of disputed fact has been presented which would require a hearing. See *Belleville v. Department of Civil Service*, 155 *N.J. Super.* 517 (App. Div. 1978).

Additionally, the appellant relies on *Brady v. Department of Personnel*,<sup>1</sup> 149 *N.J.* 244 (1997) to claim that he has provided a *prima facie* showing that the scoring of the examination was arbitrary and capricious, as his responses were consistent with crucial principles for Police Chief, yet he did not receive credit. In reply, in *Brady*, a Police Sergeant appealed his grade on the written essay portion of a police promotional exam. He contended that he should have been given higher scores for his answers. Although *Brady* was permitted to review some test materials, including brief summaries of the test questions and brief comments by the grader of his test, he complained that he needed access to the actual test questions and answer key in order to challenge his scores. This is the very argument that the appellant is presenting. The Supreme Court upheld the Department of Personnel’s restrictions on reviewing these materials, noting that “full disclosure would wreak havoc with the Department’s legitimate efforts to maintain security.” *Id.* at 261. The Court rejected *Brady*’s argument that he was entitled to “full access to the testing materials as a basis for challenging and obtaining broad judicial review of the accuracy of the agency’s scoring of the examinations.” *Id.* at 260. The Court based this conclusion on the principle that courts will not review civil service tests to determine whether questions “were well or poorly answered,” but may only determine “whether the testing and grading were clearly arbitrary.” *Id.* at 258. The Court concluded that the Department of Personnel has chosen a reasonable balance between its interest in confidentiality of the examination process and the examinees’ interest in reviewing the grading of examination, and that the provision for partial or limited access to examination materials is a valid exercise of the agency’s regulatory authority. *Id.* at 262.

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<sup>1</sup> Now the Civil Service Commission.

The appellant argues that the court requires a *prima facie* showing by appellant of arbitrariness in grading, beyond an allegation of erroneous grading, in order to compel the agency to produce full test materials to appellants. *Id.* at 263. The Commission agrees, and at review, the appellant was given examples of actions that he missed which would enhance his score, in addition to the questions and his notes taken at the center. As noted above, the actions were developed and selected by the SMEs. Further, the Commission provides below a discussion of a personalized explanation of the basis for the scoring of the appellant's presentation. The appellant's argument that there has been a *prima facie* showing that scoring was "manifestly corrupt, arbitrary, capricious, or conspicuously unreasonable" is not demonstrated given the information provided herein, and in his examination review.

Nonetheless, *N.J.A.C.* 4A:4-6.4(e) provides in part that, in order to maintain security of the examination process, the Chairperson or designee may, on a particular examination, modify or eliminate the review of examination questions and answers. As such, the Commission has the authority to provide candidates for the subject examination a review without disclosing the entire scoring criteria, and the appellant's specific issues are discussed herein. Further, unless otherwise noted, the Commission is the owner of all examination materials developed by the Commission. Examination scenarios, questions, and responses, and information contained in documentation pertaining to examinations, are proprietary to the Commission. Candidates have no "rights" to this property simply because they were exposed to it in an employment opportunity, and the fact that the Commission is a governmental agency affords candidates no special privilege to this property. The Commission does not waive its rights of ownership to their intellectual property by administering examinations to candidates, *i.e.*, sharing it on a one-time or recurring basis in order to carry out statutory mandates.

Next, regarding scoring, question 2 pertained to Police Management. In this item, the candidate was told that one of his officers was exposed to Covid-19, was tested, and went to work on a security detail, where he was in close contact indoors with others, before getting his results. Another officer began sharing this information with employees of the agency, which violated guidelines, and one employee notified the candidate. Part A asked for actions to be taken, or ensure are being taken, regarding the first officer who is waiting for test results. The scenario states that the agency closed for two weeks after learning of possible exposure, and the Director of the agency asks for more information, and the media requests a statement. Part B asked for actions to take, or ensure are being taken, in response to those inquiries.

The appellant received a score of 1 and the assessor noted that the appellant missed the opportunities to mention, for Part A, that he would review the findings of the Internal Affairs (IA) investigation to determine what training or discipline is

required for the officer involved, and to review and revise the policy, if necessary, to avoid similar incidents. For Part B, the assessor noted that the appellant missed the opportunities to contact the township administration and inform them of the officer's actions, and to utilize social media to disseminate the information (*i.e.*, Public Information Officer (PIO)).

On appeal, the appellant argues that he suggested coverage for the exposed officer, addressed corrective actions with supervisors, and addressed all media coverage. He adds that he sent the first officer home and told him not to return unless medically cleared, had another officer take his place, triggered the Early Warning System, contacted the officer in writing about his actions, met with the officer and his supervisor, discussed corrective actions and monitored his behavior for three months. He states that he repeated this process for the second officer, and spoke with the media and released information without hindering the investigation. Based on these actions, the appellant believes that he reviewed the findings of the IA investigation to determine what training or discipline is required for the officer involved, and that he utilized social media to disseminate the information.

In reply, candidates were given examination materials and a total of forty minutes, in the preparation room, to read the questions and take notes. They then had forty minutes to provide responses to all four scenarios. The questions were not timed separately, and candidates were to respond to the scenarios, 1,2, 3 and 4, in that order until they answered all four. A review the recording indicates that the appellant used approximately ten minutes of the allotted forty minutes to answer all four questions. For question 2, the appellant responded to both parts in approximately three minutes. For question 4, the appellant provided his responses to both parts in one minute, forty five seconds.

