IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Sean M. Donahue, Petitioner	:	
v.	:	
Department of Human Services and State Civil Service Commission, Respondents	:	No. 790 C.D. 2025
	:	Submitted: July 24, 2026

OPINION NOT REPORTED

MEMORANDUM OPINION
PER CURIAM FILED: November 3, 2026

Sean M. Donahue, *pro se*, petitions for review of the May 28, 2025 order of the State Civil Service Commission (Commission) denying as untimely his April 7, 2025 appeal from his removal from the list of eligible candidates for the Income Maintenance Caseworker (Caseworker) position with the Department of Human Services (Department) for a period of one year. At issue in this appeal is whether the 20-day period for Donahue to file his appeal began to run on December 3, 2024, when the Office of Administration (OA) sent him a letter notifying him of the removal from the eligible list, or on March 20, 2025, when Donahue received an email from OA informing him that his application for a Caseworker vacancy was being archived based on the list removal. We agree with the Commission that Donahue was required to file his appeal within 20 days of the December 3, 2024 letter in order to challenge the list removal and, therefore, affirm the order denying his appeal as untimely. We further dismiss Donahue's appeal to

the extent he purports to challenge the April 15, 2025 letter of the Commission, because that letter is not appealable under the Administrative Agency Law.[1]

I. BACKGROUND

On November 27, 2024, OA notified Donahue by email that the Department had requested his removal from all civil service lists for the Caseworker position at the Luzerne County Assistance Office (Luzerne CAO) based on his unsatisfactory work performance during his probationary period of employment as a Caseworker at Luzerne CAO and his removal from that position in September 2024. Certified Record (C.R.) at 898-913. The email stated that if Donahue did not agree with the removal request, he could submit a response to OA within ten days. *Id*. at 898.

By letter dated December 3, 2024, OA notified Donahue that he had been removed from the Caseworker eligible list. *Id*. at 891. The letter provided:

> On November 27, 2024, you were notified of the Department['s] request to have your name removed from the . . . Caseworker eligible list.
>
> The information you provided in response to the Department['s] request to have your name removed from the . . . Caseworker eligible list has been reviewed and the decision has been made to grant [the Department's] list removal request. Accordingly, your name will be removed from all eligible lists provided to the Department . . . for the . . . Caseworker job title until December 2, 2025.[2]

---

[1] 2 Pa. C.S. §§ 501-508, 701-704.

[2] As Donahue's removal from the eligible list continued only until December 2, 2025, it appears that this matter may have become moot during the pendency of this appeal. *See Gray v. Phila. Dist. Att'y's Off.*, 311 A.3d 1230, 1236 (Pa. Cmwlth. 2024) ("It is well settled that an actual case or controversy must be extant at all stages of litigation, not merely at the time that a complaint is filed; otherwise, this Court will dismiss an appeal as moot."). However, the parties have not raised or briefed the question of whether Donahue's appeal from the list removal is moot, including whether any of the exceptions to the mootness doctrine apply. *See id*. ("Exceptions to the mootness doctrine may be made where the conduct complained of is capable of repetition yet likely to evade judicial review, where the case involves issues of great public importance, or where one party will

Id. The letter further provided that, if Donahue was successful in obtaining reinstatement to the Caseworker position in his appeal from his September 2024 termination, he could request reconsideration of the list removal. *Id*.

On March 5, 2025, Donahue applied for a Caseworker position at Luzerne CAO. *Id*. at 38-47. On March 20, 2025, OA notified Donahue by email:

> Your application is being archived and you will not receive a score because your name has been removed from [the] list for this job title. As indicated in the letter that was sent to you, you may reapply for this job title when the expiration date of that list removal has passed.

Id. at 22.

On April 7, 2025, Donahue filed an appeal request form (Appeal Request) with the Commission, arguing that the Department "wrongly removed [him] from all civil service lists" for the Caseworker position. *Id*. at 2-4. Donahue also checked a box on the Appeal Request reflecting that he was challenging his removal from the classified service. *Id*. at 3. Donahue attached numerous documents to the Appeal Request, including the November 27, 2024 email and December 3, 2024 letter. *Id*. at 898, 891. On April 15, 2025, the Commission informed Donahue by letter that it had received the Appeal Request and would consider his claims related to the list removal. *Id*. at 1105. However, the letter provided that any appeal related to his removal from the classified service must be raised in a separate appeal request form, which he would have to submit within ten business days of the letter to preserve his April 7, 2025 filing date. *Id*. On April 21, 2025, Donahue filed a corrected appeal request form (Corrected Appeal Request), reflecting that he was only appealing the

---

suffer a detriment without the court's decision."). Accordingly, we decline to *sua sponte* invoke the mootness doctrine in the present matter. *See Commonwealth v. Phillips*, 344 A.3d 360, 367 n.11 (Pa. 2025) (noting that appellate courts are not required to address mootness when not raised by the parties).

list removal and not raising an issue related to removal from the classified service. *Id*. at 1109-11.

On May 28, 2025, the Commission issued an order denying his appeal as untimely on the basis that the appeal period began to run when Donahue received notice of the list removal on December 3, 2024, and he did not file an appeal within 20 days of that date. *Id*. at 2212. Donahue thereafter petitioned this Court for review.

