



**STATE OF NEW JERSEY**

In the Matter of Richard A. Coupe  
III, Police Sergeant (PM0892V),  
Willingboro

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

CSC Docket No. 2022-1015

List Removal Appeal

**ISSUED: May 2, 2022 (HS)**

Richard A. Coupe III appeals the removal of his name from the eligible list for Police Sergeant (PM0892V), Willingboro on the basis that he failed to respond to the certification notice.

The appellant, a non-veteran, took and passed the promotional examination for Police Sergeant (PM0892V), which had a closing date of July 21, 2017. The appellant ranked 13<sup>th</sup> on the resulting eligible list, which promulgated on May 24, 2018 and expires on May 23, 2022.<sup>1</sup> The appellant's name was certified to the appointing authority on May 3, 2019 (PL190598) with a notice date of May 10, 2019. Certification notices instruct individuals to write to the appointing authority within five business days of the notice date to let it know whether or not the individual is interested in the position and that failure to do so would result in the removal of the eligible's name from the list. In disposing of the certification, the appointing authority requested that the appellant's name be retained as interested but not reachable for appointment. On October 22, 2019, the appellant's name was again certified to the appointing authority (PL191521) with a notice date of October 29, 2019. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis that he failed to respond to the certification notice. The appellant was sent a Certification Disposition Notice with a notice date of December 23, 2019 advising that his name had been removed from the

<sup>1</sup> The list was extended one year to May 23, 2022.

eligible list. Subsequently, on July 21, 2020, a certification, which included the names of the 14<sup>th</sup> and 17<sup>th</sup> ranked eligibles, issued from the list (PL200672), and two appointments, effective October 2, 2020, were made. On December 10, 2020, a certification, which again included the names of the 14<sup>th</sup> and 17<sup>th</sup> ranked eligibles, issued from the list (PL201097), and one appointment, effective February 5, 2021, was made. On August 6, 2021, a certification issued from the list (PL210838), and one appointment, effective August 6, 2021, was made. On September 7, 2021, a certification issued from the list (PL211000), and one appointment, effective October 29, 2021, was made.

In his appeal to the Civil Service Commission (Commission), postmarked October 28, 2021, the appellant states that after passing the examination, he waited “as there were several promotions over the next couple years.” In October 2021, according to the appellant, his supervisors told him that his name was not on the September 7, 2021 certification (PL211000). At that point, the appellant states, he reached out to this agency to learn why his name was not on the certification and was told that he had been removed from the eligible list for failure to respond to the October 22, 2019 certification (PL191521). The appellant states that he did not receive the certification notice or the Certification Disposition Notice. He maintains that the removal of his name never came to his attention until now as he was “lower on the list and had no chance to interview for the position until now.” The appellant further asserts that he had no idea he was ever made, or could be made, inactive on the list until he reached out to this agency in October 2021.

Despite the opportunity, the appointing authority did not submit any further arguments.

## CONCLUSION

*N.J.A.C.* 4A:2-1.1(b) provides, in pertinent part, that an appeal must be filed within 20 days after either the appellant has notice or should reasonably have known of the decision, situation, or action being appealed. *See also*, *N.J.A.C.* 4A:4-6.6(a)1.

In this case, the appellant’s name was removed from the eligible list effective December 23, 2019, yet the instant appeal was not filed until October 28, 2021, nearly two years later. For that reason, the appeal is out of time. Nor is there any basis in this case to extend or to relax the time for appeal, even assuming that the appellant did not receive the October 22, 2019 certification notice or the December 23, 2019 Certification Disposition Notice. *See N.J.A.C.* 4A:1-1.2(c) (the Commission has the discretionary authority to relax rules for good cause). In this regard, it is appropriate to consider whether the delay in asserting the appellant’s right to appeal was reasonable and excusable. *Appeal of Syby*, 66 *N.J. Super.* 460, 464 (App. Div. 1961) (construing “good cause” in appellate court rules governing the time for appeal); *Atlantic City v. Civil Service Com’n*, 3 *N.J. Super.* 57, 60 (App. Div. 1949) (describing

the circumstances under which delay in asserting rights may be excusable). Among the factors to be considered are the length of delay and the reasons for the delay. *Lavin v. Hackensack Bd. of Educ.*, 90 N.J. 145 (1982). See e.g., *Matter of Allen*, 262 N.J. Super. 438 (App. Div. 1993) (allowing relaxation of former Merit System Board's appeal rules where police officer repeatedly, but unsuccessfully, sought clarification of his employment status). Here, the appellant has acknowledged his awareness of the "several promotions" made from the eligible list. In fact, subsequent to the removal of the appellant's name from the eligible list, appointments were made effective October 2, 2020 (from the July 21, 2020 certification), February 5, 2021 (from the December 10, 2020 certification), August 6, 2021 (from the August 6, 2021 certification), and October 29, 2021 (from the September 7, 2021 certification), respectively. These appointments could not have been made without the issuance of certifications. See N.J.A.C. 4A:4-4.1(a) ("When a vacancy is to be filled in the competitive division of the career service from an eligible list, the appointing authority *shall* request a certification of names for regular appointment") (emphasis added). On the July 21, 2020 and December 10, 2020 certifications, eligibles ranked *lower* than the appellant were certified. Moreover, on the May 3, 2019 certification, the appellant himself had been certified, and he had responded as interested. Thus, as early as October 2, 2020, when the first appointments following the removal of the appellant's name from the eligible list were made without the appellant having received a certification notice, the appellant had a sufficient basis upon which to inquire into his status on the list. His delay in doing so, until October 2021, was unreasonable and cannot be excused.

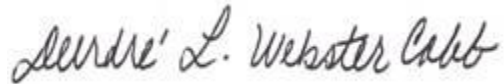
Other arguments presented by the appellant are not persuasive. In this regard, the appellant's argument that he was "lower on the list and had no chance to interview for the position until now," whatever its merits, is beside the point because, as evidenced by the May 3, 2019, July 21, 2020, and December 10, 2020 certifications, the appellant was clearly not too low on the list to be *certified*. Additionally, the appellant's claim that he had no idea he could ever be made inactive on the list until he reached out to this agency in October 2021 is unconvincing given that he had received, and responded to, the May 3, 2019 certification notice. Certification notices state that failure to respond to the appointing authority will result in the removal of the eligible's name from the eligible list.

### ORDER

Therefore, it is ordered that this appeal 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 27<sup>TH</sup> DAY OF APRIL 2022



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