



STATE OF NEW JERSEY

In the Matter of Jose Rodriguez,
Police Officer, Egg Harbor City

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

CSC Docket No. 2019-139

Request for Administrative Relief

ISSUED: April 18, 2019 (JH)

Egg Harbor City requests that the provisions of *N.J.A.C.* 4A:4-7.1A(b) be relaxed in order to permit the intergovernmental transfer of Jose Rodriguez from the title of Sheriff’s Officer, Cumberland County Sheriff’s Office, to the title of Police Officer, Egg Harbor City.

By way of background, Rodriguez sought an intergovernmental transfer from his title of Sheriff’s Officer in the Cumberland County Sheriff’s Office, to Police Officer, Egg Harbor City. The appointing authority for the Cumberland County Sheriff’s Office approved his request and indicated his separation as effective October 8, 2017.¹ The appointing authority for Egg Harbor City also approved the request and indicated a proposed effective date of October 9, 2017. However, the intergovernmental transfer agreement was not submitted to the Division of Agency Services (Agency Services) until January 30, 2018. Upon receipt of the agreement, Agency Services advised Egg Harbor City that it could not process the transfer because the agreement was effectuated without prior written consent from this agency as required by *N.J.A.C.* 4A:4-7.1A(b).

In its request to the Civil Service Commission (Commission), Egg Harbor City explains that it has been “tirelessly trying to rebuild the Egg Harbor City Police Department into a strong diversified department during extremely trying

¹ It is noted that Rodriguez’ employment record indicates his separation from Cumberland County effective October 6, 2017.

times . . . In April 2017 . . . the officer in charge of the Egg Harbor City Police Department[,] Lieutenant Dylan Hutton[,] complete[d] the questionnaire for [the] bilingual title from Civil Service because of the large Latino population in Egg Harbor City and shortly after received approval to make bilingual appointments to the title of police officer.”² The City further explains:

In June of 2017 a Request for Certification for the title of Police Officer Bi[lingual in] Spanish [and] English was made to the New Jersey Civil Service Commission . . . During this time Egg Harbor City was also seeking Inter[g]overnment[al] Transfers from other Civil Service organizations. Jose A. Rodri[g]uez was Eligible #4 on Certification OL170750³ and also employed at the Cumberland County Sheriff’s Office as a She[r]iff’s Officer. Lieutenant Hutton began the hiring process of Mr. Rodri[g]uez and was still interviewing and completing back[g]round checks on othe[r] eligible[s] on this certification, the certification was extended several times. During this time Mr. Rodri[g]uez inquired at the Cumberland County She[r]iff’s Office if

² The Commission website informs candidates, “For bilingual titles, we test bilingual skills with a Bilingual Communicative Ability Test (BICAT). You must pass the BICAT, in addition to passing the base test for the title, in order to be appointed to a bilingual title. There are three levels of foreign language proficiency used by the Civil Service Commission: Basic (Level 1), Intermediate (Level 2), and Advanced (Level 3). The passing proficiency level is linked to the job title for which you apply.” The website further indicates that the BICAT exam is “usually scheduled for the same night as your based test.” However, the website explains that in certain situations candidates may be required to be scheduled separately and they “will receive a notification letter in the mail shortly after the time of certification that will explain the exam and notify you of your test appointment.” See <https://www.state.nj.us/csc/seekers/about/steps/step7.html>. In this regard, the 2016 Law Enforcement Examination (LEE) Fact Sheet (S9999U) indicates, “Bilingual in Spanish Bilingual and English and Bilingual in Korean and English positions are available for some of the titles in this announcement . . . Candidates for Bilingual positions will be tested at the time of certification for proficiency in either Spanish or Korean.” Thus, candidates for the Police Officer Bilingual in Spanish and English title are required to pass the Bilingual Communications Abilities Test (BICAT) at the time his or her name is certified for appointment consideration. It is further noted that Police Officer Bilingual in Spanish and English candidates are required to possess an intermediate (Level 2) proficiency.

