



STATE OF NEW JERSEY

In the Matter of Antonio Pires, Essex
County

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

CSC Docket No. 2022-1662

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 Antonio Pires' position with the Essex County Department of Corrections was properly classified as County Correctional Deputy Police Warden. Essex County seeks a County Correctional Police Captain 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 Pires, Pires was serving in his permanent title, County Correctional Police Captain, Essex County Department of Corrections. In support of the classification review request, Pires submitted a Position Classification Questionnaire (PCQ) detailing the different duties he performed. In his PCQ, Pires stated, in relevant part, that he held an interdepartmental position of Associate Warden acting as a liaison between the Warden and all officers and staff. He further indicated that he spent five percent of his time ensuring that all special instructions and policies were assigned to officers regarding correction work techniques, objectives, and methods; 13 percent working in coordination with the Director of Social Services to ensure facility security by monitoring the activities of inmates and prison staff, education and social services professionals; 13 percent participating in the classification of newly arrived inmates by reviewing all intake status call assignments, ensuring the Prison Rape Elimination Act is being scored, inputting charges into the system and that the classification units are providing the proper

classification; eight percent scheduling weekly classification meetings to review all inmates in isolated confinement areas and releasing inmates, as appropriate; 13 percent ensuring the safe movement and assignments of the facility's population based on proper classification, medical and mental health; five percent conducting hearings for charges involving minor discipline; five percent serving in the absence of any superior officer for custody, discipline and/or inmate issues; five percent preparing and reviewing written reports containing findings, conclusions and recommendations; five percent supervising a unit which coordinates inmate programming, classification, and educational classes; eight percent supervising staff in the scheduling department; five percent performing employee evaluations and effectively recommending the hiring, firing, promotion and discipline of employees; and five percent supervising the Cell Extraction Response team.

Agency Services reviewed Pires' PCQ and conducted a telephone audit. Agency Services found that the primary focus of Pires' position was to assist in the administration, operation, and maintenance of the Essex County Correctional Facility. Additionally, it found that the position was responsible, in part, for developing facility policies; performing the more difficult tasks at the facility; including medical issues and correspondence with families of inmates; overseeing the protection, custody, discipline and classification of inmates; and assisting in the effective utilization of personnel. It also observed that the position was responsible for overseeing the work of all facility staff, including County Correctional Police Captains; handling minor discipline of all inmates and staff; and the hiring, firing and discipline of all employees. With regard to administrative duties, the facility's County Correctional Police Warden stated that "as the most senior Captain serving in an Administrative capacity he often consult[ed] with the two subordinate Captains" with respect to custody operations. Agency Services stated that Pires directly supervised County Correctional Police Lieutenants and reported directly to a County Correctional Police Warden. It further noted that Pires 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 Pires. Accordingly, Agency Services found that the appropriate classification for Pires' 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 Pires at the time of the classification review was more consistent with the title of County Correctional Police Captain, 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 Captain job specification. Additionally, the appointing authority proffers that Pires' duties were performed under close supervision, which was more consistent with the County Correctional Police Captain title, as incumbents in that title perform their duties "under direction." Conversely, County Correctional Deputy Police Wardens "assist[] the Warden." The appointing authority avers that Pires did not have any independent authority. Rather, he merely acted as a "liaison between the Warden of the facility and all officers and staff" and was a "senior captain" like other employees have been before him. Accordingly, it maintains that the proper classification of Pires' position was County Correctional Police Captain.

In response, the Association argues that Agency Services correctly determined that the appropriate classification for Pires' position was County Correctional Deputy Police Warden, effective January 20, 2022. In this regard, the Association emphasizes that the appointing authority does not deny that it appointed Pires as an Associate Warden. Additionally, it submits that Pires' prominence on the appointing authority's Master On-Call Schedules, which exists to permit the Essex County Department of Corrections' shift commander to contact upper management for guidance and direction under emergent circumstances, is also telling. It submits that Pires was the only County Correctional Police Captain of the five employed by the appointing authority who appeared on that list. It notes that while two County Correctional Police Lieutenants were listed on the appointing authority's Master On-Call Schedules, one was reclassified as a Deputy County Correctional Police Warden and the other was reclassified as a Principal Investigator. In other words, it avers that Pires' presence on this list showed that he was elevated to a rank above the other County Correctional Police Captains and that he exercised independent authority. It also proffers that Pires, as "Associate Warden," had greater authority than the other County Correctional Police Captains, as he was the only one authorized to ban both sworn supervisory and civilian staff from the facility and to approve conditional access to the facility. Moreover, it argues that it would make no sense for Pires to be treated as a "senior captain," as, at the time of his appointment, he was the junior-most Captain and had less than one year in-title. It also presents that Pires' signature appeared on nearly every Essex County Department of Corrections Policy Statement. It also proffers that it would be unusual for civilian supervisors to report to or be supervised by a County Correctional Police Captain, but that the Directors of Social Services, Commissary and Food Services were all civilians who reported to Pires.

Pires asserts that the appropriate classification of his position is County Correctional Police Captain.

On August 23, 2022, after the foregoing submissions by the parties, the appointing authority furnished a new PCQ for Pires with updated duties it maintained were consistent with the title of County Correctional Police Captain. It is noted that the appointing authority has removed Pires' administrative duties, such that he is no longer assigned to supervise staff in the scheduling department, the

classification of inmates other than newly-arrived inmates or to conduct disciplinary hearings for minor disciplinary actions. Pires continues to act as a liaison between the Director or Warden and all subordinate officers and performs related duties, including providing special instructions to assigned officers; monitoring the activities of inmates and staff to ensure adequate facility security; participating in the classification review of newly-arrived inmates; and preparing written reports with findings, conclusions and recommendations.

In response, the Association acknowledges that Pires 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 Pires’ position based on this new PCQ is his permanent title of County Correctional Police Captain.

CONCLUSION

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:

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.

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 Captain states:

Under direction during an assigned tour of duty within an adult county correctional facility or institution, serves as liaison between the Sheriff and/or Undersheriff or Warden and/or Deputy Warden and all officers in a large county correctional institution; performs other related duties as required.

In the instant matter, the appointing authority disputes Agency Services' characterization of the primary focus of Pires' 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 Captain title. However, a thorough review of the information presented in the record establishes that Pires' 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 Captain. 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 Pires, at the time of his PCQ, 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 Pires 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 Pires' stated duties and his role in the functional title of "Associate Warden," it is evident that a significant portion of Pires' 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, which is consistent with the primary focus of the County Correctional Deputy Police Warden title. Therefore, Agency Services properly determined that Pires was properly classified as a County Correctional Deputy Police Warden, effective January 20, 2022.

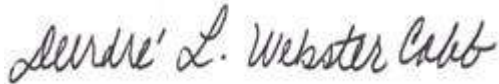
However, a review of the PCQ submitted to this agency on August 23, 2022 demonstrates that the appointing authority subsequently assigned Pires duties commensurate with his permanent title of County Correctional Police Captain and removed duties inconsistent with that classification. Therefore, pursuant to *N.J.A.C. 4A:3-3.9(e)3ii*, effective August 23, 2022, the appropriate classification of Pires' position is County Correctional Police Captain.

ORDER

Therefore, the position of Antonio Pires was properly classified as County Correctional Deputy Police Warden, effective January 20, 2022 through August 22, 2022. It is further ordered that Pires' position is properly classified as County Correctional Police Captain, 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



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

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: Antonio Pires
James Troisi
Catherine M. Elston, Esq.
Jacqueline Jones
Sylvia Hall, Esq.
Division of Agency Services
Records Center