



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Bryant Nelson,
Department of Corrections

Administrative Appeal

CSC Docket No. 2016-942

ISSUED: **NOV 30 2016** (DASV).

Bryant Nelson, a former Senior Correction Officer with Southern State Correctional Facility, Department of Corrections, requests that the Civil Service Commission (Commission) reinstate the appeal of his removal, which was dismissed based on his failure to appear at the scheduled hearing.

By way of background, Nelson was removed, effective August 4, 2015, following sustained charges of conduct unbecoming a public employee and actions involving criminal matters. Nelson appealed to the Commission, which transmitted the matter to the Office of Administrative Law (OAL). By letter dated February 19, 2016, the appointing authority requested that the OAL place the matter on the inactive list pending the resolution of Nelson's criminal charges. However, the request was not granted, and the OAL scheduled the matter for a hearing on March 17, 2016 and sent the requisite notice to the parties. Nelson did not appear at the appointed time and based on his absence, the OAL issued a "Failure to Appear" notice. On March 24, 2016, the matter was returned to the Commission for a final decision, with a notice giving Nelson 13 days to present an excuse for his failure to appear at the OAL. On or about April 12, 2016, the appointing authority's counsel, Adam Verone, Deputy Attorney General, received a letter from Nelson, stating that he wished to proceed with the hearing, but he received "a letter" and was under the "impression" that the hearing would be rescheduled. Nelson noted that his wife had a miscarriage on March 21, 2016 and did not receive "this letter" until April 1, 2016. The appointing authority's counsel forwarded Nelson's letter to the Commission. Although Nelson did not send his letter to the Commission directly, the Division of Appeals of Regulatory Affairs acknowledged receipt of the matter, and by letter,

dated May 3, 2016, the parties were given the opportunity to submit information. No additional information was filed.

CONCLUSION

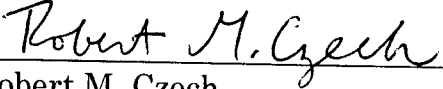
Upon a review of this matter, the Commission finds that Nelson has not sustained his burden of proof. Initially, he does not indicate that he did not receive the notice to appear at the OAL on March 17, 2016. Rather, Nelson states that he received "a letter" that gave him the "impression" that the hearing would be rescheduled, presumably the letter from the appointing authority's counsel requesting that the appeal be placed on the inactive list. However, he did not confirm with the OAL or the appointing authority's counsel as to whether the request was granted. Once he received the notice to appear at the OAL, he was obligated to do so in order to proceed with the matter. In that regard, the notice specifically indicates that "[i]f you do not attend the hearing, the file will be returned to the transmitting agency for appropriate action." Moreover, while the Commission is mindful of Nelson's situation, the tragic personal matter he suffered occurred after the March 17, 2016 hearing date. The record does not indicate that he contacted the OAL to excuse his absence on that date. Accordingly, given that Nelson has not presented the Commission with any persuasive substantive evidence to excuse his absence, his appeal is dismissed based on his failure to appear at the March 17, 2016 hearing.

ORDER

Therefore, it is ordered that Bryant Nelson's request to reinstate his appeal be denied and his appeal be dismissed.

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 23RD DAY OF NOVEMBER, 2016



Robert M. Czech
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