



**STATE OF NEW JERSEY**

In the Matter of Juan Mendoza,  
Hudson County

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

CSC Docket Nos. 2025-435 and  
2025-436

Reconsideration

**ISSUED: February 5, 2025 (SLK)**

Juan Mendoza, a Sheriff's Officer with Hudson County, represented by Michael L. Prigoff, Esq.,<sup>1</sup> requests reconsideration of *In the Matter of Juan Mendoza* (CSC, decided July 24, 2024) where the Civil Service Commission (Commission), denied his request to challenge appointments made from the May 27, 2022, (PL220793) certification of the Sheriff's Officer Sergeant (PC2608V), Hudson County, eligible list. These matters have been consolidated due to common issues presented.

By way of background, the Sheriff's Officer Sergeant (PC2608V), Hudson County, eligible list promulgated on December 13, 2018, with 42 eligibles and expired on November 1, 2022. The eligible list was certified six times and resulted in 14 appointments. The last (PL220793) certification was issued on May 27, 2022. The certification contained the names of five eligibles, who ranked 13<sup>th</sup> to 17<sup>th</sup> on the subject eligible list. C.M., A.L., and J.C. were positioned in the first, third, and fourth position on the certification and were appointed effective October 31, 2022. A.L. had initially been bypassed for appointment. The second positioned eligible was removed due to his resignation. The fifth positioned eligible was reachable but not appointed. Mendoza, a non-veteran who ranked 36<sup>th</sup> on the PC2608V eligible list, was not certified prior to the expiration of the list. It was noted that the (PL220793) certification disposition due date was extended on October 31, 2022, and the

<sup>1</sup> The majority of the request for reconsideration has been submitted *pro se*. However, Mendoza's counsel has presented a supplemental submission.

certification was returned and recorded as disposed on November 14, 2022. Thereafter, the Sheriff's Officer Sergeant (PC4995C), Hudson County, eligible list promulgated on November 3, 2022, with 46 eligibles, and expires on November 2, 2025. This eligible list was certified on March 16, 2023, (PL230322) and July 21, 2023, (PL231397). No appointments were made from the March 16, 2023, (PL230322) certification. However, the first and second ranked eligibles were appointed, effective October 2, 2023, from the July 21, 2023, (PL231397) certification which contained six names. Mendoza appeared as the fourth ranked eligible. He was reachable on the certification but not appointed. Regarding A.L., in October 2023, the appointing authority requested that the May 27, 2022 (PL220793) certification be amended to record A.L.'s appointment consistent with the date of the appointment of the other appointees which had been appointed on October 31, 2022, for record purposes. The amendment was approved in December 2023 as A.L. was reachable for appointment. The request stemmed from a settlement agreement reached by A.L. and the appointing authority.

In its original determination, the Commission denied Mendoza's request to invalidate the appointments of C.M., A.L., and J.C. from the (PL220793) certification. While Mendoza argued that the appointments of C.M. and J.C. were actually in November 2022, when the swearing-in ceremony took place, the Commission noted that swearing-in ceremonies are not referenced in Civil Service law and rules. Regarding A.L., per a settlement between A.L. and the appointing authority for which Mendoza was not privy to, the appointing authority requested that the subject certification be amended to record A.L.'s appointment consistent with the others who had been appointed on October 31, 2022. As A.L. would have been reachable for appointment, the Commission approved the amendment. Further, to put Mendoza's argument to rest that A.L. was appointed from an expired list, it revived the subject (PC2608V) eligible list for the limited purpose of effectuating A.L.'s appointment. The Commission also noted that it has long been held that the policy of the judicial system strongly favors settlement. Additionally, the Commission dismissed Mendoza's other arguments. Further, the Commission highlighted that as the 36<sup>th</sup> eligible, Mendoza was not reachable for certification or appointment on the (PC2608V) eligible list. Moreover, concerning the new eligible list (PC4995C), although Mendoza, the fourth ranked eligible, was certified and could have been appointed, he could have also been bypassed under the rule of three and therefore was not entitled to appointment regardless of the other appointments.

