

B-19



**STATE OF NEW JERSEY  
DECISION  
OF THE  
CIVIL SERVICE COMMISSION**

In the Matter of Sabura Alexander, :  
Hudson County :  
  
CSC Docket No. 2016-2111q :

Request for Reconsideration

**ISSUED: (CSM) APR 11 2017**

Sabura Alexander, a Human Services Specialist 4 with Hudson County, petitions the Civil Service Commission (Commission) for reconsideration of the attached decision, rendered on December 9, 2015, in which the Director of the Division of Appeals and Regulatory Affairs (DARA) denied her request for a hearing with respect to her 60 working day suspension effective October 9, 2015.

By way of background, the petitioner was suspended for 60 working days effective October 9, 2015 following sustained charges of insubordination, conduct unbecoming a public employee and neglect of duty. The appointing authority issued a Final Notice of Disciplinary Action (FNDA), dated October 8, 2015 which was personally served to the petitioner on October 9, 2015. Thereafter, in a letter postmarked November 5, 2015, the petitioner appealed the disciplinary action. On December 9, 2015, the Director of DARA denied the request for a hearing, finding that the petitioner's appeal was beyond the 20-day time period to file an appeal.

In support of her request for reconsideration, the petitioner states that on October 9, 2015 she was given the FNDA dated October 8, 2015. She explains that she had already filed an appeal of a prior disciplinary matter that was pending at the Office of Administrative Law (OAL) and did not know she had to file another appeal for the 60 working day suspension. The petitioner contends that she was advised to wait until she received documentation to be sent back to her from OAL before submitting the instant appeal and did not receive this information until October 27, 2015. The petitioner provides copies of envelopes from the OAL dated October 27, 2015 in support of her request. She also states that on November 5, 2015, "I borrowed \$20 from my friend so that I could purchase the money order for

my appeal.” Therefore, as her appeal form is dated October 28, 2015, the petitioner maintains that she filed her appeal in a timely manner. In a supplemental submission, the petitioner provides extended information concerning her complaints and grievances about being wrongfully suspended.

In response, the appointing authority, represented by Daniel W. Sexton, Assistant County Counsel, states that the petitioner claims that she did not know that she had to file for her subsequent 60 working day suspension and that her argument that staff from this agency advised her to wait until she received additional documentation to file her appeal makes “no sense on its face.” In a supplemental submission, the appointing authority also notes that she did not perfect her appeal until November 5, 2015, when she mailed her appeal and the \$20 filing fee.

### CONCLUSION

*N.J.A.C.* 4A:2-1.6(b) sets forth the standards by which the Commission may reconsider a prior decision. This rule provides that a party must show that a clear material error has occurred or present new evidence or additional information not presented at the original proceeding which would change the outcome of the case and the reasons that such evidence was not presented at the original proceeding. Additionally, *N.J.S.A.* 11A:2-15 provides that appeals from major disciplinary matters shall be made in writing no later than 20 days from receipt of the final written determination of the appointing authority. Further, *N.J.A.C.* 4A:2-2.8(a) provides that an appeal from a Final Notice of Disciplinary Action must be filed within 20 days of receipt of the Notice by the employee, and if the appointing authority fails to provide the employee with the Final Notice, an appeal may be made directly to the Commission within a reasonable time. Pursuant to *N.J.A.C.* 4A:2-2.8, receipt of the Notice on a different date by the employee’s attorney or union representative shall not affect this appeal period. It is noted that the 20-day time limitation is jurisdictional and cannot be relaxed. See *Borough of Park Ridge v. Salimone*, 21 *N.J.* 28, 46 (1956); See also *Murphy v. Department of Civil Service*, 155 *N.J. Super.* 491, 493 (App. Div. 1978).

In this matter, the petitioner concedes that she received the FNDA on October 9, 2015. Thus, her appeal had to be postmarked by no later than October 29, 2015. In accordance with *N.J.A.C.* 4A:2-2,8(c), and specifically for disciplinary appeals, the only documentation that an employee is required to submit when filing an appeal is the name, title, address, and telephone number of the appointing authority, the employee’s name and contact information, the action being appealed, and copies of the Preliminary Notice of Disciplinary action and the FNDA. The petitioner had all of this information when she was personally served the FNDA on October 9, 2015. As noted earlier, any appeal postmarked after the 20-day statutory time limit will be denied. The petitioner provides no valid explanation as

to why her appeal was not filed within the permitted timeframe when she was clearly apprised of the procedural requirements for filing an appeal. Accordingly, the Commission finds that the petitioner has not met the standard for reconsideration and has not sustained her burden of establishing the timeliness of her appeal. Thus, her request for a hearing was properly denied.

ORDER

Therefore, it is ordered that this petition for reconsideration 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 5<sup>TH</sup> DAY OF APRIL, 2017



Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Director  
Division of Appeals  
& Regulatory Affairs  
Civil Service Commission  
Hearings Unit  
P.O. Box 312  
Trenton, New Jersey 08625-0312

Attachment

c: Sabura Alexander  
Daniel Sexton, Esq.  
Records Center



STATE OF NEW JERSEY  
CIVIL SERVICE COMMISSION

In the Matter of Sabura Alexander :  
Hudson County, Department of :  
Family Services :  
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CSC DKT. NO. 2016-1668

Hearing Denied

ISSUED: **DEC 09 2015**

The Civil Service Commission considered the request for a hearing concerning Sabura Alexander from her appeal of a 60 working day suspension from the position of Human Services Specialist 4, Hudson County, Department of Family Services and made the following findings of fact:

1. The Final Notice of Disciplinary Action was served October 9, 2015.
2. The letter of appeal was postmarked November 5, 2015.

Since the appeal in this matter was not perfected within 20 days of receipt of the Final Notice of Disciplinary Action, the request for a hearing was denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
DIRECTOR, DIVISION OF APPEALS  
AND REGULATORY AFFAIRS  
ON *DECEMBER 9, 2015*

HENRY MAURER  
DIRECTOR

RE: Sabura Alexander

Inquiries  
And  
Correspondence

Henry Maurer  
Director  
Division of Appeals and Regulatory Affairs  
Hearings Unit  
PO Box 312  
Trenton, NJ 08625-0312

c: Sabura Alexander  
Agency Services, Civil Service Commission  
Pensions  
Hudson County  
Seth Gollin, AFSCME Council 52