II. ISSUES

On appeal,[3] Donahue argues that his April 7, 2025 Appeal Request was timely filed within 20 days of the March 20, 2025 OA email notifying him that his application for the Caseworker opening at Luzerne CAO was being archived. Donahue further contends that the Commission erroneously required him to file the Corrected Appeal Request when the appeal request form permits a party to check multiple boxes to raise multiple issues in a single appeal.

III. DISCUSSION

A. TIMELINESS OF APPEAL

Donahue first challenges the Commission's determination that his appeal was untimely. He argues that he did not receive notice of his list removal until March 20, 2025, when OA informed him of that fact in relation to his application for a Caseworker vacancy at Luzerne CAO. Donahue asserts that his April 7, 2025 Appeal Request was thus timely, as it was filed within 20 days of March 20, 2025.

[3] Our review is limited to determining whether necessary findings of fact are supported by substantial evidence, whether an error of law has been committed, or whether constitutional rights have been violated. *Pa. Game Comm'n v. State Civ. Serv. Comm'n (Wheeland)*, 219 A.3d 1257, 1263-64 n.3 (Pa. Cmwlth. 2019) (*en banc*).

Under Section 2704 of the Civil Service Reform Act (Act),[4] a prospective employee may challenge a public employer's decision to remove him from the list of eligible candidates for a position on the basis that the removal was discriminatory. 71 Pa. C.S. § 2704 (prohibiting "discriminat[ion] against an individual in recruitment, examination, appointment, training, promotion, retention or any other personnel action with respect to the classified service"); *Mansfield v. State Civil Serv. Comm'n (Dep't of Lab. & Indus.)*, 68 A.3d 1062, 1065 & n.3 (Pa. Cmwlth. 2013).[5] Section 3003(7)(ii) of the Act provides that a "person who is aggrieved by an alleged violation of [S]ection 2704 . . . may appeal in writing to the [C]ommission within 20 calendar days of the alleged violation." 71 Pa. C.S. § 3003(7)(ii). The Commission's regulation in effect during the relevant period also provided that a "person appealing discrimination under [Section 2704] shall appeal within 20 calendar days of the alleged discrimination."[6] *See former* 4 Pa. Code § 105.12(a)(3).

Here, the action that Donahue challenged in his April 7, 2025 Appeal Request was his removal from the eligible list for the Caseworker position. C.R. at 3, 1110 ("My name was wrongly removed from all civil service lists for . . . Caseworker throughout all of Pennsylvania."). OA informed Donahue of the list removal in its December 3, 2024 letter, which stated that his "name will be removed from all eligible lists provided to the Department . . . for the . . . Caseworker job title until December 2, 2025." *Id*. at 891. Donahue does not dispute receipt of the December 3, 2024 letter, as it was mailed to the same Hazleton, Pennsylvania, address listed as

[4] The Act is set forth in its entirety at 71 Pa. C.S. §§ 2101-3304.

[5] *Mansfield* addressed personnel actions under Section 905.1 and 951(b) of the Civil Service Act of August 5, 1941, P.L. 752, *as amended*, *formerly* 71 P.S. §§ 741.905a, 951(b), the predecessor and equivalent provisions to Sections 2504 and 3003(7)(ii) of the Act.

[6] Effective August 16, 2025, the Commission repealed 4 Pa. Code § 105.12 and adopted a new regulation in its place at 4 Pa. Code § 105.12a.

his current address on the Appeal Request. *Id*. at 2, 891. Indeed, Donahue attached the December 3, 2024 letter to the Appeal Request, confirming he received it. *Id*. at 891. Donahue also did not raise any grounds in his Appeal Request to justify his failure to file an appeal within 20 days of December 3, 2024. Therefore, we conclude that the December 3, 2024 letter served as notice of Donahue's removal from the eligible list on December 3, 2024, which triggered the 20-day appeal period of Section 3003(7)(ii).

Furthermore, the March 20, 2025 email did not provide independent grounds for an appeal. Rather, the email merely referenced the December 3, 2024 list removal as the basis for OA's decision to archive Donahue's application for the Caseworker vacancy at Luzerne CAO and stated that he could reapply for Caseworker openings when his one-year removal period expired. *Id*. at 22 ("As indicated in the letter that was sent to you, you may reapply for this job title when the expiration date of that list removal has passed."). As the March 20, 2025 email did not change Donahue's eligibility status, it was not a separate appealable personnel action. *See Mansfield*, 68 A.3d at 1065 (noting that "an individual does not have a property right in a government job he does not yet have" and may only challenge removal from an eligible list if it was based on "untoward discrimination"); *see also Cook v. City of Phila. Civ. Serv. Comm'n*, 246 A.3d 347, 359 (Pa. Cmwlth. 2021) (stating that "there is a property interest in fair access to public employment" but "no property interest in prospective employment"). Consequently, because Donahue filed his Appeal Request more than 20 days after the December 3, 2024 notice of his removal from the eligible list and he lacked grounds to appeal the March 20, 2025 email, the Commission did not err in determining that Petitioner's appeal was untimely.

