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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Elizabeth Waked,
Coordinator MVC (PS3709T),
Motor Vehicle Commission

CSC Docket No. 2014-2794

Request for Reconsideration

ISSUED: **JUL 16 2014** (RE)

Elizabeth Waked petitions the Civil Service Commission (Commission) for reconsideration of the decision rendered on April 23, 2014, which denied her appeal regarding her ineligibility for the promotional examination for Coordinator MVC (PS3709T), Motor Vehicle Commission. A copy of that decision entitled *In the Matter of Dodie Burrell, et al., Coordinator MVC (PS3709T), Motor Vehicle Commission* (Civil Service Commission, decided April 23, 2014), is attached hereto and incorporated herein.

By way of background, the eligibility requirements for the subject examination included a Bachelor's degree from an accredited college or university, and four years of experience with responsibility for the staffing, planning, scheduling, and overseeing the total activities of a personnel and/or work program in a public or private agency. This examination was announced with the closing date of October 22, 2012, and Ms. Waked was found to be ineligible based on a lack of experience per the substitution clause for education. The Commission explained that since Ms. Waked possessed no college credits, she was required to have 8 years of applicable experience. Ms. Waked was credited with 1 year, 4 months of experience as an "Agent's Administrative Assistant/Head Supervisor" from February 2002 to June 2003. She was also credited with 6 years, 3 months for experience from August 2006 to the October 2012 closing date. In total, she was found to have 7 years, 7 months of experience and be lacking 5 months of applicable experience.

In her request for reconsideration, the petitioner reiterates her prior arguments. She argues that she has more than 13 years of applicable experience and she submits letters from supervisors that she had worked out-of title. She resubmits her entire work history and provides letters of recommendation and letters from supervisors stating that they believe she meets the minimum requirements for the examination. She argues that one of those letters was not acknowledged by the Commission's decision. She provides letters submitted for her prior decision for an examination for Field Monitor 1, Division of Motor Vehicles that she states led to acceptance of her Customer Service Representative 1 position from June 2003 to June 2006 as "lead supervisor" experience. The appointing authority submits a letter of support as well, indicating that her Customer Service Representative 1 experience should be credited since in August 2006, employees in the Customer Service Representative 1 title were crosswalked to the professional level title of Supervisor 3 MVC.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) provides that a petition for reconsideration must show the following:

1. New evidence or additional information not presented at the original proceeding which would change the outcome and the reasons that such evidence was not presented at the original proceeding; or
2. That a clear material error has occurred.

N.J.A.C. 4A:4-2.6(a)2 provides that applicants shall meet all requirements specified in the promotional examination announcement by the closing date. *N.J.A.C.* 4A:4-2.6(c) provides that, except when permitted for good cause, applicants for promotional examinations with open competitive requirements may not use experience gained as a result of out-of-title work to satisfy eligibility requirements.

In the instant matter, the petitioner has demonstrated that reconsideration should be granted. The Commission previously explained that experience gained in the Customer Service Representative title series was gained in a non-professional series and did not involve professional-level supervisory responsibilities commensurate with those required of the Coordinator MVC. As such, it did not accept her experience as a Customer Service Representative 1 from June 2004 to August 2006, and a Transitional Customer Service Representative 1 from June 2003 to June 2004. It also explained that out-of-title work cannot generally be used to satisfy eligibility requirements for a promotional examination without presentation of good cause.

On reconsideration, the petitioner initially submits an extensive list of her qualifications and supportive letters from supervisors and others who believe that the petitioner meets the minimum qualifications. In this respect, supervisors are not in a position to make eligibility determinations. The Commission is responsible for making official determinations for eligibility for all prospective candidates for positions in State or local Civil Service jurisdictions.

