



STATE OF NEW JERSEY

In the Matter of Albert Salina,
Battalion Fire Chief (PM3390C),
Paterson

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

CSC Docket No. 2024-1422

Reconsideration

ISSUED: December 18, 2024

Albert Salina requests reconsideration of *In the Matter of Albert Salina, Battalion Fire Chief (PM3390C), Paterson* (CSC, decided December 20, 2023), which denied the appeal of his score on the promotional examination for Battalion Fire Chief (PM3390C), Paterson.

The background and scoring criteria regarding the subject promotional examination was thoroughly described in the Civil Service Commission's (Commission) prior decision in *Salina, supra*. Regarding Salina's original appeal, Salina challenged his scores on the oral communication component of the Supervision scenario and the technical component of the Incident Command scenario. In its original decision, the Commission thoroughly reviewed the examination materials and the appeal submissions and found that the scoring of Salina's examination was correct.

On reconsideration, Salina initially contends that the Division of Appeals and Regulatory Affairs (DARA) analyst assigned to review his appeal had made "a premeditated decision" regarding his appeal. He also did not realize that the analyst, notwithstanding that he had communicated with him several times, was the "analyst in charge of my appeal."¹ Substantively, he argues that his score of 3 on the technical

¹ Subsequently, Salina withdrew this complaint, however, it will be addressed later. He also argued that his score was incorrect as he had a higher oral examination score than another candidate but not a higher overall score. This contention was also withdrawn and will not be addressed further.

component of the Incident Command scenario was incorrect. In that regard, he contends that the source material, namely, Vincent Dunn, *Safety and Survival on the Fireground* (2nd ed. 2015) and *Collapse of Burning Buildings: A Guide to Fireground Safety* (2nd ed. 2010), supports his contention that his activating emergency evaluation tones and air horns was a correct method of ordering an emergency evacuation.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) sets forth the standards by which the Commission may reconsider a prior decision. This rule provides that a party must show that a clear material error has occurred or present new evidence or additional information not presented at the original proceeding which would change the outcome of the case and the reasons that such evidence was not presented at the original proceeding. Based on the above standard, it is clear that Salina has not met the standard for reconsideration.

Initially, notwithstanding that Salina indicated that he would withdraw his complaint about the analyst who was assigned to his initial appeal, the Commission will address this contention. While DARA staff is responsible for the compilation and review of appeal files, and drafting of the final written determination based on the Commission decision, it is solely the Commission that makes the final determination. As such, the Commission rejects any allegations of “premeditation” or other bias.

Regarding his substantive arguments, the Incident Command scenario involved a response to a fire at a local auto parts store and auto repair shop. Question 1 asked what specific actions the candidate would take upon arriving at the scene. The prompt for Question 2 indicated that while crews are involved in extinguishment operations, an explosion occurs on Side C, emergency radio traffic has been transmitted by a fire fighter and structural damage is now visible on Side C. Question 2 asked what specific actions the candidate should now take based upon this new information.

On the technical component of the Incident Command scenario, the assessor awarded Salina a score of 3 using the “flex rule.” His score was based upon his failure to identify the mandatory response of ordering an emergency evacuation in addressing Question 2. In his original appeal, Salina argued that he adequately covered the subject PCA at a specific point in his presentation and provided a list of the actions he took, including activating emergency evacuation tones and air horns. In support, he cited New Jersey Division of Fire Safety and Kean University, *New Jersey Fire Fighter Skills Addendum* (4th ed. 2021); New Jersey Division of Fire Safety, *Model Fire Department Incident Management Standard Operating Guides - Booklet 9* (2011); John Norman, *Fire Officer’s Handbook of Tactics* (5th ed. 2019); and Vincent Dunn, *Collapse of Burning Buildings: A Guide to Fireground Safety* (2nd ed.

2010). Salina also cited *In the Matter of Daniel Dornacker, Jr.* (CSC, decided October 19, 2016) and *In the Matter of Collin Caesar* (CSC, decided October 19, 2016) to support his claim that he should have been credited with ordering an evacuation based upon his statements that he would sound evacuation tones.

In its original decision, the Commission found that a review of Salina's presentation demonstrated that he, in relevant part, called for an "orderly withdrawal, everybody out" and that he sounded evacuation tones. The Commission further found:

As discussed in *In the Matter of Daniel Dornacker, Jr., supra*, "[o]rdering an 'orderly withdrawal' does not have the same sense of urgency of an evacuation, and is not the same." As such, his reference to an "orderly withdrawal" was insufficient to cover the subject mandatory response. As to sounding evacuation tones, *N.J.A.C. 5:75-2.7(d)* provides, in pertinent part, that an evacuation order shall only be conducted upon the order of the incident commander or his or her designee. As to the appellant's arguments that sounding evacuation tones was sufficient to cover the subject mandatory response based on *In the Matter of Collin Caesar, supra*, the Commission notes that "order evacuation of building/sound evacuation tones" was a singular PCA on the PM1194S examination at issue in that appeal. *Ibid.* ("the assessors were saying that the candidate failed to address the mandatory PCA of ordering the evacuation of the building or sound evacuation tones in question 2.") Further, an evacuation signal is only a portion of the evacuation protocol. *N.J.A.C. 5:75-2.7(c)* states that "[w]hen an emergency evacuation signal is being sounded, there shall also be a radio message transmitted either from the incident scene or from the designated fire department dispatch center announcing the evacuation order. To the extent possible, the radio message should be coordinated with the sounding of the evacuation signal to insure the radio messages are heard." Thus, because the incident commander or designee ordering an evacuation is a prerequisite to sounding an evacuation signal and because an evacuation signal is only one part of the protocol for ordering an evacuation, the appellant's statement that he would activate emergency tones and air horns was insufficient to award him credit for the mandatory response of ordering an evacuation . . .

On reconsideration, while Salina argues that the Vincent Dunn, *supra*, sources provide new evidence and support his argument that activating emergency evacuation tones and air horns was a correct method of ordering an emergency evacuation, the Commission is not persuaded. Initially, in his original appeal, the Commission considered Salina's similar arguments in light of his citation to several sources, including Dunn's *Collapse of Burning Buildings: A Guide to Fireground*

Safety (2nd ed. 2010). As such, any arguments in that regard cannot be considered “new.” Moreover, his current reliance on Vincent Dunn, *Safety and Survival on the Fireground* (2nd ed. 2015), while new, is in no way inconsistent with the other Dunn source material, and, as indicated, was sufficiently considered in the Commission’s original decision. As clearly stated in that decision, Salina ordered an “orderly withdrawal,” not an evacuation as contemplated by the PCA. The Commission’s explanation of the difference between what Salina stated in his presentation and what was required to get credit for the PCA was clearly and correctly decided by the Commission in its original decision, and nothing presented in the current matter invalidates that determination. Accordingly, Salina’s request for reconsideration is properly denied.

ORDER

Therefore, it is ordered that this request for reconsideration 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 18TH DAY OF DECEMBER, 2024



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