



STATE OF NEW JERSEY

In the Matter of Gary Hill, Police  
Officer (S9999R), Trenton

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket No. 2018-1409

Reconsideration

ISSUED: APRIL 2, 2018 (SLK)

Gary Hill, represented by David Beckett, Esq., requests reconsideration of the decision rendered on October 4, 2017, which denied his appeal to have his name restored to the eligible list for Police Officer (S9999R), Trenton. A copy of that decision is attached.

By way of background, the petitioner's name was certified to Hamilton Township (OL160141) on February 12, 2016. In disposing of the certification on June 17, 2016, Hamilton indicated that he was interested in the position but not reachable for appointment. The petitioner's name was also certified to Trenton (OL160421) on April 7, 2016. In disposing of the certification on September 22, 2016, Trenton indicated that the petitioner requested that his name be removed from the list. In support, Trenton provided an Interested/Not Interested Letter signed by the petitioner where he checked the response "I am not interested and wish to have my name removed."

In its previous decision, the Civil Service Commission (Commission) found that Trenton presented a valid basis to remove the petitioner's name from the subject list. The appellant claimed that he never signed the above-mentioned Interested/Not Interested Letter. However, the Commission found that the signature on this document looked the same as the petitioner's signature on his certification; the document in question did not have any markings on it indicating that it was altered or a composite of two documents, and the petitioner did not submit any evidence to support his claim that Trenton altered the document.

On reconsideration, the petitioner asserts that he meets the standard for reconsideration because the “new” evidence that was not submitted at the original proceeding was the original Interested/Not Interested letter that Trenton has not provided which would show that he did not check that he was “not interested.” Further, the petitioner argues that the Commission made a clear material error by not enforcing its own regulations and requiring Trenton to provide the original Interested/Not Interested letter. The petitioner argues that Trenton’s failure to respond to the Division of Appeals and Regulatory Affairs’ March 10, 2017 letter requiring it to provide such documentation is the basis for the reconsideration and it was clear material error by the Commission for holding Trenton’s non-compliance against him. The petitioner reiterates that he submitted a certification where he provided sworn evidence that he never requested that his name be removed from the list and therefore Trenton’s document must have been altered because it did not reflect his wishes. However, despite the petitioner’s certification, Trenton did not provide original documentation, or any argument or proofs, and therefore the Commission’s decision was in error where it held that the petitioner did not meet his burden of proof. The petitioner presents that courts have held that when a party fails to submit evidence, there should be a presumption made that the evidence is contrary to its interests.

Although given the opportunity, Trenton did not submit any additional information or arguments in response to the appellant’s request for reconsideration.

## CONCLUSION

*N.J.A.C. 4A:2-1.6(b)* sets forth the standards by which a prior decision may be reconsidered. This rule provides that a party must show that a clear material error has occurred or present new evidence or additional information not presented at the original proceeding which would change the outcome of the case and the reasons that such evidence was not presented at the original proceeding.

In the instant matter, the petitioner has not met the standard for reconsideration. Essentially, the petitioner maintains that the Commission made a material error when it rendered a decision denying the petitioner’s appeal without requiring Trenton to produce the original Interested/Not Interested letter. However, the Commission disagrees. Under *N.J.A.C. 4A:4-4.7(d)*, it was the petitioner’s obligation to show by a preponderance of the evidence that Trenton’s decision to remove his name from the subject eligible list was in error. As indicated in the initial decision, a review of the petitioner’s signature on the Interested/Not Interested Letter that was in the record and his signature on his certification are significantly similar. Further, the document in question did not have any markings on it that would indicate that it was an altered or composite of two documents. Moreover, while the petitioner made a very serious allegation against Trenton, namely, that it committed a crime by altering a document; he did not submit one scintilla of evidence to support this claim. The Commission notes that there is no requirement that parties submit “original” documentation and there is no reason to question the document in the

record other than the petitioner's allegations. Mere allegations, without proof, are insufficient to sustain one's burden of proof.

Notwithstanding the above, the Commission is significantly disturbed by Trenton's lack of response in both the original and current matter. In essence, Trenton has not presented any response to the petitioner's allegations and instead has relied on the Commission's own analysis of the documents in the record. Accordingly, while the Commission finds no substantive reason to reverse its prior determination, based on the lack of response, along with the petitioner's steadfast assertions that he did not wish to be removed from the list, based on equitable considerations, the Commission orders the petitioner's name be restored to the list for prospective employment opportunities.

