



STATE OF NEW JERSEY

In the Matters of Patrick Geary and
Charles Dishon, Ocean County

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

CSC Docket Nos. 2025-2411 and
2025-2480

Administrative Appeals

ISSUED: September 10, 2025 (HS)

Patrick Geary and Charles Dishon appeal the disposition of the February 21, 2025 certification of the County Correctional Police Lieutenant (PC1693A), Ocean County, eligible list. These appeals have been consolidated due to common issues presented.

As background, the County Correctional Police Lieutenant (PC1693A) eligible list promulgated on November 11, 2021 with an original expiration date of November 10, 2024. The PC1693A list was then extended until the new County Correctional Police Lieutenant (PC4256E) promotional list became available for certification and appointments. *See N.J.A.C. 4A:4-3.3(e)*. The PC4256E list, in turn, promulgated on March 20, 2025 and expires on March 19, 2028. Prior to the promulgation of the PC4256E list, a certification issued from the PC1693A list on February 21, 2025 (PL250290) to the appointing authority with a disposition due date of May 21, 2025. The appointing authority returned the certification on May 13, 2025. In disposing of the certification, the appointing authority, in pertinent part, appointed Jeffrey Pluta, effective April 17, 2025, and John DeMarco, effective May 8, 2025. On July 14, 2025, a certification (PL251245) issued from the PC4256E list to the appointing authority. In disposing of this certification, the appointing authority, in pertinent part, regularly appointed Geary, effective August 7, 2025.

On appeal to the Civil Service Commission (Commission), the appellants contend that the Pluta and DeMarco appointments violated *N.J.A.C.* 4A:4-4.8(b), which provides:

The appointing authority shall notify the Civil Service Commission of the disposition of the certification by the disposition due date in the manner prescribed by the Chairperson or designee. The disposition due date may be extended beyond the expiration date of the eligible list to fill current vacancies. Under no circumstances shall a disposition due date be extended beyond the expiration date of the eligible list when vacancies do not exist. An anticipated vacancy shall not be considered the same as an existing vacancy.

Specifically, the appellants maintain that as of February 21, 2025, when the PC1693A list was certified, no genuine vacancies existed. In this regard, they argue that the first genuine vacancy did not arise until April 1, 2025, the effective date of the retirement of County Correctional Police Lieutenant Ernie Mastria, and that the second genuine vacancy similarly did not arise until after the promulgation of the new PC4256E list. Thus, according to the appellants, both appointments should have been made from the new PC4256E list. They rely on *In the Matters of Fabio Cologna, et al., Hoboken* (CSC, decided August 23, 2023), *aff'd*, Docket No. A-0352-23 (App. Div. Feb. 13, 2025), for the proposition that a genuine vacancy arises on the date of retirement, not the date the employee files for retirement.

In response, the appointing authority, represented by Robert D. Budes, Esq., relates that on February 4, 2025, Mastria advised that he had filed for retirement with an effective date of April 1, 2025, meaning that his last day of employment would be March 31, 2025. Thus, the appointing authority requested a certification (later issued as PL250290) from the then-active PC1693A list in advance of the upcoming genuine vacancies, *i.e.*, Mastria's retirement on April 1, 2025 and the new/additional County Correctional Police Lieutenant position authorized and created on April 30, 2025. Pluta's appointment filled the vacancy left by Mastria's retirement, while DeMarco's appointment filled the vacancy created by the newly authorized position.

The appointing authority asserts that it was not required to have any existing genuine vacancies when it requested the certification from the PC1693A list. Rather, it was only required to have the genuine vacancies when it made the actual promotions from the certification (PL250290). In this case, the appointing authority states, both genuine vacancies existed prior to the promotions of Pluta on April 17, 2025 and DeMarco on May 8, 2025. Both promotions were names from an active and viable certification. The issuance of the PC4256E list only caused the disposition of the PC1693A list, and it did not cause the disposition of the certification (PL250290). The certification remained active and promotable from until it was returned to this

agency to be disposed of or its required date of disposition of May 21, 2025, whichever was sooner.