In his request for reconsideration, Mendoza notes that A.L. was initially bypassed on the (PL220793) certification as he was suspended at the time of appointments due to an arrest and therefore not available for appointments. He presents case law where the Commission, not an appointing authority, upheld a bypass of a candidate due to the candidate's disciplinary history. Further, he submits a case where the Commission upheld a list removal due to a candidate's arrest history and other issues in the candidate's background. Additionally, Mendoza indicates that

A.L. did not appeal his bypass within 20 days as required under Civil Service rules and he presents cases where the Commission denied bypass appeals due to untimeliness. Next, Mendoza presents the timeline of events and reiterates his arguments that C.M. and J.C. were promoted in November 2022, which was after the (PC2608V) eligible list expired on October 31, 2022, due to an issuance of a new (PC4995C) eligible list. He presents case law to support his argument that extensions or revivals of lists are beyond the Commission's authority. Additionally, Mendoza argues that there are disputed facts that require a hearing.

Moreover, Mendoza believes that the settlement between the appointing authority and A.L. should be excluded from consideration. He submits certain Civil Service law and rules to support his argument that, since the settlement was not part of any lawsuit or court proceeding, its existence does not allow the (PC2608V) list to be revived. He also contends that the subject settlement was a product of fraud and, therefore, does not support the revival of the eligible list. Further, Mendoza notes that this agency indicated on January 4, 2024, that the (PC2608V) eligible list was not active, but it approved the certification for A.L.'s appointment. He states that under Civil Services rules, the appointing authority was required to make appointments based on a valid and completed certification. He presents information that he received via an Open Public Records Act (OPRA) request to support his claims. Further, Mendoza claims that there is clear evidence of fraud or improper conduct which should invalidate the subject settlement agreement, the appointment dates were modified to comply with Civil Service rules, and A.L. was not appointed and required to perform Sergeant duties until January 8, 2024, which was after this agency initially denied his appeal. He presents another employee who was involved in the settlement agreement, and he asserts that this employee needs to testify during a hearing due to the alleged fraud and coercion which forced this other person to sign the agreement. He attaches the settlement agreement that the other employee signed and highlights parts of the agreement which he believes supports his claim. Additionally, Mendoza states that he was excluded from the appeal process when the Commission and the appointing authority exchanged the settlement, but he was not informed about a submission which greatly influenced the Commission's decision. Further, Mendoza claims that the appointing authority failed to properly inform him about the dispositions of the certifications from the current (PC4995C) promotional eligible list, which denied him the opportunity to appeal. Moreover, Mendoza argues that his appeal should not be denied on the grounds of mootness when there is a significant likelihood that he will face the same actions in the future. Finally, Mendoza claims that there is a significant history and pattern of retaliation against him as an employee improperly accessed his personnel and training records. He also claims that a family member was denied being hired in the Sheriff's Office once she disclosed that she was related to him.

Additionally, in a supplemental submission,<sup>2</sup> Mendoza emphasizes that the agreement between A.L. and the appointing authority was not available to him at the time of the Commission's decision. Based on his review of the settlement, he believes the settlement was initiated around August 25, 2023, which led to a September 27, 2023, settlement. Therefore, he highlights that the settlement did not even begin until nine months after the (PC2608V) eligible list expired. Consequently, Mendoza argues that the presumption in favor of settlements should not be followed, particularly when it adversely affects the interests of candidates, such as himself, on the new list. He claims that if A.L. appealed or filed a lawsuit challenging his bypass during the pendency of the promotional list, it would be appropriate to revive the list upon settlement, even if the settlement occurred after the list's expiration. However, since that is not the case, Mendoza contends that A.L. rights should have expired in November 2022 when the list expired. Further, he questions how if the mere fact that A.L. was "reachable" on the prior list allows appointing authorities to make promotions from an expired list, where is the limit as what would stop an appointing authority from making such an appointment five or 10 years later if there was litigation. Mendoza believes that since there was no intent to promote A.L. until well after the new list was promulgated, this leads one to the conclusion that there was collusion to prevent him from being appointed.

