

1 **BEFORE THE CITY OF SEATTLE**
2 **PUBLIC SAFETY CIVIL SERVICE COMMISSION**

3 **In the matter of**

4 **Shaun Schenkelberg,**
 Appellant

5 v.

6 **Seattle Fire Department**
 Respondent

DISMISSAL ORDER

PSCSC No. 25-05-002RPro

7
8 **BACKGROUND**

9 This matter was initiated by a Notice of Appeal (“Appeal”), by Seattle Fire Department
10 (“SFD”) employee Fire Lieutenant Shaun Schenkelberg (“Appellant”), filed on January 31, 2025.

11 The Appeal states that the action appealed is: “SFD delays in processing paperwork & not
12 promoting [Fire Battalion Chief A] when eligible & preventing a captain promotion when still more
13 vacant Battalion Chief vacancies.” Appeal, at p.1. The Appeal also includes other allegations,
14 including against the Executive Director of the Public Safety Civil Service Commission for allegedly
15 denying a request to extend a certification for promotional consideration for the rank of Fire Captain
16 in July or August 2024. *Id.* at p. 2 and “Reason for appeal” document submitted with the Appeal.

17 Regarding references to alleged specific rule or law violations, the Appellant refers to Public
18 Safety Civil Service Commission Rule (“PSCSC”) Rule 10.06.b., which provides:

19 A new examination shall be conducted prior to expiration of the current list unless
20 otherwise mutually agreed to be the City and IAFF Local 27. The new list shall
21 become effective upon the expiration of the current list. The promotional list shall
22 be used to provide acting officers in addition to promotional candidates.

23 Regarding Rule 10.06.b., the Appellant indicates, in part, that he is “... calling into question
24 at what point the 2022-2024 Battalion Chiefs [sic] list was expired.” “Reason for appeal”
25 document, at p. 2. Appellant’s allegations regarding that rule also include: “... It does not seem fair
that Captain promotions are not made because they are held up by not having Captains to promote

1 to Battalion Chief. ...” Id. Regarding dates, as part of those allegations the Appellant references “a
2 publishing date of August 15, 2024,” and “the list that expired August 14, 2022.”

3 The Appellant also refers to PSCSC Rule 11.02, which provides:

4 REQUEST FOR CERTIFICATION. Whenever an appointing authority wishes to
5 fill a vacancy, a request for certification shall be submitted to the Executive
6 Director. The request shall show the number of positions or vacancies to be
7 filled, the class title, tenure of work to be performed, cause of the vacancy, or if a
8 new position, authority for the appointment, and any other details necessary for
9 full description of the position to be filled.

10 The Executive Director shall issue a certification for promotional consideration
11 only when a verified vacancy or vacancies at the rank for which the certification is
12 requested. Upon the Executive Director’s request, the appointing authority and/or
13 Seattle Human Resources shall provide information to verify the existence of
14 vacancy or vacancies.

15 Regarding Rule 11.02, the Appellant states, in relevant part: “This does not seem right that
16 the Executive Director would be able to issue a certification for me before, but be unable to extend
17 my certification since there was “no Captain vacancy.” Id. The Appellant does not specifically refer
18 to any date or dates in the context of Rule 11.02.

19 Appellant’s requested remedy is as follows: “My captain certification extension to match [Fire
20 Battalion Chief A’s] & promotion to captain effective August 14, 2024.” Appeal, at p. 2.

21 **LEGAL AUTHORITY**

22 Such appeals submitted to the PSCSC are governed by the PSCSC Rules of Practice and
23 Procedure above referenced, including PSCSC Rule 6.19, which states:

24 a. Any employee or department who is adversely affected by an alleged
25 violation of Article XVI of the Charter of The City of Seattle, the Public Safety
Civil Service Ordinance or the Public Safety Civil Service Commission Rules
of Process and Procedure which does not fall under Rules 6.01(a) or (b), may
within ten (10) days of the alleged violation, submit a written complaint to the
Executive Director requesting review.

b. The complaint shall follow the same as Appeals, described in Rule 6.02.
The Executive Director will review the complaint and determine appropriate
action. Such action may include investigation into the alleged violation,
decision by the Executive Director, and/or referral of the matter to the
Commission for decision or a hearing subject to the same rules as an appeal.

1 The Appellant's appeal is untimely as a matter of law. Pursuant to PSCSC Rule 6.19.a., the
2 Appellant was required to submit a written complaint "within ten (10) days of the alleged violation."
3 See also, Rule 6.02 (which is referenced in Rule 6.19.b.), which requires a notice of appeal to be
4 filed "within ten (10) days of the action that is the subject of the appeal."

