

B-21



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Ronald Easton, Jr.,
Sheriff's Officer Sergeant (PC1572S),
Passaic County

CSC Docket No. 2015-3187

Administrative Appeal

ISSUED: **AUG 21 2015** (SLK)

Ronald Easton, Jr., appeals the determination of the Division of Agency Services (Agency Services) that he lacked the required amount of permanent status in a title to which the examination was open for the promotional examination for Sheriff's Officer Sergeant (PC1572S), Passaic County.

The examination at issue was announced with specific requirements that had to be met as of the November 21, 2014 closing date (see attached). There were 67 individuals who applied for, and 55 eligibles, including the appellant¹, who sat for the subject examination that was conducted on May 7, 2015. The list has not yet been issued.

A review of personnel records indicates that the appellant was permanently appointed as a Sheriff's Officer, effective December 5, 2011. Previously, he had served permanently as a Police Officer for Paterson from May 21, 2007 until he was laid off effective April 18, 2011. Agency Services determined that the appellant was not eligible for the subject examination since he lacked three years of continuous permanent service as of the closing date in a title to which the examination was open.

On appeal, the appellant explains that while employed by Paterson, he earned his Police Training Commission (PTC) certificate, completed his working test period, and served as a Police Officer for nearly four years until he was laid off

¹ Agency Services admitted the appellant to the examination in error.

due to economic reasons. Thereafter, the appellant provides that, under the "Rice Bill", the appointing authority permanently appointed him as a Sheriff's Officer on December 5, 2011. Consequently, the appellant argues that he met the subject examination eligibility requirements since he achieved permanent status as a Sheriff's Officer from the appointing authority on the date he was hired and that he had already satisfactorily completed his working test period with Paterson. Additionally, the appellant asserts that, as a Police Officer and a Sheriff's Officer, he performed job duties that are listed under the job specifications for both of these titles and therefore is qualified to take the subject examination. The appellant also claims that the case, *In the Matter of Jason Anderson, et al.* (CSC, decided March 26, 2014), stands for the proposition that experience in a title series with comparable duties, such as County Correction Officer and Sheriff's Officer, are interchangeable titles. The appellant maintains that the Police Officer and Sheriff's Officer titles have comparable duties and therefore believes that experience in these titles should be interchangeable. The appellant represents that he possesses all the requirements listed under the job specification for Sheriff's Officer Sergeant and argues that his combined seven years and six months of experience working as a Police Officer and as a Sheriff's Officer demonstrates that he is eligible for the examination.

CONCLUSION

At the outset, it is noted that the Legislature has entrusted the Civil Service Commission (Commission) with broad power to supervise all aspects of the civil service selection process. See, e.g., *N.J.S.A. 11A:2-11(f)* and *N.J.S.A. 11A:4-1*; *Brady v. Department of Personnel*, 149 *N.J.* 244 (1997). To this end, the Commission is charged with "establish[ing] the minimum qualifications for promotion and shall provide for the granting of credit for performance and seniority where appropriate." See *N.J.S.A. 11A:4-14*.

In this regard, it is noted that prior to 1979, individual appointing authorities were provided with the option of requiring three, four or five years of permanent status as a Police Officer to be eligible for promotional exam opportunities. On July 3, 1979, the Commission found that a standard time in grade requirement was warranted. Specifically, the Commission determined that for all Civil Service jurisdictions, promotional examinations would be "open uniformly to those with a minimum of three years of permanent status as a police officer." See *Order of the Civil Service Commission Re: State Wide Standards for Police Officer Examination and Time Required in Permanent Status as Police Officer Prior to Promotion* (decided July 3, 1979). This requirement was subsequently codified, effective October 17, 1983, under *N.J.A.C. 4:1-8.4(c)3²* which provided:

² See 15 N.J.R. 1755.

Applicants for promotion from entry level law enforcement or firefighter titles shall have three years of permanent service without interruption except for an approved leave of absence (continuous service) in a title to which the examination is open.³

Currently, *N.J.A.C.* 4A:4-2.6(b)⁴ provides that in local service, applicants for promotion from entry level law enforcement titles must have three years of continuous permanent service in a title to which the examination is open. Our courts have recognized the authority vested in the Commission to require continuous permanent service for entry level law enforcement candidates seeking promotional opportunities. See *Makowitz u. Civil Service Dep't*, 177 *N.J. Super.* 61 (App. Div. 1980). Furthermore, the time in grade requirement pursuant to *N.J.A.C.* 4A:4-2.6(b) is consistent with the statutory three year requirement for entry level public safety employees in non-Civil Service jurisdictions. See *N.J.S.A.* 40A:1.4-29; *N.J.S.A.* 40A:14-1 11; and *N.J.S.A.* 40A:14-130.