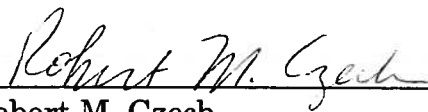
In the present matter, the examination is competitive, as eight candidates passed the examination. In such situations, the Commission does not usually find good cause exists to accept documented out-of-title work.¹ However, the appointing authority has explained that in 2006 it agreed with the decision to crosswalk employees in the Customer Service Representative 1 title to the Supervisor 3 MVC title, which, in essence, acknowledged that the supervisory experience attained by those employees in the Customer Service Representative 1 title was acceptable for the professional-level Supervisor 3 MVC title. Accordingly, it would be inequitable to not accept such experience accrued prior to the crosswalk as qualifying experience in the current matter. As such, good cause has been presented to accept Ms. Waked's out-of-title work as a Customer Service Representative 1 prior to the crosswalk, for eligibility purposes only, and admit her to the examination. This decision is based on the particular facts and circumstances presented and shall not be used as precedent for any other matter.

ORDER

Therefore, it is ordered that this request be granted and the petitioner be scheduled for a make-up examination.

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 16th DAY OF JULY, 2014



Robert M. Czech
Chairperson
Civil Service Commission

¹ Based on the prior decision *In the Matter of Elizabeth Waked, Field Monitor 1, Division of Motor Vehicles (PS2407T), Motor Vehicle Commission (MSB, decided October 10, 2007)*, the petitioner was found to have worked out-of-title at a higher level while in the title Customer Service Representative 1.

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Attachment

c: Elizabeth Waked
Roopa Trotter
Dan Hill
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Joseph Gambino

requirements remained the same. The appellants were found to be ineligible based on a lack of experience, or a lack of experience per the substitution clause for education. Nevertheless, 26 candidates have been admitted to the examination, which has not yet been scheduled.

It is noted that, at its August 4, 2010 meeting, the Commission approved changes in the State classification plan for various MVC titles, effective July 3, 2010. As a result, the Customer Service Representative, Support Services Representative and Examination Technician, Motor Vehicles title series were restructured as the Technician, MVC title series; the Supervisor 1 MVC title was consolidated into the Coordinator MVC title; and the Supervisor 3 MVC title was renumbered to Supervisor 1 MVC.

A review of Ms. Burrell's application reveals that she possesses no college credits and, therefore, she needed 8 years of experience. On her application, Ms. Burrell indicated experience as a provisional Coordinator MVC from February 2012 to the October 2012 closing date; Supervisor 2 MVC from October 2010 to February 2012; Supervisor 2 MVC from March 2006 to September 2010; Records Technician 1, Motor Vehicles from December 1991 to March 2006; Records Technician 2, Motor Vehicles from August 1988 to December 1991; Principal Data Entry Machine Operator from June 1987 to August 1988; Principal Clerk Typist from March 1987 to June 1987; Senior Clerk Typist from February 1983 to March 1987; Clerk Typist from February 1982 to February 1983; Senior Clerk Typist from September 1981 to February 1982; and Clerk Typist from September 1980 to September 1981. DSSR credited Ms. Burrell with 6 years, 8 months of experience for her first three positions, from March 2006 to the closing date. As her remaining experience was not accepted, she was found to be lacking 1 year, 4 months of applicable experience. On appeal, Ms. Burrell argues that she has been in a supervisory position since 1983, and she indicates that she supervised personnel while in the titles Records Technician 1 and 2, Motor Vehicles, Principal Data Entry Machine Operator, Principal Clerk Typist and Senior Clerk Typist. In support of her appeal, she attaches PARS, copies of PARs which she signed as a rater, a list of completed training classes, and recommendation letters from supervisors.

Ms. Griffin indicated that she did not have any college credits, and therefore, was required to possess 8 years of applicable experience. For experience, she listed "Supervisor" full-time, from October 1996 to the October 22, 2012 closing date. She provided duties for this position, and indicated that she supervised 30 support staff but did not indicate that she supervised any professional staff. Official records indicate that the appellant held the title Supervisor 1 MVC from July 2010 to the October 2012 closing date; Supervisor 3 Motor Vehicles from August 2006 to July 2010; Customer Service Representative 1 from June 2004 to August 2006; Transitional Customer Service Representative 1 from June 2003 to June 2004; and Customer Service Information Specialist 3 from November 1990 to June 2003. She

was credited with 6 years, 3 months of experience, from August 2006 to the October 2012 closing date, and therefore lacked 1 year, 9 months of experience as of the closing date. Ms. Griffin indicated that she wished to appeal, but did not provide any arguments or evidence in support.

