

B-110



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Karen Crocetti,
et al., Investigator 2, Unemployment
Insurance/Disability Insurance
(PS6895N), Department of
Labor and Workforce Development

Examination Appeals

CSC Docket Nos. 2015-767
2015-770
2015-768

ISSUED: FEB - 9 2015

(RE)

Karen Crocetti, Valerie McIlwain-Bradley and Wilfredo Gonzalez, Sr., appeal the validity of the promotional examination for Investigator 2, Unemployment Insurance/Disability Insurance (PS6895N), Department of Labor and Workforce Development. It is noted that the appellants failed the examination. These appeals have been consolidated due to common issues.

The subject examination was administered on September 11, 2014, to 16 candidates, and 10 of them passed. Ms. Crocetti correctly answered 33 questions, Ms. McIlwain-Bradley correctly answered 32, and Mr. Gonzalez correctly answered 30 questions, out of 65 total questions. As the passing point was 36, the appellants failed the examination. Ten candidates appear on the eligible list, which was certified once, and eight appointments have been made.

By way of background, this multiple choice examination booklet contained more than one title, as they shared some common knowledge, skills and abilities (KSAs), while other KSAs pertained solely to a particular title. The instructions indicated that candidates for the subject examination were to answer some questions pertaining to another title in the examination booklet, and not to answer other questions which were pertinent to the subject title. Upon discovery, the Division of Selection Services (DSS) immediately corrected this administrative error, and on a subsequent date, administered the appropriate questions which were inadvertently omitted from the instructions given on the assigned test date. Final scores were based on the correct questions.

Several individuals appealed this issue and the validity of the examination, including the appellants. They signed a group appeal. In addition, Ms. McIlwain-Bradley appealed the time allotted to take the examination, and Ms. Crocetti appealed that candidates who did not complete the initial examination should not be re-administered the questions that they had not completed.

Commission staff initially responded by letter that the examination was valid. The appellants were informed that a job analysis was performed for this title in accordance with accepted psychometric principles. The results of this analysis identified the underlying KSAs necessary to successfully perform the duties of the position under examination. The questions in the booklet were designed to test these KSAs, and examinations consist of groups of questions, or subtests, which test each KSA. Questions 41 through 70 were to be omitted from scoring as they did not test KSAs appropriate to the title, and only the subset of questions which was not originally taken was re-administered. Also, Ms. Crocetti was informed that no candidate was allowed to retake questions which they have already been asked to answer, and no one received any extra time.

Additionally, Ms. McIlwain-Bradley was informed that, for questions 1 through 10, all candidates were given the same information and instructions. She was informed that the ability to analyze information was a pertinent KSA to the title, and she did not provide any proof or evidence of her assertion that these questions were not valid for that title. It was indicated that her mere assertion that they were too complicated or confusing, or that the stimulus material was too long in her opinion, is not evidence of the lack of validity of this subtest. She was informed that all candidates were given the same amount of time to answer the questions and she was not given less time to complete the examination than other candidates, which was a reasonable and sufficient period of time for a knowledgeable and skilled candidate to demonstrate her abilities.

On appeal, Karen Crocetti and Valerie McIlwain-Bradley maintain that there were "inadequate characteristics" to warrant the cancellation of the exam, and to re-administer another test without questions 41 through 70, and including more job-relevant content. Mr. Gonzalez argues that replacing 30 questions with 15 questions changes the weight of each question and affects the passing point. In addition, he claims that having to take the additional questions during a work day at his place of employment was not conducive in creating a proper environment.

CONCLUSION

The record establishes that appellants took the subject examination and failed. *N.J.A.C. 4A:4-2.2(a)* authorizes the Commission to administer examinations for appointment in the competitive division of the career service, and candidates are required to demonstrate their knowledge, skills, and abilities in a competitive test

situation. In this case, the candidates were required to pass an examination and to properly answer at least 36 of 65 questions, and the appellants did not do so.

For this examination, a job analysis was performed for this title in accordance with accepted psychometric principles. The results of this analysis identified the underlying KSAs necessary to successfully perform the duties of the position under examination, and the questions in the booklet were designed to test these KSAs. Further, examinations are not geared to specific duties of particular positions or postings. Rather, the test content fairly tested all candidates who met the requirements to be eligible to take the examination and measured the KSAs for the general duties of the title. Additionally, an error in test administration occurred and candidates were instructed to answer the questions of another title in the test booklet. DSS rectified the situation by excluding inappropriate questions, and administering appropriate questions and including them in scoring. Although this was a procedural error, appellants cannot benefit from such an error. See *Cipriano v. Department of Civil Service*, 151 N.J. Super. 86 (App. Div. 1977); *O'Malley v. Department of Energy*, 109 N.J. 309 (1987); *HIP of New Jersey, Inc. v. New Jersey Department of Banking and Insurance*, 309 N.J. Super. 538 (App. Div. 1998). In addition, the record does not establish that the error was due to bad faith or some invidious reason.

The options listed for each question include one correct answer and various options intended to distract the candidates from the correct answer. In this way, the questions differentiate among the candidates based on the amount of knowledge they possess for a given subject matter. Candidates are required to demonstrate their knowledge, skills, and abilities in a competitive test situation, and the appellants have not demonstrated the necessary proficiencies. Mr. Gonzalez' argument regarding test weights is simply misplaced. The weights of the questions were unaffected as, simply, appropriate questions were scored and inappropriate questions were not scored. The appellants again have provided no documentation or evidence in support of their opinion regarding the invalidity of the examination, and their failure of the examination is not evidence that it is invalid.

Mr. Gonzalez' appeal of test administration is untimely. Commission staff intentionally administered the extra questions at the candidates' place of employment for their convenience. If the appellant felt that this was a problem, he needed to bring it to the attention of Commission staff when he was in receipt of the notice letter informing him of the time and place of the administration. The appellant states that it was not conducive as a proper environment in which to take a test, but he provides no reasons why. Additionally, pursuant to *N.J.A.C. 4A:4-6.4(c)*, appeals pertaining to administration of the examination must be filed in writing at the examination site on the day of the examination. The omitted questions were administered to the candidates on October 6, 2014 and the appellant

filed an appeal of test administration that was received October 31, 2014. Clearly this appeal is untimely and without merit.

Moreover, administering the omitted questions and not scoring the questions from the other title corrected the weighting of the questions and the passing point was not set for this examination until all the correct questions had been scored.

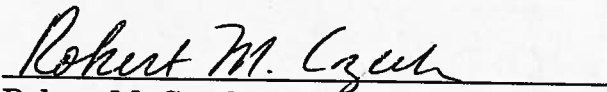
A thorough review of the record indicates that the determinations of the Division of Selection Services were proper and consistent with civil service regulations, and that the appellants have not met their burden of proof in these matters.

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 4th DAY OF FEBRUARY, 2015



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