

B-25



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Michael Petronaci,
Police Lieutenant (PM1213T),
Bloomfield

Examination Appeal

CSC Docket No. 2016-1268

ISSUED: ~~007~~ 13 2015 (RE)

Michael Petronaci, represented by Brian Aloia, Esq., appeals the denial of his admittance, by the Division of Agency Services (DAS), to the promotional examination for Police Lieutenant (PM1213T), Bloomfield.

The subject examination announcement had an issue date of July 1, 2015 and a closing date of September 30, 2015, the date that eligibility must be established. It was open to employees in the competitive division who possessed an aggregate of one year of continuous permanent service as of the closing date in the title Police Sergeant. The announcement indicated that the application deadline was July 24, 2015, and that online applications must be submitted by this date. The original closing date was July 21, 2015, but due to computer problems, the date was extended to July 24, 2015. At the far top right corner of the announcement is the message "Click here to file online," which candidates could do, having received the announcement by email. At the top of the announcement was the message, "Visit www.state.nj.us/csc and select 'Job Announcements' to view this announcement and to file an application." A note on the application read: "An abbreviated 1-page application is being used for this announcement. No detailed information regarding your education, experience, training, etc. is required. Please do not send any additional documents (transcripts, resumes, etc.) to the NJCSC." Note 6 under important information stated in bold letters, "If you are having difficulty submitting your application online, technical support and customer care are available during regular business hours ... Please note that application support requests received outside regular business hours on the closing date will not change the application filing deadline so PLEASE FILE EARLY." Seven candidates submitted online

applications and have been admitted to the examination, which has not yet been held.

Mr. Petronaci requested admittance to the examination, giving his credentials and indicating that he had been in a study group, but had mistakenly missed the deadline. In a letter dated August 1, 2015, he states that he had numerous personal and family issues over the past few weeks, including caring for three children with pneumonia, and that he had misread the civil service information on the website. He indicated that he was not familiar with the new online application process, and had been waiting for a paper application as in the past. He states that on August 1, 2015 he learned for the first time that it was his responsibility to file online. DAS responded that it had contacted the Personnel Director for the City of Bloomfield and learned that the Police Department changed the way in which Officers receive notifications. The Police Department has a new electronic online system, and the announcement was sent to each officer's inbox. According to the Personnel Director, officers are to check their inbox daily and she indicated that the appellant logged in and signed for the announcement on July 10, 2015. DAS indicated that the announcement was posted from July 1 to 21, 2015, and access to the application was available 24 hours each day during the three week posting period. Given the totality of the circumstances, DAS denied the appellant's request.

On appeal, the appellant indicates that he was disqualified under *N.J.A.C. 4A:4-6.1(a)8* for failure to pay the required application processing fee in a timely manner. He argues that he was unaware that the filing procedure had been changed, requiring registration for examinations to be conducted online. He indicates that he did not read the announcement carefully, but wrote a letter requesting admittance when he became aware of this oversight. He states that he had numerous personal and family issues throughout the month of July, which caused him to miss a significant amount of work, and that he only worked seven days from July 1 to 21, 2015. At the time, he was the sole caregiver during the day for his three children who were all sick with pneumonia, and he provides medical documentation.

He states that he has been attending a study group and studying for the examination, and has been encouraged by his supervisor to take the examination. His supervisor provides a letter in support of this appeal, describing the appellant's exemplary performance as a Police Sergeant and his awareness that the appellant was undergoing hardships in his personal life during the month of July, while studying for the examination. His supervisor opines that the untimeliness of the appellant's filing was a mere technicality and not due to laziness on his part.

The appellant relies on *In the Matter of Javier Rosario, County Correction Sergeant (PC1211P), Hudson County (CSC, decided May 7, 2014)*. In that matter,

Mr. Rosario missed filing an online application by the deadline date, December 5, 2012, as he had no Internet access and was living in devastating conditions after Hurricane Sandy, which made landfall in New Jersey on October 29, 2012. He stated that he was just getting back on his feet with major repairs he had to make to his home, and he also had been helping to care for his father who was battling cancer, and was assisting in rebuilding the Hudson County jail. He states that he had no access to computers at the jail, and his home computer had been destroyed in the storm. The Commission found good cause to admit Mr. Rosario to the examination. Mr. Petronaci claims he was similarly situated, and that he suffered a family hardship by attending to sick children for an extended period of time. He states that he missed a significant amount of work to tend to his family's needs, while Mr. Rosario did not miss work.