Mr. Kern completed an online application wherein he indicated that he possessed a Bachelor's degree and he listed three positions, Senior Technician MVC from January 2011 to the October 2012 closing date, Customer Service Representative 2 from November 2006 to January 2011, and Customer Service Representative 4 from April 2003 to November 2006. As this experience was not accepted, he was found to be lacking 4 years of experience. On appeal, the appellant states that he has a Bachelor's degree and has been serving in a supervisory capacity since November 2006. He provides a list of his duties and indicates that he serves as the Manager or Supervisor 1 MVC in the event of their absence.

Ms. Mirkovic also completed an online application and no education or experience was given. She was found to be lacking 8 years of applicable experience. Official records indicate that she had held the titles Technician MVC, and Customer Service Representative 3. On appeal, the appellant maintains that, for a period of time when there was no supervisor, she and a coworker assumed the responsibilities for that position. The appellant does not provide a specific time frame, or mention the title she was in at the time, but provides the phone number of a supervisor to call for this information. The appellant also states that in her current agency, there is no supervisor and she has assumed responsibility for the duties of that position. The appellant argues that she has been serving in a supervisory capacity for ten years. She submits her resume which lists four titles and dates, but includes only one set of duties. The titles listed on her resume include Senior Technician, MVC (appointed to the title after the closing date), Technician, MVC, and two positions as Customer Service Representative 3.

A review of Mr. Queenan's application reveals that he possessed 24 college credits which prorate to 10 months of experience and, therefore, he needed 7 years, 2 months of experience. Mr. Queenan completed an online application indicating experience as a Supervisor 1 MVC from February 2012 to the October 2012 closing date, Supervisor 1 MVC from December 2006 to February 2012, Supervisor 1 MVC from July 2003 to December 2006, and Customer Service Representative 1/Head Clerk from May 1995 to July 2003. Official records indicate that he held the title Customer Service Representative 1 from June 2003 to August 2006 instead of Supervisor 1 MVC. Mr. Queenan had 6 years, 3 months of in-title experience as a Supervisor 1 MVC. As he was credited with 10 months of experience for his college credits, he was found to be lacking 11 months of experience. On appeal, Mr. Queenan states that he holds the title of Supervisor 1 MVC and he provides a clarification of his duties in various positions.

A review of Ms. Waked's application reveals that she possesses no college credits and, therefore, she needed 8 years of experience. On her application, she indicates that she was a provisional Coordinator MVC from February 2012 to the October 2012 closing date; Supervisor 1 DMV from January 2011 to February 2012; Supervisor 1 DMV from June 2003 to December 2010; "Agent's Administrative Assistant/Head Supervisor" from February 2002 to June 2003; Administrative Assistant from January 1995 to April 2001; Title Clerk from December 1993 to December 1994; Customer Service Representative 2 from 1986 to 1990; and Clerk Typist from 1982 to 1986. Official records indicate that Ms. Waked was a Customer Service Representative 1 from June 2004 to August 2006, and a Transitional Customer Service Representative 1 from June 2003 to June 2004, when she indicated that she was a Supervisor 1 DMV.

