



STATE OF NEW JERSEY

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

In the Matter of Glenn Gaston, Sr.,
Police Captain (PM4059C),
Union City

CSC Docket No. 2023-828

Request for Reconsideration

ISSUED: February 1, 2023 **(RE)**

Glenn Gaston, Sr., represented by Thomas M. Rogers, Esq., petitions the Civil Service Commission (Commission) for reconsideration of the decision rendered on August 3, 2022, which found that his score for the examination for Police Captain (PM4059C), Union City was correct.

By way of background, the subject oral examination was administered to the petitioner on November 22, 2021, and he received a final average of 81.510 and ranked sixth on the resultant eligible list. This was a two-part examination consisting of a multiple-choice portion and an essay portion. In the essay portion of the examination, candidates were presented with a scenario, and were directed to respond to all four parts. On a scale of 1 to 5, the appellant scored a 4 for the technical supervision/problem solving/decision making component. The scenario involved receipt of a call regarding a young man having an overdose. Part A indicated that the candidate opts to report to the residence as it is that of the Police Chief who is away on vacation and the caller was the Chief's daughter. The question asked for actions to be taken, or ensure are taken, while at the residence. The assessor indicated that the appellant missed the opportunity to administer NARCAN to Ben, the young man. The Commission found that there was enough information in the scenario to require candidates to treat Ben as though he was overdosing, and not to assess whether he was overdosing or just experiencing an opioid high. Ben had been snorting heroin, and was experiencing tremors and had vomited several times.

Tremors and vomiting are signs of an overdose, and the caller indicated that Ben was experiencing an overdose.

In the present matter, the petitioner states that NARCAN is not administered to conscious persons, and that just because someone is high, he is not necessarily overdosing. He argues that the symptoms of vomiting and body tremors are not known signs of opioid overdose, and that Ben did not have a complete loss of consciousness or difficulty breathing, which are indicative of potential death. He claims that his response, ensuring all on scene received the appropriate medical attention, was correct. He argues that he was not provided with the Possible Courses of Action (PCAs), materials to support the PCAs, or the identity and qualifications of the Subject Matter Experts (SMEs), and therefore, he was deprived of the basis to challenge SME biases and credentials, and evaluating the PCAs and methodology of the SMEs.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) provides that a petition for reconsideration must show the following:

1. New evidence or additional information not presented at the original proceeding which would change the outcome and the reasons that such evidence was not presented at the original proceeding; or
2. That a clear material error has occurred.

Applying this standard to the instant matter, the petitioner has not demonstrated that reconsideration should be granted. The petitioner's concerns were addressed in the decision below and he has not demonstrated that a clear material error has occurred or presented new information which would change the outcome.

Specifically, the Commission addressed the petitioner's arguments and the petitioner supplemented his appeal with arguments that his training and experience confirm that Ben was not overdosing and that NARCAN was not necessary. The scenario lays out facts for which candidates are to react. The scenario, in part, states: "You are at the stationhouse when 9-1-1 dispatch receives a call from Emily Jones stating that her 20-year-old boyfriend, Ben Nelson, is at her house and is experiencing an overdose. Emily states that the two of them and another friend, Ashley Smith, had been snorting heroin, which they bought earlier that day, when Ben started experiencing tremors and began vomiting several times." The scenario did not state that a party has said Ben was potentially overdosing, rather, Emily said Ben was overdosing. She didn't say "potentially" or say she was unsure. Also, vomiting *is* a sign of overdose, and the appellant has not produced evidence that one should *not* administer NARCAN if tremors are present. Given the scenario, Ben was

overdosing, and the SMEs determined that NARCAN should be administered. The petitioner received credit for another PCA, to provide first aid/render aid to Ben while awaiting EMS' arrival, but since he did not provide NARCAN, he cannot receive credit for it based on his response.

The appellant's assertion that he was disadvantaged in submitting an appeal as he was not provided with the examination scoring standards or information regarding SMEs is not germane to this reconsideration. In any event, in *James T. Brady v Department of Personnel*, 149 N.J. 244 (1997), the Supreme Court found that the Commission's controlling rules and policies represent a reasonable balance between security and test taker interests. As such, the information he requests is not available to the petitioner or to any other candidate.

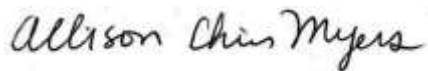
The petitioner has failed to present a basis for reconsideration of this matter since he failed to establish that a clear material error occurred in the original determination or that new evidence presented would change the outcome of the appeal.

ORDER

Therefore, it is ordered that this petition 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 1ST DAY OF FEBRUARY, 2023



Allison Chris Myers
Acting 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: Glenn Gaston, Sr.
Thomas M. Rogers, Esq.
Division of Test Development and Analytics
Records Center