5 Based on the Appeal and associated documents submitted by the Appellant, the alleged
6 violations relate directly and materially to the Appellant's assertions, in relevant part, that on or
7 around August 2024 the Seattle Fire Department allegedly wrongfully delayed promoting a Battalion
8 Chief eligible candidate, thereby causing the downstream effect of allegedly preventing a vacancy
9 from occurring at the rank of Fire Captain, and thereby allegedly preventing the Appellant from
10 being considered by the Fire Chief for promotion at that time.

11 The Appeal is untimely as a matter of law because the Appellant has failed to establish that
12 the Appeal was brought, as required by Rule 6.19.a., within ten days of the alleged violation(s). See
13 also, Rule 6.02 (requiring appeals to be filed within ten days of the action that is the subject of the
14 appeal). The alleged violation(s) or actions occurred more than ten days before the filing of the
15 Appeal, so the assertions related to such alleged violations or actions are untimely. See, e.g.,
16 *Pleuss v. City of Seattle*, 8 Wn.App. 133 (1972).

17 In *Pleuss*, the plaintiff, who was a firefighter, resigned from the fire department and later
18 contended to the Firemen's Pension Board that his resignation was not voluntary. The city
19 contended that the resignation was voluntary, and the court agreed. In so doing, the court referred
20 to a provision in the Charter of the City of Seattle as it existed at that time which stated, in relevant
21 part: "... one who is removed must demand investigation within ten days after his removal and, in
22 the absence of such a demand, the removal is complete and, of course, will not be interfered with."
23 Id. at 136.

24 In agreeing with the city's decision, the court stated, in part: "The review must be demanded
25 'within ten days after his removal.'" Id. at 136. The court explained further that the plaintiff "knew the

1 facts when he resigned,” “he was aware of his remedies,” and “[i]nstead, 9 months later he brought
2 the action below.” Id. at 136-37.

3 Similarly, here Rule 6.19.a., as well as Rule 6.02, provide that the complaint or appeal at
4 issue be brought within ten days of the alleged violation(s) or within ten days of the action that is the
5 subject of the appeal. The Appellant has failed to establish compliance with Rule 6.19.a. or Rule
6 6.02 and, therefore, the Appeal is untimely as a matter of law.

7 Pursuant to Rule 6.05, in relevant part: “... Upon a determination that the appeal is not
8 timely, the Executive Director may issue a written order of dismissal with prejudice (“with prejudice”
9 meaning ineligible for refiling), setting forth the basis of the dismissal.”

10 This Appeal is dismissed because it is untimely, so this Order does not reach other issues,
11 such as whether the PSCSC has subject matter jurisdiction over the allegations.

12 ORDER

13 Pursuant to PSCSC Rules 6.19, 6.02, and 6.05, the Executive Director has reviewed and
14 considered the Appeal and documents filed therewith and determined appropriate action. It is
15 hereby ordered, pursuant to PSCSC Rules 6.19, 6.02, and 6.05, that the Appeal is untimely as a
16 matter of law and this matter is dismissed, with prejudice.

17
18 Dated this 21st day of February 2025.

19
20 FOR THE CITY OF SEATTLE PUBLIC SAFETY CIVIL SERVICE COMMISSION

21 Andrea Scheele

22 Andrea Scheele
23 Executive Director, Public Safety Civil Service Commission
24
25

CERTIFICATE OF SERVICE

I, Teresa R. Jacobs, declare under penalty of perjury under the laws of the State of Washington, that on the date below, I caused to be served upon the below-listed parties, via the method of service listed below, a true and correct copy of the foregoing document: **DISMISSAL ORDER**.

Party	Method of Service
Appellant: Shaun Schenkelberg [REDACTED]	<input checked="" type="checkbox"/> E-Mail
Respondent: Seattle Fire Department Chief Harrold Scoggins harold.scoggins@seattle.gov Helen Fitzpatrick, Executive Director of Administration helen.fitzpatrick@seattle.gov Sarah Lee, Human Resources Director sarah.lee@seattle.gov Katrina Kelly, Assistant City Attorney katrina.kelly@seattle.gov	<input checked="" type="checkbox"/> E-Mail

Dated this 21st day of February, 2025, at Seattle, Washington.