This was a formal examination setting, and candidates were required to articulate their responses to the scenarios, rather than imply them. Information cannot be given for information that is implied or assumed. The appellant mentioned two of the listed PCA's, out of a possible eight PCAs for Part A, and one PCA out of a possible six for Part B. For Part A, the appellant took the actions that he stated on appeal, and received credit for relieving the officer of duty and replacing him, and for placing him on medical leave. However, starting the Early Warning System is not the same as reviewing the findings of the IA investigation to determine what training or discipline is required for the officer involved. The appellant may have *known* to review the findings of the IA investigation and determine what training or discipline is required, but he did not indicate this in his response. As such, his response does not warrant credit for this action. Additionally, the appellant stated, "So what I would do with Officer White here, I would let him know in writing that ah, he violated one of the Early Warning System's ah, being insubordinate. Um, I would clear my schedule. I would bring Officer White into the, into my office, and explain the situation to him along with

his supervisor. Ah, at that, at that time, I would advise Officer White, um, that he would be monitored for three to six month period and that ah, his ah, his actions, if remediated, ah, would be um, documented to the proper pers... personnel.” The appellant took this action without first indicating that he would contact the officer to determine if he tested positive for Covid-19, thereby possibly exposing himself and the officer’s supervisor to the virus. He did not contact IA regarding the officer’s conduct, or review findings of the IA investigation. He simply disciplined the officer without taking supportive actions for the discipline.

For Part B, the question asked for actions to take, or ensure are being taken, in response to inquiries from the Director of the State Agency and the media. The appellant repeated the question, and stated, “I would advise the media of the outbreak. I wouldn’t, can’t release certain individual’s names. I couldn’t, I wouldn’t release the officer’s names um, and I would advise them of the steps we would take to, going forward with ah, disclosure.” This was the only response the appellant took in response to Part B. He did not contact the township administration and inform them of the officer’s actions, or utilize social media to disseminate the information (*i.e.*, PIO). Candidates were provided with a Candidate Information Sheet, which the appellant initialed, which provided instructions. Part B, item 6 stated, “In responding to the questions, be as specific as possible. Do not assume or take for granted that general actions/responses will contribute to your score. Read the questions carefully, and focus your responses on the specific questions being asked. Also, remember to answer ALL parts of the questions.” The appellant’s score of 1 is a reflection of what he actually said in response to the questions, and a comparison of that response to the expected responses. The appellant’s low score is not an indication that the examination is flawed. In his brief response, the appellant did not mention he would utilize social media to disseminate the information, or mention use of a PIO. The appellant missed the actions noted by the assessors and viewed holistically, the appellant’s score of 1 for this question is correct.

Question 4 was a Leadership/Supervision question pertaining to a homeless population seeking shelter under parking decks at a municipal “Park and Ride” lot, and a rise in thefts in the lot. Commuters have been calling for more security and accusing the homeless of the thefts. Recently there was a verbal altercation between a commuter and a homeless person that was posted on Facebook and went viral. Part A asked for actions to be taken to address the homeless problem and the rise in thefts. The scenario then stated that commuters were foregoing parking in the lot due to thefts and were parking on residential streets. Senior citizens living in the neighborhood are upset about an increase in traffic, loss of parking spots, and a lack of response from the police. Part B asked for actions to take to respond to the senior citizens.

The appellant received a score of 2 for this question, and the assessors noted that he missed the opportunities, in Part A, to monitor the progress of the theft investigation. The assessors noted that he missed the opportunities, in Part B to engage the governing body on the need for additional parking regulations to deal with traffic and parking issues, and to monitor the results of the actions taken.

On appeal, the appellant argues that he assigned additional patrols, ran radar, issued summons for violations, met with community leaders. Additionally, he states that he assigned extra patrols in the area, issued summons to those individuals breaking the law, spoke with community leaders and discussed how the situation could be collectively addressed, increased community policing, and contacted other Police Chiefs to see how they dealt with the problem. He states that he repeated some of these actions in response to Part B, and concludes that he mentioned traffic patrol.

In reply, the assessor notes did not indicate that the appellant failed to state that he would increase patrol presence at the parking garage. That was a separate action for which the appellant received credit. After reading the question, the appellant stated, "Here what I would do is I would ensure security in the area. I would meet with community leaders and see what steps we could take to correct this problem working together also to prom...to prov... to promote positive community and police relations. I would advise the community of the steps we were taking to correct the problem. I would put officers on foot. I would have them walk the beat and hand violat, violations out to any violators, or any people, any persons who are committing any violations. And I would speak with Chiefs from other towns and see if they've inquired [sic] this problem and what they are doing to correct the problem." Essentially, the actions that the appellant can tell the community leaders that he is taking is that he is increasing patrols, addressing ongoing thefts, and asking other Chiefs how they handle this problem. This is below an acceptable response, as there are many other actions that could have been take, including that action listed by the assessor.

For Part B, the appellant responded, "There I would have a senior citizen meeting. I would explain the steps we are taking to correct the problem. I would put increased more units on the street to address their concerns. Ah, I would hand out violations to violators and advise them of the steps we are taking to correct those problems." This is the full response that the appellant provided for Part B. Thus, the appellant provided almost the same actions he gave in Part A, that he would have a meeting with the seniors and state that he would increase patrols and address ongoing thefts by handing out violations. The senior citizens were concerned with an increase in traffic, loss of parking spots, and a lack of response from the police, and the appellant only addressed the lack of response from the police. The appellant's responses to both parts warrants a score of 2.

**CONCLUSION**

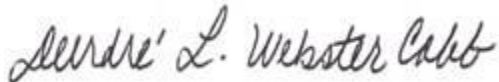
A thorough review of the appellant's submissions and the test materials indicates that the decision below is amply supported by the record, and the appellant has failed to meet his burden of proof in this matter.

**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 6<sup>TH</sup> DAY OF APRIL 2022



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