



STATE OF NEW JERSEY

In the Matter of Andrew Einstein,
County Police Sergeant (PC4525C),
Camden County

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

CSC Docket No. 2022-1633

Examination Appeal

ISSUED: October 12, 2022 (JH)

Andrew Einstein appeals the determination of the Division of Agency Services (Agency Services) which found that he lacked the required amount of permanent status in a title to which the examination was open for the promotional examination for County Police Sergeant (PC4525C), Camden County.

By way of background, the announcement for the subject examination was issued on October 1, 2021 and open to employees in the competitive division who had an aggregate of three years of continuous permanent service and were serving in the County Police Officer title as of the December 31, 2021 closing date. A review of the record finds that effective January 4, 2019, the appellant received a regular appointment to the County Police Officer title in Camden County.¹ Accordingly, the Division of Agency Services found Einstein ineligible as he did not possess three years of continuous permanent service in the County Police Officer title as of the December 31, 2021 closing date. It is noted that 90 eligible candidates were admitted, and the examination for County Police Sergeant was administered on February 26, 2022.

¹ It is noted that a certification for County Police Officer (S9999U), Camden County was issued on October 5, 2018 with a disposition due date of April 4, 2019, and contained the names of 500 eligibles (Certification No. OL181058). the appellant's name appeared at certification position 483. In disposing of the certification, which was returned on February 26, 2019, the appointing authority appointed 40 individuals, including the appellant, effective January 4, 2019.

On appeal, the appellant presents that that prior to his appointment as a County Police Officer in Camden County, he served as a Police Officer in Westampton Township from July 9, 2013 through January 4, 2019. He contends that as of the closing date for the subject test, he has “a total amount of unbroken service time of eight (8) years and six months; almost triple the minimum ‘Experience Requirement’ of [sic] as detailed within the Job Specification for Police Sergeant . . .” He also notes that “prior to being hired as a full time sworn Law Enforcement Officer, I served as a Special Law Enforcement Officer II, having completed the Cape May County Police Academy, Basic Course for Special Law Enforcement Officers Class II, in June of 2008; eventually serving as a full time Special Law Enforcement Officer II with the Westampton Township Police Department from March 2013, until I was hired as a full time Law Enforcement Officer, as noted above.” He further argues that “there is a direct correlation between the [Police Officer and County Police Officer] titles.” In this regard, he refers to the job specifications for each of these titles and to the definition of “law enforcement officer” pursuant to *N.J.S.A. 40A:14-123.1a*. The appellant presents, “an additional case for my argument towards the requirements of Police Sergeant within the Civil Service Commission, may be found under *N.J.A.C. 4A:4-4.7 Removal of Names*. There within: [*In the Matter of Maria Lostrangio, Social Worker 2 (S2041N)*] (CSC, decided September 18, 2013)² . . . Given the above listed time of service, I believe I have more than satisfied the minimum ‘experience requirements’ as set forth by the Civil Service Commission for the position of Police Sergeant.” The appellant also refers to *N.J.A.C. 4A:4-4.7(b)* (Lateral title change) and maintains that “the applicability of the verbiage to that of maintaining a permanent status requirement, based upon the fact that both titles show *substantially similar nature of work and education requirements*; in addition to having a non-break in service between each Department.” The appellant further argues with respect to his January 4, 2019 appointment date, “given the [f]ederally and State observed holidays of Christmas and New Year’s, and with the bi-weekly pay period for which Camden County employees are enrolled, it was not practical for employment to start prior to this date.” He adds, “should the Civil Service Commission find it pertinent to argue the time of service needed[,] I find it appropriate, give the above factors, to reasonable [sic] apply the following cases found within *N.J.A.C. 4A:4-5.2 Duration* and relax the duration standard in this case.” In this regard he refers to *In the Matter of Joel Morales, City of Bayonne* (CSC, decided June 3, 2015) and *In the Matter of David Dombrowski, Borough of North Arlington* (CSC, May 20, 2015).³ In support of his appeal, the appellant submits

