

appointing authority also noted that the academy training for appointees from the subject certification began on July 23, 2018. In reply, the appellant filed medical documentation, dated October 19, 2018, which referred him for additional medical testing. By letter dated August 12, 2019, agency staff advised the appellant that since no medical documentation had been presented that indicated that he was medically able to perform effectively the duties of a Police Officer, there was not a sufficient basis to disturb the removal of his name from the subject eligible list nor forward the matter to the Civil Service Commission (Commission) for a determination. The appeal file was then closed. A year later, by letter postmarked August 31, 2020, the appellant stated that he has “dedicated [himself] to seeing the appropriate doctors and finished all [his] testing and treatment. [He is] now cleared to enter the police academy.” In support, the appellant submitted a letter, dated August 30, 2020, from Dr. Matthew Martinez, a personal physician, that the appellant had been evaluated and “found to be safe to participate in training for your academy.”

CONCLUSION

N.J.A.C. 4A:2-1.1(b) states that unless a different time period is stated, an appeal must be filed within 20 days after either the appellant has notice or should reasonably have known of the decision, situation, or action being appealed. In the August 12, 2019 letter from this agency, the appellant was advised that there was no basis to disturb the determination of the appointing authority as there was no medical documentation presented that cleared him for duty as a Police Officer. The appeal file was then closed. Over a year later, the appellant essentially requests that his appeal be re-opened. However, the appellant’s request is well beyond the 20 days from when he was advised of the decision concerning his appeal. Therefore, the appellant’s pursuit of his appeal is clearly untimely. *See e.g., In the Matter of Joe Moody, Jr.* (CSC, decided January 15, 2020) (The Commission rejected the appeal of an appellant who did not request that his matter be re-opened until well after 20 days from the receipt of a letter from agency staff that his matter would be closed). Regardless, as set forth fully below, no good cause has been presented to accept the appellant’s medical documentation at this late juncture. The appointing authority had valid reasons for removing the appellant’s name at the time of the subject certification, and thus, the appellant’s appeal must be denied.

N.J.A.C. 4A:4-6.5(a) provides in relevant part that an appointing authority may request that an eligible’s name be removed from an eligible list due to disqualification for medical reasons which would preclude the eligible from effectively performing the duties of the title. Moreover, *N.J.A.C.* 4A:4-6.5(a)1 indicates that the appointing authority shall furnish to appropriate Commission staff a copy of the certification and a report and recommendation supporting the removal request, prepared and signed by a physician who is licensed in New Jersey. The appointing authority submission shall include a finding that the eligible is not

qualified due to medical reasons for the title. *See N.J.A.C. 4A:4-6.5(a)2*. Further, *N.J.A.C. 4A:4-6.5(d)* states in relevant part that upon receipt of a notice of an eligible's appeal, the appointing authority shall submit to this agency, within 20 days, all background information, including complete medical reports which were the basis for the removal request. In addition, *N.J.A.C. 4A:4-6.5(e)* states that "[t]he appellant may submit to the [Commission] a report from a New Jersey licensed physician, psychologist, or psychiatrist of his or her own choosing, which must be submitted within 90 calendar days, which may be extended for good cause, of the filing of his or her appeal to the [Commission]." Lastly, *N.J.A.C. 4A:4-6.3(b)* indicates that in examination and selection appeals, the appellant shall have the burden of proof, except for medical and psychological disqualification appeals, where the appointing authority shall have the burden of proof.

In the present matter, the appellant has not provided the reason for his delay in providing the medical documentation that cleared him for police academy training. Thus, no good cause has been presented to extend the 90-day time period set forth in *N.J.A.C. 4A:4-6.5(e)*. The Commission can only surmise that the appellant's condition was not resolved until months after the subject certification was disposed. In that regard, the Commission emphasizes that consideration of a candidate occurs at a specified period of time. A candidate must be available and medically capable of undergoing the training involved for the position sought at the time the candidate's application is considered. In this case, the appointing authority stated that training at the police academy commenced on July 23, 2018. The appellant did not present that he was medically cleared for academy training by his personal physician until August 30, 2020. As set forth in the job specification for Police Officer, appointees will be required to successfully complete a training program mandated by the New Jersey Police Training Commission within 18 months of appointment. A Police Officer, during an assigned tour of duty, on foot, or in an automobile, patrols a designated area to provide assistance and protection for persons, to safeguard property, to assure observance of the law, and to apprehend law-breakers, and does related work as required. The appellant was physically unfit to attend the training involved to be a Police Officer, and thus, he has not shown that he could effectively perform the duties of the title at the time of his certification. It is emphasized the fact that the appellant's condition may currently be controlled does not demonstrate that he was medically fit to undergo the required training at the time of initial appointment consideration. *See e.g., In the Matter of D.F.* (CSC, decided April 17, 2019) (While the Commission accepted the Panel's finding that the appellant was currently fit, there was no dispute that the pre-appointment medical evaluation deemed the appellant unfit prior to the start of the police academy and the appellant's name was appropriately removed from the eligible list) and *In the Matter of K.C.* (CSC, decided March 27, 2018) (Commission found that although the appellant's injury may have resolved itself within two months of the pre-employment medical examination, she was not cleared

for training at the time of the determination, and therefore, she was appropriately removed from the eligible list for not being medically fit).

Therefore, under these circumstances, the removal of the appellant from the Police Officer (S9999U), Borough of Roselle, eligible list was justified. Accordingly, the appointing authority has met its burden of proof. The Commission notes that the subject eligible list has expired, and this determination does not preclude the appellant from seeking a Police Officer position in the future if he meets the requirements of the position at the time.

ORDER

The Commission finds that the appointing authority has met its burden of proof that T.J.T. was not medically fit to perform effectively the duties of the title and, therefore, the Commission orders that his name be removed from the subject eligible list.

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 17TH DAY OF FEBRUARY, 2021

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