

March 13, 2023. The appellants did not appeal their dispositions on the January 24, 2023 certification.

On appeal to the Civil Service Commission (Commission), Bonito explains that he was a full-time student at Stockton University in Galloway, New Jersey from September 2020 until December 2022. Although he resided on-campus initially, Bonito states that he became dissatisfied with dorm conditions and rented alternate housing off-campus with two other students in the event he needed to stay at the campus. The apartment lease started in July 2022, and the semester started in September 2022. Bonito maintains that his primary residence never changed from Freehold Township as he spent “over 80%” of his time there and mostly commuted while in college. He states that he spent very little time at the Galloway address only when necessary between classes. Bonito also states that he is currently attending the Monmouth County Police Academy as a Class II Special Police Officer for the Avon-by-the-Sea Police Department. In support, Bonito provides a copy of his driver’s license, which was issued June 2021 and reflects a Freehold Township address.

Boyce explains that his primary residence has been Freehold Township for the past 23 years, and he only lived temporarily in Columbia, South Carolina for parts of the year while he was a student at the University of South Carolina. Boyce notes that he moved back to Freehold Township immediately after graduation in 2022 and began employment at the Freehold Dodge and Ram dealership. In support, Boyce provides copies of two driver’s licenses, which were issued December 2017 and October 2020 respectively and reflect a Freehold Township address, and several pay stubs from the dealership beginning May 25, 2022.

In response, the appointing authority relies on the documentation previously submitted at the time of certification disposition.

In reply, Bonito maintains that he had made it clear during the preemployment process that the Galloway address was a temporary college address.

It is noted that the appointing authority did not reply.

CONCLUSION

N.J.A.C. 4A:4-3.2(a)1 states that when an announcement is open to more than one local jurisdiction, the resulting list of eligibles shall be separated into sub-lists by the residency requirements as provided by applicable law and ordinance. *N.J.A.C.* 4A:4-2.11(c) provides, in pertinent part, that where residence requirements have been established in local service, residence means a single legal residence. The following standards shall be used in determining local legal residence:

1. Whether the locations in question are owned or rented;

2. Whether time actually spent in the claimed residence exceeds that of other locations;
3. Whether the relationship among those persons living in the claimed residence is closer than those with whom the individual lives elsewhere. If an individual claims a parent's residence because of separation from his or her spouse or domestic partner (see section 4 of P.L. 2003, c. 246), a court order or other evidence of separation may be requested;
4. Whether, if the residence requirement of the anticipated or actual appointment was eliminated, the individual would be likely to remain in the claimed residence;
5. Whether the residence recorded on a driver's license, motor vehicle registration, or voter registration card and other documents is the same as the claimed legal residence. Post office box numbers shall not be acceptable; and
6. Whether the school district attended by child(ren) living with the individual is the same as the claimed residence.

N.J.A.C. 4A:4-2.11(e)1 states that unless otherwise specified, residency requirements shall be met by the announced closing date for the examination. When an appointing authority requires residency as of the date of appointment, residency must be continuously maintained from the closing date up to and including the date of appointment.

N.J.A.C. 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his name from an eligible list was in error.

Upon review of the record in these matters, the Commission finds that it cannot uphold the removal of the appellants' names from the subject eligible list. In this regard, among the standards to be used in determining local legal residence are whether the locations in question are owned or rented; whether time actually spent in the claimed residence exceeds that of other locations; and whether the residence recorded on a driver's license, motor vehicle registration, or voter registration card and other documents is the same as the claimed legal residence. The preemployment application specifically called on candidates to provide college addresses. Bonito has indicated that the Galloway, New Jersey address was such an address as he had rented it for the temporary purpose of attending Stockton University, where he had been a full-time student; that he spent most of his time in Freehold Township; and

that Freehold Township remained his address on his driver's license. Boyce has indicated that his Columbia, South Carolina address was a temporary residence used for purposes of attending the University of South Carolina; that he moved back to Freehold Township immediately after graduation in 2022 and began employment at the Freehold Dodge and Ram dealership; and that Freehold Township remained his address on his driver's license.

The appointing authority did not substantively refute the appellants' arguments or provide evidence that the appellants had, for example, changed the address recorded on their driver's licenses or voter registration cards. As such, the Commission declines to find that the appellants' taking up temporary housing in connection with college attendance effected a change in their legal residences. Accordingly, based on the totality of the record in these matters, the appellants have met their burden of proof, and it is appropriate to restore their names to the subject eligible list. This remedy is appropriate notwithstanding that the appellants did not appeal the removal of their names from the subsequently-issued January 24, 2023 certification (OL230093). In this regard, since the appellants had been removed from the eligible list with the January 13, 2023 recording of the disposition of the November 29, 2022 certification (OL221457), the appellants' names should not have appeared on the January 24, 2023 certification in the first place. As such, it would be inequitable to hold the appellants' failure to appeal their dispositions on the January 24, 2023 certification against them.

ORDER

Therefore, it is ordered that the names of Bradley Bonito and Alexander Boyce be restored to the eligible list for Police Officer (M0047D), Freehold Township for prospective employment opportunities.

This is the final administrative determination in these matters. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 28TH DAY OF JUNE, 2023



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