³ By way of background, a certification for Police Officer Bilingual in Spanish and English (S9999U) for Egg Harbor City was issued on June 20, 2017 (Certification No. OL170750) and contained the names of 10 individuals. It is noted that Rodriguez’ name appeared at position 4. A review of the record finds that on December 14, 2017, Egg Harbor City contacted the Division of Agency Services in order to request that a BICAT exam be administered. Of the 10 individuals, five appeared, including Rodriguez, to sit for the BICAT exam which was administered on January 9, 2018. Of the five, only Rodriguez failed to achieve the requisite proficiency level. In disposing of OL170750, Egg Harbor City did not make any appointments. It is further noted that on December 14, 2017, a certification for Police Officer (S9999U) for Egg Harbor City was issued (Certification No. OL171459) and contained the names of 28 individuals, including Rodriguez whose name appeared at position 28. Egg Harbor City returned OL171459 on April 26, 2018 and indicated that it had appointed the individuals at positions 5, 14, 15 and 22 effective April 2, 2018.

they would allow him to transfer to Egg Harbor City and he was told yes. Also during this time Lieutenant Hutton asked how Civil Service verifies the eligible on the list can speak Spanish. The City Clerk emailed the Egg Harbor City's HR contact at Civil Service with the question and received back an email that stated[,] 'The candidates that are listed on the symbol with bilingual variant have demonstrated competency in being able to read, write, speak, understand or communicate in Spanish and English to [sufficiently] perform the duties of this position'⁴ . . . In getting this response to the question Lieutenant Hutton made the decision to hire Jose Rodriguez but continued to interview and conduct back[g]round checks on others on the list, at some point Lieutenant Hutton became aware of a Bilingual in Spanish and English Exam that needed to be taken by the eligible before they could be hired. It was at this time that Lieutenant Hutton made the decision to hire [J]ose Rodri[g]uez through an Inter[g]overnment[al] Transfer . . . [However,] Mr. Rodri[g]uez did not pass [the bilingual exam]. I believe the email f[ro]m Civil Service was very confusing and led the City to believe because the eligibles are on the list, they have already passed an exam proving their ability to speak both Spanish and English. The whole hiring process is very time consuming and the Egg Harbor City Police Department is rebuilding and at times is very short staffed with officers moving on to other departments and others retiring. The Civil [S]ervice hiring policies are very new to the leadership in the Egg Harbor City Police Department and it has been a learning experience for everyone . . . Jose A. Rodri[g]uez[,] Jr.[,] is an asset to Egg Harbor City and his relations in the Egg Harbor City Latino Community have been a benefit to both the community as well as the Egg Harbor City Police Department.

As such, Egg Harbor City requests that Rodriguez be intergovernmentally transferred with an effective date of October 9, 2017.

CONCLUSION

N.J.A.C. 4A:4-7.1A-(b) provides that an intergovernmental transfer shall require the consent in writing of the sending jurisdiction, if any, the receiving jurisdiction and the affected employee, and the approval of the Chairperson or designee. *N.J.A.C.* 4A:1-1.2(c) provides that a rule may be relaxed for good cause, in a particular circumstance, in order to effectuate the purposes of Title 11A of the New Jersey Statutes Annotated.

⁴ It is noted that the appointing authority provided a copy of the referenced response, which was sent by email on August 24, 2017 from Agency Services staff to the City Clerk. However, the entirety of the email chain, including the initial inquiry, was not provided.

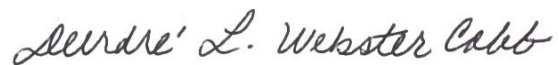
The purpose of the Intergovernmental Transfer Program is to promote more efficient public service by allowing State and local jurisdictions to obtain the services of talented and experienced individuals from other jurisdictions within the Civil Service system. However, absent a compelling emergent situation, such as public safety, accepting and employing interested applicants prior to formal approval by Agency Services could seriously circumvent the Civil Service system and frustrate the legislative goals of appointments based on merit and fitness as demonstrated in a competitive testing situation. Nevertheless, based on the particular circumstances presented in this case, including the fact that Rodriguez has been satisfactorily performing the duties of a Police Officer since October 9, 2017, good cause exists to provide administrative relief to permit the permanent transfer of Rodriguez to Egg Harbor City in the title of Police Officer.⁵ *See In the Matter of Kenneth Dowzycki* (MSB, decided December 1, 2004).

ORDER

Therefore, it is ordered that this request be granted and Jose Rodriguez be intergovernmentally transferred from the Cumberland County Sheriff's Office to Egg Harbor City effective October 9, 2017.

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 17TH DAY OF APRIL, 2019



Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

⁵ As noted previously, Police Officer Bilingual in Spanish and English candidates are required to possess a Level 2 proficiency. Given that Rodriguez did not demonstrate the requisite level of proficiency, he cannot be transferred to the Police Officer Bilingual in Spanish and English title. Moreover, the Intergovernmental Transfer Agreement specifically indicates that Rodriguez would be transferring in the Police Officer title and the Appointing Authority Position Vacancy Request (DPF-722) indicates the "Title of Position/Vacancy" as "Police Officer."

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