



STATE OF NEW JERSEY

In the Matter of Nathan Bolognini, et al., Police Sergeant (PM5159N), City of Trenton

FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

Examination Appeal

CSC Docket Nos. 2016-3026, et al.

ISSUED: DEC 21 2016 (JH)

Nathan Bolognini, Matthew Bledsoe, Sarai Cheek, Lawrence Davis, Herbert Flowers, Randall Hanson, John Harbourt, Gregory Hollo, William Mulryne, David Ordille, Walter Rivera, John Sangillo, Michael Schiaretti, Charles Steever and George Wilson appeal their eligibility for the promotional examination for Police Sergeant (PM5159N), City of Trenton.

By way of background, the announcement for the subject examination was initially issued on September 1, 2011 with an application filing deadline of September 21, 2011. The subject examination was open to employees in the competitive division who had an aggregate of three years of continuous permanent service in the Police Officer title as of the closing date of September 30, 2011. However, in In the Matter of Police Sergeant Promotional Lists (CSC, decided September 19, 2012), the Division of Selection Services¹ requested that N.J.A.C. 4A:4-2.6(a)2 be relaxed to allow it to amend the closing date of the 2010 and 2011 announcements for Police Sergeant to September 30, 2012, the same closing date as the announcements in 2012 for the title of Police Sergeant.² As a result, the 2010³

¹ Now the Division of Agency Services.

² It is noted that in January 2010, the United States Department of Justice (USDOJ) filed a complaint against the State of New Jersey and the Civil Service Commission (Commission), alleging that the selection process utilized by the State to test and appoint candidates to the Police Sergeant title between 2000 and 2008 had a disparate impact on African-American and Hispanic candidates in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq., as amended. During the pendency of this litigation, the parties agreed to the terms of a settlement which was formulated into a Consent Decree which the Court approved and entered as final on June 12, 2012. The terms of

and 2011 announcements were reissued, on August 1, 2012, with a September 30, 2012 closing date. It is noted that the Police Sergeant examination for the 2010, 2011 and 2012 announcements was administered on June 1, 2013. It is further noted that 21 individuals applied for and were admitted to the PM5159N test. The resultant subject eligible list, containing 13 names, was promulgated on January 28, 2016.

On appeal, the appellants present that “the fundamental problem with the last Sergeant’s promotional exam is that the Trenton Police Department failed to notify all eligible Officers in a thorough and fair manner.” In this regard, they assert that a Departmental memorandum regarding the subject test was issued on September 2, 2011 but “Commanding Officers failed to advise all eligible Officers of the exam.” They add that this memorandum was issued “one (1) week prior to a layoff of 105 officers,⁴ a majority of whom would have been eligible for the exam[,]”⁵ and “once re-hired, those eligible were not advised that this exam was still available to take. Due to the loss of (fully) one third of the force, and the ensuing extensive restructuring and extended period of confusion that followed, the issue of the Police Sergeant’s promotional exam was deprioritized by the Administration and, in some cases, totally ignored.” The appellants contend that “in July 2012, Police Director Ralph Rivera advised Officers to apply online to take the exam, should they be eligible . . . This Order *was not* disseminated throughout the Police Department and the undersigned Officers *were not* notified.” The appellants assert that “in reviewing those certified on the most recent Sergeant’s promotional list, we find it noteworthy that all were assigned to the a main Police Headquarters position and/or a day shift position, thus making them readily to their Commanding Officers . . .” In this regard, they further note that “the Trenton Police Department, at the time, had three (3) separate Districts, each with their own District building . . . The Police District buildings were well known to not receive communications, Memorand[a], and Orders that were allegedly disseminated from Main Police Headquarters⁶ . . . We would like to draw attention to the fact that the last Sergeant’s promotional exam generated an atypically low number of Officers who

the Consent Decree provided, in pertinent part, that the State, in consultation with USDOJ, develop a new Police Sergeant examination and scoring process.

³ Due to the above noted litigation with the USDOJ, in *In the Matter of Police Sergeant Promotional Lists* (CSC, decided August 17, 2011), the closing date for the 2010 Police Sergeant announcements was amended to November 30, 2011.

⁴ A review of the record finds that Mr. Bledsoe and Ms. Cheek were laid off effective September 16, 2011. Mr. Bledsoe and Ms. Cheek were reappointed to the Police Officer title from special reemployment lists effective October 3, 2011 and June 3, 2013, respectively.

⁵ It is noted that a layoff would not preclude officers who were scheduled for layoff from filing applications for the subject test.