### ORDER

Therefore, it is ordered that this request for reconsideration be granted and the list for Police Officer (S9999R), Trenton be revived in order for the petitioner to be considered for appointment at the time of the next certification for prospective employment opportunities only.

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 27<sup>th</sup> DAY OF MARCH, 2018

*Deirdre L. Webster Cobb*

Deirdre L. Webster Cobb  
Acting Chairperson  
Civil Service Commission

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Attachment

c: Gary Hill  
David Beckett, Esq.  
Terry McEwen  
Kelly Glenn  
Records Center

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STATE OF NEW JERSEY

In the Matter of Gary Hill, Police  
Officer (S9999R), Trenton

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket No. 2017-1824

Last Removal Appeal

ISSUED: **OCT 06 2017** (SLK)

Gary Hill, represented by David Beckett, Esq., appeals his removal from the eligible list for Police Officer (S9999R), Trenton, on the basis of his non-interest in the position.

By way of background, the appellant's name was certified to Hamilton Township for Police Officer (OL160141) on February 12, 2016. In disposing of the certification on June 17, 2016, Hamilton indicated that he was interested in the position but not reachable for appointment. The appellant's name was also certified to Trenton for Police Officer (OL160421) on April 7, 2016. In disposing of the certification on September 22, 2016, Trenton indicated that the appellant requested that his name be removed from the list. In support, Trenton provided an Interested/Not Interested Letter signed by the appellant where he checked the response "I am not interested and wish to have my name removed."

On appeal, the appellant states that when he checked on his status for the position of Police Officer with Hamilton, he was advised that his name was removed from the list. However, the appellant indicates that he received no notice that he was ever removed from the list. Further, he states that the reason he was ultimately given for the removal from the list was his alleged inability, unavailability or refusal of an eligible to accept appointment, but that these reasons are not consistent with the record. The appellant also states that he made his interest clear to Trenton that he applied to Hamilton, was currently in the process for a position with the Mercer County Sheriff's Office, and that Trenton was not his first choice. Additionally, he indicates that had he been advised by Trenton that his name would be removed from the list, he could have addressed it at that time to ensure that he remained on the eligible list for Police Officer.

Additionally, the appellant certifies that he believes that the Interested/Not Interested Letter that he purportedly signed on April 22, 2016 for Trenton was altered or is a composite of two documents because it does not accurately reflect his wishes or declaration as the only form he signed indicated that he wished to continue with the process. He represents that since he did not know if he had been accepted for appointment as of April 22, 2016, he would not have asked to have his name removed from the list. The appellant claims that even after he was appointed as a Sheriff's Officer, he never advised Trenton that he wished to have his name removed from the Police Officer title area list. He asserts that Trenton needs to provide the original paperwork showing his original signature and checkmark so that the document can be checked to ensure that it has not been altered or created from different forms. Therefore, the appellant requests that his name be restored to the list.

Although given the opportunity, the appointing authority did not submit any additional information or arguments in response to the appellant's appeal.

### CONCLUSION

*N.J.A.C. 4A:4-4.7(a)3* states that the name of an eligible may be removed from an eligible list for inability, unavailability or refusal of eligible to accept appointment.

*N.J.A.C. 4A:4-4.7(d)* provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his or her name from an eligible list was in error.

In the instant matter, Trenton presented a valid basis to remove the appellant's name from the subject list. In accordance with the Interested/Not Interested Letter that the appellant signed on April 22, 2016, he indicated that he wished to have his name removed from the list. On appeal, the appellant claims that he never signed this document and alleges that the document was altered or a composite of two documents because it does not accurately reflect his wishes. However, a review of the appellant's signature on the Interested/Not Interested Letter and his signature on his certification look similar. Further, the document in question does not have any markings on it that would indicate that it was an altered or composite of two documents. Moreover, while the appellant is making a very serious allegation against Trenton, namely, that it committed a crime by altering a document; he does not submit one scintilla of evidence to support this claim.

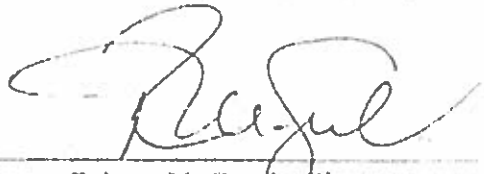
Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the Police Officer (S9999R), Trenton eligible list.

**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 4<sup>th</sup> DAY OF OCTOBER, 2017



Robert M. Czede, Chairperson  
Civil Service Commission

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