The Commission previously decided an ineligibility appeal for Ms. Waked and found a differing employment history. That decision, entitled *In the Matter of Elizabeth Waked, Field Monitor 1, Division of Motor Vehicles (PS2407T), Motor Vehicle Commission* (MSB, decided October 10, 2007), stated, "A review of DOP records in conjunction with Ms. Waked's application indicates that she has served as a Supervisor 3, Motor Vehicles from August 2006 through the December 21, 2006 closing date of the subject examination, as a Customer Service Representative 1 from June 2004 through August 2006, as a Transitional Customer Service Representative 1 from June 2003 to June 2004, as a Customer Service Representative 2 from July 1988 through June 2003, as a Customer Service Specialist 2, PPP from July 1987 to July 1988, and as a Principal Audit Account Clerk from July 1986 to July 1987." For that appeal, Ms. Waked submitted a letter from Robert R. Grill, Deputy Director, Division of Agency Services, Motor Vehicle Commission, which indicated that Ms. Waked acted in a managerial role from June 2006 to October 2006. Mr. Grill indicated that as a Customer Service Representative 1, Ms. Waked was lead supervisor at the Rahway agency from June 2003 to June 2006 and in that capacity she oversaw the transition of the agency from the private sector to a State operation; directed various business improvements and the technical upgrade of equipment needed for the Digitized Driver's License Program and the six point identification process; and was responsible for training 20 employees in these processes. She also submitted a letter from Anne Marie Laurino, Manager, East Orange Motor Vehicle Agency, which indicated that from March 2002 to June 2003, she performed supervisory duties along with acting in a managerial capacity when she assisted Ms. Laurino in operating four motor vehicle agencies.

Ms. Waked was credited with 1 year, 4 months of experience in her provisional position and as an "Agent's Administrative Assistant/Head Supervisor" from February 2002 to June 2003. In fact, the appellant was a Customer Service Representative 2 during the period from February 2002 to June 2003, but Ms.

Waked indicated that this was private employment. DSSR also credited her with 6 years, 3 months for experience from August 2006 to the October 2012 closing date. In sum, she was credited with 7 years, 7 months of experience and was found to be lacking 5 months of applicable experience. On appeal, the appellant states that she has spent more than 19 years of experience in a supervisory capacity, 16 of which were in performing the announced duties. She submits a report of her pension service credit, letters of recommendation, training certificates, and a letter from an Agent in the Eatontown MVA commending her performance and asking that she be allowed to take the examination.

Ms. Welke indicated on her application that she possesses no college credits and, therefore, she needed 8 years of experience. She listed experience as a Program Technician from January 2011 to the October 2012 closing date; Records Technician 1 from March 2006 to January 2011; Supervisor 2 MVC from March 2004 to March 2006; Records Technician 1 from November 2001 to March 2004; Records Technician 2 from October 1993 to November 2001; Records Technician 3 from September 1989 to October 1993; Support Services Representative 2 DMV from June 1989 to September 1989; Support Services Representative 3 DMV from August 1988 to June 1989; Project Support Specialist from February 1987 to August 1988; Senior Clerk from November 1985 to February 1987; and Clerk from January 1985 to November 1985. She was credited with 2 years of experience in the third position, and was found to be lacking 6 years of experience. On appeal, the appellant states that she has 12 years of applicable experience in the titles Records Technician 1, Supervisor 2 MVC and Program Technician. She states that she has responsibility for daily functions in the absence of the Manager. She submits copies of performance evaluations and the justification written by her supervisor for changing the title of her position from Records Technician 1 to Supervisor 2 MVC.

Ms. Zellner indicated on her application that she possesses no college credits and, therefore, she needed 8 years of experience. She listed experience as a Supervisor 1 MVC from February 2012 to the October 2012 closing date; Supervisor 1 MVC from August 2008 to February 2012; and Customer Service Representative 1 from November 2000 to August 2006. She was credited with 6 years, 2 months of experience in the first two positions, and was found to be lacking 1 year, 10 months of experience. On appeal, Ms. Zellner states that the agency has been without a manager for six months, so her current duties include managerial responsibilities, and she provides clarifying information regarding her Supervisor 1 MVC position.

N.J.A.C. 4A:4-2.6(a) provides that applicants shall meet all requirements specified in the promotional examination announcement by the closing date. *N.J.A.C.* 4A:4-2.6(c) provides in pertinent part that applicants for promotional examinations with open competitive requirements may not use experience gained as a result of out of title work to satisfy the requirements for admittance to the

examination or for credit in the examination process, unless good cause is shown for an exception.

