



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of
Steven Lombardi, Fire Captain
(PM1101S), Bayonne

Examination Appeal

CSC Docket No. 2016-2757

ISSUED: **NOV 16 2016** (RE)

Steven Lombardi appeals the test administration and his score for the oral portion of the promotional examination for Fire Captain (PM1101S), Bayonne. It is noted that the appellant passed the subject examination with a final score of 90.980 and his name appears as the 23rd ranked eligible on the subject list.

It is noted for the record that this two-part examination consisted of a written multiple-choice portion and an oral portion. Candidates were required to pass the written portion of the examination, and then were ranked on their performance on both portions of the examination. The test was worth 80 percent of the final score and seniority was worth the remaining 20 percent. Of the test weights, 31.35% of the score was the written multiple-choice portion, 22.49% was the technical score for the evolving exercise, 7.53% was the supervision score for the evolving exercise, 4.28% was the oral communication score for the evolving exercise, 19.23% was the technical score for the arriving exercise, 7.53% was the supervision score for the arriving exercise, and 7.59% was the oral communication score for the arriving exercise.

The oral portion of the Fire Captain examination consisted of two scenarios: a fire scene simulation with questions designed to measure the knowledge of safe rescue tactics and procedures to safeguard citizens, supervision of fire fighters and the ability to assess fire conditions and hazards in an evolving incident on the fireground (evolving); and a fire scene simulation designed to measure the knowledge of safe rescue tactics and procedures to safeguard citizens, supervision of firefighters and the ability to plan strategies and tactics based upon a building's

structure and condition (arriving). Knowledge of supervision was measured by questions in both scenarios, and was scored for each. For the evolving scenario, candidates were provided with a 15-minute preparation period, and candidates had 10 minutes to respond. For the arriving scenario, a five minute preparation period was given and candidates had 10 minutes to respond.

The candidates' responses were scored on technical knowledge and oral communication ability. Prior to the administration of the exam, a panel of Subject Matter Experts (SMEs) determined the scoring criteria, using generally approved fire command practices, firefighting practices, and reference materials. Scoring decisions were based on SME-approved possible courses of action (PCAs) including those actions that must be taken to resolve the situation as presented. For a performance to be acceptable, a candidate needed to present the mandatory courses of action for that scenario. Only those oral responses that depicted relevant behaviors that were observable and could be quantified were assessed in the scoring process. Each performance was evaluated by two SMEs who currently are a first level supervisor or higher. If the SME scores differed by 1 point, the score was averaged. If they differed by more than 1 point, the SMEs were required to confer with each other until they agreed on a score. Scores were then converted to standardized scores.

Candidates were rated on a five-point scale, with 5 as the optimal response, 4 as a more than acceptable passing response, 3 as a minimally acceptable passing response, 2 as a less than acceptable response, and 1 as a much less than acceptable response. For each of the scenes, and for oral communication, the requirements for each score were defined. For the evolving scenario, the appellant scored a 4 for the technical component, a 1 for the supervision component, and a 4 for the oral communication component. For the arriving scenario, the appellant scored a 5 for the technical component, a 4 for the supervision component, and a 4 for the oral communication component.

The appellant challenges his scores for the oral communication components of both scenarios. As a result, the appellant's test material, video, and a listing of PCAs for the scenarios were reviewed. Additionally, the appellant appeals the test administration. Specifically, the appellant argues that his two-minute warning was given 20 seconds too late.

For the oral communication components of both scenarios, the assessors indicated that the appellant failed to use appropriate words throughout the presentation by using "um" and "ah." On appeal, the appellant contends that this was subjective and does not warrant a reduction in score, particularly when the assessors indicated this was a minor weakness. The appellant argues that, after discussing this with others, he learned that other candidates received higher scores

or no deductions with the same comments. He also states that these verbal mannerisms are used during radio transmissions every day.

