



STATE OF NEW JERSEY

In the Matter of Larissa Abaza, *et al.*,
Sheriff’s Officer Sergeant (various
jurisdictions)

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

CSC Docket Nos. 2023-157, *et al.*

Examination Appeals

ISSUED: October 12, 2022 (**ABR**)

Larissa Abaza and Jeffrey Iannacone (PC4989C), Passaic County; and Raymond Aste (PC4931C), Bergen County, appeal the multiple choice portion of the promotional examination for Sheriff’s Officer Sergeant (various jurisdictions). These appeals have been consolidated due to common issues presented by the appellants.

The subject examination was administered on May 26, 2022 and consisted of 80 multiple choice questions.

Questions 31 through 45 are designed to measure candidates’ abilities to accurately process and interpret written material. The examination provides the Bespin County Ride-Along Policy and Procedures and directs candidates to use only the material in the policy, and not the specific policies and procedures of their individual departments, to answer Questions 11 through 20.

Question 36 states as follows:

Lori is a college student. She has participated in four ride-alongs this year – once in January, March, June, and August. Based on the policy, which statement is **TRUE**?

The keyed response is option c, that “[m]ore information is needed to determine if the Ride-Along Policy was violated.” Iannacone argues that the best response is

option b, that the Ride-Along Policy was violated. In this regard, he contends that the policy has been violated because it states that only interns are permitted to do more than three ride-alongs. The Civil Service Commission (Commission) observes that Iannacone assumes that Lori is not an intern. However, the question does not state whether or not she is an intern and that fact is necessary to ascertain whether there has been a policy violation in this instance. Accordingly, the Commission finds that Question 36 is correct as keyed.

Iannacone selected the keyed response for Question 45. Therefore, his appeal of this item is moot.

Aste selected the keyed response for Question 48. Therefore, his appeal of this item is moot.

Question 53 involves a scenario where the candidate observes an individual fall off a bench in a local park. The candidate checks on the person and finds that he smells strongly of alcohol, has very slurred and slow speech, and appears to have urinated on himself. The person advises the candidate that he lives just down the road and will walk home. It then asks for the best course of action. The keyed response is option a, to “[c]all an ambulance and have the individual taken to the hospital.” Aste argues that the best response is option c, to ask if the individual has a family member or friend that can be called. In this regard, he notes that *N.J.S.A. 26:2B-16* distinguishes between appropriate actions based upon whether a person is incapacitated. Specifically, he maintains that it provides that someone who is merely intoxicated should be assisted home by an officer or another authorized person—like a family member or friend. Conversely, Aste maintains that when a person is incapacitated—defined by *N.J.S.A. 26:2B-8* as “unconscious or has judgment so impaired that the person is incapable of realizing and making a rational decision with respect to the person’s need for treatment”—they must be transferred to an intoxication treatment center or other facility. Aste contends that the fact pattern demonstrates that the individual is intoxicated, but not incapacitated. As such, in accordance with the statute, he should be assisted home by an officer, friend or family member. He contends that an involuntary commitment to a treatment facility would be an inappropriate deprivation of the individual’s civil liberties in this instance, as the individual urinating on himself and appearing disheveled does not necessarily speak to his mental state. Aste also maintains that it is reasonable to believe that the individual will make better decisions for himself now that he has had more of a chance to sober up. The Commission observes that while *N.J.S.A. 26:2B-16* provides an officer with the option of assisting an intoxicated person to their residence when they are not incapacitated, when the officer believes that person is incapacitated, the officer must assist them to “an intoxication treatment center or other facility¹” The

¹ The applicable statute defines “facility” as “any public, private place, or portion thereof providing services especially designed for the treatment of intoxicated persons or persons with alcohol use

facts clearly support a conclusion that the individual the officer has encountered is incapacitated, as his slurred speech and apparent urination on himself suggests that he is incapable of realizing and making a rational decision with respect to his need for treatment. As such, option c would be inappropriate, as *N.J.S.A. 26:2B-16* makes clear in such a situation that person “shall be assisted by the police officer to an intoxication treatment center or other facility.” Since option a is the only option that speaks to providing the individual with treatment, the Commission finds that it is the best answer to Question 53.²

Question 57 involves a scenario where the examinee is assigned to courtroom security and court is in session with the examinee as the only officer. Court staff advises there is a woman having a seizure outside of the courtroom. The question then asks for the best response to the situation. The keyed response is option a, to “[t]ell the judge to leave the bench, then you can respond to the situation.” Abaza and Iannacone argue that the best response is option c, to call EMS. In this regard, Abaza contends that there are a limited number of options for rendering aid when a person is still actively seizing and that calling for aid first will automatically send a call for mutual aid to respond and will ensure that critical care can begin sooner, while also giving the officer time to secure the judge in chambers. Iannacone similarly emphasizes the importance of getting EMS on scene as quickly as possible for ensuring the woman a better chance at recovery. In addition, Iannacone maintains that getting the judge to leave the bench, particularly during a trial, is time-consuming. As such, it is better to wait to escort the judge off of the bench and to secured chambers until after calling EMS. Moreover, he proffers that as of the time of the examination, all trials were via zoom, so the courtroom would have been empty. He argues that “the keyed answer is therefore not necessarily the best answer—only the best of the choices” and asked whose opinion it is based on. The Division of Test Development, Analytics and Administration (TDAA) contacted two Subject Matter Experts (SMEs) who have knowledge regarding the performance standards and requirements of the job. The SMEs and TDAA aver that the keyed response is the best response because protecting a judge is a primary function of courtroom security and telling a judge to leave a bench will take a minimal amount of time. The Commission finds that the rationale of the SMEs and TDAA supports the keyed response to Question 57.

disorder; including, but not limited to intoxication treatment centers, inpatient treatment facilities, outpatient facilities, and residential aftercare facilities.” See *N.J.S.A. 26:2B-8*.

² The Commission further notes that Legislature has provided that it is the public policy of the State “that persons with an alcohol use disorder and intoxicated persons “may not be subjected to criminal prosecution because of their consumption of alcoholic beverages, but rather should be afforded a *continuum of treatment* in order that they may lead lives as productive members of society.” See *N.J.S.A. 26:2B-7* (emphasis added). A response that provides medical attention to an intoxicated person like the individual in the subject scenario clearly falls within the “continuum of treatment” contemplated by the Legislature.

Aste selected the keyed responses for Questions 59 and 71. Therefore, his appeal of these items is moot.

CONCLUSION

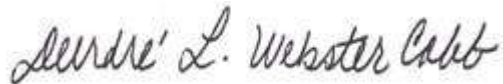
A thorough review of the appellants' submissions and the test materials reveals that the appellants' examination scores are amply supported by the record, and the appellants have failed to meet their burden of proof in this matter.

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 12TH DAY OF OCTOBER, 2022



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