CONCLUSION

In order for experience to be considered applicable, it must have as its primary focus full-time responsibilities in the areas required in the announcement. *See In the Matter of Bashkim Vlashi* (MSB, decided June 9, 2004). An experience requirement that lists a number of duties which define the primary experience requires that the applicants demonstrate that they *primarily* performed *all* those duties for the required length of time. Performance of only one or some of the duties listed is not indicative of comprehensive experience.

Further, when an applicant indicates extensive experience in titles established under the State Classification Plan for an examination, it is appropriate to utilize the job specifications to determine the primary focus of the duties of incumbents serving in career service titles. In the eligibility screening process, reliance on the job specifications to determine the primary focus of duties for incumbents of a particular title or title series provides a standardized basis on which Selection Services can evaluate what an applicant indicates on his or her application to what incumbents in a particular title series generally perform. *See In the Matter of William Moore* (MSB, decided May 10, 2006). In order to maintain the integrity of the State Classification Plan, DSSR cannot simply accept *carte blanche* how an applicant describes his or her experience when such a barometer exists. In this regard, it is noted that *N.J.A.C. 4A:3-3.4* contemplates that employees are appointed to a title appropriate to the duties to be performed in the title and will not be assigned duties other than those properly pertaining to the assigned title which the employee holds.

In addition, titles are categorized as professional, para-professional or non-professional. *N.J.A.C. 4A:4-2.5(a)1* states that professional titles require at least a Bachelor's or higher level degree, with or without a clause to substitute experience. Thus, since the Coordinator MVC title requires completion of a Bachelor's degree with a substitution clause, which permits additional experience in lieu of the college credits, as well as relevant experience, it is considered a professional title. The announced experience requirement was supervisory experience in a regulatory agency including responsibility for employee performance evaluations and the oversight of activities and staff. Thus, the experience requirement must also have been performed at the professional level and professional staff should have been supervised.

Thus, based on the above standards, experience gained in the Customer Service Representative title series; Records Technician 1 and 2, Motor Vehicles; Senior Technician, MVC; Technician, MVC; Principal Data Entry Machine

Operator; Clerk Typist series; Support Services Representative 2 and 3, Division of Motor Vehicles; and Project Support Specialist was not accepted. A review of the job specifications for each of these titles reveals that none involve professional-level supervisory responsibilities commensurate with those required of the Coordinator MVC. According to the job specification, experience in the Customer Service Representative title series entails performance of technical functions, involving the issuance of documents and related services and the dissemination of information. A Records Technician performs technical and para-professional functions with a data system on a data base, and takes actions against motorists. The Support Services Representative works in a technical/clerical operation applying knowledge and exercising judgment to process documents. Likewise, the Technician title series involves technical/clerical functions involving processing and issuing documents and applying knowledge and exercising judgment. The Data Entry Machine Operator and Clerk Typist title series are clearly clerical, and Project Support Specialist does not have a job specification but is generally not a professional title.

Per the substitution clause for education, Ms. Burrell needed 8 years of experience and was credited with 6 years, 8 months in her provisional position, and as a Supervisor 2 MVC from March, 2006 to the closing date. As noted, experience in the Records Technician title series and in clerical titles, even supervisory clerical positions, is not acceptable. The training courses she has taken have no bearing on this determination. Ms. Burrell lacks 1 year, 4 months of qualifying experience per the substitution clause for education.

Ms. Griffin listed one position on her application, "Supervisor." She was credited with 6 years, 3 months of experience, from August 2006 to the October 2012 closing date, in her Supervisor 1 and 3, MVC titles, and on appeal, she does not provide any arguments regarding her experience. Her remaining titles are non-professional and are not acceptable. Per the substitution clause for education, she lacks 1 year, 9 months of qualifying experience as of the closing date.

Mr. Kern's experience in the title of Senior Technician MVC, and in the Customer Service Representative title series is not applicable as he did not supervise professional staff while in these titles. In addition, any duties performed in the absence of a Manager are on an intermittent basis and this does not elevate the position to the Manager's level or indicate that the announced experience requirement was the primary focus. Mr. Kern lacks 4 years of applicable experience.