Teresa R. Jacobs

Teresa R. Jacobs, Executive Assistant
Public Safety Civil Service Commission



CITY OF SEATTLE CIVIL SERVICE COMMISSIONS

APPEAL NO. 25-05-002RPro

FILED: January 31, 2025 ^{TRJ}

NOTICE OF APPEAL TO THE PUBLIC SAFETY CIVIL SERVICE COMMISSION

The appeal must be received by the Executive Director within 10 (ten) days, following the received date or the postmarked date of the final notice from the department to the appellant.

INSTRUCTIONS: Complete all the pages, sign and attach any documents or correspondence that you have received from the Department related to your appeal. Send by postal or hand deliver to the Executive Director, Civil Service Commissions 700 5th Avenue, Suite 1670, PO Box 94729, Seattle, WA 98124-472 or email to Andrea.Scheele@seattle.gov or Teresa.Jacobs@seattle.gov

An original signature of the appellant or authorized representative is required for appeals.

I. SHAUN MICHAEL SCHENKELBERG 3600 23AUSW 206-386-1436
 Appellant's Full Name Work Address Work Telephone
 Residence Address City/State/Zip Home Telephone/Email
LIEUTENANT FIRE CAPT ELIJAH PEREZ
 Job Title/Position Department/Unit Immediate Supervisor
07/04/2012 09/16/1998
 Start Date in Position City Employee Since, Month/Date/Year Employee ID #

II. ACTION BEING APPEALED: (check one)

☐ Suspension

☐ Discharge

☐ Demotion

☐ Violation of Article XVI of the Charter of the City of Seattle, PSCSC Ordinance or PSCSC Rules
 (Please list the rule): _____

☒ Other Personnel Related Issue: (Please briefly state the issue): SFD delays
in processing paperwork & not promoting Capt Chappel
when eligible & preventing a Captain promotion when
still more vacant Battalion Chief Vacancies

If needed, you may provide the following information on an additional sheet of paper and attach any documents or correspondence that you have received from the Department related to your appeal.

Reason for this appeal (Please include dates, location and action): CAPT ERWIN CHAPPEL
WAS RETURNED TO FULL DUTY BY HIS PHYSICIAN; PAPERWORK TURNED INTO SFD HR
ON JULY 30, 2024, HR SATON PAPERWORK & INFORMED CAPT CHAPPEL 2 WEEKS
LATER (AUG 13, 2024) THAT THEY WANTED AN INDEPENDENT MEDICAL EVALUATION.
IF NOT FOR THAT REPT CAUSED DELAY CAPT CHAPPEL WOULD HAVE BEEN PROMOTED
& THERE WOULD HAVE BEEN A CAPT VACANCY (SEE EXTRA PAGE)
Remedy Sought (What do you want?): MY CAPTAIN CERTIFICATION EXTENSION
TO MATCH CAPT CHAPPEL'S & PROMOTION TO CAPTAIN EFFECTIVE AUGUST 14, 2024.

III. **UNION:**

WHAT IS THE NAME OF YOUR UNION ASSOCIATION OR GUILD?

IAFF

Local Number: 27

☐ I HAVE / ☐ I HAVE NOT filed a grievance on the same issues that I identified in this appeal, with my union or bargaining unit.

- This matter ☐ IS / ☐ IS NOT the subject of arbitration pursuant to a collective bargaining agreement.

IV. **ATTORNEY/AUTHORIZED REPRESENTATIVE:**

An Attorney or a representative is **NOT** required for the appeal process.

- Do you have an attorney or another person representing you for this appeal? ☐ YES ☒ NO
If yes, please have your attorney submit a **NOTICE OF APPEARANCE** to the Commission Office and Department. All documents and information related to the appeal will go to the attorney or representative.

Name: _____

Firm: _____

Address: _____

City of Seattle Civil Service Commissions

Seattle Municipal Tower, 700 Fifth Avenue, Suite 1670 PO Box 94729 Seattle, WA 98124-4729

Tel (206) 233-7118, Fax: (206) 684-0755, <http://www.seattle.gov/CivilServiceCommissions/>

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Email: _____

Signature of Attorney/Representative: (If filling out this form):

_____ Date

A. **APPELLANT:**

If you **do not** have an attorney or a representative, please enter the address where All documents related to this appeal should be sent:

Mailing Address

Personal Email:

Home/Cell Phone (Include Area Code):

SHAUN MICHAEL SCHENKELBERG
APPELLANT'S NAME (PLEASE PRINT)


SIGNATURE OF APPELLANT

31 Jan 2025
DATE

City of Seattle Civil Service Commissions

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