



STATE OF NEW JERSEY

In the Matter of Fikret Darzanoff,
Deputy Fire Chief (PM2213B),
Clifton

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

List Bypass Appeal

CSC Docket No. 2025-2263

ISSUED: October 15, 2025 (HS)

Fikret Darzanoff appeals the bypass of his name on the Deputy Fire Chief (PM2213B), Clifton, eligible list.

The appellant appeared as the fourth ranked non-veteran eligible on the subject Deputy Fire Chief (PM2213B) eligible list, which promulgated on September 29, 2022 and expired on September 28, 2025. A certification, consisting of the names of four eligibles, was issued on November 26, 2024 (PL241908) with the appellant listed in the second position. In disposing of the certification, the appointing authority, in pertinent part, bypassed the appellant and appointed, effective March 31, 2025, R.L., the third listed eligible.

On appeal to the Civil Service Commission (Commission), the appellant contends that his bypass was retaliatory and based on favoritism. Specifically, he notes that he had filed harassment complaints against C.H., Deputy Fire Chief, on October 18, 2024 and October 23, 2024. He recounts that on December 17, 2024, he interviewed for the subject position with a panel consisting of R.F., Fire Chief and C.H.’s “best friend;” D.C., Deputy Fire Chief and C.H.’s “good friend;” M.R., Deputy Fire Chief; W.L., Deputy Fire Chief; the Personnel Director; and the City Manager. The appellant states that during the interview, the Personnel Director stated that C.H. had accused the appellant of showing C.H. a “dirty pic” 10 years ago. The appellant questions why he was hearing about this 10 years later in his promotional interview if there was an issue. The appellant indicates that he was ultimately informed that he was being bypassed due to the interview and his disciplinary

history. The appellant adds that D.C. is “really good friends” with the appointee R.L. and alleges that the Personnel Director does R.L.’s taxes. Thus, the appellant claims, the Personnel Director recommended “his buddy” R.L. The appellant further alleges that R.L. once slept through a call, and it “got swept under the rug.” In support, the appellant provides copies of the aforementioned October 18, 2024 and October 23, 2024 complaints against C.H.

In response, the appointing authority, represented by Richard P. Flaum, Esq., maintains that the appellant was legitimately bypassed. It notes that C.H. was not a participant in the interview process. The appellant was bypassed as a consequence of a 2020 major disciplinary matter where he permitted members of the public to use fire department apparatus for inappropriate filming and received a nine-day suspension. The appointing authority insists that “[a]ny reasonable person would conclude that allowing third parties to use public property including fire department apparatus to film scenes involving nudity (three times) is not probative of functioning appropriately as a high-ranking officer.” Further, he acknowledged surfing pornographic websites while on duty and sharing images with coworkers and subordinates. The interview, per the appointing authority, was not pretextual because each applicant was asked about his disciplinary history. The appellant’s poor judgment and disciplinary history resulted in lawfully bypassing him for promotion. In support, the appointing authority submits memoranda related to the interview process.

It is noted that the appellant did not reply.

CONCLUSION

N.J.S.A. 11A:4-8, *N.J.S.A.* 11A:5-7, and *N.J.A.C.* 4A:4-4.8(a)3ii allow an appointing authority to select any of the top three interested eligibles on a promotional list, provided that no veteran heads the list. Moreover, it is noted that the appellant has the burden of proof in this matter. *See N.J.A.C.* 4A:2-1.4(c).

In cases of this nature where dual motives are asserted for an employer’s actions, an analysis of the competing justifications to ascertain the actual reason underlying the actions is warranted. *See Jamison v. Rockaway Township Board of Education*, 242 *N.J. Super.* 436 (App. Div. 1990). In *Jamison*, *supra* at 445, the court outlined the burden of proof necessary to establish discriminatory or retaliatory motivation in employment matters. Specifically, the initial burden of proof in such a case rests on the complainant who must establish discrimination or retaliation by a preponderance of the evidence. Once a *prima facie* showing has been made, the burden of going forward, but not the burden of persuasion, shifts to the employer to articulate a legitimate non-discriminatory or non-retaliatory reason for the decision. If the employer produces evidence to meet its burden, the complainant may still prevail if he or she shows that the proffered reasons are pretextual or that the

improper reason more likely motivated the employer. Should the employee sustain this burden, he or she has established a presumption of discriminatory or retaliatory intent. The burden of proof then shifts to the employer to prove that the adverse action would have taken place regardless of the discriminatory or retaliatory motive. In a case such as this, where the adverse action is failure to promote, the employer would then have the burden of showing, by preponderating evidence, that other candidates had better qualifications than the complainant.

Since the top ranked eligible was a non-veteran, it was within the appointing authority's discretion to select any of the top three interested eligibles on the certification for the appointment. The appellant has alleged he was bypassed based on retaliation and favoritism. However, the appointing authority responded that it bypassed the appellant based on the interview process and the appellant's disciplinary history. It is within an appointing authority's discretion to interview candidates and base its hiring decisions on the interview. *See e.g., In the Matter of Angel Jimenez* (CSC, decided April 29, 2009); *In the Matter of Abbas J. Bashiti* (CSC, decided September 24, 2008); *In the Matter of Paul H. Conover* (MSB, decided February 25, 2004); *In the Matter of Janet Potocki* (MSB, decided January 28, 2004). It is also well established that disciplinary actions may be considered in bypassing an individual for appointment. *See In the Matter of Paul DeMarco* (MSB, decided April 6, 2005) (appellant's disciplinary action can be considered in determining whether he could be bypassed on the eligible list). The appellant has not put forth any substantive evidence to suggest that the appointing authority's proffered reasons may have been pretextual or that an improper reason more likely motivated the appointing authority to bypass him.

Additionally, even assuming, *arguendo*, that the appellant is more qualified for the position at issue, the appointing authority still has selection discretion under the "Rule of Three" to appoint a lower-ranked eligible absent any unlawful motive. *See N.J.A.C. 4A:4-4.8(a)3; In the Matter of Nicholas R. Foglio, Fire Fighter (M2246D), Ocean City*, 207 N.J. 38, 49 (2011). *Compare, In re Crowley*, 193 N.J. Super. 197 (App. Div. 1984) (Hearing granted for individual who alleged that bypass was due to antiunion animus); *Kiss v. Department of Community Affairs*, 171 N.J. Super. 193 (App. Div. 1979) (Individual who alleged that bypass was due to sex discrimination afforded a hearing). Moreover, the appellant does not possess a vested property interest in the position. In this regard, 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). The appellant has not presented any substantive evidence regarding his bypass that would lead the Commission to conclude that the bypass was improper or an abuse of the appointing authority's discretion under the "Rule of Three." Moreover, the appointing authority presented legitimate reasons for the appellant's bypass that have not been persuasively refuted. Accordingly, a review of the record indicates that the appointing authority's bypass

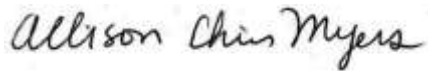
of the appellant's name was proper, and the appellant has not met his burden of proof in this matter.

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 15TH DAY OF OCTOBER, 2025



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