

B-19



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Research Assistant,
Criminal Information (C1033P),
Mercer County

Appointment Waiver

CSC Docket No. 2014-2649

ISSUED: **NOV 21 2014** (WR)

Mercer County requests permission not to make an appointment from the October 16, 2013 certification for Research Assistant, Criminal Information (C1033P).

The record reveals that on November 17, 2012, the appointing authority provisionally appointed Tasha Kersey, pending open competitive examination procedures, to the subject title. As a result of the provisional appointment, an examination was announced with a closing date of December 17, 2012. The examination resulted in an eligible list of 13 individuals, which promulgated on October 3, 2013 and expires on October 2, 2016. The appointing authority took no action to obviate the need for the examination at the time of the announcement or prior to the administration of the examination. A certification containing eight names was issued on October 16, 2013. It is noted that a veteran was listed as the first ranked eligible and Kersey was listed as the third-ranked eligible. On April 2, 2014, the appointing authority returned the certification and requested an appointment waiver.

In its request for an appointment waiver, the appointing authority indicates that the subject position has been eliminated, as the duties of the subject title are no longer needed. In this regard, the appointing authority indicates that Kersey was instead appointed to the title of Paralegal Specialist pending open competitive examination procedures, effective February 22, 2014. Additionally, the appointing authority requests that the costs of the examination process be waived or at least held in abeyance until the list expires.

The appointing authority's request for an appointment waiver was acknowledged, and it was advised that if its request were granted, it could be assessed for the costs of the selection process in the amount of \$2,048. However, no further arguments were received.

Agency records indicate that currently there are no individuals in the subject title with the appointing authority. A review of the job specification for Research Assistant, Criminal Information reveals that an individual in that title performs research collecting, summarizing, and compiling information on criminal activities, drug abuse, criminals, and individuals indirectly involved with illicit activities. A review of the job specification for Paralegal Specialist reveals that an individual in that title assists in the preparation of cases for legal action, conducts assigned legal research, gathers factual information, and assists in the preparation of legal documents.

CONCLUSION

In accordance with *N.J.S.A.* 11A:4-5, once the examination process has been initiated due to the appointment of a provisional employee or due to an appointing authority's request to fill a vacancy, the appointing authority must make an appointment from the resulting eligible list if there are three or more interested and eligible candidates. The only exception to this mandate may be made for a valid reason such as fiscal constraints.

In the instant matter, the examination for the subject title was generated as the result of the provisional appointment of Kersey. However, after a complete certification was issued, the appointing authority requested an appointment waiver as it no longer required the duties of the subject title. Agency records indicate that Kersey was appointed to the title of Paralegal Specialist effective February 22, 2014. A review of the relevant job specifications indicates that an individual in the title of Paralegal Specialist performs sufficiently different duties than an individual in the title of Research Assistant, Criminal Information. Therefore, since the provisional is no longer serving in the subject title and there are no employees serving in the subject title with the appointing authority, there is sufficient justification for an appointment waiver.

Although an appointment waiver is granted in this matter, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse the costs of the selection process. While administering examinations and providing the names of eligible job candidates to the jurisdictions under the Civil Service system are two of the primary activities of this agency, these costly efforts are thwarted when appointing authorities fail to utilize the resulting eligible lists to make appointments and candidates have needlessly expended their time, efforts and money to take these examinations in hopes of being considered for a permanent

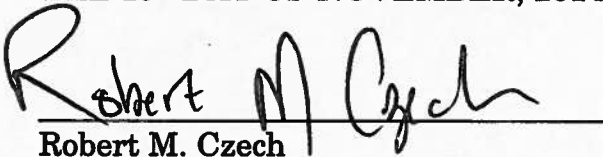
appointment. Furthermore, reimbursement of selection costs pursuant to *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 does not place an undue burden on the appointing authority or prohibit it from looking towards other cost saving measures. While the appointing authority requests that the costs be waived or postponed, it presents no basis for doing so. Thus, although a waiver is granted, it is appropriate that the appointing authority be assessed \$2,048 for the costs of the selection process.

ORDER

Therefore, it is ordered that the request for a waiver of the appointment requirement be granted. Additionally, the Commission orders that the appointing authority be assessed for the costs of the selection process in the amount of \$2,048 to be paid within 30 days of the issuance of this order.

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 19th DAY OF NOVEMBER, 2014



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