



STATE OF NEW JERSEY

In the Matter of Lori Martin, County  
Correction Captain (PC2535T), Ocean  
County

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket No. 2016-1747

Examination Appeal

ISSUED: OCT 19 2016 (JH)

Lori Martin appeals the determination of the Division of Agency Services, which found that she was ineligible for the promotional examination for County Correction Captain (PC2535T), Ocean County.

The subject examination was open to employees in the competitive division who had an aggregate of one year of continuous permanent service and were serving in the County Correction Lieutenant title in the Ocean County Department of Corrections as of the November 21, 2015 closing date. A review of Ms. Martin's employment record finds that she received a regular appointment to the County Correction Lieutenant title effective January 22, 2015. Thus, the Division of Agency Services concluded that the appellant did not possess the requisite year in grade. Consequently, the appellant was found ineligible for the subject promotional examination.

On appeal, Ms. Martin argues that she "was promoted to County Correction Lieutenant (acting) on [sic] via memorandum dated 23 October, 2014 and served as a Lieutenant since 06 November, 2014. The county failed to formally adopt the promotional resolution until 22 January, 2015." She presents that she has "repeatedly sought clarification" from the former Warden, Ted Hutler, the current Warden, Sandra Mueller, and the Ocean County Director of Employee Relations, Keith Goetting, but "all attempts at rectifying this issue have either been ignored or inaction [sic]. For reasons unknown, the County of Ocean failed to formally adopt a promotional resolution for eleven (11) weeks." Ms. Martin notes that she has been "working in this title since November 6, 2014 and am respectfully requesting that

list. The first certification of the PC2071R list, which issued on August 22, 2014 (Certification No. PL141062), contained the names of the eligibles who appeared at ranks 1 through 3. In disposing of Certification No. PL141062, the appointing authority appointed the first ranked eligible, William Thompson, effective September 18, 2014. The second certification of the PC2071R list, which issued on December 9, 2014 (Certification No. PL141516), contained the names of the eligibles who appeared at ranks 2 through 4. In disposing of Certification No. PL141516, the appointing authority appointed two eligibles, Ms. Martin, effective January 22, 2015, and the third ranked eligible, Michael Archibald, effective February 5, 2015.

The Commission notes that generally, an award of a retroactive appointment date “for seniority purposes only” is limited to situations in which an appellant could have been appointed on the subject date, but through administrative error or administrative delay, received a later appointment date, or for other good cause. See *N.J.A.C. 4A:4-1.10(c)*. In the present matter, the appellant argues that she has been working in the County Correction Lieutenant title since November 6, 2014. However, as noted above, the email from Mr. Hutler and Personnel Order #P2014-62 did not indicate that Ms. Martin would receive a permanent appointment on that date. Rather, both clearly state that Ms. Martin would be placed in an acting capacity<sup>1</sup> and her promotion would not become permanent until her name was certified. In addition, the record does not demonstrate that an administrative error or administrative delay occurred. In this regard, there is nothing in the record that indicates Ocean County erred in failing to permanently appoint Ms. Martin on November 6, 2014. Ms. Martin’s name appeared second on Certification No. PL141062 and, as noted above, only the first ranked individual was appointed. Moreover, the record does not evidence bad faith or some invidious reason for the January 22, 2015 regular appointment date.

Accordingly, based on the foregoing, the appellant has not met her burden of proof, and has not provided a basis to disturb the determination of the Division of Agency Services.

## 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.

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<sup>1</sup> For promotional examination purposes, experience is considered only if it is gained in a recognized type of appointment. Experience acquired in an “acting” capacity is not recognizable, as this work is intermittent in nature and the duties performed are not the primary focus of the employee’s permanent title. See *e.g., In the Matter of Walter Furtney* (MSB, decided April 18, 2000), *aff’d on reconsideration* (MSB, decided September 26, 2000).