



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Steven Fielding,
Police Officer, Phillipsburg

CSC Docket No. 2024-136

Administrative Appeal

ISSUED: January 17, 2024

Steven Fielding appeals his appointment from the list for Police Officer (S9999F), Phillipsburg.

By way of background, a review of the available record finds that the appellant applied for and achieved a passing score on the Entry Level Law Enforcement Examination (S9999F). The appellant appeared as a non-veteran eligible on the S9999F list which promulgated on December 24, 2004 and expired on December 23, 2006. A certification for Police Officer, Phillipsburg from the S9999F list was issued on September 18, 2006 (Certification No. OL062000) containing the names of three eligibles with the appellant appearing in the first certification position. In disposing of OL062000, Phillipsburg listed the appellant as appointed, effective December 11, 2006. This appointment was recorded in the County and Municipal Personnel System (CAMPS). Subsequently, the appellant applied for and achieved a passing score on the Entry Level Law Enforcement Examination (S9999R).¹ The appellant appeared as a veteran² on the S9999R list which promulgated on May 2, 2014 and expired on March 22, 2017. A certification for Police Officer, Phillipsburg from the S9999R list was issued on December 4, 2014 (Certification No. OL141583) containing the names of five eligibles with the appellant appearing in the second certification position. A review of available documents indicates that in disposing of OL141583, Phillipsburg appointed the appellant and the eligible appearing in the fifth certification position effective

¹Subsequent to the S9999F announcement, the following Entry Level Law Enforcement announcements were issued (date issued): S9999H (December 1, 2005), S9999K (December 1, 2007), S9999M (June 1, 2010) and S9999R (June 4, 2013). A review of the available record finds that the appellant applied for the S9999H and S9999R examinations. It is further noted that the available record did not include the applicant list for the S9999M examination.

² A review of the record finds that the appellant was granted veterans status, *see N.J.A.C. 4A:5-1.3*, effective June 19, 2012.

March 9, 2015. For reasons that are unclear from the available record, the appellant's appointment as a Police Officer on March 9, 2015 was not initially recorded in CAMPS.

Subsequently, the appellant applied for and sat for the Police Sergeant (PM4624C), Phillipsburg examination which was announced on October 1, 2021 and administered on February 26, 2022. The resultant eligible list promulgated on November 24, 2022 and is set to expire on November 23, 2025. It is noted that the appellant initially received the maximum seniority score of 95.000³ and appeared as the second ranked eligible. During the time that the PM4624C list was issued, the appointing authority contacted the Division of Agency Services (Agency Services) and eligibles on the PM4624C list appealed the seniority scores of certain eligibles. In this regard, Phillipsburg provided a copy of a memorandum dated December 2, 2022 from Police Chief Robert Stettner to Matthew Hall, Business Administrator, in which Stettner indicates that he "spoke with Officer Fielding in reference to the 12/11/06 date that was located in CAMPS. Officer Fielding advised that he went through the background process during that time but was told that the department was not hiring due to the budget. This appears to be the only explanation of why he was entered into CAMPS in 2006. The person responsible for this Michelle Broubalow unfortunately she passed in 2012." As a result, the appellant's CAMPS record was corrected to record his appointment date as March 9, 2015. It is further noted that by notice dated January 18, 2023, the appellant received his corrected seniority score (86.819) and rank (5) on the PM2624C list.

In an appeal filed on July 13, 2023, the appellant explains that in 2006, he had been interviewed and was told verbally that he was hired "for the position of police officer in the Town of Phillipsburg, NJ. There was a change in police chiefs during this year. Several months went by, and I had not heard anything about a start date. I called and spoke to the new police chief regarding my start date. He stated that the [S]tate had froze the budget and that they could not hire anyone. That at least was the official reason he provided. The list expired at the end of the year, and I had not taken the following test as I was told that I was hired.⁴ In March of 2015, I was hired by the Town of Phillipsburg in the position of police officer." He further explains that he "recently took a promotional sergeant's exam.⁵ I was ranked #2 on the initial