The orientation guide that was available to each candidate indicated that oral communication, the ability to communicate clearly and concisely, was a component of this portion of the exam. Thus, the oral communication for each presentation was assessed. Regarding the appellant's contention that the scoring was subjective, it is noted that final scores for oral communication are derived by examining behavior associated with a given scenario throughout the entire exercise. That is, scores are assigned based on a holistic view of the presentation and assessors were trained and used the same standards to measure each candidate performance. Each performance was evaluated by two SMEs who currently are a first level supervisor or higher. As noted above, if the SME scores differed by 1 point, the score was averaged. This was a formal examination setting, and candidates were required to state what they meant with proper word usage and with no distractions. If one assessor was distracted by a behavior, he may have assigned a lower score than another. The appellant's score was not averaged, but both assessors agreed to the weakness in his presentation, and he received a score of 4. It is noted that the same SMEs scored all the candidates in a given jurisdiction so consistency in scoring was maintained.

At this juncture, it should be noted that the appellant has admitted in his appeal that other candidates in his jurisdiction also received similar remarks, but received higher scores. In this regard, the 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. The policy of not discussing test content was important enough that all candidates were required to sign a security pledge that they would not discuss the test content with anyone who had taken the test or with anyone who was a potential makeup candidate. This signature also indicated that the candidate was aware that if he or she violated this pledge, he or she would be subject to punishment. This document does not indicate that it is acceptable to discuss test content in the future, once examination reviews are completed. If the appellant discussed test content with others, he has violated this pledge and will be disqualified. The appellant admits to discussing test scores with others, but his appeal stops just short of an admission that he discussed test content with others. so on this record, there is not sufficient evidence to support a disqualification at this time. However, the appellant should be cognizant of his continuing obligation to not violate his pledge. If it is found in the future that the appellant has discussed test content for this or any other fire examination, he will be disqualified.

There are various factors associated with oral communication. One of the factors of oral communication is word usage/grammar, which is defined as using appropriate words and sentences that are grammatically correct. It was not acceptable to present many distracting verbal mannerisms, such as "ah." This was an examination setting where candidates were given scenarios, and a question or questions for each scenario, and were required to provide direct answers to those questions and, in this setting, candidates are required to maintain the flow of information. There is a well-known phenomenon of hesitational disfluency that can afflict a speaker trying to cope with the pressures of immediate processing, and some level of disfluency is acceptable when it does not affect the continuity of a presentation. At some point, however, the use of distracting verbal mannerisms is not acceptable.

A review of the video and related examination materials reveals that the appellant used many distracting verbal mannerisms. For example, for the evolving scenario, the appellant stated, "We do have exposures. This is an attached, ah, building on the B side. We have a furniture store with a potential high fire load on, on the C side. We al..., we also have ah a vacant store unknown if there are any occupants in any of these buildings and alongside ah on exposure B1 would be, it's attached ah offices." In this passage, the appellant uses distracting verbal mannerisms, repeats words, restarts a sentence, and uses incorrect grammar in the last sentence. In another example, the appellant states, "We're gonna advance the line. Get between any potential victims ah, human or animal, and ah extinguish, locate confine and extinguish that fire. Make sure it doesn't, you know, get into the cockloft. We're gonna check the cockloft area because this is a common cockloft and that's where my fire, my horizontal fire spread concerns are. If in fact it does get into the cockloft, we're gonna, we're gonna have lines in place for my additional units to ah, protect the exposures. I want that roof company to give me, give me an opening right over that fire. Knock down any interior ceilings that ah may be blocking your view of where this fire is. If it is trapped within a cockloft we're going to ensure that ah, it doesn't vert... ah horizontally spread, so we're gonna open up ah vertically and allow for heated gases and everything to escape ah, in vertical fashion." The appellant's excessive use of "ah," in addition to phrases such as "you know," were a distraction throughout his presentation. In addition, he repeated words and had grammatical errors in this passage, which was representative of his delivery for the evolving scenario. A score of 4 for the oral communication component is correct.

