



STATE OF NEW JERSEY

In the Matter of Nicholas Foglio, Fire
Captain (PM2340C), Ocean City

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

CSC Docket No. 2023-2309

Examination Appeal

ISSUED: August 14, 2024 (ABR)

Nicholas Foglio appeals his score on the oral portion of the promotional examination for Fire Captain (PM2340C), Ocean City. It is noted that the appellant passed the subject examination with a score of 82.150 and ranks 13th on the subject eligible list.

This two-part examination consisted of a written multiple-choice portion and an oral portion. Candidates were required to pass the written portion of the examination, and then were ranked on their performance on both portions of the examination. The test was worth 80 percent of the final score and seniority was worth the remaining 20 percent. Of the test weights, 35.90% of the score was the written multiple-choice portion, 22.04% was the technical score for the evolving exercise, 7.45% was the supervision score for the evolving exercise, 5.71% was the oral communication score for the evolving exercise, 23.20% was the technical score for the arriving exercise, 5.71% was the oral communication score for the arriving exercise.

The oral portion of the Fire Captain examination consisted of two scenarios: a fire scene simulation with questions designed to measure the knowledge of safe rescue tactics and procedures to safeguard citizens, supervision of fire fighters and the ability to assess fire conditions and hazards in an evolving incident on the fireground (Evolving Scenario); and a fire scene simulation designed to measure the knowledge of safe rescue tactics and procedures to safeguard citizens, supervision of firefighters and the ability to plan strategies and tactics based upon a building's

structure and condition (Arriving Scenario). Knowledge of supervision was measured by a question in the Evolving Scenario, and was scored for that scenario. For the Evolving Scenario, candidates were provided with a 15-minute preparation period, and candidates had 10 minutes to respond. For the Arriving Scenario, a five-minute preparation period was given, and candidates had 10 minutes to respond.

The candidates' responses were scored on technical knowledge and oral communication ability. Prior to the administration of the exam, a panel of Subject Matter Experts (SMEs) determined the scoring criteria, using generally approved fire command practices, firefighting practices, and reference materials. Scoring decisions were based on SME-approved possible courses of action (PCAs) including those actions that must be taken to resolve the situation as presented. Only those oral responses that depicted relevant behaviors that were observable and could be quantified were assessed in the scoring process.

Candidates were rated on a five-point scale, with 5 as the optimal response, 4 as a more than acceptable passing response, 3 as a minimally acceptable passing response, 2 as a less than acceptable response, and 1 as a much less than acceptable response. For each of the scenes, and for oral communication, the requirements for each score were defined.

On the Evolving Scenario, the appellant scored a 3 on the technical component, a 4 on the supervision component, and a 3 on the oral communication component. On the Arriving Scenario, the appellant scored a 4 on the technical component and a 4 on the oral communication component.

The appellant challenges his scores for the oral communication components of both the Evolving and Arriving Scenarios, as well as the supervision component of the Evolving Scenario and the technical component of the Arriving Scenario. As a result, the appellant's test material, video, and a listing of PCAs for the scenarios were reviewed.

With the appellant's oral communication scores, the assessors found that the appellant displayed weaknesses in organization for both scenarios. Specifically, ON the Evolving Scenario, the assessor stated that the appellant displayed a major weakness in organization, as evidenced by eight pauses during his response. On the Arriving Scenario, the assessor determined that the appellant displayed a minor weakness in organization, as evidenced by several long pauses. In addition, the Arriving Scenario assessor noted that the appellant actions were discussed slightly out of order, as he had terminated command and turned the building back to the owner before adding information about his size-up and the searches and ventilation that would have been conducted. On appeal, the appellant maintains that his pauses should not have been penalized, as the 2022 1st Level Fire Supervisor Orientation Guide stated that “[p]ausing occasionally to review notes is expected and will not be

penalized” and his pauses were consistent with this, as they were connected with reading his notes and collecting his thoughts. Further, with respect to the Arriving Scenario, the appellant presents that he was merely adding a safety statement about ensuring his crew would be mindful of electrical wires when laddering the building.

In reply, a review of the appellant’s Evolving and Arriving Scenario presentations confirms the propriety of the appellant’s oral communication component scores based upon the weaknesses he displayed in organization. The appellant’s repeated pauses during each presentation clearly detracted from the flow and quality of his presentation and went beyond the acceptable limits described in the 2022 1st Level Fire Supervisor Orientation Guide. Further, the assessor’s observation about the appellant discussing certain aspects of his Arriving Scenario response slightly out of order at the end of his presentation is corroborated by the recording. As such, the appellant has failed to sustain his burden of proof with respect to his oral communication scores and the scores of 3 and 4 on the Evolving and Arriving Scenarios, respectively, are affirmed.

The Evolving Scenario involves the response to a fire at a single-story ranch house. Battalion 1 is the incident commander and the candidate is the first-level supervisor of the first arriving ladder company, Ladder 7. Upon arrival, the incident commander reports there is smoke coming from Side A and orders the candidate’s crew to conduct a primary search, as he cannot get confirmation if the owners are home or not. The supervision component prompt provides that while concluding the incident, the candidate notices a personal accountability tag (PAT) is missing from their company. Firefighter Smith informs the candidate that he has misplaced his PAT. It then asks the candidate how they will handle this situation upon return to the fire station.

The assessor awarded the appellant a score of 4 on the supervision component of the Evolving Scenario, based upon a finding that the appellant missed multiple opportunities, including informing the firefighter of the importance of personal accountability procedures. On appeal, the appellant argues that he covered this PCA by stating that he would go over the importance of having PATs for the safety of the crew and to enable the accountability officer to know his/their location in the fire building and on scene.

In reply, upon review of the appellant’s appeal, the Division of Test Development, Analytics and Administration (TDAA) has determined that the appellant should have been credited with the PCA at issue. TDAA states that with this additional credit, the appellant’s score on the supervision component of the Evolving Scenario should be raised from 4 to 5. The Civil Service Commission agrees with this assessment.

The Arriving Scenario involves a fire at a two-story, single family, wood-framed residential property where the candidate will be the highest-ranking officer on-scene.

Upon arrival, the candidate sees fire and smoke coming from a second floor window and the attic above it on Side A. There are no cars parked in the driveway upon arrival and nobody is outside of the home. A single police officer is running around the house in an effort to make entry into the residence. The prompt then asks what the candidate's main concerns are when conducting their size-up of this incident for their initial report, and what specific actions they would take to fully address this incident.

The SME awarded the appellant a score of 4 on the technical component of the Arriving Scenario, based upon a finding that the appellant missed a number of additional opportunities, including, in part, the opportunity to protect and evacuate exposures on Sides B and D. On appeal, the appellant asserts that he should have received credit for this PCA, as he stated that he would have pulled lines between the B and D exposures to protect them at a specified point during his presentation.

In reply, a review of the Arriving Scenario scoring sheet from the Division of Test, Development, Analytics and Administration indicates that the PCA at issue was to "[e]vacuate Side B and D exposures." Although the appellant did state that he would have pulled lines between the Side B and Side D exposures, a review of his presentation confirms that he did not call for an evacuation of these exposures, as required. Accordingly, the appellant's score of 4 for the technical component of the Arriving Scenario is affirmed.

CONCLUSION

A thorough review of the appellant's submissions and the test materials indicates that the decision below is amply supported by the record and, except as noted above, the appellant has failed to meet his burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal be granted in part and that the appellant's score on the supervision component of the Evolving Scenario be raised from 4 to 5 with retroactive effect.

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 14TH DAY OF AUGUST, 2024

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