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STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of James J. Kennedy,
Morris County

CSC Docket No. 2015-748

Administrative Appeal

ISSUED: **DEC 05 2014** (DASV)

Morris County requests that James J. Kennedy be provided with a retroactive date of appointment, effective March 13, 2008, as a Juvenile Detention Officer.

By way of background, the appointing authority had provisionally appointed Kennedy as a Juvenile Detention Officer on February 23, 2004. Kennedy then obtained his certification of completion for the training course for Juvenile Detention Officer on June 27, 2005. Thereafter, he received a regular appointment from the Juvenile Detention Officer (C2122G), Morris County, eligible list effective October 16, 2006. The eligible list had promulgated on January 19, 2006 and expired on January 18, 2008. Kennedy ranked 38th on the eligible list out of 44 eligibles. At the time of the eligible list's expiration, two eligibles, who ranked 43rd and 44th, remained on the list. On August 16, 2007, two months prior to completion of his working test period,¹ Kennedy resigned in good standing.

In the instant matter, the appointing authority explains that Kennedy subsequently returned to a Juvenile Detention Officer position with Morris County on March 13, 2008. It indicates that, on March 3, 2008, its former personnel Director noted on a Personnel Requisition form that Kennedy would be rehired "on

¹ N.J.A.C. 4A:4-5.2(d) provides in part that persons appointed to entry-level law enforcement, correction officer, juvenile detention officer and firefighter titles shall serve a 12-month working test period.

cert and/or re-emp. [list].” However, when the appointing authority recently attempted to update Kennedy’s address in the County and Municipal Personnel System (CAMPS), it discovered that Kennedy was on inactive status and the last entry in his records was his resignation in good standing on August 16, 2007. The appointing authority states that it was unable to locate a reemployment request for Kennedy. Thus, it submits that it failed to complete the appropriate documentation for Kennedy’s reemployment. Therefore, it requests that the Civil Service Commission (Commission) provide Kennedy with a retroactive date of appointment, effective March 13, 2008, under these circumstances.

CONCLUSION

N.J.A.C. 4A:4-5.5(a) provides in relevant part that:

An employee who, either during or at the end of a working test period, resigns in good standing or is separated due to unsatisfactory performance may, upon request, be restored to an eligible list, if the [Commission] determines that the employee is suitable for appointment to another position.

1. The [Commission] may consider:
 - i. Whether the list can be certified to another appointing authority;
 - ii. The recommendation of the employee’s former appointing authority; and
 - iii. Any other relevant factors.

Moreover, *N.J.S.A.* 11A:4-6 and *N.J.A.C.* 4A:4-3.4 provide that an eligible list may be revived in order to implement a court order or decision of the Commission in the event of a successful appeal instituted during the life of a list, to correct an administrative error, or for other good cause. Additionally, *N.J.A.C.* 4A:4-1.10(c) states that an individual may receive a retroactive date of appointment to correct an administrative error, for an administrative delay or for other good cause.

In the instant matter, the record establishes that Kennedy resigned in good standing on August 16, 2007, prior to the expiration of the subject eligible list but before he completed his working test period and achieved permanent status. Thus, although he would not be eligible to be placed on a regular reemployment list for reappointment,² pursuant to *N.J.A.C.* 4A:4-5.5(a), it would have been possible to have his name restored to the Juvenile Detention Officer (C2122G), Morris County,

² *N.J.A.C.* 4A:4-7.10(a) states that “[a] *permanent* employee who has resigned in good standing, received a general resignation, retired or voluntarily demoted, may request consideration for reemployment by indicating availability to his or her appointing authority” [emphasis added].

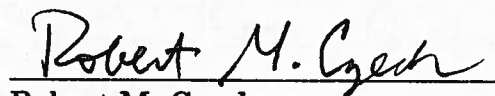
eligible list for future appointment. The appointing authority indicates that it re-hired Kennedy, but it did not complete the proper documentation to effect his appointment. Kennedy should have requested restoration of his name to the subject eligible list, and the appointing authority could have then requested a certification of the list no later than its expiration on January 18, 2008. The appointing authority would then have had up to six months to dispose of the certification.³ Thus, it could have properly appointed Kennedy on March 13, 2008. It is noted that Kennedy would have been listed in the number one position on the certification, and therefore, was reachable for appointment. Based on the foregoing and given the fact that an administrative oversight occurred in processing Kennedy's re-appointment, good cause has been shown to revive the Juvenile Detention Officer (C2122G), Morris County, eligible list, restore and certify Kennedy's name to and from the list, and provide him with a retroactive appointment to Juvenile Detention Officer effective March 13, 2008. Further, since Kennedy has continuously performed the duties of a Juvenile Detention Officer since 2008, he should be considered as having successfully completed his working test period. *See e.g., In the Matter of Winfred L. Christy, Police Officer (M1847M), Borough of Lindenwold* (MSB, decided January 15, 2003). Accordingly, Kennedy's appointment is to be considered permanent.

ORDER

Therefore, it is ordered that this request be granted. It is further ordered that the Juvenile Detention Officer (C2122G), Morris County, eligible list be revived in order to certify James Kennedy's name and record his appointment. Moreover, it is ordered that he be given a retroactive date of permanent appointment effective March 13, 2008.

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 3RD DAY OF DECEMBER, 2014



Robert M. Czech
Chairperson
Civil Service Commission

³ Appointing authorities are ordinarily given six months to dispose of a Juvenile Detention Officer certification.

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