



STATE OF NEW JERSEY
DEPARTMENT OF PERSONNEL

FINAL ADMINISTRATIVE ACTION
OF THE
MERIT SYSTEM BOARD

In the Matter of Richard Kramer,
Atlantic County

DOP Docket No. 2008-2226

Administrative Appeal

ISSUED: JUN 11 2008 (KAG0)

Atlantic County requests that the appointment of Richard Kramer to the title of County Correction Officer be recorded as a regular appointment from a regular reemployment list.

By way of background, Kramer was permanently appointed to the title of County Correction Officer, effective June 29, 1998. He resigned in good standing from that position on February 16, 2000. The appointing authority reemployed Kramer commencing on April 21, 2003. It is noted that, according to Department of Personnel (DOP) records, Kramer's April 21, 2003 appointment was provisional, pending open-competitive examination procedures. In this regard, DOP records contain a Request for Personnel Action form from April 2003, which indicates that he was provisionally appointed. This form was approved by DOP and recorded. For reasons that are not clear from the record, Kramer has remained provisional in his title since April 2003, notwithstanding that multiple Law Enforcement Examinations (LEEs) have been conducted, and numerous certifications from that list have been issued to the appointing authority since that time.¹

In the instant matter, the appointing authority contends that it approved Kramer's application for reemployment on April 22, 2003. It asserts that this form was signed, dated, and transmitted to DOP on that date. The appointing authority avers that "[w]hen we did not receive a timely response to the submitted request

¹ It is noted that DOP records reflect that at least 70 County Correction Officers have been permanently appointed since April 2003.

form, numerous e-mails and fax transmissions were sent to various Department of Personnel contacts in attempts to resolve the outstanding issue.” The appointing authority submits a series of e-mails, dating back to August 2006, to illustrate its attempts to address the status of Kramer’s appointment. Having had no resolution to date, the appointing authority requests that it be permitted to record Kramer’s appointment from the regular reemployment list, effective April 21, 2003.

In response, the Fraternal Order of Police (FOP) Lodge #34, the applicable collective bargaining unit, represented by Keith Waldman, Esq., submits its support for granting the request. The FOP emphasizes that Kramer has been working in his position for over four years, and no other employees were prejudiced by his appointment in 2003.

CONCLUSION

N.J.S.A. 11A:4-9(c) and *N.J.A.C.* 4A:4-3.1(a)3 provide that former permanent employees who resigned in good standing and whose reemployment is certified by the appointing authority as being in the best interest of the service may be placed on a regular reemployment list. *N.J.S.A.* 11A:4-9(c) and *N.J.A.C.* 4A:4-3.3(a)2 provide that the name of any employee shall not remain on a regular reemployment list for more than three years from the date of resignation. *N.J.S.A.* 11A:4-6 and *N.J.A.C.* 4A:4-3.3(a)1 provide that an eligible list may be extended for good cause, except that no list shall have a duration of more than four years. *N.J.S.A.* 11A:4-6 also provides that the Commissioner may revive a list to implement a court order or a decision of the Board, in the event of a successful appeal instituted during the life of the list.

In the instant matter, it is evident that an administrative error prevented Kramer’s appointment from being timely addressed. Initially, the only indication of Kramer’s 2003 appointment in DOP records is the Request for Personnel Action form, completed by the appointing authority, which requests that he be appointed provisionally, pending open-competitive examination procedures. There is no evidence that DOP ever received the application for reemployment that the appointing authority claims that it submits. Even if the application were submitted, the appointing authority has not explained why it would request inconsistent actions on two forms, *i.e.*, a provisional appointment and a regular appointment from a regular reemployment list. Moreover, if the appointing authority did, indeed, transmit the application for reemployment to DOP, it likely would have been rejected because it was beyond the three year time period contained in *N.J.S.A.* 11A:4-9(c). However, if DOP did receive this request and reject it, it was not communicated to the appointing authority.

In addition to the above, it must be emphasized that DOP recorded Kramer’s appointment as provisional, and he has inexplicably remained a provisional

employee since April 2003. As noted above, at least 70 County Correction Officers have been permanently appointed by the appointing authority from open-competitive lists since April 2003. There is no indication in the record why Kramer's provisional appointment was not addressed and/or corrected in the intervening four years. Further, the Board notes that the FOP has no objection to awarding Kramer a permanent appointment at this time.

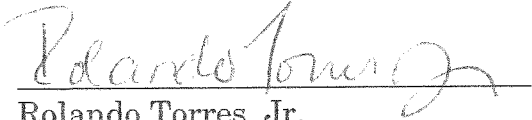
Accordingly, under the unique circumstances presented, good cause has been established to revive and extend the regular reemployment list and to record Kramer's April 21, 2003 appointment as a regular appointment from the regular reemployment list for County Correction Officer.

ORDER

Therefore, it is ordered that this request be granted.

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

DECISION RENDERED BY THE
MERIT SYSTEM BOARD ON
THE 30th DAY OF JANUARY, 2008



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