



STATE OF NEW JERSEY

In the Matter of M.R., Police Officer
(M0117D), Paterson

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

CSC Docket No. 2025-246

List Removal Appeal

ISSUED: August 13, 2025 (DASV)

M.R., represented by Michael L. Prigoff, Esq., appeals his rejection as a Police Officer candidate by Paterson and its request to remove his name from the eligible list for Police Officer (M0117D) on the basis of psychological unfitness to perform effectively the duties of the position.

By way of background, the appellant's name was certified on February 7, 2024 from the Police Officer (M0117D), Paterson, eligible list which promulgated on November 10, 2022 and expired on November 19, 2024. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis that he was not psychologically fit to perform effectively the duties of the position. It is noted that, as set forth in a report dated March 28, 2024, Dr. Karin Gepp, evaluator on behalf of the appointing authority, found "indicators of current significant psychological and intellectual difficulties that would rule out [the appellant's] selection as a Paterson Police Officer." A Certification Disposition Notice (notice of removal), dated July 3, 2024, was sent to the appellant. A notice of removal for psychological reasons informs candidates that should they wish to file an appeal, they may do so within 20 days from the date of the notice. *See N.J.A.C. 4A:4-6.5(c)2.* Thus, an appeal of removal for psychological reasons from the February 7, 2024 certification was due on or before July 23, 2024. In a letter postmarked July 29, 2024, M.R., through his attorney, filed an appeal of his psychological disqualification.

Thereafter, agency staff advised the appellant that his request for an appeal of his removal was untimely pursuant to *N.J.A.C. 4A:4-6.5(c)2.* However, the appellant

was informed that *N.J.A.C. 4A:1-1.2(c)* provides that the Civil Service Commission (Commission) may relax rules for good cause in a particular situation, on notice to affected parties, in order to effectuate the purposes of Title 11A, New Jersey Statutes. Thus, the appellant was provided with an opportunity to submit a reason for his late filing and evidence to substantiate his claim in order for the Commission to determine whether there is good reason to accept his late appeal. The appellant was also advised that should the appeal proceed, he would have 90 days from July 23, 2024, or by October 21, 2024, to submit an independent psychological report if he chose to do so. In that regard, the appellant presented a report, dated October 7, 2024, by Dr. Sandra L. Morrow, who evaluated the appellant and recommended that “within a degree of psychological certainty,” the appellant was a suitable candidate for a position as a Police Officer with Paterson.

In response, the appellant certifies that he was not notified of the time to file an appeal until July 10, 2024, when he received the notice of removal. He argues that the language in the notice of removal is not consistent with the language of the controlling regulation. As such, he maintains that his appeal, which was postmarked July 29, 2024, should be considered timely. He urges the Commission to “harmonize the language of the regulation and that of the [notice of removal] to prevent this issue from arising in the future.” It is noted that the appellant does not submit a copy of his notice of removal, but he acknowledges that the notice states that appeals must be filed within 20 days after the date of the notice. However, the appellant’s attorney certifies that “over the years” he was advised by agency staff on at least two occasions that while the notice of removal states that the appeals must be filed within 20 days after the date of the notice, he was informed that such appeals will be considered to be timely filed within 20 days after the date of *receipt*. The attorney submits that he was “recently” informed that the Commission is treating the filing date as being 20 days after the date of the notice of removal. He states that he will “diary future appeals accordingly.” In the present case, the attorney set the due date as July 30, 2024, 20 days after the appellant received the notice of removal. He notes that the appellant paid a retainer on July 22, 2024, and he opened a file. The attorney then checked his calendar which showed that the appeal “had to be filed” by July 30, 2024. He also notes that he had “contractors in our house upending our routine and [he] had to travel out of town.” The attorney indicates that he was finally able to prepare the appeal letter and file the appeal on July 29, 2024.

CONCLUSION

Initially, *N.J.A.C.* 4A:4-6.5(a) states in part that an appointing authority may request that an eligible's name be removed from an eligible list due to disqualification for medical or psychological reasons which would preclude the eligible from effectively performing the duties of the title. Additionally, *N.J.A.C.* 4A:4-6.5(c) provides that upon receipt of satisfactory documentation, appropriate Commission staff shall notify the eligible that:

1. He or she has been disqualified for appointment;
2. He or she may file an appeal with the [Commission] within 20 days of such notification;
3. If no appeal is received within the specified time, his or her name will be removed from the eligible list; and
4. If the eligible does file an appeal, an opportunity will be provided to submit a report from a physician, psychologist or psychiatrist of his or her own choosing.

Therefore, there is no disparity between the notice of removal and the language in the regulation as expressed by the appellant and his attorney. *N.J.A.C.* 4A:4-6.5(c)2 clearly states that an appeal is to be filed "within 20 days of such notification" and not 20 days from when the appellant receives the notice of removal. Moreover, *N.J.A.C.* 4A:4-6.5(c)3 specifically states that if no appeal is filed within the specified timeframe, the eligible's name will be removed from the eligible list. This is unlike the regulatory guidelines for other administrative appeal timeframes as the rules governing the medical and psychological disqualification appeal process mandate removal of the eligible's name from the eligible list if no appeal is received within the required 20-day timeframe from the date on the notice. The strict timeframe to file medical and psychological disqualification list removal appeals is necessary given the unique implications a potentially meritorious appeal can have on the parties, *i.e.*, a mandated appointment of the eligible with a retroactive date of appointment. *See In the Matter of Stanley Kolbe, Jr.* (CSC, decided May 21, 2014) (Commission enforced prior order granting retroactive appointment to the appellant after a mandated appointment resulting from successfully appealing a failed psychological evaluation and dismissed the appointing authority's claims of fiscal constraints and recent layoff when three employees who ranked lower than the appellant on eligible list were not impacted by the layoff).

