



STATE OF NEW JERSEY

In the Matter of Tony Brown, Essex
County

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

CSC Docket No. 2022-1663

Classification Appeal

ISSUED: December 21, 2022 (ABR)

Essex County, represented by Sylvia Hall, Esq., appeals the determination of the Division of Agency Services (Agency Services), which found that Tony Brown’s position with the Essex County Department of Corrections was properly classified as County Correctional Deputy Police Warden. Essex County seeks a County Correctional Police Lieutenant classification.

The record in the present matter establishes that at the time of the Essex County Superior Officers’ Association’s (Association) March 2021 request for a classification review on behalf of Brown, Brown was serving in his permanent title, County Correctional Police Lieutenant, Essex County Department of Corrections. In support of the classification review request, Brown submitted a Position Classification Questionnaire (PCQ) detailing the different duties he performed. In his PCQ, Brown stated, in relevant part, that he supervised at least two squads of officers and their sergeants in the Special Housing Unit and the Infirmary Area of the Essex County Correctional Facility; instructed assigned officers regarding correction work techniques, methods and objectives; assisted in developing procedures to facilitate employee training, use of weapons, chemical restraining agents and other safety and emergency measures; assisted in developing security plans for the facility, including access, issuance and use of keys, weapons and other equipment; ensured security by assisting assigned officers with complex assignments and/or difficult inmates; prepared schedules for County Correctional Police Officers and County Correctional Police Sergeants; ensured roll call was taken for each shift; ensured that proper work

assignments were being followed; assisted with the County Correctional Police Officer hiring process and made recommendations for appointments to that title; ensured adequate levels of staffing on all shifts; prepared written reports containing findings, conclusions and recommendations; served in the absence of any superior officer; and prepared written reports containing findings, conclusions and recommendations. Brown stated in his PCQ that he supervised Lieutenants, Sergeants and Officers at the Essex County Correctional Facility.

Agency Services reviewed Brown's PCQ and conducted a telephone audit. Agency Services found that Brown, at times, supervised two squads of County Correctional Police Officers and their sergeants, but that he also performed administrative duties which elevated his position to County Correctional Deputy Police Warden. In particular, it observed that Brown ensured adequate levels of staffing on all shifts; instructed officers regarding correction work techniques, methods, and objectives; assisted in developing security plans for the facility; assisted in interviewing and screening candidates; and performed other administrative duties to assist the facility's County Correctional Police Warden. With regard to administrative duties, the facility's County Correctional Police Warden stated that Brown was serving "in an [a]dministrative liaison capacity" as it related to Special Housing, and telephone, tablet and food service vendors. Agency Services stated that Brown directly supervised two County Correctional Police Sergeants and reported directly to the County Correctional Police Warden. It further noted that Brown was appointed to the unofficial title of "Associate Warden," and that the Essex County Rules and Regulations Manual stated that "Associate Wardens are assigned to facilitate the administrative and custody functions respectively of the day to day operations of the Department." Agency Services determined that the foregoing definition compared favorably to the definition in the job specification for the County Correctional Deputy Police Warden title and reinforced the level of duties assigned to Brown and it found that the appropriate classification for Brown's position was County Correctional Deputy Police Warden, effective January 20, 2022.

On appeal to the Civil Service Commission (Commission), the appointing authority argues that the job performed by Brown at the time of the classification review was more consistent with the title of County Correctional Police Lieutenant, as demonstrated by the job specification and examples of work for that title. In this regard, the appointing authority cites a number of duties from the subject PCQ that it maintains were consistent with the Examples of Work section of the County Correctional Police Lieutenant job specification. Additionally, the appointing authority proffers that Brown's duties were performed under close supervision, which was more consistent with the County Correctional Police Lieutenant title, as incumbents in that title perform their duties "under direction." The appointing authority further avers that Brown did not have any independent authority. Accordingly, it maintains that the proper classification of Brown's position was County Correctional Police Lieutenant.

In response, the Association proffers that the appointing authority does not deny that it appointed Brown as an “Associate Warden.” The Association further contends that Brown’s prominence on the facility’s master on-call schedule, in which only he and the supervisor of the appointing authority’s Internal Affairs Bureau were the only County Correctional Police Lieutenants listed out of the more than 20 incumbents employed by the appointing authority, and Brown’s general authority at the time of the classification review further demonstrate that his duties and authority exceeded the scope of a County Correctional Police Lieutenant. It observes that Brown’s appointment as an “Associate Warden” gave him authority over more senior County Correctional Police Lieutenants and Captains. The Association maintains that because Brown prepared schedules for Captains and Lieutenants and “ensure[d] that roll call [was] taken each morning,” rather than taking roll call himself each morning, it is clear that he was more than the Lieutenant the appointing authority portrayed him to be. Accordingly, the Association argues that Agency Services’ determination should be affirmed.

On August 23, 2022, after the foregoing submissions by the parties, the appointing authority submitted a new PCQ for Brown with updated duties it maintained were consistent with the title of County Correctional Police Lieutenant. It is noted that the appointing authority has removed Brown’s responsibilities related to drafting policies; general operational command over all personnel in his area of assignment; and function as an administrative liaison with respect to Special Housing, and phone, tablet and food service vendors. Brown’s duties at the time of the new PCQ included, in part, the supervision of two squads of officers and their sergeants; preparation of their schedules; and taking roll call.