Regarding the presentation for the arriving scenario, the appellant spoke in a similar manner, using distracting verbal mannerisms and repeating words. For example, he stated, "We're gonna ah try to find that seat of the fire and keep it, keep it confined and controlled while other members are searching off the line. We're gonna make our way to the second floor. When the tra... ,when the truck

does arrive we'll, they'll assist ah, if they arrive at the same time, or soon after, they'll assist in forcible entry." At another point, the appellant used run-on sentences as well. For example, he stated, "We will locate, confi... ah, remove and rescue those victims to awaiting EMS which I'm gonna need you to dispatch me a second alarm assignment and additional resources. Basically I do need EMS for patient treatment and, and transportation. And get, have PD ah respond to this location just for crowd control, traffic control as well. Ah, additional resources will be two, two engines and a truck and I'll put the second truck into operation and assist with vent, ah horizontal ventilation from, from within or the exterior." The appellant's presentation clearly has a weakness in grammar, even without consideration to the distracting verbal mannerisms, and his score for this component will not be changed.

Regarding test administration, the appeal of test administration was postmarked on February 8, 2016, over 11 months after the examination was given. As such, this appeal is clearly untimely. Appeals of test administration must be filed in writing at the examination site on the test date. See *N.J.A.C. 4A:4-6.4(c)*. Monitors are required to make an announcement before the start of each examination that, should a candidate wish to appeal the test administration, he or she *must* do so at the test center. Additionally, all candidates for examinations are provided with an informational flyer that specifically informs them of the need to appeal administration issues, including how the examination is conducted, at the examination center. Specifically, the back of the Rights and Responsibilities of Test Takers form states, "Candidates should complete a Test Administration Comment/Appeal form provided at the test center to file their objection, and have 5 business days to submit their \$20 appeal fee where applicable." The instructions for the Test Administration Comment/Appeal form state, "All appeals concerning administrative procedures (the way the test was administered) must be **submitted in writing before you leave the building**. Subsequent appeals regarding test administration will not be accepted." The Appellate Division of Superior Court has noted that "the obvious intent of this 'same-day' appeal process is to immediately identify, address and remedy any deficiencies in the manner in which the competitive examination is being administered." See *In the Matter of Kimberlee L. Abate, et al.*, Docket No. A-4760-01T3 (App. Div. August 18, 2003).

Nevertheless, a review of the merits of this appeal shows that the appellant is not entitled to any relief. On appeal, the appellant argues that his two-minute warning was given 20 seconds late. He states that, had it not been late, he would have given a complete answer to question 3. This was in reference to the evolving scenario, which has two questions for the technical portion, and a supervision question. The appellant received a score of 1 for the supervision question as he did not provide a response to that question. A review of the presentation indicates that the appellant was still answering question 1 after 8 minutes, 20 seconds, when the

two-minute warning was given. This warning was 20 seconds late. The appellant did not check his watch, and continued to respond to question 1 for another 23 seconds. He then began responding to question 2. He had set his timer just prior to the monitor, and it went off while he was in midsentence in his response to question 2. When he heard it, he stated, "As far as the third question, supervision, ah supervision, I'm going to..." The monitor then concluded the exercise.

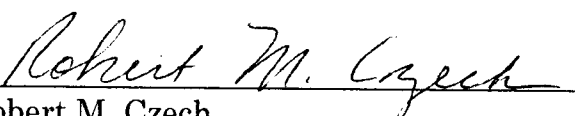
Candidates are told how much time they are given to present their response to the scenario, and the monitor indicates that he or she will give a two-minute warning prior to the expiration of time. This two-minute warning is given to every candidate for every current fire oral examination for the benefit of the candidate. It allows candidates the opportunity to summarize their presentation or provide additional information prior to the abrupt ending of their presentation time allotment. Nevertheless, candidates are aware that they have ten minutes to respond to the questions for each scenario and they are responsible for organizing their time. They are given the time in the orientation guide as well, and told that ten minutes would be the maximum amount of time given to answer all the questions. In this case, the appellant wore a watch with a timer, which he set, so he was aware of the time constraints. The appellant did not appeal this issue at the test center, but brought it up only after receiving his examination scores, almost a year later. If the appellant was concerned about the delay in the warning, he could have appealed it at the test center. The appellant received his full allotment of time, and it was his responsibility to track his time. He wore a timer, which he could have consulted. The appeal of this issue is untimely, and even if it were timely, the circumstances are not so egregious as to warrant a retest.

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
THE 10th DAY OF NOVEMBER, 2016



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