



**STATE OF NEW JERSEY**

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

In the Matter of Jose Morales,  
Belleville

CSC Docket No. 2024-1901

Administrative Appeal

**ISSUED: February 26, 2025 (EG)**

Jose Morales, a former Police Officer with Belleville appeals his resignation in good standing.

The record reflects that the appellant commenced his employment with the Belleville as a Police Officer in July 2023 with a permanent appointment. The appellant submitted a letter of resignation dated February 22, 2024, effective immediately. The appointing authority accepted the appellant's resignation in a letter dated February 23, 2024.

The appellant argues that he resigned due to the threat of disciplinary charges being brought against him made by internal affairs officers at a meeting on February 22, 2024. He claims he did not resign voluntarily. In this regard, the appellant asserts that he felt he was under duress. Further, he contends that he requested counsel and was denied, which was a violation of his Weingarten rights. He argues that he was told to make the decision immediately, and without knowing the pertinent details and consequences it was impossible for him to make a clear judgement. Moreover, the appellant contends that the charges the appointing authority threatened to bring concerned the Police and Fire Retirement System (PFRS) informing the appointing authority on November 15, 2023, that the appellant was over the age of 35 and not eligible for PFRS enrollment. The appellant maintains that the appointing authority did not inform him of any issues until his February 22, 2024, meeting with internal affairs. He argues that the appointing authority handled

the situation poorly. Moreover, he states that he has since provided PFRS the necessary documentation for reducing his age to qualify for PFRS enrollment. He provides a letter dated June 11, 2024, from PFRS indicating he was eligible to enroll.

In reply, the appointing authority, represented by Brain M. Hak, Esq., asserts that the appellant was not removed by the appointing authority by way of a forced resignation. It contends that appellant did not qualify to be in PFRS because of his age and could not legally be hired unless he submitted sufficient documentation to effectively reduce his age. It argues that the appellant chose to voluntarily resign, and his resignation was accepted.

### CONCLUSION

*N.J.A.C.* 4A:2-6.1(d) allows an employee to appeal a resignation in good standing if the resignation was the result of duress or coercion. In this regard, an appellant has the burden of proving by a preponderance of the evidence that the resignation was the result of duress or coercion on the appointing authority's part.

In New Jersey, the law concerning the concept of duress has been extensively examined. As stated by Administrative Law Judge Robert S. Miller and affirmed by the Merit System Board<sup>1</sup> in *In the Matter of Dean Fuller* (MSB, decided May 27, 1997):

Duress is a force, threat of force, moral compulsion, or psychological pressure that causes the subject of such pressure to become overborne and deprived of the exercise of free will. *Rubenstein v. Rubenstein*, 20 *N.J.* 359, 366 (1956) . . . This test is subjective, and looks to the condition of the mind of the person subjected to coercive measures, not to whether the duress is of "such severity as to overcome the will of a person of ordinary firmness." [*Shanley & Fisher, P.C. v. Sisselman*, 215 *N.J. Super.* 200, 212 (App. Div. 1987)] (citation omitted). Therefore, "the exigencies of the situation in which the alleged victim finds himself must be taken into account." *Id.* at 213, *quoting Ross Systems v. Linden Dari-Delite, Inc.*, 35 *N.J.* 329, 336 (1961).

However, a party will not be relieved of contractual obligations "in all instances where the pressure used has had its designed effect, in all cases where he has been deprived of the exercise of his free will and constrained by the other to act contrary to his inclination and best interests." *Wolf v. Marlton Corp.*, 57 *N.J. Super.* 278, 286 (App. Div. 1959). Rather, "the pressure must be wrongful, and not all pressure is wrongful." *Rubenstein, supra* at 367. Further, "it is not enough that the

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<sup>1</sup> On June 30, 2008, Public Law 2008, Chapter 29 was signed into law and took effect, changing the Merit System Board to the Civil Service Commission.

person obtaining the benefit threatened intentionally to injure . . . provided his threatened action was legal . . .” *Wolf, supra* at 286, *quoting* 5 Williston, Contracts (rev. ed. 1937), § 1618, p. 4523.

It is a “familiar general rule . . . that a threat to do what one has a legal right to do does not constitute duress.” *Wolf, supra* at 287. “A ‘threat’ is a necessary element of duress, and an announced intention to exercise a legal right cannot constitute a threat.” *Garsham v. Universal Resources Holding, Inc.*, 641 F. Supp. 1359 (D.N.J. 1986). Thus, as long as the legal right is not exercised oppressively or as a means of extorting a settlement, the pressure generated by pursuit of that right cannot legally constitute duress. *See generally, Great Bay Hotel & Casino, Inc. v. Tose*, 1991 W.L. 639131 (D.N.J. 1991) (unrep.) and citations therein.

In the instant matter, the record indicates that the appellant signed and submitted a letter of resignation. Additionally, while the appellant claims duress and that he was required to accept discipline or resign, he does not submit one scintilla of evidence which establishes that the appointing authority exerted any undue or unlawful pressure on him in this regard. Moreover, the appointing authority denies forcing the appellant to resign. It has also indicated its belief that it had a valid basis to remove the appellant as he had been found ineligible to join PFRS due to his age, and thus was not able to be retained. The appellant’s decision to resign was a personal choice and his belief that he would have been removed from employment due to disciplinary action, absent evidence of force or intimidation, does not constitute illegal duress. *See In the Matter of Claudia Grant* (MSB, decided June 8, 2005). The appellant clearly had a choice to challenge any disciplinary charges and apparently chose to resign instead. Further, while the appellant argues that he requested and was denied counsel, allegations concerning any such violations as addressed in the United States Supreme Court’s decision in *N.L.R.B. v. Weingarten, Inc.*, 420 U.S. 251 (1975) must be pursued before the agency with the appropriate jurisdiction, *i.e.*, the Public Employment Relations Commission. *See N.J.S.A. 34:13A-5.3 and N.J.S.A. 34:13A-5.4(c)*. *See also, In the Matter of Nicholas Norton* (MSB, decided January 25, 2006).

Accordingly, the appellant has failed to demonstrate that his resignation was the result of duress or coercion by the appointing authority. Therefore, the appellant has not sustained his burden of proof in this matter.

### 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 26<sup>TH</sup> DAY OF FEBRUARY, 2025

*Allison Chris Myers*

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