² In *In the Matter of Maria Lostrangio, supra*, the appointing authority requested the removal of the appellant’s name from the subject eligible list as she did not meet its unannounced selection criterion which required candidates to have experience with adults with chronic and persistent mental illness. The Civil Service Commission (Commission) determined that the appellant met the announced requirements and noted that the job specification for the subject title did not indicate that the appointing authority’s requirement was necessary to be eligible for the subject position. Accordingly, the Commission found that the lack of the specific experience indicated by the appointing authority was not a sufficient basis to remove her name from the eligible list.

³ In *In the Matter of Joel Morales, supra*, the Commission ordered that the provisions of *N.J.A.C. 4A:4-7.1A(a)* relaxed to permit the Intergovernmental Transfer of Morales, a Sheriff’s Officer, to the title of Police Officer during his one-year working test period. In *In the Matter of David Dombrowski, supra*, the Commission ordered that the provisions of *N.J.A.C. 4A:4-7.1A(a)* relaxed to permit the

additional documentation including a letter dated January 10, 2022 from Stephen P. Ent, Chief of Police, Westampton Township Police Department, in which Chief Ent verifies the appellant's dates of employment in Westampton Township.

In a subsequent submission, the appellant presents that he has “multiple examples where Officers were eligible for a promotional examination while lacking the aggregate continuous permanent service, as well as two examples of Lieutenants wh[o] were eligible for a Captains examination prior to the requisite time in grade.” In this regard, he refers to two current County Police Lieutenants who “were hired as County Police Officers in October of 2013.” He notes that one of the Lieutenants had previously worked as a Police Officer in a non-Civil Service jurisdiction and the other officer “served as a Special Law Enforcement Officer prior to being hired as a County Police Officer with the Camden County Police Department and served as such for more than the time allotted for a waiver, thus he too had to re-attend the Police Academy.” He argues that neither of these current Lieutenants “had the aggregate of three years of continuous permanent service [for the County Police Sergeant (PC0150S), Camden County exam. H]owever, [they] were afforded that aggregate service based upon their previously mentioned time as a Police Officer and Special Police Officer, respectively.” He further indicates that one of these Lieutenants and another Lieutenant applied for the recent County Police Captain (PC3404C), Camden County exam and were found eligible even though they both “missed the requisite one-year time in current grade of Lieutenant by twenty-four hours.” The appellant requests that “the appointing authority’s past practices, and continued practice of, allowing Officers and Superior Officers wh[o] lack the aggregate time requirements to be eligible for the respective promotional examinations; with past service credited and/or minimal time form the date of eligibility, as factors for said eligibility” be taken into consideration.

CONCLUSION

N.J.A.C. 4A:4-2.6(b) provides that in local service, applicants for promotion from entry level law enforcement titles must have three years of continuous permanent service in a title to which the examination is open.

With regard to the appellant’s arguments that his service as a Police Officer in Westampton Township should be considered for eligibility purposes, Civil Service rules provide that “local service,” as indicated in *N.J.A.C.* 4A:4-2.6(b), means employment in any political subdivision operating under Title 11A of the New Jersey statutes. *See N.J.A.C.* 4A:1-1.3. It is noted that Westampton Township is a non-Civil Service jurisdiction, *i.e.*, it does not operate under Title 11A. Moreover, even assuming that Westampton Township were a Civil Service jurisdiction, the only mechanism that would allow an employee of one Civil Service jurisdiction to carry over his or her permanent service to another Civil Service jurisdiction is an intergovernmental transfer. An intergovernmental transfer permits the transfer of State, county and municipal employees

Intergovernmental Transfer of Dombrowski, a County Police Officer, to the title of Police Officer during his one-year working test period.