N.J.A.C. 4A:4-6.3(b) provides that the appellant has the burden of proof in examination appeals.

In the instant matter, the promotional announcement for Sheriff's Officer Sergeant (PC1572S), was only open to employees who had three years of continuous permanent service in the Sheriff's Officer title immediately preceding the November 21, 2014 closing date. However, the appellant was 14 days short in meeting this requirement. The appellant argues that he met this requirement since he immediately received permanent status as a Sheriff's Officer when he was hired by the appointing authority under the "Rice Bill" and that he has already successfully completed his working test period with Paterson. The appellant also maintains that, since some of the duties of a Police Officer and Sheriff's Officer under the job specification for these titles overlap and that both titles require PTC certification, these titles are interchangeable. However, the Commission has found for purposes of eligibility for *intergovernmental transfer only*, the duties of a Sheriff's Officer, based on assignment, may be sufficiently similar to those of a Police Officer. See *In the Matter of Jason Mangano* (CSC, decided September 19, 2012). Further, even if the Commission were to find that the titles of a Police Officer and a Sheriff's Officer

³ This provision was subsequently amended effective December 1, 1986 to provide: In local service, applicants for promotion from entry level law enforcement titles or firefighter titles must have three years of continuous permanent service in a title to which the examination is open. See 18 N.J.R. 2381.

⁴ It is noted that effective September 25, 1986, pursuant to Public Law 1986, Chapter 112, the former Department of Civil Service was replaced by the Department of Personnel. The rules contained in Title 4 of the New Jersey Administrative Code, Department of Civil Service, were repealed and new rules of the Department of Personnel were adopted and codified in Title 4A. On June 30, 2008, Public Law 2008, Chapter 29 was signed into law and took effect, abolishing the Department of Personnel and transferring its functions, powers and duties primarily to the Civil Service Commission.

were interchangeable, he was appointed as a Sheriff's Officer under the provisions of N.J.S.A. 40A:14-180, the "Rice Bill." In accordance with N.J.S.A. 40A:14-180(3)d, the seniority, seniority-related privileges and rank a law enforcement officer possessed with the employer who terminated the officer's employment for reasons of economy shall not be transferable to a new position when the officer is appointed to a law enforcement position pursuant to the provisions of this section. Consequently, he would still not have three years of *continuous* permanent service, as the appellant was separated from his position as a Police Officer for Paterson in April 2011 and did not get hired as a Sheriff's Officer from the Rice Bill list until December 2011. *See In the Matter of Galen D. Lowery* (MSB, decided October 14, 1998) (Reemployment program for displaced law enforcement officers from one jurisdiction to another stipulates that seniority accrues as of the effective date of the new appointment). *See also*, N.J.S.A. 40A:14-180 and N.J.S.A. 40A:14-70.

The appellant also represents that he meets all the requirements as listed under the job specification for the subject title and therefore argues that he should be admitted to the subject examination. However, eligibility is determined by meeting all the requirements in the announcement and not the job specification. *See In the Matter of Joseph Freitas, III and Maria Todaro, Superintendent of Weights and Measures (PC1814D), Union County*, Docket No. A-5216-03T1 (App. Div. June 17, 2005), (Qualifications for a promotion are determined by the promotional announcement, not necessarily the job specification for the title. Thus, where the promotional examination was announced open to employees with one year of continuous permanent service in the next lower in-series title, a requirement that the incumbent met as of the closing date, whether or not he met the open-competitive requirements for the title, was irrelevant). *See also, In the Matter of Objection to Eligibility Determination by the New Jersey State Parole Board for Promotion into the District Parole Supervisor Title*, Docket No. A-1116-02T3 (App. Div. February 10, 2004).

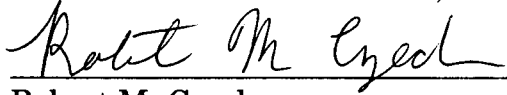
Therefore, there is no basis to disturb the decision of Agency Services. Accordingly, Mr. Easton has not met his burden of proof in this matter.

