

Waunita Stricker was certified and scheduled for interview.

4. One of the capabilities the Institution Registrar was required to have upon appointment was the ability to "compute sentences and establish release and parole eligibility dates." (Respondents Exhibit #2, p. 2)

5. During the appellant's interview, it was established that she did not know how to compute sentences and establish release dates for persons who are incarcerated.

6. Appellant recalls having heard Blahnik say at the end of her interview that he had already talked to the institution superintendent regarding the position and she construed this as an indication that a decision had already been made to hire one of the persons interviewed on February 7.

7. Mr. Blahnik denies having discussed the candidates or selection process with the superintendent prior to appellant's interview and he denies having made a statement to that effect to the appellant.

8. On or about February 10, 1978, candidate Straavaaldsen was appointed to the position. Among the factors influencing the respondent's choice were her "ability to learn" and her "training as a personnel assistant."

9. In a letter dated February 23, 1978, appellant appealed the hiring of Straavaaldsen stating:

"I feel it is an unfair appointment since I was number one on the register with 18 months experience in this field and she has no experience with adult residents. She previously was a personnel assistant."

OPINION

The issue in this case is whether or not the failure to appoint the appellant to the position of Institution Registrar 2 was "illegal or an

abuse of discretion." The burden of proof was on the appellant.

The appellant's contentions were that she was "number one on the register" and that she had 18 months experience of a type more suitable than that of Straavaldsen, who, according to appellant, had previously worked as a personnel assistant and had no experience with adult correctional institution residents.

The respondents contend that appellant Straavaldsen, and Olbrantz all had identical scores on the exam; that the basis for choosing Straavaldsen over the appellant was the former's "ability to learn, and personnel experience" and the latter's inability to compute sentences and establish release dates.

The appellant believed that there had been a decision made to hire Straavaldsen prior to appellant's interview but there was no evidence of a prior decision beyond appellant's statement of her belief. Moreover respondent adduced credible evidence that there were justifiable grounds for selecting Straavaldsen as the better qualified candidate.

Even if appellant had been able to show that she was better qualified than the two other candidates, it is well established that candidates certified to an appointing authority stand on equal footing. So long as the appointing authority does not abuse its discretion, it can appoint any one the the certified candidates.

The appellant's presentation of evidence was limited to her own brief narrative of certain suspicions she had that the selection process was unfair. The genesis of these suspicions was never brought out and no supporting or corroborating evidence of impropriety was presented. Thus, the appellant's case fell well short of sustaining her burden of proof that the respondent appointing authority abused its discretion.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter in this case.

2. The standard of judgment is whether or not the respondent's failure to appoint appellant was illegal or was an abuse of discretion.

3. The appellant, who had the burden of proving by the greater weight of credible evidence that the respondent's action in not selecting her was illegal or an abuse of discretion, has failed to sustain the burden.

ORDER

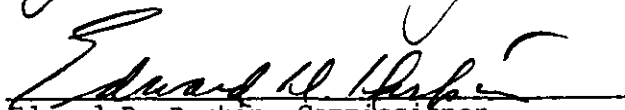
IT IS HEREBY ORDERED that the respondent's decision be AFFIRMED and that this appeal be dismissed.

Dated: Feb 9, 1979.

STATE PERSONNEL COMMISSION



Joseph W. Wiley, Chairperson



Edward D. Durkin, Commissioner



Charlotte M. Higbee, Commissioner