between jurisdictions without loss of permanent status, subject to the approval of the transferring agency, the receiving agency, the transferring employee, and the Civil Service Commission. Specifically, *N.J.S.A.* 11A:2-28(a) provides for the intergovernmental transfer of law enforcement officers and permits them the option to waive all accumulated seniority and sick leave. In other words, the parties to an intergovernmental transfer can agree *not to waive accumulated seniority*. Retention of accumulated seniority rights in the context of an intergovernmental transfer means that all seniority gained in the prior jurisdiction shall be retained for purposes of determining promotional, layoff or demotional rights and sick and vacation leave entitlements in the receiving jurisdiction. See *N.J.A.C.* 4A:4-7.4(b). If this were to occur, a Police Officer who intergovernmentally transferred to another jurisdiction as a Police Officer would retain accumulated seniority after the transfer. Conversely, *N.J.A.C.* 4A:4-7.4(c) specifically provides that those law enforcement officers who intergovernmentally transfer and waive all accumulated seniority rights *shall not retain seniority* for purposes of determining promotional, layoff or demotional rights and sick and vacation leave entitlements. Again, since Westampton Township is not a Civil Service jurisdiction, the appellant was not eligible for an intergovernmental transfer from Westampton Township to Camden County. Accordingly, the appellant's arguments regarding the "direct correlation between the [Police Officer and County Police Officer] titles" are irrelevant.

Regarding the appellant's argument to relax "time of service needed," as noted above, the appellant was not eligible for an intergovernmental transfer from Westampton Township to Camden County. As such, his references to *In the Matter of Joel Morales, supra*, and *In the Matter of David Dombrowski, supra*, are misplaced. However, it is noted that *N.J.A.C.* 4A:4-2.6(g) provides that an appointing authority may request that the time requirement may be reduced to completion of the working test period if: 1. There is currently an incomplete promotional list and/or the number of employees eligible for examination will result in an incomplete list; 2. It appears that vacancies to be filled within the duration of the promotional list will exceed the maximum number of eligibles that could result from examination; or 3. Other valid reasons as determined by the Chairperson or designee. While the Commission is responsible for the review and determination of requests to reduce the time requirement to the completion of the working test period, such requests are at the discretion of the appointing authority.⁴ It is noted that the appointing authority did not request a waiver of the above noted time requirement.

With respect to the appellant's claims that the appointing authority permitted "Officers and Superior Officers wh[o] lack the aggregate time requirements to be eligible for the respective promotional examinations," it is noted that in August 2011, the City of Camden, Camden County and the State of New Jersey entered into a Memorandum of Understanding to form a new county-wide police department, which would be available to all municipalities in Camden County on a voluntary basis. In order to expeditiously

⁴ In this regard, *N.J.A.C.* 4A:4-2.6(g) was amended effective July 17, 2017 to specify that only an appointing authority may request that the time requirement be reduced to the completion of the working test period.

