



STATE OF NEW JERSEY

In the Matter of Francesca Zappella,
Firefighter (M1544T), Jersey City

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

CSC Docket No. 2019-2526

List Removal

Corrected

ISSUED: April 29, 2019 (RE)

Francesca Zappella appeals the removal of her name from the Firefighter (M1544T), Jersey City eligible list due to her failure to appear for the Physical Performance Test (PPT).

By way of background, the appellant's name appeared on the Firefighter (M1544T) eligible list and was certified to Jersey City on January 27, 2017. The eligible list was certified on January 27, 2017 (OL170100) and the appellant was subsequently contacted via email and scheduled to take the PPT on March 15, 2017. As she did not appear, she was removed from all Fire Fighter lists on which her name appeared. On appeal, the appellant explains that on February 28, 2017 she contacted the appointing authority and indicated that she was not interested in appointment at this time, but wanted to remain on the list for future opportunities. She received a Certification Disposition Notice dated August 24, 2017 indicating that she was not selected for appointment as she indicated she was not interested the position, and that her name would remain on the list for future certifications. She states that she subsequently discovered that Jersey City hired from the eligible list, but she did not receive future certifications. She requests an appointment to Firefighter with Jersey City.

CONCLUSION

N.J.A.C. 4A:4-3.3(b) provides, in pertinent part, that open-competitive lists shall be promulgated for three years from the date of their establishment. *N.J.A.C.* 4A:4-3.4(a)5 states that the Civil Service Commission (Commission) may revive an

expired eligible list for good cause. *See also N.J.S.A. 11A:4-6. N.J.A.C. 4A:4-1.10(c)* provides that the Commission may order a retroactive appointment date due to an administrative error, administrative delay or other good cause.

In the instant matter, the appellant's name was reachable for appointment consideration on the subject list and the Firefighter (M1557T) North Hudson Fire and Rescue eligible lists. After the certification of (OL170100) to Jersey City, the appointing authority sent a list of eligible names to the Commission for scheduling of the PPT, and included the appellant. As she did not appear, her name was removed from the certification and the other eligible lists. This was an administrative error, and the appellant should have remained on the eligible lists for future certification. At this point, the lists for those symbols for which the appellant is eligible have expired.

Nevertheless, the appellant's name merely appears on an eligible list, and therefore, she does not have a vested right to appointment. *See In re Crowley*, 193 *N.J. Super.* 197 (App. Div. 1984), *Schroder v. Kiss*, 74 *N.J. Super.* 229 (App. Div. 1962). The only interest that results from placement on an eligible list is that the candidate will be considered for an applicable position so long as the eligible list remains in force. *See Nunan v. Department of Personnel*, 244 *N.J. Super.* 494 (App. Div. 1990). There were several certifications from M1557T for which the appellant may have been reachable based on her ranking which were issued after her removal from the eligible lists and prior to the expiration date. Additionally, her name would have been included on certification OL181118 from the M1557T eligible list, which was issued on October 17, 2018 and has not yet been disposed. Therefore, the M1544T eligible list should be revived on a one-time basis to certify the appellant's name and allow her to be scheduled for the PPT, and should she pass, she should be considered for appointment. Should she be appointed and complete a working test period, the appellant should receive a retroactive appointment date. Further, her name should be added to the outstanding certification OL181118 for M1557T and if she is interested, provided an opportunity to schedule the PPT.

ORDER

Therefore, it is ordered that this appeal be granted, and lists be revived on a one time basis to allow for her to take the Physical Performance Test, and for consideration of appointment.

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 24th DAY OF APRIL, 2019

A handwritten signature in dark ink, reading "Deirdre' L. Webster Cobb". The signature is written in a cursive, flowing style.

Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

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and
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