In response, the Association acknowledges that Brown appears to have been returned to duties commensurate with his permanent title. However, the Association expresses concern that the appointing authority has a pattern of creating “fictitious appointed positions,” abolishing them when getting caught or called out, and then later reestablishing them under a different name. It maintains that the Commission should proceed with promotional examinations for the title of County Correctional Deputy Police Warden, as it contends that the appointing authority will continue to reappoint these duties to others under another “faux title” if an eligible list does not promulgate for this title.¹ Agency Services maintains that the appropriate classification for Brown’s position based on this new PCQ is his permanent title of County Correctional Police Lieutenant.

CONCLUSION

¹ A promotional examination for County Correctional Deputy Police Warden (PC4859D), Essex County was announced on August 1, 2022, with a closing date of August 22, 2022. Eight applicants applied for the subject examination, which remains pending.

N.J.A.C. 4A:3-3.9(e) states that in classification appeals, the appellant shall provide copies of all materials submitted, the determination received from the lower level, statements as to which portions of the determination are being disputed, and the basis for appeal. Information and/or argument which was not presented at the prior level of appeal shall not be considered. *N.J.A.C.* 4A:3-3.9(e)3ii states that if an appeal is granted by the Commission, the effective date of implementation in local service shall be the date an appropriate representative of the Commission received the appeal or reclassification request, or at such earlier date as directed by the Commission.

N.J.A.C. 4A:3-3.1(b)1 provides that positions shall be assigned by the Commission and be assigned the title which describes the duties and responsibilities to be performed and the level of supervision exercised and received.

The definition section for job specification for County Correctional Deputy Police Warden states:

Assists the Warden in the administration, operation and maintenance of a county correctional facility; assists in the protection, custody and discipline of inmates; performs other related duties as required.

The definition section for job specification for County Correctional Police Lieutenant states:

Under direction during an assigned tour of duty, has charge of correctional programs and staff within an adult county correctional facility or institution; supervises subordinate officers or other personnel on a shift; may perform specialized, administrative/security police work as assigned; performs other related duties as required.

In the instant matter, the appointing authority disputes Agency Services' characterization of the primary focus of Brown's duties, effective January 20, 2022. Namely, it contends that the majority of his duties are consistent with the Examples of Work portion of the job specification for the County Correctional Police Lieutenant title. However, a thorough review of the information presented in the record establishes that Brown's position at the time of the audit was County Correctional Deputy Police Warden and that the appointing authority has not presented a sufficient basis to establish that his position should have been classified as County Correctional Police Lieutenant. In making classification determinations, emphasis is placed on the Definition section to distinguish one class of positions from another. The Definition portion of a job specification is a brief statement of the kind and level of work being performed in a title series and is relied on to distinguish one class from another. On the other hand, the Examples of Work portion of a job description provides typical work assignments which are descriptive and illustrative and are not

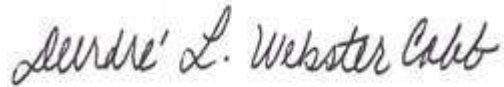
meant to be restrictive or inclusive. *See In the Matter of Darlene M. O'Connell* (Commissioner of Personnel, decided April 10, 1992). The record demonstrates that Brown, at the time of the initial PCQ in this matter, was primarily responsible for assisting the Warden in the administration, operation and maintenance of a county correctional facility. In this regard, there is no dispute that the appointing authority placed Brown into the functional title of "Associate Warden," which Section 1:2.20 of the Essex County Department of Corrections Rules and Regulations Manual states "are assigned to facilitate the administrative and custody functions respectively of the day-to-day operations of the Department" and which Section 1:2.18 of that manual places above the rank of Captain and below the rank of Warden. Critically, based on Brown's stated duties and his role in the functional title of "Associate Warden," it is evident that a significant portion of Brown's responsibilities at the time of the initial classification review in this matter involved assisting the Warden with the administration, operation and maintenance of the Essex County Correctional Facility. Such duties are consistent with the primary focus of the County Correctional Deputy Police Warden title. Therefore, Agency Services properly determined that Brown was properly classified as a County Correctional Deputy Police Warden, effective January 20, 2022. However, a review of the PCQ submitted to this agency on August 23, 2022, demonstrates that the appointing authority subsequently assigned Brown duties commensurate with his permanent title of County Correctional Police Lieutenant and removed duties inconsistent with that classification. Therefore, pursuant to *N.J.A.C. 4A:3-3.9(e)3ii*, effective August 23, 2022, the appropriate classification of Brown's position is County Correctional Police Lieutenant.

ORDER

Therefore, the position of Tony Brown was properly classified as County Correctional Deputy Police Warden, effective January 20, 2022 through August 22, 2022. It is further ordered that Brown's position is properly classified as County Correctional Police Lieutenant, effective August 23, 2022.

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 21st DAY OF DECEMBER, 2022



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