



STATE OF NEW JERSEY

In the Matter of Daniel McNair and
Peter Femiano, County Correctional
Police Sergeant (PC4825C),
Hudson County

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

CSC Docket Nos. 2022-1636 and
2022-1641

Examination Appeal

ISSUED: May 2, 2022 (JH)

Daniel McNair and Peter Femiano appeal the determinations of the Division of Agency Services (Agency Services) which found that they lacked the required amount of permanent status in a title to which the examination was open for the promotional examination for County Correctional Police Sergeant (PC4825C), Hudson County.

By way of background, McNair and Femiano were appointed to the County Correctional Police Officer title in Union County effective January 5, 2008 and June 7, 2008, respectively. Effective April 26, 2021, the appellants intergovernmentally transferred from Union County to Hudson County in the title of County Correctional Police Officer. A review of the appellants' intergovernmental transfer agreements finds that they requested to waive their rights to all accumulated seniority and to all accumulated sick leave. The receiving agency in the intergovernmental transfer agreement acknowledged the requests and certified that their accumulated seniority and accumulated sick leave would not be retained after the effectuation of the intergovernmental transfer.

The announcement for the subject examination was issued on November 1, 2021 and open to employees in the competitive division who had an aggregate of three years of continuous permanent service and were serving in the County Correctional Police Officer title as of the November 22, 2021 closing date. Accordingly, Agency Services found the appellants ineligible as they did not possess three years of continuous permanent service in Hudson County as of the December 31, 2021 closing

date. It is noted that the examination for County Correctional Police Sergeant is tentatively scheduled to be administered in May 2022.

On appeal, McNair argues that “my date of hire as a County Correctional Police Officer is January 06, 2008 . . . I currently meet the aggregate 3 years of continuous permanent service.”

Femiano maintains that he has “been a corrections officer since June of 2008. My MBOS date is 6/1/2008.” In support of his appeal, Femiano provides a copy of his Personal Benefit Statement as of September 30, 2021 in which he highlights, “Total Pension Service Credit 13 years, 4 months” and “Date of Enrollment 06/01/2008.”

CONCLUSION

It is noted that the only mechanism that allows an employee of one Civil Service jurisdiction to carry over his or her permanent service to another Civil Service jurisdiction is an intergovernmental transfer. An intergovernmental transfer permits the transfer of 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 Civil Service Commission. Specifically, *N.J.S.A.* 11A:2-28(a) provides for the intergovernmental transfer of law enforcement officers and permits them the option to waive all accumulated seniority and sick leave. In other words, the parties to an intergovernmental transfer can agree *not to waive accumulated seniority*. Retention of accumulated seniority rights in the context of an intergovernmental transfer means that all seniority gained in the prior jurisdiction shall be retained for purposes of determining promotional, layoff or demotional rights and sick and vacation leave entitlements in the receiving jurisdiction. *See N.J.A.C.* 4A:4-7.4(b). If this were to occur, a County Correctional Police Officer who intergovernmentally transferred to another jurisdiction as a County Correctional Police Officer would retain accumulated seniority after the transfer. Conversely, *N.J.A.C.* 4A:4-7.4(c) specifically provides that those law enforcement officers who intergovernmentally transfer and waive all accumulated seniority rights shall *not* retain seniority for purposes of determining *promotional*, layoff or demotional rights and sick and vacation leave entitlements.

As noted previously, to establish eligibility for the subject examination, a candidate must possess an aggregate of three years of *continuous* permanent service in the County Correctional Police Officer title as of the December 31, 2021 closing date. *See N.J.A.C.* 4A:4-2.6(b). Pursuant to *N.J.A.C.* 4A:4-2.6(a), aggregate service shall be calculated in the same manner as seniority as set forth in *N.J.A.C.* 4A:4-2.15. In this regard, *N.J.A.C.* 4A:4-2.15(d)3 provides:

Continuous permanent service accumulated prior to an intergovernmental transfer pursuant to *N.J.A.C.* 4A:4-7.1A shall be deducted from seniority for all firefighters, and for those law enforcement officers, including sheriff's officers and county correction officers, who have waived all accumulated seniority rights in agreeing to an intergovernmental transfer.

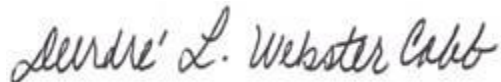
As such, the appellants' seniority for Civil Service-related programs such as promotional examination eligibility accrue as of April 26, 2021, the date of the intergovernmental transfer. Accordingly, Agency Services correctly determined that the appellants lacked the requisite three years of continuous permanent service in the County Correctional Police Officer title in Hudson County as of the December 31, 2021 closing date.

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 27TH DAY OF APRIL 2022



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Chairperson
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