



STATE OF NEW JERSEY

In the Matter of Sean Nicholl,
2022 Law Enforcement Examination

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2023-1637

Reconsideration

ISSUED: May 24, 2023 (JH)

Sean Nicholl requests reconsideration of the final administrative determination in *In the Matter of Alvin Goss, et al., 2022 Law Enforcement Examination* (CSC, decided February 1, 2023).

As discussed in the original decision, Nicholl was scheduled to be tested on June 25, 2022. In a request filed on September 8, 2022, Nicholl indicated that he was unable to appear for the subject exam “because a close friend of mine . . . who was like family to me was shot and killed the weekend prior.” He explained that after attending the viewing and funeral “and coping with this great loss I could not make the test date and time.” He further explained, “I know this notice is well after the 20-day mark however, the notice was delivered the day that I started my military orders and I did not receive the notice denying me originally until after I returned from vacation.” As noted in the original decision, the Make-Up Unit was contacted regarding this mater and staff indicated that a make-up request was not received from Nicholl. In its determination, the Commission noted that *N.J.A.C.* 4A:4-2.9(a) provides that death in the candidate’s immediate family is an acceptable reason for granting a make-up. *N.J.A.C.* 4A:1-1.3 defines immediate family as an employee’s spouse, domestic partner (*see* section 4 of P.L. 2003, c. 246), civil union partner, child, legal ward, grandchild, foster child, father, mother, legal guardian, grandfather, grandmother, brother, sister, father-in-law, mother-in-law, and other relatives residing in the employee’s household or any other individual whose close association with the employee is the equivalent of a family relationship, such as a step-relative. The Commission further noted that Nicholl did not provide any evidence to support his claims. *See N.J.A.C.* 4A:4-6.3(b)

In his request, Nicholl provides the obituary of the individual he states was his close friend who was killed.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) sets forth the standards by which the Commission may reconsider a prior decision. This rule provides that a party must show that a clear material error occurred or present new evidence or additional information which would change the outcome of the case and the reasons that such evidence was not presented during the original proceeding.

In the present matter, Nicholl has failed to meet the standard for reconsideration. The petitioner does not present new evidence or additional information which was not presented at the original proceeding which would change the outcome of the original decision, nor has he proven that a clear material error has occurred in the original decision. Accordingly, based on the record presented, the petitioner has failed to support his burden of proof in this matter.

As noted in the original decision, the 2022 Law Enforcement Examination (LEE) Frequently Asked Questions (FAQs) page indicated, in pertinent part, with regard to make-up requests:

MAKE-UP REQUESTS, WITH SUPPORTING DOCUMENTATION, MUST BE SUBMITTED IN WRITING WITHIN FIVE DAYS OF RECEIPT OF THE TEST NOTICE. However, in situations involving an illness, death, or natural disaster that occurs on or immediately before the test date, a request for make-up must be made in writing **no later than five days after the test date**. [*See N.J.A.C.* 4A:4-2.9(e).] (emphasis added)

Given that the Make-Up Unit indicated that a make-up request was not received from the petitioner, he was provided with the opportunity during the reconsideration process to provide additional documentation evidencing that he submitted a timely request for a make-up and/or a copy of “the notice denying me originally until after I returned from vacation.” However, no further information was received from him in this regard. *See N.J.A.C.* 4A:4-6.3(b).

Although the petitioner indicates that “a close friend of mine . . . who was like family to me was shot and killed,” and that after attending the viewing and funeral “and coping with this great loss I could not make the test date and time,” it is noted that the obituary provided does not demonstrate a “close association . . . [that] is the equivalent of a family relationship.” While the Commission does not doubt the close relationship or the grief the petitioner felt, and it empathizes with the petitioner’s circumstances, he has presented no valid basis to grant his request. Furthermore,

even assuming that the petitioner provided adequate documentation in this regard, the petitioner has failed to demonstrate that he submitted a timely request for a make-up.

ORDER

Therefore, it is ordered that this request 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 24TH DAY OF MAY, 2023

Allison Chris Myers

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: Sean Nicholl
Division of Agency Services