



**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. 2026-852 and  
2026-902

Request for Reconsideration  
Administrative Appeal

**ISSUED: April 8, 2026 (HS)**

Ocean County, represented by Robert D. Budesa, Esq., requests reconsideration of the decision of the Civil Service Commission (Commission) in *In the Matters of Patrick Geary and Charles Dishon, Ocean County* (CSC, decided September 10, 2025). Patrick Geary, a County Correctional Police Lieutenant with Ocean County, requests a retroactive date of appointment. These matters have been consolidated herein.

As background, the County Correctional Police Lieutenant (PC1693A), Ocean County, 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), Ocean County, eligible 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 containing the names of the following nonveteran eligibles: appellant Geary, Charles Dishon, and Derek Horvath, who ranked first, second, and third on the list respectively. In disposing of this certification, the appointing authority permanently appointed Geary effective August 7, 2025.

In the prior decision, the Commission noted that Geary and Dishon had challenged the disposition of the February 21, 2025 certification from the PC1693A eligible list indicating, in pertinent part, two appointments made. They contended that no genuine vacancies existed at that time, and the appointments should have been made via the PC4256E list. The record reflected 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, an anticipated retirement did not create a genuine vacancy. Ernie 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 Commission determined that the appointing authority should have returned the certification indicating no appointments made, *see N.J.A.C. 4A:4-4.8(b)*, and it was constrained to direct the appointing authority to rescind the appointments of Pluta and DeMarco and return them to their former permanent titles. The PC4256E list needed to be utilized to fill any vacancies.

Agency records indicate that, effective December 4, 2025, Pluta and DeMarco were returned to their former permanent title, County Correctional Police Sergeant.

### **Request for Reconsideration**

On reconsideration, the appointing authority argues that for “all practical purposes” a vacancy did exist at the time that it requested the certification from PC1693A. In that regard, the appointing authority presents that Mastria had requested a leave of absence of five weeks and four days beginning on February 20, 2025 with a return date of April 1, 2025, the date of his scheduled retirement. It is the appointing authority’s position that a legitimate vacancy had occurred as of February 18, 2025 because Mastria was not available to work in any capacity and the end date of the inability to work corresponded with the application that he submitted for his retirement. Therefore, the appointing authority argues, even if it were to be concluded that a promotional position has to be available at the time of the request for the certification, that requirement was fulfilled.

Further, the appointing authority contends that it clearly needed a certification and such position is supported by the provisions of *N.J.A.C. 4A:4-4.1(a)*:

When a vacancy is to be filled in the competitive division of the career service from an eligible list, the appointing authority shall request a certification of names for regular appointment. Such request shall be

submitted in advance under procedures set by the Chairperson or designee to enable the appropriate Commission staff to issue or authorize the necessary certification or advise that there is no appropriate eligible list.

As a result of the above-referenced rule, the appointing authority calls into question the position that a genuine vacancy had to exist (though it maintains that such a requirement was fulfilled here) prior to calling for a certification since such a requirement would impede the ability to operate the jail. First, the jail was short one County Correctional Police Lieutenant since Mastria could not be at work and the obtaining of the list does not automatically give rise to a situation where an appointment can be made immediately. In the best interests of the operation of the jail, planning had to be commenced with interviews of the various individuals on the certification to conclude which appointments would be the most advantageous from the employer's perspective to fill the vacant slot. Therefore, the appointing authority proffers that it makes no sense to have to wait until there is an alleged genuine vacancy to start the process to fill that vacancy and keeping in mind, however, that it maintains there was a genuine vacancy that existed due to the condition of Mastria not being able to fulfill the duties of a County Correctional Lieutenant.

Additionally, the appointing authority argues that, once the valid certification was created, appointments could be made from it until its disposition due date of May 21, 2025. It contends that there is no provision in the Civil Service rules that indicates that once a new valid certification has been issued, which is the case in this instance, that the certification is automatically extinguished prior to the end date set forth in the certification itself. The appointing authority explains that it received information from this agency that the PC1693A list was extended for one year or until a new list was promulgated. As a result, it asked for a certification from that eligible list for the positions it had to fill, which was then forwarded to it. In addition, the appointing authority points out that, as to the validity of utilizing that certification for appointment, this agency's website reads as follows in response to the following Frequently Asked Question (FAQ), "What happens if I am certified from an Eligibility List and that list expires?" The statement sets forth the following as the answer:

When a Certification List is issued prior to the list expiring, the Appointing Authority may make appointments from the Certification up to the date that the Certification is due to be returned to the Civil Service Commission.