staff the new County Police Department with qualified law enforcement officers, a Pilot Program was established effective November 1, 2012 through October 31, 2013.⁵ The Pilot Program permitted County Police Officers and superior County Police Officers to be drawn from five sources: existing police officers from municipalities within Camden County; Special Reemployment Lists from municipalities within the county; Police Training Commission (PTC) certified eligible police officers; the Statewide Eligible List, or Rice Bill List, established for law enforcement officers pursuant to *N.J.S.A.* 40A:14-180 and *N.J.A.C.* 4A:4-3.9 and 3.10; and advertisements directed to law enforcement officers. See *In the Matter of Camden County Police Department Pilot Program* (CSC, decided October 3, 2012). In *In the Matter of Camden County Police Department* (CSC, decided February 12, 2014), Camden County indicated that upon completing the Pilot Program, none of the hired incumbents possessed sufficient continuous service in Camden County to qualify for promotional examinations for the Police Sergeant, Police Lieutenant and Police Captain title. As a result, Camden County was not able meet its staffing requirements for supervisory-level officers. As such, the Commission determined that the relaxation of *N.J.A.C.* 4A:4-2.6(b) and *N.J.A.C.* 4A:4-2.6(g) was appropriate under these circumstances and, in regard specifically to Police Sergeant, ordered that the Police Sergeant examination be open to Camden County Police Officers who had completed three or more years in any New Jersey municipality as a police officer and were certified by the New Jersey Police Training Commission. Subsequently, an announcement for County Police Sergeant (PC0150S), Camden County was initially issued on June 1, 2014 with a closing date of August 31, 2014.⁶ As discussed in *In the Matter of County Police Sergeant (PC0150S), Camden County* (CSC, decided August 19, 2015), during the initial posting period for the County Police Sergeant (PC0150S), Camden County, examination, some candidates who submitted applications did not indicate service as a municipal Police Officer immediately prior to their appointments as County Police Officers but rather, these candidates indicated previous service in other law enforcement titles, *e.g.*, Park Police Officer, Sheriff's Investigator, and Sheriff's Officer, as well as possession of the required PTC certification. The Commission determined that given that Camden County's sworn law enforcement officers were hired pursuant to the Pilot Program and thus, hired outside of the typical civil service process, it would be unfair to exclude those individuals who were hired during the initial recruitment period who did not have experience as a municipal Police Officer but were appointed based on their law enforcement experience and PTC certification in other law enforcement titles from competing for the County Police Sergeant title. Accordingly, the Commission ordered that the PC0150S announcement be amended to be open to any current Camden County Police Officer who had completed three or more years of service

⁵ *N.J.S.A.* 11A:2-11(i) permits the establishment of pilot programs and other projects which are outside the provisions of 11A. These pilot programs are required to be limited in duration to *one year*, they may not be contrary to the goals of the Civil Service Act, and they may be subject to judicial review. See *Communications Workers of America v. New Jersey Dept. of Personnel* 154 *N.J.* 121 (1998).

⁶ However, in accordance with *In the Matter of Police Sergeant Promotional Lists* (CSC, decided June 3, 2015), the PC0150S announcement was amended and reissued on August 1, 2015 with a new closing date of September 30, 2015.

in any New Jersey jurisdiction in any law enforcement title, had completed two years of service as a County Police Officer with the Camden County Police Department, and was certified by the New Jersey Police Training Commission. Thus, in order to expeditiously meet the County's staffing needs following the creation of the Camden County Police Department, a pilot program was established to address those concerns. Subsequently, the above noted determinations were made in response to the County's promotional staffing needs that arose as a consequence of the pilot program. However, given that those unique circumstances no longer exist, Camden County has not made a similar request regarding the subject test. As such, the appellant's reliance on these past determinations is misplaced.

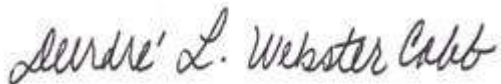
With regard to the examination for County Police Captain (PC3404C), Camden County, it is noted that a review of available employment records finds that all candidates who were admitted to the PC3404C examination possessed the requisite year in grade.⁷

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 12TH DAY OF OCTOBER, 2022



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

⁷ It is noted that the announcement for County Police Captain (PC3404C), Camden County was issued on July 1, 2021 and was open to employees in the competitive division who had an aggregate of one year of continuous permanent service as of the September 30, 2021 closing date in the County Police Lieutenant title. It is further noted that 13 candidates were admitted to the PC3404C examination which was administered on October 23, 2021. Although the appellant posits that an individual appointed effective October 1, 2020 to the County Police Lieutenant title would not meet the year in grade requirement, it is noted that eligibility is based on a cyclical year (*e.g.*, January 1, 2020 to December 31, 2020, or in the present matter, October 1, 2020 to September 30, 2021). Thus, an individual appointed on October 1, 2020 would have served a cyclical year in the County Police Lieutenant title as of the September 30, 2021 closing date.

Inquiries
and
Correspondence

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

c: Andrew Einstein
Division of Agency Services
Records Center