⁶ The appellants do not indicate to which district or to which shift they were assigned.

took the exam, and were ultimately certified on the list.” They request to “be afforded the opportunity to test for placement on the list upon which we would have otherwise been, if not for the failures noted herein.” They contend that “it is germane to this issue to note that the remedy we seek has, in fact, been employed by the Civil Service Commission in the past; Trenton Police Officer Yolanda Ward suffered a similar situation (due to her failure to have been properly notified prior to layoff, and her subsequent re-hire), and the remedy applied by Civil Service was to provide her with the opportunity to test.”⁷

In a letter dated May 25, 2016, the City of Trenton Department of Administration indicates that the Trenton Police Department provided the following “to support when and how the subject announcement was posted,” including: a copy of Trenton Police Department Memorandum Order 2011-067 dated September 2, 2011 regarding Notice of Promotional Examination for Police Sergeant with an attached copy the subject announcement which indicates an issue date of September 1, 2011 and closing date of November 30, 2011;⁸ a copy of Trenton Police Department Memorandum Order 2012-063 dated July 30, 2012 regarding Notice of Promotional Examination for Police Sergeant with an attached copy of the subject announcement which indicates an issue date of September 1, 2011, that it was amended August 1, 2012 and closing date of September 30, 2012.⁹

CONCLUSION

N.J.A.C. 4A:4-2.1(b) provides that notices of promotional examinations and applications shall be provided to eligible employees by the Civil Service Commission or through the appointing authority. The appointing authority shall conspicuously post notices at all geographic locations within the unit scope to which the examination is open. Appointing authorities shall maintain a record of such postings.

At the outset, the Commission notes that promotional examinations for law enforcement titles are announced and given according to established schedules for each title group. In this regard, the County and Municipal Police Promotional Processing 2011 Schedule, which was published on the Commission website in

⁷ A review of the record finds that Ms. Ward is not similarly situated to the appellants.

⁸ It is noted that the memorandum provides, in part, that “Commanding Officers are to notify any eligible officers under their command to report to the Police Director’s Office to pick up their applications.” The memorandum further notes that “officers scheduled for layoff are eligible to apply for this examination.”

⁹ It is noted that the memorandum provides, in part, that “Section Commanders are to notify any eligible officers under their command of this information.” The memorandum also emphasizes that “only on-line applications will be accepted for this announcement.”

January 2011, indicated that for the Police Sergeant title, announcements would be issued on July 1, 2011. However, subsequently, candidates were informed on the Commission website that due to the USDOJ litigation, as noted above, "the CSC believes it is necessary to delay the issuance of the new Police Sergeant announcements, which were scheduled for July 1st."¹⁰ By notice published to the Commission website on August 26, 2011, candidates were informed, in part, that "September 2010 announcements will be amended and reissued on September 1, 2011 . . . The application filing deadline will be September 21, 2011. The closing date and date by which eligibility must be met will be November 30, 2011 . . . 2011 Police Sergeant announcements will also be issued on September 1, 2011 with the same application and eligibility timeframes stated above." Moreover, the September-October 2011 Public Safety Testing Law Enforcement Status Report informed candidates, in pertinent part:

The 2011 promotional announcements for Police Sergeant were issued on September 1, 2011. The application filing deadline will be September 21, 2011. The closing date and date by which eligibility must be met will be November 30, 2011. The symbols ending with the letter "N" (below) identify the current jurisdiction announcements.¹¹

Subsequently, in *In the Matter of Police Sergeant Promotional Lists, supra*, the closing date for the 2011 Police Sergeant announcements was amended to September 30, 2012 and the announcements were reissued effective August 1, 2012.

In addition, it is noted that public safety promotional announcements are posted to the Commission website.¹² While it remains the responsibility of the appointing authority to properly post promotional announcements pursuant to *N.J.A.C. 4A:4-2.1(b)*, there is a wealth of candidate resources available on the Commission website. However, it is the candidate's responsibility to access these resources.

As indicated previously, due to the USDOJ litigation and settlement discussions, the testing process for the Police Sergeant title was significantly

¹⁰ Further, in the August 2011 Public Safety Testing Law Enforcement Status Report, which was available on the Commission website, candidates were informed that "the State of New Jersey is currently in discussions with the United States Department of Justice with regard to the Police Sergeant lawsuit filed by the United States. For this reason, the CSC believes it is necessary to delay the issuance of the new Police Sergeant announcements which were scheduled for July 1st. What effect these discussions will have on a projected test date is uncertain at this time. Please continue to monitor the CSC website for updated information as it becomes available."

¹¹ The report provided a table which listed all jurisdictions, including Trenton, that were scheduled to be tested in the 2011 exam cycle.

¹² Beginning with announcements issued after July 2006.

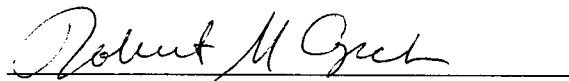
delayed. As a result, the subject announcement was posted in September 2011 and again in August 2012. Furthermore, the Commission website provided a plethora of information regarding the subject examination. Moreover, the appellants have not provided persuasive evidence that the subject announcement was not posted in 2011 and in 2012.

ORDER

Therefore, it is ordered that these appeals 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 21ST DAY OF DECEMBER, 2016



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Chairperson
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and
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c:	Nathan Bolognini (2016-3026)	Charles Steever (2016-3033)
	Matthew Bledsoe (2016-3028)	George Wilson (2016-3048)
	Sarai Cheek (2016-3029)	Michael Johnson
	Lawrence Davis (2016-3030)	Kelly Glenn
	Herbert Flowers (2016-3031)	Records Center
	Randall Hanson (2016-3032)	
	John Harbourt (2016-3036)	
	Gregory Hollo (2016-3037)	
	William Mulryne (2016-3038)	
	David Ordille (2016-3039)	
	Walter Rivera (2016-3040)	
	John Sangillo (2016-3044)	
	Michael Schiaretti (2016-3047)	

