



B-67

STATE OF NEW JERSEY

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

In the Matter of John Sabados, Jr.,
Sheriff's Officer (S9999K),
Cumberland County

CSC Docket No. 2014-3034

Administrative Appeal

ISSUED: FEB 09 2015 (DASV)

Cumberland County requests that John Sabados, Jr., be provided with a retroactive date of appointment, effective December 5, 2011, as a Sheriff's Officer.

By way of background, Sabados was initially appointed as a Sheriff's Officer, effective January 7, 2011, from the July 28, 2010 certification of the Sheriff's Officer (S9999K), Cumberland County, eligible list. The eligible list had promulgated on December 24, 2008 and expired on June 9, 2011. The July 28, 2010 certification was the last certification of the eligible list. On May 23, 2011, prior to completion of his working test period,¹ Sabados was laid off from his position. Consequently, since he did not achieve permanent status, Sabados was not placed on a special reemployment list. There is also no current special reemployment list for Sheriff's Officer, Cumberland County.

In the instant matter, the appointing authority explains that Sabados was subsequently appointed to a Sheriff's Officer position with Cumberland County on December 5, 2011. However, due to an administrative oversight, it did not request that Sabados be returned to the Sheriff's Officer (S9999K) eligible list. It now requests that Sabados be retroactively returned to the eligible list in order to appoint him effective December 5, 2011. The Division of Agency Services supports

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.

the appointing authority's request and asks that the Sheriff's Officer (S9999K) eligible list be revived, pursuant to *N.J.A.C. 4A:4-5.5(b)*, in order to provide Sabados with an appointment.

It is noted that, upon review of agency records, Clint Eldridge, who had been appointed with Sabados on January 7, 2011 from the July 28, 2010 certification of the Sheriff's Officer (S9999K), Cumberland County, eligible list, was also laid off on May 23, 2011 and re-appointed, effective September 1, 2011, without him being placed back on the (S9999K) eligible list. However, the appointing authority has not requested approval of Eldridge's re-appointment.

CONCLUSION

N.J.A.C. 4A:4-3.4(a)4 provides that an expired eligible list may be revived to effect the appointment of an eligible whose working test period was terminated by layoff. Additionally, *N.J.A.C. 4A:4-5.5(b)* states that an employee who is laid off during the working test period shall be restored to the eligible list from which he or she was appointed. 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 Cumberland County Sheriff's Department experienced a layoff on May 23, 2011. Eldridge and Sabados, who were appointed on January 7, 2011 from the Sheriff's Officer (S9999K), Cumberland County, eligible list, were laid off. The appointing authority and the Division of Agency Services are in agreement that the subject eligible list should be revived and Sabados' name restored in order to effect his re-appointment on December 5, 2011. There was an administrative oversight in that the appointing authority did not request that Sabados be returned to the eligible list. Under these circumstances, pursuant to *N.J.A.C. 4A:4-3.4(a)4* and *N.J.A.C. 4A:4-5.5(b)*, and the fact that there is no special reemployment list for Sheriff's Officer, Cumberland County, it is appropriate to revive the Sheriff's Officer (S9999K), Cumberland County, eligible list, and provide Sabados with a retroactive appointment date to December 5, 2011.

Moreover, although the appointing authority did not request approval of Eldridge's appointment, Eldridge is in a similar situation as Sabados. Thus, he should also be provided with a retroactive appointment date of September 1, 2011, the date he was re-hired.² Further, since Sabados and Eldridge have continuously

² It is noted that had the appointing authority requested a certification as late as June 9, 2011, the expiration of the subject eligible list, it would have had six months to December 8, 2011 to dispose of the certification. Thus, the appointing authority could have considered the appointments of Sabados and Eldridge at that time. Additionally, Sabados and Eldridge were reachable on the original certification and were in fact appointed. Therefore, the appointing authority had just cause to re-appoint them.

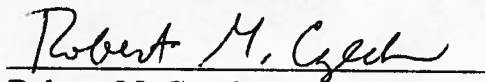
performed the duties of a Sheriff's Officer since 2011, they should be considered as having successfully completed their working test periods. *See e.g., In the Matter of Winfred L. Christy, Police Officer (M1847M), Borough of Lindenwold (MSB, decided January 15, 2003).* Accordingly, their appointments are to be considered permanent. However, the appointing authority is cautioned that it must always follow Civil Service law rules. It should not appoint individuals without first obtaining the proper approvals. Future egregious violations may subject the appointing authority to fines pursuant to *N.J.A.C. 4A:10-2.1(a)2*.

ORDER

Therefore, it is ordered that this request be granted. It is further ordered that the Sheriff's Officer (S9999K), Cumberland County, eligible list be revived in order to record the permanent appointments of John Sabados, Jr., and Clint Eldridge, effective December 5, 2011 and September 1, 2011, respectively.

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 4TH DAY OF FEBRUARY, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals
and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Robert A. Austino
John Sabados, Jr.
Clint Eldridge
Kenneth Connolly
Joseph Gambino