As such, unlike the rules governing other types of written record appeals in Title 4A, the medical and psychological disqualification appeal rules contain a number of specific timeframes for each of the parties to act. For example, upon receipt of a timely medical and psychological disqualification appeal, the appointing authority is required to submit to the Commission, an appellant's attorney, and/or licensed physician or psychologist/psychiatrist, all medical/psychological reports, etc.,

that served as the basis for the removal request. An appointing authority's failure to do so could result in retention of the eligible's name on the eligible list. *See N.J.A.C. 4A:4-6.5(d)*; *see also, In the Matter of R.S.* (CSC, decided September 20, 2017) and *In the Matter of Kiahna Walcott, et al.* (CSC, decided April 5, 2017) (Despite being provided with the opportunity, the appointing authority did not provide the medical documentation of the appellants for review by this agency to uphold its requested list removal. Accordingly, the Commission restored the appellants to the eligible list and ordered their appointments as County Correction Officers. The appointing authority's failure to submit the medical evaluations constituted an unreasonable delay and it was warned that any future delays in complying with the timeframes would result in being subjected to fines).

Moreover, in order to further facilitate the timely processing of these types of appeals, the Commission amended *N.J.A.C. 4A:4-6.5(e)*, effective June 21, 2017, to require that the appellant, if he or she chooses to do so, to submit a report from a physician or psychologist/psychiatrist to rebut the appointing authority's report within 90 calendar days of filing of the appeal. *See 49 N.J.R. 492*. In addition, should the matter be referred to the Medical Review Panel or Medical Examiners Panel, upon issuance of the panel's recommendation and report to the Commission, the parties may file exceptions within 10 days and cross exceptions within five days. As noted earlier, these strict timeframes are in place to facilitate the timely processing of these appeals. They are designed to facilitate the opportunity for the parties to establish a contemporaneous record of an eligible's medical or psychological condition at the time of appointment for the panel to consider. In that regard, it is noted that based on longstanding administrative practice, a psychological assessment for employment in law enforcement is only considered valid for one year. *See In the Matter of Aleisha Cruz* (MSB, decided December 19, 2007), *aff'd on reconsideration* (MSB, decided April 9, 2008). As such, the timeliness of initial appeals in these matters is imperative. *Compare, N.J.A.C. 4A:2-1.1(b)* ("*Unless a different time period is stated, an appeal must be filed within 20 days after either the appellant has notice or should reasonably have known of the decision, situation, or action being appealed*") and *N.J.A.C. 4A:4-6.6(a)* ("Appeals other than scoring, item, and administration appeals . . . and *medical and/or psychological disqualification appeals* . . . shall follow the following procedures: 1. The appeal shall be filed within 20 days of notice of the action, decision, or situation being appealed. 2. An appeal must be filed with an appropriate representative of the [Commission] as indicated on the notice advising of disqualification." *Emphasis added*).

The Commission emphasizes that the purpose of time limitations is not to eliminate or curtail the rights of appellants, but to establish a threshold of finality. In the instant case, the delay in filing the appeal exceeds that threshold of finality. However, as noted above, the Commission has the discretionary authority to relax rules for good cause. In that regard, *N.J.A.C. 4A:1-1.2(c)* provides that the rules may be relaxed for good cause in a particular situation, on notice to affected parties, in

order to effectuate the purposes of Title 11A, New Jersey Statutes. Thus, it is appropriate for the Commission to consider whether the delay in asserting the appellant's right to appeal was reasonable and excusable. *See Syby, supra, Atlantic City v. Civil Service Commission*, 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 Board of Education*, 90 N.J. 145 (1982).

In this case, although arguably the delay was a *de minimus* infraction, the appellant has not presented a sufficient reason that would excuse such delay when clearly the notice of removal advised him when and where to file his appeal. *See e.g., In the Matter of H.P.* (CSC, decided June 6, 2018) (Even though the appellant's delay was arguably a *de minimus* infraction, there was not good cause to relax the rules as the appellant did not present a sufficient reason as to why he did not file the appeal in a timely fashion). Moreover, to the extent that the appellant may have relied on his representative to file a timely appeal, relief has not been given in that regard. *See e.g., In the Matter of Annemarie Krusznis* (MSB, decided May 18, 2005) (Appellant's reliance on her attorney to file a timely good faith appeal of her layoff did not provide a basis to grant relief when the attorney never filed the appeal and appellant subsequently filed an untimely appeal); *In the Matter of George Phillips*, Docket No. A-2296-02T2 (App. Div. April 6, 2004) (Notwithstanding appellant's contention that he and his counsel were misled by the union to believe that an appeal had been filed, the Superior Court of New Jersey, Appellate Division, affirmed the decision denying appellant's appeal of his removal as untimely since it was filed beyond the 20 day filing period). The responsibility to file a timely appeal rests solely with the appellant. Furthermore, failure to recognize or to explore the legal basis for an appeal, without more, does not constitute good cause to extend or relax the time for appeal under Civil Service rules. *See In the Matter of Nasira Johnson* (CSC, decided August 5, 2009), citing *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 the time to initiate legal action).

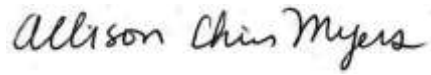
Accordingly, considering the regulations governing these types of appeals and the fact that the appellant was specifically informed of the time requirement in the notice of removal, he has failed to show good cause to justify relaxing the time requirements of N.J.A.C. 4A:4-6.5(c)2.

ORDER

Therefore, it is ordered that this appeal be dismissed as untimely.

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 13TH DAY OF AUGUST, 2025



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