

B-14



STATE OF NEW JERSEY

In the Matter of Keith Spence, Entry
Level Law Enforcement Examination
(S9999R), Statewide

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2014-1323

Examination Appeal

ISSUED: APR - 2 2015 (JH)

Keith Spence appeals his disqualification from the Entry Level Law Enforcement Examination (S9999R), Statewide.

By way of background, Mr. Spence applied for and was admitted to the 2010 Correction Officer Examination (S9988M).¹ He was scheduled to be tested on December 11, 2010 at 8:30 a.m. at Hammonton High School in Hammonton. The Center Supervisor at the Cherry Hill High School East test site indicated that on December 7, 2010, a room monitor requested that he come to her test room as a

¹ The Entry Level Law Enforcement Examination (LEE) is utilized to test all entry level law enforcement titles areas, including: Municipal Police Officer; Other Police Officer titles; Sheriff's Officer; County Correction Officer; Correction Officer Recruit; and Correction Officer Recruit, Juvenile Justice. The 2010 testing cycle consisted of three title area announcements. Announcement 1 (S9999M) included the following title areas: Municipal Police; Municipal Police Officer (Bilingual in Spanish/English); Municipal Police Officer (Bilingual in Korean/English); Municipal Police Officer (Multilingual in Spanish/Portuguese/English); Campus Police Officer Recruit; County Police Officer; Park Police Officer; Police Officer Recruit, Human Services; Police Officer, Palisades Interstate Park; Sheriff's Officer; Sheriff's Officer (Bilingual in Spanish/English); and State Park Police Officer Trainee. Announcement 2 (S9988M) included the following title areas: Correction Officer Recruit; Correction Officer Recruit, Juvenile Justice; and County Correction Officer. Announcement 3 included the following title areas: Parole Officer Recruit (S0738M); Parole Officer Recruit, Juvenile Justice (S0739M); and Parole Officer Recruit (Bilingual Spanish/English) (S0740M). Regardless of how many announcements a candidate applied for, he or she was scheduled for one test session. If a candidate achieved a passing score, it was applied to each resulting pool for which the candidate submitted an application. It is noted that the LEE was administered on the following dates: November 18, November 20, November 30, December 2, December 4, December 7, December 9 and December 11, 2010.

candidate was acting suspiciously. Specifically, the room monitor stated that a candidate with a completed answer sheet had been sitting for a long period of time with a watch in his hand. The Center Supervisor observed the candidate with a watch in his right hand and a pencil in his left hand. The Center Supervisor then observed the candidate put the watch in his jacket pocket and then retrieve his watch but placed the watch in his left hand and pencil in his right hand and then place the watch back in his jacket. The Center Supervisor subsequently observed the candidate approach the room monitor to ask if he could move to the front of the room because he could not see the clock from his seat. The candidate shortly thereafter handed in his answer sheet and left the room whereupon the Center Supervisor approached him in the hallway. The Center Supervisor asked to see the candidate's watch and while looking at the watch, the candidate started walking toward an exit which was not used by candidates and not indicated as an exit by staff. The Center Supervisor retrieved him and asked for identification. The candidate produced what appeared to be a work identification card. The Center Supervisor then asked for valid photo identification, *i.e.*, his driver's license. The candidate provided what appeared to be a New Jersey driver's license with the name Keith Spence. After the candidate was dismissed, the Center Supervisor retrieved his answer sheet and test booklet from the room monitor. For his test booklet front cover, candidate pledge and answer sheet, Mr. Spence had used and signed the name "Kenny Spresent." The Center Supervisor also retrieved his examination notification and determined, after careful inspection, that another exam notice had been scanned and the applicant ID number, test date and test time had been altered. The Center Supervisor subsequently discovered that Mr. Spence had filed for the subject examination under two different names, Keith T. Spence and Keith T. Spence, II, but used the same age, race, sex and address. However, on each application he used different applicant ID numbers and telephone numbers and indicated different test center preferences (Cherry Hill and Hammonton). The Center Supervisor also found that Mr. Spence was scheduled to sit for the subject examination on December 11, 2010 at 8:30 a.m. at Hammonton High School² and at 1:00 p.m. at Cherry Hill East High School. The Center Supervisor noted that one of the hall monitors indicated that she was certain that she had seen Mr. Spence on the December 2, 2010 administration date and may have seen him on the November 18, 2010 administration date. The Center Supervisor noted that he was aware that Mr. Spence "forged another Exam Notice for the test date 12/2/10, and it was also found that Mr. Spence was admitted to the exam on 11/18/10."