The appointing authority argues that this information further buttresses its position.

In addition, the appointing authority argues that there is a strong equitable argument to be made to reverse the prior decision. In that regard, the appointing authority provides the certified statement of Joseph Valenti, a County Correctional

Police Warden. Several issues, according to the appointing authority, are clear from Valenti's submission, the first being that he, in fact, delayed the request for certification on several occasions because there was the anticipation that a new list was going to be issued. He had contacted this agency on several occasions, but the response was that there seemed to be no indication of exactly when that list would be promulgated. Therefore, Valenti requested the certification in order to be prepared to make appropriate appointments in a timely fashion to ensure proper functioning of the jail.

Additionally, the appointing authority highlights that per Valenti's certification, on May 9, 2025, there was a wardens' conference. There, Valenti and Michael Archibald, a County Correctional Deputy Police Warden, met with the former Chair/Chief Executive Officer (CEO) and several other Commission employees and explained exactly what steps were taken with regard to this entire issue. At that time, they were assured that the steps followed by the appointing authority were appropriate and that the utilization of the certification was proper even though a new list of eligibles had been generated. This, the appointing authority contends, obviously was at odds with the Commission's ultimate decision, which was not rendered until September 10, 2025, which is well after the dates of promotion for Pluta (April 17, 2025) and DeMarco (May 8, 2025).

The appointing authority proffers that if, in fact, the procedures it used were incorrect, it should have been advised at that conference or shortly thereafter when the certification was returned since this agency was aware of the procedure that it followed. It is the appointing authority's position that it would have been incumbent upon this agency to contact the warden immediately and advise that the procedures followed were, in fact, not correct. If it was concluded that incorrect procedures were followed, corrections could have been made in a timely fashion as opposed to months after the fact as is directed by the Commission's prior decision, causing tremendous disruption not only in the operation of the jail but in the lives of Pluta and DeMarco who had been promoted.

In support, the appointing authority provides copies of, among other things, the following: a doctor's note indicating that Mastria "can return to work 3-31-2025;" Mastria's request for a leave of absence without pay reflecting a return to work date of April 1, 2025;<sup>1</sup> and Valenti's certified statement, where he describes the wardens' conference as follows:

10. I, along with [Archibald], attended a wardens' conference on May 9, 2025 and spoke directly with [the Chair/CEO] and several other [Commission] employees and we had a lengthy and specific discussion about what had already occurred with regard to one appointment of

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<sup>1</sup> It appears from the face of this document that the original return to work date of March 31, 2025 was crossed out and replaced with April 1, 2025.

lieutenant (Pluta) and, further, that a second appointment of John DeMarco for the new position that was to be created by the Board of Commissioners.

11. I would reiterate that the discussion was very specific with reference to all of the relevant documents and timeframes and we were assured at that meeting that we were following all the procedures correctly under civil service rules.

12. As a result of the referenced discussion and our own investigation, we feel strongly that we followed all of the appropriate procedures in order to make the two lieutenant appointments and were rather shocked and dismayed at the decision by the [Commission], which decision we feel is erroneous.

In response, Geary maintains that the appointing authority had violated *N.J.A.C. 4A:4-4.8(b)* by making the two promotional appointments, Pluta on April 17, 2025 and DeMarco on May 8, 2025, from an expired eligible list (PC1693A) to fill vacancies that did not exist prior to the list's expiration on March 20, 2025. These appointments were made weeks after the list expired and after a new list (PC4256E) had been promulgated. The regulation is clear and well settled through decisions such as *In the Matter of William J. Brennan and Fire Lieutenant (PM1201T) Fire Captain (PM1191T), Township of Teaneck* (MSB, decided April 9, 2003) and *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) that anticipated vacancies cannot justify post expiration appointments. Geary argues that the appointing authority was explicitly warned of this legal prohibition before it acted:

- On March 22, 2025, Geary sent Archibald an email informing him that promoting Pluta and DeMarco under these circumstances would violate Civil Service law. In the email, Geary cited *N.J.A.C. 4A:4-4.8(b)* and *Cologna, supra*, and stated that “no ‘genuine vacancy’ exists until 4/1/25, when [Mastria] is due to retire. Therefore, no certification can be legally requested until that date.” He also stated, “The last thing the union wants to see happen is for someone to be promoted and then have it taken away because the promotion was not done in accordance with [Civil Service] rules.”
- On March 24, 2025, Patricia Burke, Assistant Director of Employee Relations, received a similar email advising of the same. Here, Geary urged that the February 21, 2025 certification “needs to be returned to [this agency] with no appointments made.”

