

B-21



STATE OF NEW JERSEY

In the Matters of Chinere Mills and  
Richard Rosa, Passaic County  
Sheriff's Office

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket Nos. 2015-2749 and  
2015-2750

Intergovernmental Transfer

ISSUED: MAY 22 2015 (JET)

The Passaic County Sheriff's Office, on behalf of Chinere Mills and Richard Rosa, requests that they be permitted to participate in the intergovernmental transfer program.

By way of background, Mills and Rosa were appointed as Police Officers with the City of Paterson (Paterson) on November 30, 2009. Subsequently, Mills and Rosa were laid off from Paterson on April 18, 2011 without having the opportunity to complete their 12 month working test periods.<sup>1</sup> Since they did not complete the required working test period, they were unable to be placed on the special reemployment list for Police Officer. However, their names were placed on the "Probationary Rice Bill list" pursuant to *N.J.S.A. 40A:14-180.1*, which permits the reemployment of a Police Officer who was laid off but did not complete the working test period only to the jurisdiction from which he/she was laid off.

In its request to the Civil Service Commission (Commission), the appointing authority presents that as a result of a shortage of Sheriff's Officers due to unforeseen retirements in 2011, there was a need to fill existing vacancies by hiring law enforcement officers who had already been trained by utilizing the main Rice

<sup>1</sup> It is noted that, in local service, law enforcement officers do not begin their working test period until after the appointing authority is notified that the appointees have completed a required basic police training course. See *N.J.S.A. 52:17B-66 et. seq.*

Bill list. As such, it appointed Mills and Rosa as Sheriff's Officers on December 11, 2011.<sup>2</sup> Subsequently, the appointing authority discovered that Mills and Rosa were on the "Probationary Rice Bill list," which is limited for use by the jurisdiction from which a Police Officer was laid off, not the main Rice Bill list which can be utilized by any jurisdiction in the State to hire a law enforcement officer who had been laid off and completed the required working test period. The appointing authority states that due to an administrative error, it did not request a rule relaxation when it appointed Mills and Rosa in order to permit them to participate in the intergovernmental transfer program and to complete the remainder of their working test periods with the Sheriff's Office. Thus, the appointing authority requests permission to proceed with the intergovernmental transfers of Mills and Rosa with a retroactive appointment date of December 5, 2011.

### CONCLUSION

*N.J.S.A.* 40A:14-180.1 Appointment of certain municipal police officers states:

a. The provisions of any other law to the contrary notwithstanding, the appointing authority of a municipality which, pursuant to *N.J.S.A.* 40A:14-118, has established and maintains a police force may reappoint as a member or officer of its municipal police department or force any person who:

(1) did not hold a permanent appointment, but was serving as a probationary officer or as an officer in a field working test period, as prescribed by the Police Training Commission, in the police department or force of that municipality;

(2) was, for reasons of economy, terminated as a law enforcement officer within 60 months prior to the reappointment; and

(3) was, at the time of termination, in good standing.

b. A municipality may reemploy such a person notwithstanding that:

(1) Title 11A, Civil Service, of the New Jersey Statutes is operative in the municipality;

(2) the municipality has available to it an eligible or regular reemployment list of persons eligible for such appointments; and

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<sup>2</sup> The Passaic County Sheriff's Office confirms that Mills and Rosa have been serving without a break in service since they were appointed on December 5, 2011.

(3) the appointed person is not on any eligible list. A municipality which has adopted Title 11A, Civil Service, may not reemploy such a person if a special reemployment list is in existence for the law enforcement title to be filled.

c. A law enforcement officer reemployed pursuant to this section shall complete the remainder of any probationary or working test period not completed at the time of his termination for reasons of economy.

*N.J.A.C. 4A:4-7.1A(a)* states that an intergovernmental transfer is the movement of a *permanent* employee between governmental jurisdictions operating under Title 11A or the appointment of an employee, by a governmental jurisdiction operating under Title 11A, within one year of the effective date of a layoff for reasons of economy or efficiency in which the employee is separated from service from another governmental jurisdiction operating under Title 11A.

*N.J.A.C. 4A:4-5.2(d)* states in pertinent part that persons appointed to entry level law enforcement officer titles shall serve a 12-month working test period in order to obtain permanent status.

The intergovernmental transfer rules permit the transfer of permanent State, county and municipal employees between jurisdictions without loss of permanent status, subject to the approval of the transferring agency, the receiving agency, the transferring employee, and the Division of Agency Services. In this case, Mills and Rosa are not permanent since they had not completed their working test periods as Police Officers when they were laid off effective April 18, 2011. Since they had not completed their working test periods, they were placed on the "Probationary Rice Bill list" which is limited for use by the specific appointing authority who laid off employees who had not completed their working test periods in order to provide them with an opportunity to complete their working test period if future vacancies open in the layoff unit. Mills and Rosa were not on the main Rice Bill list, which can be used by any appointing authority Statewide to hire law enforcement officers who had completed their working test periods. However, the Passaic County Sheriff's Office utilized the "Probationary Rice Bill list" to hire Mills and Rosa and subsequently discovered that it needed to petition the Commission for a rule relaxation to effect the transfers through the intergovernmental transfer program.

In this case, the Passaic County Sheriff's Office has indicated that it experienced a shortage of Sheriff's Officers and it was in need of law enforcement personnel at the time of Rosa's and Mills' appointments in December 2011. Given the particular circumstances presented in this case, the Passaic County Sheriff's Office's staffing needs for trained law enforcement personnel at the time of the appointments in December 2011 and the April 2011 Paterson layoffs, good cause exists to relax the controlling regulatory provisions in order to permit the

applications for intergovernmental transfers of Mills and Rosa to the Passaic County Sheriff's Office. Moreover, it is appropriate to approve the retroactive intergovernmental transfers of Mills and Rosa effective December 5, 2011, contingent upon the conditions set forth in the following paragraph. *See In the Matter of Nicholas Rizzitello, Police Officer, Newark* (CSC, decided June 9, 2010). However, since the duties of a Sheriff's Officer and a Police Officer are not precisely the same, and notwithstanding that they have been serving as Sheriff's Officers since 2011, Mills and Rosa are required to complete a current 12-month working test period as a Sheriff's Officer in Passaic County.

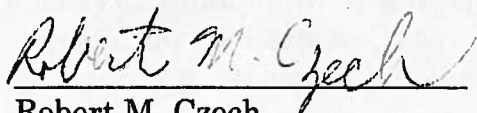
N.J.S.A. 11A:2-28(a) and (b) provide that law enforcement officers shall be granted all privileges under the intergovernmental transfer program, including the option to waive all accumulated sick leave and seniority rights, and that waiver of accumulated sick leave and seniority rights shall require the consent in writing of the receiving jurisdiction, the affected employee, and Agency Services. *See also, N.J.A.C. 4A:4-7.1A(b)2.* Therefore, the parties are directed to complete an intergovernmental transfer agreement specifying the terms of the transfer and submit it to Agency Services for processing and approval. Finally, a copy of this determination shall also be enclosed with the transfer agreement.

#### ORDER

Therefore, it is ordered that the request, seeking to allow the transfer of Chinere Mills and Richard Rosa from the Paterson Police Department to the Passaic County Sheriff's Office, be granted contingent on the processing of the agreement as set forth above.

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 20<sup>th</sup> DAY OF MAY, 2015



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Chairperson  
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