



STATE OF NEW JERSEY

In the Matter of Tony Da Silva, Fire
Captain (PM2337C), Newark

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

Examination Appeal

CSC Docket No. 2023-2251

ISSUED: August 14, 2024 (ABR)

Tony Da Silva appeals his score on the oral portion of the promotional examination for Fire Captain (PM2337C), Newark. It is noted that the appellant passed the examination with a final average of 83.130 and ranks 67th on the eligible list.

This two-part examination consisted of a written multiple-choice portion and an oral portion. Candidates were required to pass the written portion of the examination, and then were ranked on their performance on both portions of the examination. The test was worth 80 percent of the final score and seniority was worth the remaining 20 percent. Of the test weights, 35.90% of the score was the written multiple-choice portion, 22.04% was the technical score for the evolving exercise, 7.45% was the supervision score for the evolving exercise, 5.71% was the oral communication score for the evolving exercise, 23.20% was the technical score for the arriving exercise, 5.71% was the oral communication score for the arriving exercise.

The oral portion of the Fire Captain examination consisted of two scenarios: a fire scene simulation with questions designed to measure the knowledge of safe rescue tactics and procedures to safeguard citizens, supervision of fire fighters and the ability to assess fire conditions and hazards in an evolving incident on the fireground (Evolving Scenario); and a fire scene simulation designed to measure the knowledge of safe rescue tactics and procedures to safeguard citizens, supervision of firefighters and the ability to plan strategies and tactics based upon a building's

structure and condition (Arriving Scenario). Knowledge of supervision was measured by a question in the Evolving Scenario, and was scored for that scenario. For the Evolving Scenario, candidates were provided with a 15-minute preparation period, and candidates had 10 minutes to respond. For the Arriving Scenario, a five-minute preparation period was given, and candidates had 10 minutes to respond.

The candidates' responses were scored on technical knowledge and oral communication ability. Prior to the administration of the exam, a panel of Subject Matter Experts (SMEs) determined the scoring criteria, using generally approved fire command practices, firefighting practices, and reference materials. Scoring decisions were based on SME-approved possible courses of action (PCAs) including those actions that must be taken to resolve the situation as presented. Only those oral responses that depicted relevant behaviors that were observable and could be quantified were assessed in the scoring process.

Candidates were rated on a five-point scale, with 5 as the optimal response, 4 as a more than acceptable passing response, 3 as a minimally acceptable passing response, 2 as a less than acceptable response, and 1 as a much less than acceptable response. For each of the scenes, and for oral communication, the requirements for each score were defined.

On the Evolving Scenario, the appellant scored a 4 on the technical component, a 3 on the supervision component, and a 5 on the oral communication component. On the Arriving Scenario, the appellant scored a 3 on the technical component and a 5 on the oral communication component.

The appellant challenges his scores for the technical and supervision components of the Evolving Scenario and the technical component of the Arriving Scenario. As a result, the appellant's test material, video, and a listing of PCAs for the scenarios were reviewed.

The Evolving Scenario involves a fire at a parking garage where the candidate is the First-Level Supervisor of the first arriving unit who will establish command and will be the incident commander until Battalion 5 arrives in 15 minutes. The Evolving Scenario involves a response to a report of a car fire in a six-story parking garage. The candidate reports to the third floor and finds a sedan with smoke and flames billowing from the vehicle's engine. Question 1 then asks what specific actions and orders the candidate would take to fully address the incident. The prompt for Question 2 presents that Battalion 5 is on-site and has assumed command. It further indicates that after the fire is out and the incident is under control the candidate and their crew are ordered to begin overhaul operations. It then asks what actions and orders the candidate should take to fully address this assignment.

The SME awarded the appellant a score of 4 on the technical component of the Evolving Scenario, finding that the appellant missed several opportunities, including the opportunity to ensure that the crews swept the bottom of the vehicle with the hoseline to cool the tires and fuel tank. On appeal, the appellant avers that although he did not specifically state that he would sweep the bottom of the vehicle with the hoseline to cool the tires and fuel tank, he detailed a sequence of actions that would have still led to the same end result. Specifically, he presents that he stated that he would locate, confine and extinguish all fires found in and out of the structure; ensure during overhaul operations that the car was fully extinguished; and that he would stabilize the car to prevent it from moving using “chalks [sic] and cribs.” He maintains that while he understands the need to sweep under the car to remove debris or substances, it is extremely rare to have a fuel tank ignite because they are well protected from fire with specialized coatings and heatshields by the automotive industry. He also submits that he had multiple hoselines in operation to address any such issues. The appellant also asserts that cooling the tires was unnecessary.