In additional information submitted by the Director of the Division of Selection Services, the Director explained that they retrieved the examination notice from the December 2, 2010 administration date and discovered that the applicant ID number had been altered to read, "xxxxx0000,"³ but signed "Keith Spence." However, for the test booklet front cover and for the answer sheet, he used

² It is noted that Mr. Spence appeared at this administration.

³ Only the last four digits of the applicant ID number appear on the exam notice.

and signed the name, "Kevin Stende" but for the candidate pledge Mr. Spence used and signed the name, "Kevin Stenda." The Director also indicated that they discovered that Mr. Spence appeared on the November 18, 2010 test administration date. As a result, the Division of Selection Services referred this matter to the Division of Criminal Justice, Department of Law and Public Safety for investigation which ultimately resulted in a State Grand Jury indictment and Mr. Spence entering into a Pretrial Intervention (PTI) program effective August 5, 2013.

Subsequently, Mr. Spence applied for the 2013 Entry Level Law Enforcement Examination (S9999R).⁴ In a letter dated October 13, 2013, the Director, Division of Selection Services, indicated that "our records indicate that in 2010 you took actions on several occasions to alter/falsify test notice documents, answer sheets and test booklets which led to your ability to take the [LEE] on multiple occasions under assumed names and false applicant ID numbers. Such actions are clearly in violation of Civil Service policy and are indicative of attributes not consistent with those sought by law enforcement agencies." The letter informed the appellant that he was disqualified from the S9999R examination and banned "from applying for future law enforcement-related titles for a period of five (5) years from the date of this letter."

On appeal, Mr. Spence argues that he has been "barred only on circumstantial evidence . . . I have not been found guilty or convicted of any crime in court. I understand my name and information was used by someone in this matter. There is no evidence (video footage of me at any time or any place taking the 2010 Civil [S]ervice exam except at Hammonton [H]igh School (investigator claimed there is video footage of me). There can be no finger[p]rints of mine on any documents they claim I signed or my signature⁵ on said documents or eye witnesses placing me at place at any other test site except at Hammonton High School." He presents:

Summons 002091 dated 12-09-2010 stating the charges for probable cause was not even signed under penalty of perjury but was typed in. If there was probable cause that I committed this crime why was it not signed? My [f]irst court appearance on 12/22/10 in Camden was nonexistent when I arrived in [c]ourt they had no record of me having a court date [and] they didn't even know what I was there for. If you look at the notice it seems to be a release form. This notice was mailed to me. If you look where defendant signs someone printed my name

⁴ The announcement for 2013 Entry Level Law Enforcement Examination (S9999R) was issued on June 4, 2013 and closed on September 4, 2013. The S9999R announcement includes following title areas: Municipal Police Officer; Other Police Officer titles; Sheriff's Officer; County Correction Officer; and Correction Officer Recruit, Juvenile Justice Commission.

⁵ It is noted that Mr. Spence did not sign his appeal letter.

(not my handwriting) and as you can see it is not even signed by me or anyone . . . At the State Grand Jury for handwriting exemplars [on] March 21, 2012[,] I refused to give my handwriting exemplars because they wanted me to sign various documents for 3 hours[,] I believed they would have used whatever documents I signed (illegally) against me. (I was not represented by an attorney [because] I didn't want to pay for one) . . . I later received a subpoena that I did not appear for another [h]andwriting exemplars. This case was heard on 6/20/12[,] I informed the judge [that] I had no problem giving my handwriting exemplars but did not want them to find a way to (illegally) use those documents against me [and] the judge agreed with me . . . I was given a [l]awyer at the last minute before my case was heard in front of [J]udge Kassel[,] This lawyer informed me I had to take the P.T.I.[] program because he was given my case at the last minute and didn't have all the facts in my case. I was taken out of the courtroom even before I talked to the judge to sign [the] P.T.I. agreement[.]

