



STATE OF NEW JERSEY

In the Matter of Police Captain,
Clark

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

CSC Docket No. 2025-4

Administrative Appeal

ISSUED: January 15, 2025 (JH)

Ricardo Oliveira, a Police Lieutenant, appeals the determination by the Division of Agency Services (Agency Services) to approve the Clark's request to be exempted from the 2024 Police Captain promotional testing cycle.

By way of background, the Examination Information Alert (EIA) Police Promotional Announcement and Testing Schedule 2024, issued by the Division of Test Development, Analytics and Administration (TDAA) issued in February 2024 and available on the Civil Service Commission (Commission) website, indicated that announcements for Police Captain were scheduled to be issued on June 1, 2024 with an August 31, 2024 closing date.¹ In an email sent on May 21, 2024 to Agency Services, Clark indicated that "the Clark Police Department will opt out of the announcement cycle for Police Captain and Police Lieutenant. We do not have a need for captain or lieutenant at this time as both were recently promoted." By letter dated July 18, 2024, Agency Services granted Clark's request and noted, in part:

¹ As further indicated in the EIA, "As the above schedule reveals, [the Commission] issues announcements annually for the titles of Police Sergeant, Lieutenant, and Captain . . . Please note that the [Commission] will automatically initiate Sergeant, Lieutenant, and Captain announcements for most jurisdictions based on the expiration date of an existing list for a given municipality. However, if a promotional list is exhausted or is expected to be exhausted or rendered incomplete prior to its expiration date, an [appointing authority] should initiate a new announcement and submit its request by the appropriate deadline indicated above."

This action will leave the Police Department without new eligible lists until potentially 2026. The current list for Police Captain (PM4290C) is exhausted;² the current list for Police Lieutenant (PM4090C) contains the names of two eligibles and expires on April 20, 2025 . . . It should be noted that new announcements for Police Captain and Police Lieutenant will automatically be initiated in the next examination cycle.³

In his appeal, the appellant presents that he “was planning on taking [the Police Captain] test so that I would be eligible for a promotion for Police Captain. The Township of Clark has not had an active list (with eligibles on it) since November 2022, when the last eligible Lieutenant was promoted to the rank of Captain. November 2024 will serve as the two (2) year mark since the Township has had an eligible list.” He argues that given that there is no active Police Captain list and Clark has opted out of the 2024 cycle, “there is a high likelihood that the Township will have to make provisional appointments for the second-highest rank in the police department. This is improper on all fronts as the Township has the opportunity to permit Lieutenants to sit for the Police Captain test and be included in an eligible list for the title.”⁴ He maintains that if his appeal is granted, “the Township, the eligible Lieutenants and the Commission would benefit, as a list of eligibles will be available when and if the Township determines that promotions will be made” and will eliminate the need for any provisional appointments.

CONCLUSION

Although the appellant presents that there is a possibility that there will be a need to make Police Captain appointments prior to a new list being issued, the Commission cannot base its decisions on future contingencies. Rather, the Commission can only examine the existing situation. Currently, Clark appointed two Police Captains in 2022 and does not indicate that there are vacancies to be filled. In addition, the appellant has not provided any information that Clark plans to increase

² The PM4290C list was promulgated on May 12, 2022 with the names of two eligibles, and was set to expire on May 11, 2025. In disposing of the first certification of the PM4290C list, issued on June 6, 2022 (Certification No. PL220809), Clark appointed the first ranked eligible effective June 10, 2022. In disposing of the second and last certification of the PM4290C list, issued on August 29, 2022 (Certification No. PL221250), Clark appointed the second ranked eligible effective November 1, 2022.

³ Assuming that the EIA for 2025 (which has not been issued to date) follows the same schedule as that for 2024, announcements for Police Captain will be issued in June 2025 with a tentative test date in October 2025 for the written (multiple-choice) portion and December 2025/January 2026 for the oral portion.

⁴ A review of the available record finds that as of the closing date for the 2024 Police Captain cycle, August 31, 2024, there were only two, including the appellant, Police Lieutenants who would have met the year-in-grade requirement to be eligible to sit for the subject examination.

the number of Police Captain positions beyond the two it currently maintains.⁵ Moreover, there is no evidence in the record that there is a provision in a union contract which requires Clark to maintain a current Police Captain eligibility list.

Furthermore, even assuming that both current Police Captains were to retire from their positions, there is no statutory or regulatory provision that requires an appointing authority to fill a vacancy. *See In the Matter of Gertrude Remsen, Department of Human Services*, A-1126-96T3 (App. Div., January 17, 1997). In this regard, should Clark determine a need to make a Police Captain appointment prior to the issuance of a new list, it may make a provisional appointment to the Police Captain title if the conditions of *N.J.A.C.* 4A:4-1.5 are met. *See also N.J.A.C.* 4A:4-4.2(c)2.

Thus, the appellant has not provided a basis to disturb the determination of the Division of Agency Services.

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 15TH DAY OF JANUARY, 2025



Allison Chris Myers
Chairperson
Civil Service Commission

⁵ A review of the available ordinances for Clark (<https://ecode360.com/CL2905>) finds that pursuant to Article VIII, §3-29B (<https://ecode360.com/15337439#15337439>), the Clark Police Department “shall consist of not more than a Chief of Police, **up to two Captains**, up to four Lieutenants...” (emphasis added).

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