Ms. Mirkovic did not properly complete her on-line application, as she did not add experience or save her application after adding her experience. Prior to the closing date, Ms. Mirkovic held the titles Technician MVC and Customer Service Representative 3. Again, experience in these titles is not applicable. Ms. Mirkovic lacks 8 years of applicable experience per the substitution clause for education.

Mr. Queenan's 6 years, 3 months of experience as a Supervisor 1 MVC was accepted, and his college credits prorated to 10 months of experience. His experience as a Customer Service Representative 1 and Head Clerk is not at the level and scope of the announced experience requirement. Mr. Queenan provides a detailed description of duties for each position on appeal, and argues that he was working out of title performing higher level duties. Specifically, he states that he performed the duties of a Supervisor 1, MVC while in the title Customer Service Representative 1. Nonetheless, if his description is correct, it would be considered out-of-title work which cannot be used to satisfy eligibility requirements for a promotional examination. There are 26 eligible candidates for this examination and the appellant has not presented a basis for accepting out-of-title experience. Per the substitution clause for education, Mr. Queenan was credited with 7 years, 1 month of experience, and he lacks 11 months of experience.

Ms. Waked received credit for 6 years, 3 months of experience in her provisional and Supervisor 1, MVC positions, and for 1 year, 4 months as an "Agent's Administrative Assistant/Head Supervisor" in private employment. Based on the description on her application and on the prior decision *Waked, supra*, the appellant worked out of title at a higher level while in the title Customer Service Representative 1. Nevertheless, as noted previously, out-of-title work cannot be used to satisfy eligibility requirements for a promotional examination and a basis for accepting out of title experience has not been presented. Her remaining experience, as an Administrative Assistant, Title Clerk, Customer Service Representative 2 (and Principal Audit Account Clerk) and Clerk Typist is not acceptable. Per the substitution clause for education, she lacks 5 months of applicable experience.

Ms. Welke's 2 years of experience as a Supervisor 2, MVC was accepted. Her work in the titles Program Technician, Project Specialist, Records Technician 1, 2 and 3, Support Services Representative 2 and 3, DMV, and Clerk is inapplicable. A Program Technician has charge of staff assigned to a specific work program or technical unit responsible for reviewing, monitoring and processing specific actions requiring the application of rules, regulations, policies, and/or procedures. This is a paraprofessional title, and the appellant indicated that she supervises one support staff in this position. A Records Technician 1 is a lead worker title. Neither of these positions perform work at the level and scope of the announced requirement, and she did not supervise professional staff while in these titles. Performing the duties of an absent Manager on an intermittent basis does not indicate that the appellant is or was performing the announced experience as a primary focus of the position. Per the substitution clause for education, she lacks 6 years of applicable experience.

Ms. Zellner's 6 years, 2 months of experience as a Supervisor 1 MVC was accepted. As explained above, her experience as a Customer Service Representative 1 is not at the level and scope of the announced experience requirement, and the duties that she listed on her application are those of a lower-level supervisor. Ms. Zellner states that she has been performing managerial duties in the absence of the manager for the last six months. It is noted that the closing date for this examination was October 2012, and this appeal was received in May 2013. As such, the appellant's performance of out of title duties commenced after the closing date. Ms. Zellner lacks 1 year, 10 months of applicable experience as of the closing date per the substitution clause for education.

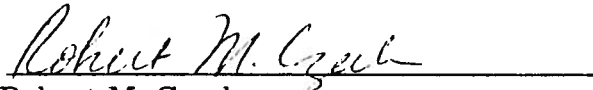
An independent review of all material presented indicates that the decisions of DSS that the appellants did not meet the announced requirements for eligibility by the closing date are amply supported by the record. The appellants provide no basis to disturb these decisions. Thus, the appellants have failed to support their burden of proof in these matters.

ORDER

Therefore, it is ordered that these appeals 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 ON
THE 23rd DAY OF APRIL, 2014



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