In support of his appeal, Mr. Spence provides additional documentation including: a copy of the above noted letter from the Director of the Division of Selection Services dated October 13, 2013; a Township of Cherry Hill Notice to Defendant Charged with a Crime form indicating that Mr. Spence was to report to the Camden County Case Screening Unit on December 22, 2010; a Complaint-Summons issued December 9, 2010; a letter dated December 9, 2011 from Pearl Minato, Deputy Attorney General, indicating that the matter of *State v. Keith Spence* would be presented to the State Grand Jury on January 30, 2012; a subpoena ordering Mr. Spence to appear before the State Grand Jury on March 21, 2012; an Order to Show Cause issued on June 6, 2012; and a "CD transcript of th[e] court proceeding" on June 20, 2012. Although given the opportunity during the appeal process, Mr. Spence did not provide any additional information.

CONCLUSION

It is noted that the Civil Service Commission (Commission) has a duty to ensure the security of the examination process and to provide sanctions for a breach of security. See *N.J.S.A. 11A:4-1(c)*. In order to carry out this statutory mandate, *N.J.A.C. 4A:4-2.10* identifies a number of prohibited actions in the conduct or administration of an examination and provides for the disqualification of candidates participating in such actions. Specifically, *N.J.A.C. 4A:4-2.10(b)4* prohibits the impersonation of an applicant, either in person or by the improper exchange of applicant numbers or in any other manner. *N.J.A.C. 4A:4-2.10(c)* provides that anyone participating in a prohibited action shall be disqualified from the examination and may be rejected from future examinations and subject to punishment as provided by law.

In the instant matter, the appellant argues that he has not been convicted of a crime and there is no evidence that he appeared at any other test site except Hammonton High School. He also refers to the process that led to his entry into a PTI program. The Commission notes that it is not necessary to examine the investigation conducted by the Division of Criminal Justice or the process that led to Mr. Spence's entry into the PTI program or whether he has been convicted of a crime. Rather, the events of December 7, 2010 are sufficient to support his disqualification and ban.⁶ In this regard, despite his claim that there is only evidence that he appeared at Hammonton High School, Mr. Spence does not refute that he appeared at the Cherry Hill East High School test site and produced his driver's license to the Center Supervisor. He further does not refute that he provided a different name on his test booklet front cover, candidate pledge and answer sheet. Clearly, the integrity of the examination process is compromised by such behavior and is unacceptable. This is also contrary to the underlying purpose of the merit system, which is to ensure that all candidates are tested on an equal basis and have a fair opportunity to demonstrate relative merit and fitness.

Therefore, it was appropriate to disqualify the appellant from the S9999R examination and to bar him from future law enforcement testing for a period of five years pursuant to *N.J.A.C. 4A:4-2.10(c)*.

The Commission notes that in the instant matter, a five year ban is lenient. In this regard, a review of the appellant's employment history finds that effective April 22, 2008, Mr. Spence was removed as a County Correction Officer with Atlantic County. In a Final Notice of Disciplinary Action (FNDA) dated April 24, 2008, the charges of incompetency, inefficiency or inability to perform duties, conduct unbecoming a public employee and violations of department rules and regulations were upheld.⁷ Specifically, the appointing authority indicated that from January 2002 to January 2008, the appellant produced 50 forged medical notes and lied to departmental staff during an official investigation. *N.J.A.C. 4A:4-6.1* provides a number of instances in which an applicant for a position may be deemed disqualified from the examination or selection process including where an employee has been removed from the public service for disciplinary reasons after an opportunity for a hearing (*N.J.A.C. 4A:4-6.1(a)5*) or has a prior employment history which relates adversely to the title (*N.J.A.C. 4A:4-6.1(a)7*). Accordingly, the Commission could forever bar Mr. Spence from any public safety testing. See *N.J.A.C. 4A:4-6.2*. However, the Commission determines that disqualification from the S9999R examination and a five year ban from future law enforcement testing is appropriate.

⁶ Although the Division of Selection Services indicates, as noted above, that Mr. Spence appeared on other test administration dates, they will not be discussed herein as his behavior on December 7, 2010 is sufficient.

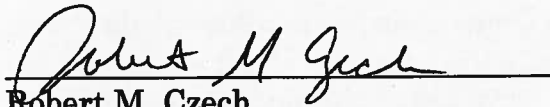
⁷ It is noted that the appellant did not appeal this matter to the Commission.

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 1ST DAY OF APRIL, 2015**



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and
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