

B-19



STATE OF NEW JERSEY

In the Matter of David Kelsey,  
County Correction Captain  
(PC2004R), Atlantic County

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket No. 2014-3024

Examination Appeal

ISSUED: **AUG 15 2014** (JH)

David Kelsey appeals the promotional examination for County Correction Captain (PC2004R), Atlantic County.

The subject examination was administered on May 8, 2014 and consisted of 75 multiple choice questions.

An independent review of the issues presented under appeal has resulted in the following findings:

Question 2 indicates that Officer Perez worked the second shift which is from 2 p.m. to 10 p.m. Officer Ratzenberger worked the third shift which is from 10 p.m. to 6 a.m. The question asks for the action that was correctly taken by the facility's custody staff pursuant to *N.J.A.C.* 10A:31-8.10. The keyed response is option c, "Officer Ratzenberger conducted the inmate count that needed to be taken at the end of the second shift." Mr. Kelsey argues that the officer working the third shift would take the count that "needed to be taken on the 3<sup>rd</sup> shift, NOT that needed to be taken at the end of the 2<sup>nd</sup> shift." He presents that the keyed response "would lead a reasonable person to believe that the officer working the 2<sup>nd</sup> shift failed to conduct a required count on his shift, and/or that the shifts were overlapping." He asserts that the phrase, "needed to be taken at the end of the 2<sup>nd</sup> shift," is confusing and is not consistent with *N.J.A.C.* 10A:31-8.10 since the count needs to be taken by the oncoming shift officer on his assigned shift.

*N.J.A.C.* 10A:31-8.10(a) provides that at the end of each work shift, a count shall be taken by the oncoming shift custody staff. The pertinent provision specifically indicates that *oncoming* staff, *i.e.*, staff who are about to come on shift, rather than staff who are currently on shift, are responsible for performing a count before they begin their assigned shift. Thus, the question is correct as keyed.

### CONCLUSION

A thorough review of the appellant's submissions and the test materials reveals that the appellant's examination score is amply supported by the record, and the appellant has failed to meet his burden of proof in this matter.

### ORDER

Therefore, it is ordered that this appeal 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  
THE 13TH DAY OF AUGUST, 2014



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