



STATE OF NEW JERSEY

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

In the Matter of Kendrick Manzano,
Fire Fighter (M2205D), Bloomfield

Bypass Appeal

CSC Docket No. 2025-363

ISSUED: April 9, 2025 (EG)

Kendrick Manzano appeals the bypass of his name on the Fire Fighter (M2205D), Bloomfield eligible list.

By way of background, the appellant appeared as a non-veteran eligible on the subject eligible list, which promulgated on April 28, 2023, with 85 eligibles and expires on April 27, 2025. A certification with 32 eligibles was issued on December 29, 2023 (OL231655) with the appellant listed in the fourth position. In disposing of the certification, the appointing authority indicated that eligibles in the first and second position were not interested at that time, the eligibles in the third, fifth, eighth and ninth position were appointed, the appellant was bypassed, and the eligibles in the sixth and seventh position were removed.

On appeal to the Civil Service Commission (Commission), the appellant argues that his bypass was not warranted. He contends that he was bypassed due to his involvement as a witness in a matter in which an off-duty Police Officer had hit a pedestrian and left the scene. The appellant explained that during the interview for the present position, he explained the incident that the Police Officer was an old high school friend that asked him for a ride home. During the ride, they passed the accident scene and the friend said, "that was the deer that I hit." The appellant looked at the figure on the road, pulled over and told the friend that it was obviously a person that was struck. He exited the vehicle and noticed that the person was not alive. He told his friend that he had to contact the police. After this explanation, the

appellant claims on of the interviewers, said to him, “If you didn’t give that guy any aid, it makes me nervous that you’ll do the same thing when you’re a fire fighter.” In this regard, the appellant claims that this assessment is unfair because he was untrained, hadn’t attended an academy, and did not have proper CPR training or knowledge to deal with such a situation.

In response, the appointing authority argues that it properly exercised its discretion under the “Rule of Three” to appoint the candidate it deemed most qualified. Specifically, it stated that others performed and were rated higher during the interview process than the appellant.

CONCLUSION

N.J.S.A. 11A:4-8, *N.J.S.A.* 11A:5-7, and *N.J.A.C.* 4A:4-4.8(a)3ii allow an appointing authority to select any of the top three interested eligibles on a promotional list, provided that no veteran heads the list. Moreover, the “Rule of Three” allows an appointing authority to use discretion in making appointments. *See N.J.S.A.* 11A:4-8 and *N.J.A.C.* 4A:4-4.8(a)3ii. As long as that discretion is utilized properly, an appointing authority’s decision will not be overturned. *Compare, In re Crowley*, 193 *N.J. Super.* 197 (App. Div. 1984) (Hearing granted for individual who alleged that bypass was due to anti-union animus); *Kiss v. Department of Community Affairs*, 171 *N.J. Super.* 193 (App. Div. 1979) (Individual who alleged that bypass was due to sex discrimination afforded a hearing). Additionally, it is noted that the appellant has the burden of proof in this matter. *See N.J.A.C.* 4A:2-1.4(c).

In the instant matter, the appellant has objected to being bypassed for appointment. However, he has not provided any evidence or arguments asserting that his bypass was improper in anyway. The appointing authority asserts that it properly exercised its discretion under the “Rule of Three” to appoint the candidate it deemed most qualified, and it provided arguments in support of its contentions. In this regard, the appellant has not rebutted the appointing authority’s assertions that other candidates had better interviews. He has not presented any substantive evidence regarding his bypass that would lead the Commission to conclude that the bypass was improper or an abuse of the appointing authority’s discretion under the “Rule of Three.” Moreover, the appointing authority presented legitimate reasons for the appellant’s bypass that have not been persuasively refuted. The fact that the appellant believes the appointing authority’s decision to bypass him for not attempting to render aid to a struck pedestrian was improper, does not mean the interviewers could not consider such information in determining the candidates it deemed better qualified. Furthermore, the Commission notes that appellant does not possess a vested property interest in the position. The only interest that results from placement on an eligible list is that the candidate will be considered for an applicable position so long as the eligible list remains in force. *See Nunan v. Department of Personnel*, 244 *N.J. Super.* 494 (App. Div. 1990). Accordingly, a thorough review of

the record indicates that the appointing authority's bypass of the appellant's name on the Fire Fighter (M2205D), Bloomfield eligible list eligible list was proper, and the appellant has failed to meet his burden of proof in this matter.

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 9TH DAY OF APRIL, 2025



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