Geary argues that these warnings put the appointing authority on notice of their potential violation before any promotions occurred. Rather than heeding these warnings, it proceeded anyway, making the promotions weeks later in April and May, and only afterward informally sought permission from this agency, attempting to legitimize what they had already done.

Geary contends that the appointing authority has misstated the meaning of “vacancy” in *N.J.A.C. 4A:4-4.1(a)*. The text, he avers, presupposes a vacancy that is to be filled, not a hoped for or anticipated opening. “Submitted in advance” refers to administrative lead time for issuing the certification; it is not a license to certify without a vacancy. A genuine vacancy exists when the position is actually unoccupied by an incumbent due to a legally effective separation (*e.g.*, effective retirement, resignation, or removal) or the lawful creation of a new funded position, not when the incumbent is on leave or merely expected to retire later. He asserts that treating a leave of absence plus an intended future retirement as a present vacancy collapses the rule’s threshold and invites manipulation. He complains that the appointing authority is hedging rather than offering a rule-based theory by simultaneously arguing that a vacancy is not required and insisting there was one. With respect to *N.J.A.C. 4A:4-3.3(e)*, Geary argues that this regulation works to eliminate any overlap between old and new lists; stop appointing authorities from list shopping; and protect the integrity of the merit system. Under the plain text of the rule, the old list was “legally dead the moment the new list was issued. It could not be used, extended, or relied upon for any certification or appointment.” Geary maintains that the appointing authority cannot salvage the situation by claiming that it “certified” the old list before it expired. A certification derives from a list; it never survives a superseding list in the absence of pre-expiration vacancies. The controlling moment is the date of appointment, and the rules require that appointments be made from a valid list to fill a genuine, existing vacancy, not a speculative future retirement or someone on leave. He insists the appointing authority offers no valid legal authority to support its position, only a “stray website FAQ” with no binding force.

Geary contends that there are misstatements in Valenti’s certified statement. In this regard, he points out that Valenti claims that on May 9, 2025, the Chair/CEO and other Commission staff told him he had followed the law with respect to Pluta’s promotion and the “new position to be created” for DeMarco. Geary states that, in truth, that position had already been created on April 30, 2025 and filled on May 8, 2025 - a full day before the conversation he claimed occurred. Further, he argues that Valenti only “vaguely” claims that Commission staff “assured” them that the appointing authority’s promotional actions were lawful. This allegation, according to Geary, is presented without a shred of actual evidence - no affidavit, no contemporaneous writing, and no formal approval. The claim, he argues, is entirely self-serving, surfacing only after the appointing authority was caught violating the rules. Geary also questions as suspect the appointing authority’s recordkeeping as to Mastria’s return-to-work date. Specifically, Mastria’s doctor cleared him to return on

March 31, 2025. Yet the appointing authority's own forms recast that date as April 1, 2025, even though the doctor's note the appointing authority itself introduced plainly states "3-31-2025." Geary urges that if a doctor's note authorizing an April 1, 2025 return exists, the appointing authority must produce it as a medical leave cannot be extended or curtailed without documentation from the treating doctor.

Geary maintains that reconsideration is not a "second bite at the apple" for a losing party to repackage rejected arguments or invent *post hoc* excuses. Rather, he submits that it exists to correct genuine errors or consider truly new, outcome-changing evidence, and the appointing authority's filing does neither.

It is noted that Dishon, though provided the opportunity to do so, did not make any submission in this matter.

