



STATE OF NEW JERSEY

In the Matter of Ines Massio,  
Judiciary Clerk 2, Bilingual in  
Spanish and English (S0402V),  
Statewide

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

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

CSC Docket No. 2023-87

Examination Appeal

**ISSUED:** September 21, 2022 (SLK)

Ines Massio appeals her disqualification by the Division of Test Development, Analytics and Administration for the open-competitive examination for Judiciary Clerk 2, Bilingual in Spanish and English (S0402V), Statewide.

By way of background, on certification OS200047, Massio was appointed as a Judiciary Clerk 2, effective March 30, 2020, by Vicinage 14, Ocean Judiciary. In a June 14, 2022, letter, this agency advised Massio that she was scheduled on June 28, 2022, for the Bilingual Communicative Ability Test (BICAT) for the Spanish component of the above-referenced examination. The letter indicated that “The use of cell phones, pagers, recording devices, PDA’s, or other electronic equipment at the test center is prohibited. Candidates bringing electronic devices into the test center will be disqualified if the device rings during the exam or if it is not completely turned off and put away.”

At the test center, the monitor provided that the candidates were informed that cell phones were not permitted at the test center and if they had one, it must be completely turned off and put away until they left the building. Further, the monitor stated that candidates were informed that if the devices were seen or heard at any time even after they had completed the examination, they will be disqualified. Additionally, the monitor presented that when candidates turned in their examinations, they were informed to not take out their phones until they left the building, or they may be disqualified if it was seen. The monitor also indicated that

there were signs in the hallway and the classroom which states that there were no electronic devices permitted.

On the date of the test administration, Massio was disqualified from the subject examination. Specifically, the monitor notes provide that Massio took out her phone after she instructed her to not take out her phone until she left the building. Therefore, the monitor informed her that she was disqualified. The monitor indicated that Massio replied that she was just moving her cell phone from one pocket to another. Massio also stated that she did not hear that she would be disqualified if she took her cell phone out.

On appeal, Massio states that at the test center, she was advised about the cell phone policy, so she turned her cell phone off and placed it in her purse. After submitting her test, she indicates that she left the room and the monitor came into the hallway while she was reaching for her parking ticket, so she moved her cell phone and car keys. Massio presents that although the monitor advised her not to turn on or touch her cell phone until she left the building, she asserts that she did not understand why she was stating this to her since she already left the room, was heading outside, and she had not turned on her cell phone. Instead, she presents that all she was doing was just moving items to reach for something. Massio states that then the monitor repeated that she touched her cell phone and she was disqualified. She indicates that she showed her that her cell phone was off, but that she could not explain why she touched it because she was in shock as the test was stressful and there were no policies against touching the cell phone. Massio emphasizes that it was not her intention to violate this agency's cell phone policy and she only turned her cell phone on after she left the building.

## CONCLUSION

At the outset, the Civil Service Commission (Commission) has a duty to ensure the security of the examination process and to provide sanctions for a breach of security. *See N.J.S.A. 11A:4-1(c)*. In order to carry out this statutory mandate, *N.J.A.C. 4A:4-2.10* identified a number of prohibited actions in the conduct or administration of an examination and provides for the disqualification of candidates participating in such actions. Specifically, *4A:4-2.10(b)* provides, in pertinent part, that bringing in a cell phone into the building where the examination is being conducted is prohibited. *N.J.A.C. 4A:4-2.10(c)* provides, in pertinent part, that anyone participating in a prohibited action under (b) shall be disqualified. *N.J.A.C. 4A:1-1.2(c)* states that the Commission may relax a rule for good cause in order to effectuate the purposes of Title 11A, New Jersey Statutes.

In this matter, the record indicates that in the scheduling letter for the subject BICAT examination, Massio was advised that she would be disqualified if she brought her cell phone into the test center, if the device rang during the exam or if it was not completely turned off and put away. As such, she was not advised that she

could not bring her cell phone into the building. Further, after completing the test, while in the hallway, Massio moved her cell phone to get her parking ticket and did not turn on her cell phone. Therefore, while Massio may have not have strictly followed the instructions at the test center, there is no evidence that she cheated, or even attempted to cheat, as her cell phone was off. Accordingly, as the security of the examination was not compromised, the Commission finds good cause to relax *N.J.A.C.* 4A:4-2.10(c) and finds that disqualification is not warranted under these circumstances.

The Commission warns Massio that she should not bring her cell phone into the test center for future examinations. Additionally, it is noted that the scheduling letter for the BICAT has been revised to indicate that, “**Candidates bringing electronic devices into the test center will be disqualified.**”

This determination is limited to the instant matter and does not provide precedent in any other matter.

### ORDER

Therefore, it is ordered that this appeal be granted, Massio’s test papers scored, and her name be added to the subject eligible list if she receives a passing score.

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 21<sup>ST</sup> DAY OF SEPTEMBER, 2022

*Dolores Gorczyca*

---

Dolores Gorczyca  
Presiding Member  
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: Ines Massio  
Jill Vito, TCA  
Division of Test Development, Analytics and Administration  
Records Center