He also relies on *In the Matter of Jeffrey Martin, Police Lieutenant (PM1480R) Little Egg Harbor Township* (CSC, decided September 18, 2013). In that decision, paper applications had to be filed by June 21, 2013, and Martin argued that he had not received the application as it was in a white envelope out of plain sight and not noticeable. In support of that appeal, the Chief of Police indicated that the appellant supervised the investigations unit which had been operating at 50% of its former strength due to budget cutbacks, and that crime had been up after Hurricane Sandy. The Chief stated that he was relying heavily on Sergeant Martin to handle criminal threats and burglaries in the shore area. The Chief supported Sergeant Martin's contention that the physical posting of the required notice was in an area outside of the detective bureau, not in his assigned area, and that his individual notice may have been placed in a common notice tray in the detective bureau. The Commission admitted the appellant on the Chief's indication that the appellant may not have been properly notified. Mr. Petronaci indicates that he is similarly situated, as he enrolled in the test preparation class like Sergeant Martin, and that he was not properly notified, since he was unaware that the application procedure had been recently changed to require all applications to be done solely online. He requests that his situation be taken in the aggregate, the change in the internal notification procedure, his sick children, his enrollment in a preparation course, his longstanding tenure with the police department, and his unfamiliarity with new procedures, to demonstrate good cause warranting relaxation of *N.J.A.C. 4A:4-2.1(e)* to admit him to the examination.

N.J.A.C. 4A:4-2.1(e) states that, unless otherwise provided for by the Chairperson of the Civil Service Commission or designee, applications for open competitive and promotional examinations shall be submitted to the Civil Service Commission no later than 11:59 P.M. on the announced application filing date. When an application is mailed, the application's postmark date shall be considered the date on which the application is submitted.

CONCLUSION

The appellant was denied admittance to the subject examination since he did not submit an on-line application by the application deadline date. While the procedures may have changed, all candidates were amply notified. The announcement clearly indicates in multiple areas that candidates must file online, the most prominent of which is directly under the application filing deadline date. In addition, there is no address to send a paper application. Instead, in that space, there are instructions to visit the website to view the announcement and file an application. Further, the appointing authority sent each candidate the announcement in an email. The appellant does not indicate that the appointing authority did not properly notify him of the examination, but that he was not told to file an application online. However, the announcement could not have been clearer that on-line filing was required, and the appellant did not do so, even though the filing deadline was extended to July 24, 2015. The appellant was not similarly situated to *Martin*, as he was given proper notification of the examination. Lastly, the Commission issues an Examination Information Alert, available on its website, which lists tentative dates, including the closing dates for the examinations in the Police title series. The appellant does not explain why he did not ask his human resources office for a paper application by July 21, 2015, if he felt that this was the proper procedure.

The appellant's personal circumstances, caring for sick children are not the same as the circumstances in *Rosario*. While Sergeant Rosario was caring for a sick father, he was admitted to the examination due to the lack of Internet access and a computer during the filing period as a result of Hurricane Sandy. The appellant did not indicate that he did not have Internet access or access to a working computer during the 24 day filing period. While he may have been busy, filing an application requiring no detailed information would not take more than 15 minutes at the most. While the appellant had been caring for sick children, he does not claim he lacked Internet access and/or access to a computer. Moreover, he had been properly notified. As such, the appellant has not presented good cause for acceptance of an untimely application.

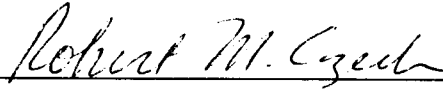
A thorough review of all material presented indicates that the appellant has failed to support his burden of proof in this matter.

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 7th DAY OF OCTOBER, 2015



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