### **Administrative Appeal**

On appeal to the Commission, Geary requests a retroactive date of permanent appointment effective April 17, 2025. Specifically, he notes that per the Commission's prior decision, the promotions of Pluta and DeMarco were rescinded. Their respective promotion dates had been April 17, 2025 and May 8, 2025. Geary notes that he was the first-ranked eligible on the PC4256E list, which should have been used to fill those vacancies, and that he was promoted to County Correctional Police Lieutenant effective August 7, 2025. Geary seeks the retroactive appointment date plus back pay from April 17, 2025 to August 7, 2025.

In response, the appointing authority requests that no action be taken until its request for reconsideration "and/or any potential litigation" is concluded.

In reply, Geary disagrees with the appointing authority's position. Specifically, he argues that no stay has been granted under *N.J.A.C.* 4A:2-1.6 and that speculative references to "potential litigation" are not recognized grounds to suspend enforcement.

## **CONCLUSION**

### **Request for Reconsideration**

*N.J.A.C.* 4A:2-1.6(b) provides that a petition for reconsideration shall be in writing signed by the petitioner or the petitioner's representative and must show the following: (1) the new evidence or additional information not presented at the original proceeding, which would change the outcome and the reasons that such evidence was not presented at the original proceeding; or (2) that a clear material error has occurred. A review of the record reveals that reconsideration is not justified.

Initially, it is noted that under *N.J.A.C.* 4A:2-1.6(b)1, a petitioner, when presenting additional information, must also present the reasons that such additional information was not presented at the original proceeding. It is not readily apparent from the record why the appointing authority could not have presented, at the original proceeding, the additional information offered here. Even if the Commission were to consider the additional information, the outcome does not change, as discussed below.

The appointing authority contends that a legitimate vacancy had occurred as of February 18, 2025 because Mastria was not available to work in any capacity and the end date of the inability to work corresponded with the application that he submitted for his retirement. The Commission disagrees. Mastria's doctor's note indicated that he "can return to work 3-31-2025," which date is one day before the effective date of retirement. The underlying basis for changing his return date to April 1, 2025 is not clear from the record. Regardless, Mastria, even as an employee on a leave of absence, still encumbered the position. Thus, his position only genuinely became vacant with his retirement, which was effective April 1, 2025. While the appointing authority may disagree and be dissatisfied that it needed to wait until a genuine vacancy existed before calling for a certification, such disagreement does not render the Commission's prior decision clearly and materially in error.<sup>2</sup> The appointing authority's reliance on *N.J.A.C.* 4A:4-4.1(a) is unpersuasive because the regulation does not speak in terms of anticipated vacancies or vacancies that are expected to arise at some point in the future. The Commission also again rejects the argument that once the February 21, 2025 certification was issued from the old PC1693A list, the appointing authority could appoint from it at any time until May 21, 2025, the certification disposition due date originally provided. The promulgation of the new PC4256E list materially changed the situation, and by operation of *N.J.A.C.* 4A:4-4.8(b), there was no longer any ability to appoint from the certification as the vacancies did not exist during the life of the old list. Further, an FAQ on this agency's website cannot supersede specific, relevant authorities.<sup>3</sup> See *Brennan, supra*; *N.J.A.C.* 4A:4-4.8(b).

Turning to Valenti's certified statement, the Commission observes a discrepancy between the statement and information that was presented in the prior matter. There, the appointing authority indicated that the second vacancy was

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<sup>2</sup> While the appointing authority complains that Mastria's leave presented an impediment to its ability to operate the jail, it was not left without recourse. See *e.g.*, *N.J.A.C.* 4A:4-1.6(b)1 (interim appointment where incumbent is on leave of absence).

<sup>3</sup> The FAQ is not incorrect, as a genuine vacancy is a prerequisite for such appointment. However, so that there is no misinterpretation, the Commission directs that the statement be revised to read as follows: "When a Certification List is issued prior to the list expiring, the Appointing Authority may make appointments from the Certification up to the date that the Certification is due to be returned to the Civil Service Commission provided that there was a genuine vacancy upon the request for certification."

authorized and created on April 30, 2025. Specifically, it had provided an email dated *April 30, 2025*, where staff of the Office of the Warden wrote:

*As a result of today's meeting with Commissioner Kelly and the granting of a new Lieutenant's position, attached please find a Personnel Action form requesting the promotion of [DeMarco] to County Correctional Police Lieutenant effective Thursday, May 8, 2025 (emphases added).*