CONCLUSION

It is settled the extension of a certification disposition due date beyond the expiration date of a list should only be granted to fill current vacancies. *See In the Matter of William J. Brennan and Fire Lieutenant (PM1201T) and Fire Captain (PM1191T), Township of Teaneck* (MSB, decided April 9, 2003); *In the Matter of Police Lieutenant (PM1356W), City of Hoboken* (Commissioner of Personnel, decided December 17, 2002). In *Brennan, supra*, extensions of the certification disposition due dates were granted beyond the life of the eligible lists for Fire Lieutenant (PM1201T) and Fire Captain (PM1191T) in order to fill anticipated vacancies in the titles due to retirements. On remand from the Appellate Division, the former Merit System Board (Board) determined that genuine vacancies did not yet exist at the time the subject eligible lists were certified or when the certification disposition due dates were extended. In the meantime, new lists for Fire Lieutenant and Fire Captain were being promulgated. Thus, the Board concluded that vacancies must actually exist to justify revival of eligible lists or extend certification disposition due dates beyond list expiration dates. The Board stated that this approach would accommodate the policy of avoiding stale lists and the principle of merit and fitness. Similarly, in *In the Matter of Police Lieutenant (PM1356W), supra*, the Commissioner of Personnel determined that although it was permissible to revive and extend an eligible list to effectuate appointments to newly-created positions, good cause did not exist to extend a list due to anticipated future retirements. The Commissioner of Personnel observed that an intention to retire does not necessarily result in a vacancy, and hence, is not sufficient good cause to extend an eligible list. *See also, In the Matter of Police Officer (S9999B), City of South Amboy* (MSB, decided May 7, 2003) (Where the filling of vacant positions was contingent upon the receipt of funding, genuine vacancies did not exist until actual receipt of funding); *In the Matter of Police Captain (PM3536B), City of Hoboken* (MSB, decided January 28, 2004). It should be underscored that, in response to *Brennan*, the Commission amended *N.J.A.C. 4A:4-4.8*. Specifically, *N.J.A.C. 4A:4-4.8(b)* provides that “[u]nder no circumstances shall a disposition due date be extended beyond the expiration date of the eligible list when vacancies do not exist.”

In the instant matter, the appellants challenge the disposition of the February 21, 2025 certification from the County Correctional Police Lieutenant (PC1693A) eligible list indicating, in pertinent part, two appointments made. They contend that no genuine vacancies existed at that time, and the appointments should have been made via the PC4256E list. The record here reflects that the February 21, 2025 certification had been issued with a disposition due date of May 21, 2025. The PC1693A list expired with the promulgation of the new PC4256E list on March 20, 2025. Thus, as of that date, the disposition due date for the February 21, 2025

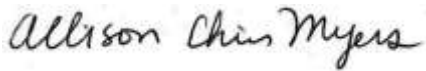
certification in effect extended beyond the expiration date of the PC1693A list, and appointments could be made from that certification only if current vacancies existed. However, there were only anticipated vacancies at that time. In this regard and as noted above, an anticipated retirement does not create a genuine vacancy. Mastria was not to retire until April 1, 2025. Additionally, the second vacancy was not authorized and created until April 30, 2025. In short, both vacancies only genuinely arose during the life of the new PC4256E list. Therefore, the appointing authority should have returned the certification indicating no appointments made, *see N.J.A.C. 4A:4-4.8(b)*, and the Commission is constrained to direct the appointing authority to rescind the appointments of Pluta and DeMarco and return them to their former permanent titles. The current PC4256E list must be utilized to fill any vacancies.

ORDER

Therefore, it is ordered that these appeals be granted, and the appointments of Jeffrey Pluta and John DeMarco be rescinded.

This is the final administrative determination in these matters. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 10TH DAY OF SEPTEMBER, 2025



Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Patrick Geary (2025-2411)
Charles Dishon (2025-2480)
Robert A. Greitz
Robert D. Budesha, Esq.
Division of Human Resource Information Services
Division of Agency Services
Records Center