In response, the appointing authority, represented by Brittany P. Tarabour, Esq., asserts that Mendoza has not submitted any new information that would change the Commission's decision as it was aware of the settlement at the time of the decision. Further, concerning Mendoza's questioning as to how long an appointing authority could seek a retroactive appointment after a settlement, he has provided no case or statute that limits the time the Commission can approve such a settlement.

In reply, Mendoza reiterates his arguments and contends that it was material error for the Commission to not provide him the settlement in question, to consider the settlement and the settlement was based on fraud or improper conduct, to allow appointments after the list expired, and to not afford him a hearing.

In further response, the appointing authority states that Mendoza's self-serving allegations are not supported by credible evidence and should be disregarded as the third-party settlement agreement was not the by-product of fraud and does not affect his claims in the instant matter. It presents that the settlement stems from litigation where he was not a party and there are no "unsettled facts" regarding that agreement. The appointing authority asserts that the settlement had nothing to do with Mendoza, and candidates ranked higher than him were appointed.

In further reply, Mendoza asserts that the appointing authority mischaracterizes his allegations as unsupported personal claims when they are backed by specific facts concerning procedural discrepancies which should be

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<sup>2</sup> The supplemental submission was submitted by Mendoza's counsel.

reviewed during a hearing. He reiterates his claims concerning the impact of the settlement not being fully assessed and him not being privy to the settlement. Similarly, Mendoza believes that the timeline of event supports his claim that settlement was produced either fraudulently or due to improper conduct. He contends that the other party who also signed a settlement who felt threatened or pressured also warrants a hearing regarding the settlement. Additionally, Mendoza believes that the Commission's decision is inconsistent with prior precedent. Moreover, he contends that A.L.'s failure to appeal his bypass within 20 days mandates that A.L. forfeited his right to the subject appointment. Finally, he emphasizes his belief that there are material facts in dispute which necessitate a hearing.

## CONCLUSION

*N.J.A.C. 4A:2-1.6(b)* sets forth the standards by which a prior decision may be reconsidered. 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.

*N.J.A.C. 4A:4-3.3(a)* provides that an eligible list shall be considered issued on the date on which it is available for review by candidates, appointing authorities and members of the public. The list shall be considered promulgated on the date on which it available to be certified to an appointing authority and from which appointments may be made.

*N.J.A.C. 4A:4-3.3(a)* indicates that when a promotional list for a law enforcement or firefighter title is extended until a new promotional list is available for certification and appointments, the extended list shall expire when the new promotional list is issued, provided however, that certification of appointments from the new list shall not be made until the promulgation date of the new list.

*N.J.A.C. 4A:4-4.9(a)* states that:

An eligible shall not be appointed and begin work after the expiration date of the eligible list except:

1. When the eligible is on military leave, or in the case of promotional appointments, is on an approved leave of absence. Persons returning from military leave or an approved leave of absence may begin work upon their return to active service.
2. When there is limited revival or statutory extension of an employment list, except that no appointment shall be made beyond the statutory extension; or

3. When the certification is made just prior to the expiration of the eligible list, in which case the date of appointment and the date the eligible begins work shall be no later than the disposition due date.

*N.J.A.C.* 4A:4-3.4(a) provides that the Commission may revive an expired list under the following circumstances:

1. To implement a court order, in a suit filed prior to the expiration of the list;
2. To implement an order of the [Commission] in an appeal or
3. To correct an administrative error;
4. To effect the appointment of an eligible whose working test period was terminated by a layoff; or
5. For other good cause.

*N.J.S.A.* 11A:4-8, *N.J.S.A.* 11A:5-6, and *N.J.A.C.* 4A:4-4.8(a)3i (“Rule of Three”) allow an appointing authority to select any of the top three interested eligibles from an open competitive list, provided that disabled veterans and then veterans shall be appointed in their order of ranking.

