

B-45



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Krzyztof Wojtylo,  
Police Officer, Town of Dover

Administrative Appeal

CSC Docket No. 2015-1217

ISSUED: JUN 19 2015 (LDH)

The Town of Dover (Dover) requests relaxation of *N.J.A.C.* 4A:4-7.1A(c) so as to permit the retroactive intergovernmental transfer of Krzyztof Wojtylo from the title of Sheriff Officer, Bergen County Sheriff's Department, to the title of Police Officer, Dover.

By way of background, on May 20, 2014, Wojtylo sought an intergovernmental transfer from his title of Sheriff Officer, Bergen County Sheriff's Department, to Police Officer, Dover. The appointing authority for Dover approved his request on May 20, 2014 and indicated a proposed start date of May 30, 2014. The appointing authority for Bergen County Sheriff's Department approved Wojtylo's request on May 23, 2014 and his County and Municipal Personnel System (CAMPS) record indicates that he was separated from employment, effective May 29, 2014. The agreement provides, in pertinent part, that Wojtylo waived all accumulated seniority and sick leave in accordance with *N.J.S.A.* 11A:2-28(a) and (b). However, the intergovernmental transfer agreement was not submitted to the Division of Classification and Personnel Management<sup>1</sup> (CPM) to process the transfer until October 3, 2014. Upon receipt of the agreement, CPM advised the parties that it could not process the transfer because Wojtylo commenced employment with Dover on May 30, 2014 prior to this agency's approval.

In its request to the Civil Service Commission (Commission), Dover states that it had submitted the intergovernmental request a week before the effective

<sup>1</sup> Now, the Division of Agency Services.

date of May 30, 2014 but that the request was sent to the wrong department for processing. Dover emphasizes that the request was done in good faith. Accordingly, Dover requests that Wojtylo be intergovernmentally transferred with an effective date of May 30, 2014.

## CONCLUSION

*N.J.A.C.* 4A:4-7.1A(b) provides that an intergovernmental transfer shall require the consent in writing of the sending jurisdiction, if any, the receiving jurisdiction and the affected employee, and the approval of this agency. *N.J.A.C.* 4A:1-1.2(c) provides that a rule may be relaxed for good cause, in a particular circumstance, in order to effectuate the purposes of Title 11A of the New Jersey Statutes Annotated. *N.J.A.C.* 4A-5.2(d) provides that persons appointed to entry-level law enforcement, correction officer, juvenile detention officer and firefighter titles shall serve a 12-month working test period.

The purpose of the Intergovernmental Transfer Program is to promote more efficient public service by allowing State and local jurisdictions to obtain the services of talented and experienced individuals from other jurisdictions within the Civil Service system. However, absent a compelling emergent situation, such as public safety, accepting and employing interested applicants prior to formal approval by this agency could seriously circumvent the Civil Service system and frustrate the legislative goals of appointments based on merit and fitness as demonstrated in a competitive testing situation. In this case, Dover did not intentionally effectuate the transfer without the written consent of the Commission. Although Dover should not have accepted Wojtylo's transfer prior to CPM's approval, good cause exists to permit his permanent transfer to Dover effective May 30, 2014. *See In the Matter of Nicholas Rizzitello, Police Officer, Newark* (CSC, decided June 9, 2010) (Commission permitted the retroactive intergovernmental transfer of a Police Officer who transferred two and a half years prior to Commission's formal review and approval). *See also, In the Matter of Kenneth Dowzycki* (MSB, decided December 1, 2004).

Additionally, in *In the Matter of Jason Mangano* (CSC, decided September 19, 2012), the Commission granted the appointing authority's request to transfer a Sheriff's Officer to a Police Officer position and, based on the revised Sheriff's Officer job specification, it ordered CPM to permit intergovernmental transfers of individuals in the title of Sheriff's Officer to the title of Police Officer without the necessity of formal rule relaxation procedures. CPM was also directed to advise individuals who transfer from the title of Sheriff's Officer to Police Officer that, upon appointment as a Police Officer, he or she will be required to complete a new 12-month working test period since the two titles are not precisely the same. Accordingly, notwithstanding the fact that Wojtylo has completed his working test period as a Sheriff's Officer and the Commission has authorized his permanent

transfer to Police Officer, Dover, he must serve a current 12-month working test as a Police Officer.

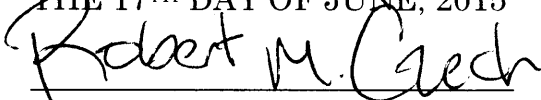
As a final matter, *N.J.S.A.* 11A:2-28(a) and (b) provide that law enforcement officers shall be granted all privileges under the intergovernmental transfer program, including the option to waive all accumulated sick leave and seniority rights, and that the waiver of accumulated sick leave and seniority rights shall require the consent in writing of the receiving jurisdiction, the affected employee, and CPM. *See also, N.J.A.C.* 4A:4-7.1A(b)2. In this case, Wojtylo signed an agreement indicating that he waives all accumulated seniority and all accrued sick leave which was acknowledged by the receiving agency. Accordingly, accumulated seniority and sick leave do not transfer. *See N.J.A.C.* 4A:4-7.4(c).

### ORDER

Therefore, it is ordered that the request, seeking to allow the transfer of Krzyztof Wojtylo from the title of Sheriff Officer, Bergen County Sheriff's Department, to Police Officer, Dover, effective May 30, 2014, be granted. Nevertheless, since the duties of Police Officer and Sheriff's Officer do not precisely mirror each other Krzyztof Wojtylo's must serve a current 12-month working test as a Police Officer.

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 17<sup>TH</sup> DAY OF JUNE, 2015



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