³ As noted in the 2023 Police Sergeant Orientation Guide, seniority consists of two weighted parts: length of service and record of service. Length of service is based on the time from the regular appointment date (to the eligible title, *i.e.*, Police Officer) to the closing date of the announcement, minus the time spent on suspensions, layoffs, and deductible leaves of absence without pay. As further indicated in the Orientation Guide, candidates "start with a base score of 70.000 and then one point is added for each year of eligible service up to a maximum of 15. The maximum score for the length of service component is 85.000. Ten additional points are given for record of service. The record of service component is reduced by disciplinary suspensions occurring within five years of the closing date . . . The maximum possible seniority score is 95.000."

⁴ Despite the appellant's contention, a review of the record finds, as noted above, that the appellant had applied for and taken the S9999H examination. However, based on his score and rank, his name was not certified to Phillipsburg from the S9999H list.

⁵ It appears that the appellant is referring to the Police Sergeant (PM4624C), Phillipsburg examination.

ranking. I thought this was an error, due to me only having 8 years on the force at the time I took the test. I knew I should have not received full seniority, and therefore could not be ranked so high . . . This issue was brought to the attention of leadership.” The appellant indicates that “after an investigation by Civil Service and the Town of Phillipsburg, they discovered paperwork [regarding the December 11, 2006 appointment date].” He asserts that he “was never given any official paperwork indicating why I had not started [in December 2006]. I have requested OPRA documents from my town from that period regarding any personnel records and budgetary information during that time period. I was advised no personnel record exists for me for that period, and they have not provided any financial documents regarding the town budget for this period.” The appellant inquires, “my question is, what legal recourse, if any, do I have[?] I believe there was violation in the hiring process during this period. This information only became available to me after the scoring issue with the present sergeant’s exam.”

CONCLUSION

N.J.A.C. 4A:2-1.1(b) provides that an appeal must be filed within 20 days after either the appellant has notice or reasonably should have known of the decision, situation or action being appealed.⁶

At the outset, it is noted that the appellant does not specify the date on which he “spoke to the new police chief regarding my start date”⁷ and was informed that he was no longer going to be appointed as a Police Officer. However, the appellant should have been made aware of his non-appointment to the Police Officer title no later than sometime in 2007.⁸ The appellant filed his appeal on July 13, 2023, approximately **16 years** after the S9999F list expired and after his discussion with “the new police chief.” In addition, as noted above, the appellant was appointed as a Police Officer on March 9, 2015 and began actually serving in the title at that time. However, there is no evidence in the record indicating that he raised the issue of the December 11, 2006 non-appointment at that time. Further, the Commission notes the appellant waited over seven months both after the promulgation of the PM4624C list and after the December 2, 2022 memorandum from Chief Stettner, as noted above; and approximately six months after receiving his corrected scoring notice in January 2023, to raise the issue of his appointment date. In this regard, the appellant provides no explanation for the delay in filing his appeal. Moreover, the purpose of time limits is not to eliminate or curtail the rights of the appellant, but to establish a

⁶ *N.J.A.C. 4A:2-1.1(a)* provides, in pertinent part, all appeals to the Civil Service Commission (Commission) shall include the reason for appeal and the specific relief requested. It is noted that the appellant did not indicate any proposed remedies in his appeal letter.

⁷ In addition, the appellant does not specify with whom he spoke. In this regard, it is noted that available employment records in CAMPS indicates that between 2006 and 2007, Phillipsburg had three different Police Chiefs.

⁸ The eligible list for S9999H promulgated on December 24, 2006 and expired on December 23, 2008. The first certification for Police Officer, Phillipsburg from the S9999H list was issued on March 6, 2007.

threshold of finality. In this matter, the approximately 16-year delay in filing the instant appeal unreasonably exceeds that threshold of finality. Thus, it is clear that the appellant's appeal is untimely.

