

B-16



STATE OF NEW JERSEY

In the Matter of Glen Wilson, Entry Level
Law Enforcement Examination (S9999U),
Statewide

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2017-2575

Examination Appeal

ISSUED: APR - 5 2017 (JH)

Glen Wilson requests a make-up examination for the Entry Level Law Enforcement Examination (S9999U).

By way of background, Mr. Wilson was scheduled to be tested on December 17, 2016 but he did not appear to take the subject test. It is noted that the Division of Agency Services sent scheduling notices to candidates by regular mail and sent emails to candidates providing instructions on how to access their scheduling information on the Civil Service Commission's website.¹

On appeal, Mr. Wilson submits a sworn statement in which he indicates that he "received no mail formerly by hand or email notifications."

CONCLUSION

N.J.A.C. 4A:4-2.9(c) provides, in pertinent part, that for police, fire, correction officer, sheriff's officer, juvenile detention officer and other public safety open competitive and promotional examinations, make-ups may be authorized only in cases of:

1. Death in the candidate's immediate family;
2. Error by the Civil Service Commission or appointing authority; or
3. A catastrophic health condition or injury, which is defined as either:
 - i. A life-threatening condition or combination of conditions; or

¹ <https://info.csc.state.nj.us/eligiblelists/candidatesexaminfo.aspx>

ii. A period of disability required by the candidate's mental or physical health or the health of the candidate's fetus which requires the care of a physician who provides a medical verification of the need for the candidate's absence from work for 60 or more work days.

A review of the record finds that the notices to appear were sent to the candidates on September 29, 2016. The Commission acknowledges the presumption that mail correctly addressed, stamped and mailed is generally received by the party to whom it was addressed. See *SSI Medical Services, Inc. v. State Department of Human Services*, 146 N.J. 614 (1996); *Szczesny v. Vasquez*, 71 N.J. Super. 347, 354 (App. Div. 1962); *In the Matter of Joseph Bahun*, Docket No. A-1132-00T5F (App. Div. May 21, 2001). It also recognizes that on occasion, such mail never reaches its intended destination.

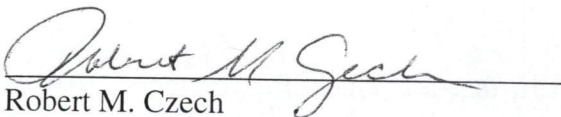
In the present matter, Mr. Wilson has submitted a signed sworn statement that he did not receive a Notification to Appear for Examination or an email. Generally, the Commission is willing to accept that if an individual is prepared to make a statement under oath, understanding all its implications and consequences, then it is proper to permit the presumption of receipt to be overcome. In actuality, there is no other alternative for a candidate. It is not possible to prove a negative, *i.e.*, that mail was not received. If the Commission did not accept a sworn statement averring that mail was not received, there would be no remedy at all for individuals who find themselves in this particular situation.

ORDER

Therefore, it is ordered that this request be granted and the appellant be scheduled for a make-up examination.

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 5TH DAY OF APRIL, 2017



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