*N.J.A.C.* 4A:2-1.1(d) provides that except where a hearing is required by law, this chapter or *N.J.A.C.* 4A:8, or where the Commission finds that a material and controlling dispute of fact exists that can only be resolved by a hearing, an appeal will be reviewed on a written record. Accordingly, requests for reconsideration are decided on the written record unless a material and controlling dispute of fact exists that can only be resolved by a hearing. For the reasons set forth below, a hearing is not warranted in this matter.

In this matter, Mendoza has not met the standard for reconsideration. As stated in the prior decision, concerning C.M. and J.C., the Commission found their appointments were effective October 31, 2022, during the life of the (PC2608V) eligible list and personnel orders and swearing-in ceremonies on November 7, 2022, did not impact the appointment date. Further, even based on the alleged November 7, 2022, date of appointment, the Commission found that the certification was extended by this agency accepting the certification and recording its disposition on November 14, 2022. On reconsideration, Mendoza has not presented any new evidence or any alleged material error that would change the outcome of this decision.

Similarly, concerning A.L., Mendoza has not presented any new evidence or any alleged material error that would change the outcome of the prior decision.<sup>3</sup> At the time of the decision, the Commission was aware of a settlement between A.L. and the appointing authority. Based on this settlement agreement, the appointing authority requested that the subject (PL220793) certification be amended to record

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<sup>3</sup> It is noted that prior Commission decisions are not binding on the Commission as it decides each matter on case-by-case basis.

A.L.'s appointment consistent with the date of appointment of the other appointees which had been October 31, 2022. The Commission noted that the request was approved since he had been reachable for appointment. Additionally, the Commission highlighted that the judicial system strongly favors settlement. Therefore, pursuant to *N.J.A.C.* 4A:4-3.4(a)5, the Commission found good cause to revive the (PC2608V) eligible list and permit A.L.'s appointment to Sheriff's Officer Sergeant, effective October 31, 2022, for record purposes.

Regarding the settlement agreement's impact on Mendoza, as indicated in the prior decision, Mendoza was the 36<sup>th</sup> ranked eligible on the (PC2608V), and his name was not reachable for potential certification and appointment on this list. Therefore, this settlement had no impact on his non-appointment on the (PC2608V) eligible list. Moreover, concerning the current (PC4995C) eligible list, while Mendoza was reachable for appointment, he could have been bypassed under the Rule of Three. *See N.J.A.C.* 4A:4-4.8(a)3i. In other words, individuals whose names merely appear on a list do not have a vested right to appointment. *See In re Crowley*, 193 *N.J. Super.* 197 (App. Div. 1984), *Schroder v. Kiss*, 74 *N.J. Super.* 229 (App. Div. 1962). The only interest that results from placement on an eligible list is that the candidate will be considered for an applicable position so long as the eligible list remains in force. *See Nunan v. Department of Personnel*, 244 *N.J. Super.* 494 (App. Div. 1990). Therefore, even if the Commission granted Mendoza's request to invalidate the subject appointments, Mendoza would not be entitled to an appointment. Moreover, other than mere speculation, Mendoza has not presented any evidence that any of the subject appointments were made to retaliate against him. Accordingly, his request for reconsideration is denied.<sup>4</sup>

## ORDER

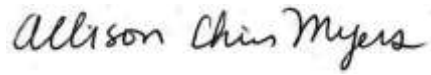
Therefore, it is ordered that this request be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

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<sup>4</sup> Concerning the agreement that the other employee was allegedly coerced into signing, an agreement signed in the face of discipline is not considered fraudulent or coercion under Civil Service law and rules. Rather, it is considered a choice presented by the appointing authority and accepted by the employee. Regardless, A.L.'s and this employee's settlement did not impact Mendoza as he had no right to appointment.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 5<sup>TH</sup> DAY OF FEBRUARY, 2025



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