Donahue further argues that he was entitled to a hearing on his Appeal Request based on the mandatory language of Section 3003(7)(ii) of the Act that the Commission "shall" hold a public hearing on a discrimination claim. 71 Pa. C.S. § 3003(7)(ii) ("Upon receipt of the notice of appeal, the [C]ommission shall promptly schedule and hold a public hearing."). However, Section 3003(7)(ii) requires that the aggrieved party file an appeal "within 20 calendar days of the alleged violation" of Section 2704 of the Act. *Id*. A party's failure to file a timely appeal from a personnel action deprives the Commission of jurisdiction to consider the appeal. *Petsinger v. Dep't of Lab. & Indus., Off. of Vocational Rehab.*, 988 A.2d 748, 758 (Pa. Cmwlth. 2010). As the Appeal Request was filed well beyond the 20-day period and Donahue did not assert grounds for his tardiness that necessitated the holding of a hearing, the Commission did not err denying Donahue's appeal without a hearing.

B. CORRECTED APPEAL REQUEST

Donahue next argues that the Commission erred by requiring him to submit the April 21, 2025 Corrected Appeal Request because the Commission's appeal request form states that an appellant should "[c]heck the applicable box(es) to indicate the type of actions being appealed . . . ." C.R. at 3. Donahue asserts that the form clearly envisions that multiple personnel actions can be challenged in a single appeal to the Commission. As noted above, on April 15, 2025, following receipt of the Appeal Request, the Commission notified Donahue that, although he checked boxes indicating that he intended to appeal removal from an eligible list and removal from the classified service, he could not raise both issues in the same appeal. *Id*. at 1105. Therefore, the Commission deemed list removal as the issue in the current appeal but informed Donahue that he could pursue an appeal of removal from

the classified service with the same appeal date if he filed a separate appeal request form within 10 business days. *Id*. On April 21, 2025, Donahue filed the Corrected Appeal Request, reflecting that he was only appealing the list removal and was not raising an issue pertaining to removal from the classified service. *Id*. at 1109-11.

The Commission argues that Donahue waived this issue by failing to raise it in his petition for review. A petition for review in this Court's appellate jurisdiction must contain "a general statement of the objections to the order or other determination" sought to be reviewed. Pa.R.A.P. 1513(d)(5). However, "the omission of an issue from the statement shall not be the basis for a finding of waiver if the court is able to address the issue based on the certified record." *Id*. Although not raised in the petition for review, we are able to address this issue based on the certified record. Therefore, we do not find that this issue was waived. *Id*.; *Kurpiewski v. Workers' Comp. Appeal Bd. (Caretti, Inc.)*, 202 A.3d 870, 885 n.12 (Pa. Cmwlth. 2019).

Nevertheless, we conclude that the Commission's April 15, 2025 letter was not an appealable action. Pursuant to the Administrative Agency Law, an individual only has the right to appeal a Commonwealth agency "adjudication," which is defined as a "final order, decree, decision, determination or ruling by an agency affecting personal or property rights, privileges, immunities, duties, liabilities or obligations of any or all of the parties to the proceeding in which the adjudication is made." 2 Pa. C.S. §§ 101, 702; *see also Rogers v. Pa. Bd. of Prob. & Parole*, 724 A.2d 319, 322 (Pa. 1999) ("An individual . . . is only entitled to . . . review from an adverse decision by a Commonwealth agency where such a decision constitutes an adjudication."). To constitute an adjudication, the agency action must be (1) final and (2) affect a party's rights, privileges, immunities, duties, liabilities, or

obligations. 2 Pa. C.S. § 101; *NHS Hum. Servs. of PA v. Dep't of Pub. Welfare*, 985 A.2d 992, 995 (Pa. Cmwlth. 2009). The April 15, 2025 letter met neither of these requirements. The letter was not final as it did not dismiss Donahue's appeal but merely indicated that he would have to file a separate appeal request form if he wished to challenge any other personnel action beside his removal from the eligible list. C.R. at 1105. The letter also did not affect his rights, privileges, immunities, duties, liabilities, or obligations, as Donahue, by his own admission, solely intended to challenge his removal from the eligible list, and he was not required to take any further action to preserve that issue in his appeal to the Commission. Accordingly, we dismiss Donahue's appeal to the extent he seeks to raise a challenge to the Commission's April 15, 2025 letter.

IV. CONCLUSION

For the foregoing reasons, we affirm the Commission's May 28, 2025 order denying as untimely Donahue's April 7, 2025 appeal challenging his removal from the eligible list for the Caseworker position and dismiss Donahue's appeal from the Commission's April 15, 2025 letter.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Sean M. Donahue, Petitioner	:	
v.	:	
Department of Human Services and State Civil Service Commission, Respondents	:	No. 790 C.D. 2025

PER CURIAM **O R D E R**

AND NOW, this 3rd day of November, 2026, the May 28, 2025 order of the State Civil Service Commission (Commission) is AFFIRMED, and the appeal of petitioner Sean M. Donahue from the Commission's April 15, 2025 letter is DISMISSED.