The appointing authority had also provided a copy of the *May 7, 2025* resolution of the Ocean County Board of Commissioners granting DeMarco a regular appointment to County Correctional Police Lieutenant effective May 8, 2025. However, in the statement submitted in the instant matter, Valenti states:

*I, along with [Archibald], attended a wardens' conference on May 9, 2025 and spoke directly with [the Chair/CEO] and several other [Commission] employees and we had a lengthy and specific discussion about what had already occurred with regard to one appointment of lieutenant (Pluta) and, further, that a second appointment of John DeMarco for the new position that was to be created by the Board of Commissioners (emphasis added).*

Given the discrepancy and the fact that this statement is being offered for the first time only on reconsideration, the Commission accords Valenti's certified statement no weight. Further, any complaint that the appointing authority lacked notice of the proper procedure for disposing of the February 21, 2025 certification is unpersuasive given Geary's communications in March 2025. Regardless, the Commission's obligation in the prior matter was to render a decision in accordance with the governing regulation. Ordering that the promotions be rescinded, though unfortunate, was nevertheless appropriate under the circumstances.

Therefore, the instant reconsideration request does not present either new information to change the outcome or that a clear material error has occurred. Accordingly, the standard for reconsideration has not been met.

### **Administrative Appeal**

At the outset, the Commission notes that the appointing authority's request for reconsideration and Geary's administrative appeal seeking a retroactive appointment date have been consolidated herein. The Commission has already rendered a decision on the reconsideration request as discussed above, and it further finds that the appointing authority's general reference to "potential litigation" does not provide any substantive basis to suspend consideration of Geary's administrative appeal. Thus, the Commission will proceed to address the matter on the merits below.

*N.J.A.C.* 4A:4-1.10(c) provides that when a regular appointment has been made, the Commission may order a retroactive appointment date due to administrative error, administrative delay, or other good cause, on notice to affected parties. Generally, this unique remedy has been reserved for two particular situations. First, the Commission has granted retroactive permanent appointment dates in circumstances in which an employee was actually serving in and performing the duties of a title, but, due to some error or other good cause, his attainment of permanent status was delayed or hindered. The second situation in which an employee may be awarded a retroactive date of permanent appointment is where the name of an employee, whose appointment would have otherwise been mandated, was improperly removed from or bypassed on an eligible list, thereby preventing his appointment. Where the Commission subsequently corrects the improper list removal or bypass on appeal, the Commission also orders the employee's appointment and a retroactive date of permanent appointment commensurate with the date on which others were appointed from the certification of the eligible list. For example, when a veteran eligible is improperly removed from or bypassed on a promotional list, he is entitled to the remedy of a retroactive permanent appointment date because *N.J.A.C.* 4A:4-4.8(a)3ii requires the appointment of a veteran if a veteran heads the list, absent any reason for disqualification. See, e.g., *In the Matter of Neil Layden* (MSB, decided March 23, 2005) and *In the Matter of Ciri Castro, Jon Martin, and Luis Sanchez* (MSB, decided January 12, 2005).

Neither situation is presented in the instant matter. Initially, there is no evidence in the record that Geary was actually serving in or performing the duties of a County Correctional Police Lieutenant at any time prior to his August 7, 2025 permanent appointment. Likewise, the circumstances of the instant matter do not demonstrate that his appointment to the County Correctional Police Lieutenant title would have been mandated at any time. See *Nunan v. Department of Personnel*, 244 *N.J. Super.* 494, 497 (App. Div. 1990) (a candidate on an eligible list only has an expectancy interest in appointment); *In re Crowley*, 193 *N.J. Super.* 197, 210 (App. Div. 1984) ("The only benefit inuring to such a person is that so long as that list remains in force, no appointment can be made except from that list."); see also, *N.J.A.C.* 4A:4-4.8(a)3 (appointing authority may choose any of the top three eligibles for permanent appointment).

Accordingly, the Commission finds that Geary has not established his entitlement to the extraordinary remedy of a retroactive date of permanent appointment to the title of County Correctional Police Lieutenant.

### **ORDER**

Therefore, it is ordered that both Ocean County's request for reconsideration and Patrick Geary's administrative appeal be denied.

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 8<sup>TH</sup> DAY OF APRIL, 2026



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