In reply, a review of the appellant’s Evolving Scenario presentation confirms that the appellant did not indicate that he would sweep the bottom of the involved car with a hoseline. It is noted that a number of the actions cited by the appellant were PCAs for the scenario for which he received credit. Here, since the appellant does not dispute that sweeping the bottom of the vehicle with the hoseline was a valid action and it cannot be said that the actions he articulated during his presentation would constitute a valid alternative to the PCA at issue, the appellant has failed to meet his burden of proof regarding the technical component of the Evolving Scenario. Accordingly, the appellant’s score of 4 the technical component of the Evolving Scenario is affirmed.

The supervision component of the Evolving Scenario provides that during overhaul procedures, the candidate notices a firefighter joking around with another firefighter, behaving recklessly, removing his self-contained breathing apparatus (SCBA) prematurely and performing actions sloppily with his attention not fully on the matter at hand. The question asks what actions the candidate should take to handle this both on-scene and back at the firehouse.

The assessor awarded the appellant a score of 3 for the supervision component of the Evolving Scenario, finding that the appellant missed a number of opportunities, including opportunities to review departmental standard operating procedures/standard operating guidelines (SOPs/SOGs) on the use of SCBAs during overhaul and to keep the supervisor informed of the situation. On appeal, the appellant expresses concern that he was not credited with all of the PCAs he articulated during his response. The appellant lists all of the points he covered that he believes to be relevant and that he believes lends support to a higher score.

In reply, a review of the appellant's presentation confirms that the scoring of the supervision component of the Evolving Scenario was correct and does not demonstrate that the assessor missed any PCAs covered by the appellant. Accordingly, the appellant's Evolving Scenario supervision component score of 3 is affirmed.

The Arriving Scenario involves an incident where the candidate is a first-level supervisor who will be the highest-ranking officer and the incident commander at a gas station fire. Upon arrival, a gas station employee reports that a portable kerosene heater in the gas station's convenience store tipped over and the fire spread quickly. Additionally, another employee is trapped inside. Question 1 directed candidates to perform their initial report to the camera as they would upon arrival at the incident. Question 2 directed candidates to give their initial actions and then describe in detail the specific procedures required to safely remove the victims.

The SME awarded the appellant a score of 3, pursuant to the "flex rule,"¹ for the technical component of the Arriving Scenario, finding that the failed to report upon arrival that a victim was reported trapped inside the fire building and missed several additional responses. On appeal, the appellant avers that he advised numerous companies and officers about a trapped victim. He presents that while rescuing the trapped victim was a priority, he believed it was imperative to first make the fire ground as safe as possible for all companies by ensuring that certain safety protocols, like shutting off fuel pumps and requesting a hazmat officer to identify unknown substances, were completed. The appellant lists the relevant actions he contends that he identified in response to the subject scenario.

In reply, a review of the appellant's presentation confirms that he failed to advise dispatch that a victim was reported inside of the gas station. Since this was a mandatory response to Question 1 and a distinct PCA from ensuring the victim was rescued in response to Question 2, pursuant to the flex rule, the appellant could not be awarded a score higher than 3 for the subject scenario. Accordingly, the appellant has failed to sustain his burden of proof with respect to the technical component of this scenario and his score of 3, pursuant to the flex rule, is affirmed.

CONCLUSION

A thorough review of the appellant's submissions and the test materials indicates that the decision below is amply supported by the record and the appellant has failed to meet his burden of proof in this matter.

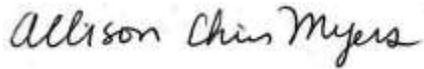
¹ Generally, candidates must identify all mandatory responses to receive, at minimum, a score of 3. However, a score of 3 may also be achieved via the "flex rule," where a candidate provides many additional responses, but does not give a mandatory response. However, a score higher than a 3 cannot be provided utilizing the flex rule.

ORDER

Therefore, it is ordered that this appeal 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 14TH DAY OF AUGUST, 2024



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