ORDER

Therefore, it is ordered that the 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 DAY 19th OF AUGUST, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals
and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

Attachment

c: Ronald Easton, Jr.
Kelly Glenn
Joseph Gambino

NEW JERSEY CIVIL SERVICE COMMISSION
 COUNTY AND MUNICIPAL GOVERNMENT SERVICES
PROMOTIONAL ANNOUNCEMENT



\$50.00 PROCESSING FEE REQUIRED
 Make Check/Money Order Payable to NJCSC

SYMBOL: PC1572S	WEIGHT CODE: 03
TITLE: SHERIFFS OFFICER SERGEANT	SALARY: ** See Below
ISSUE DATE: November 01, 2014	CLOSING DATE: November 21, 2014
TITLE CODE: 03700/ KGFR3	JURISDICTION CODE: N1600032
JURISDICTION: PASSAIC COUNTY	APPLICATION DEADLINE: January 21, 2015
DEPARTMENT: SHERIFF	

Visit www.state.nj.us/csc
 and select "Job Announcements"
 to view this announcement and to file an application

Open to employees in the competitive division who are currently serving in a title to which the announcement is open and have an aggregate of three years of continuous permanent service as of the closing date in the following title(s):

Sheriff's Officer 03694@

Examination Date: The examination is tentatively scheduled to be administered in May 2015. Applicants admitted to the examination will be mailed notice(s) of the date, time and place of the examination at least two weeks prior to the test date. Appointing Authorities will also be notified of the test date, and the test date will be posted on the Civil Service Commission website.

Note: Please refer to our website http://www.state.nj.us/csc/seekers/jobs/safety/pro_law_enforce_opp.html for information regarding the Orientation Guide for this promotional examination. The Orientation Guide will assist you in preparing for the promotional examination.

Eligible applicants without access to the Internet can request a copy of the Orientation Guide by sending a postcard with your name, mailing address and symbol number. Please mail the postcard to N.J.C.S.C., Law Enforcement Unit, P.O. Box 310, Trenton, NJ 08625-0310.

**Please contact your Personnel Office for current salary information.

NOTE: All requirements must be met as of the above closing date, however applications will be accepted up to and including **January 21, 2015**.

SPECIAL NOTE: IF YOU FILED AN APPLICATION FOR THIS ANNOUNCEMENT DURING THE ORIGINAL POSTING PERIOD YOU DO NOT HAVE TO FILE AGAIN.

Amended 1/5/15

Make-up Examinations: Requests for make-up examinations based on medical grounds for public safety promotional exams must include a New Jersey Civil Service Commission Authorization for Public Safety Make-Up Examination Form.

IMPORTANT INFORMATION

1. NJAC 4A:4-2.6 states that all requirements listed must be met as of the closing date, including assignment to jurisdiction/department, and satisfying the permanent status requirement.
2. **YOU MUST COMPLETE YOUR APPLICATION IN DETAIL.** Your score may be based on a comparison of your credentials with the job requirements. Failure to complete your application properly may lower your score or cause you to fail.
3. This examination is open to full-time and part-time permanent employees. If an employment list results from this announcement, it may be certified to fill both full-time and part-time positions. If 35- and 40-hour positions are used within the department, the resulting list may be used to fill either work week position.
4. NJAC 4A:4-1.5 states that any employee who is serving on a provisional basis and who fails to file for and take an examination which has been announced for his/her title **SHALL BE SEPARATED FROM THE PROVISIONAL TITLE.**
5. In accordance with Public Law 2010 c.26, **Veterans pay a reduced application fee of \$15.00** if they have previously established Veterans Preference with the DMAVA (as defined by N.J.S.A. 11A:5-1 et seq.), or your claim is approved by DMAVA at least 8 days prior to the issuance of this eligibility list. **PLEASE NOTE THIS REDUCED FEE DOES NOT APPLY TO PUBLIC SAFETY TITLES** (i.e. Police, Fire, Corrections and Sheriff).
6. **If you are having difficulty submitting your application online, technical support and customer care are available during regular business hours, 8:00 a.m. to 4:00 p.m. EST, Monday - Friday, excluding holidays and emergency closings.** Please Email: OAS.support@csc.state.nj.us or call (609) 292-4144. Please note that application support requests received outside of regular business hours on the closing date will not change the application filing deadline, so **PLEASE FILE EARLY.**

DPF-256A * Revised 03/09