In addition, there is no basis in this particular case to extend or to relax the time for appeal. See *N.J.A.C.* 4A:1-1.2(c) (the Commission has the discretionary authority to relax rules for good cause). In this regard, it is appropriate to consider whether the delay in asserting his right to appeal was reasonable and excusable. *Appeal of Syby*, 66 *N.J. Super.* 460, 464 (App. Div. 1961) (construing "good cause" in appellate court rules governing the time for appeal); *Atlantic City v. Civil Service Com'n*, 3 *N.J. Super.* 57, 60 (App. Div. 1949) (describing the circumstances under which delay in asserting rights may be excusable). Among the factors to be considered are the length of delay and the reasons for the delay. *Lavin v. Hackensack Bd. of Educ.*, 90 *N.J.* 145 (1982). In this case, the appellant has not presented any reason that would excuse his extensive delay in filing his appeal. The appellant does not claim that he attempted earlier to assert his rights or file an appeal but was somehow precluded or misled. See, e.g., *Matter of Allen*, 262 *N.J. Super.* 438 (App. Div. 1993) (allowing relaxation of the appeal rules where police officer repeatedly, but unsuccessfully, sought clarification of his employment status). In the present matter, the appellant has not presented any reason that would excuse an approximately 16-year delay in filing his appeal. Moreover, due to the appellant's profound lack of diligence in pursuing the issue of his non-appointment, Phillipsburg indicates that records relating to the 2006 appointment date and the individuals involved in the hiring process at that time are no longer available to address this matter. The Commission further notes that the failure to recognize or to explore the legal basis for an appeal, without more, does not constitute good cause to extend to relax the time for appeal under the Commission's rules. See *Savage v. Old Bridge-Sayreville Med. Group*, 134 *N.J.* 241, 248 (1993) (ignorance of the specific basis for legal liability does not operate to extend time to initiate legal action).

Although the appellant asserts that "this information only became available to me after the scoring issue with the present sergeant's exam," the appellant is presumably referring to his claim that he was unaware that the December 11, 2006 appointment date had been recorded in CAMPS. It is noted, however, that the appellant had been admitted to and taken the previous Police Sergeant examination for Phillipsburg (PM2548W) which was administered on February 23, 2019. In a scoring notice dated November 13, 2019, the appellant's seniority score was indicated as 92.148, which was calculated based on his appointment to the Police Officer title recorded in CAMPS at that time, *i.e.*, December 11, 2006. However, given that the closing date for the PM2548W exam was January 31, 2019, or approximately 3 years and 10 months after his March 9, 2015 actual appointment date, the appellant should have been aware at that time that his seniority score was incorrect.⁹ However, the appellant does not claim nor is there any evidence in the available record that he

⁹ Based on his March 9, 2015 appointment date, he should have received a seniority score of 83.901.

raised any concerns at that time. Regardless, when the appellant became aware that the December 11, 2006 date had been recorded in CAMPS is of no moment in the instant matter. Rather, the appellant was clearly aware in 2006, or no later than sometime in 2007, of his non-appointment. However, again, the appellant offers no explanation for the approximately 16-year delay in filing his appeal.¹⁰

Accordingly, the appellant's appeal of his appointment as a Police Officer in December 2006 is untimely and he has failed to show good cause to justify relaxing the requirements of *N.J.A.C.* 4A:2-1.1(b).

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 17TH DAY OF JANUARY, 2024

Allison Chris Myers

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Chairperson
Civil Service Commission

Inquiries	Nicholas F. Angiulo
and	Director
Correspondence	Division of Appeals and Regulatory Affairs
	Civil Service Commission
	Written Record Appeals Unit
	P.O. Box 312
	Trenton, New Jersey 08625-0312

c: Steven Fielding
Division of Agency Services
Records Center

¹⁰ Moreover, even if he were granted the December 11, 2006, appointment date, it would not affect his seniority score on the Police Sergeant examinations. For examination seniority score purposes, only accrued active service is creditable. See *N.J.A.C.* 4A:4-2.15(d).