

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS

Middlesex, ss.

Robert Bettencourt,
Petitioner,

Docket No.: CR-24-0468

v.

State Board of Retirement,
Respondent.

Appearances:

For Petitioner: Scott Lang, Esq.

For Respondent: Marko Samardzic, Esq.

Administrative Magistrate:

Eric Tennen

SUMMARY OF DECISION

The petitioner held various positions with the Bristol County Sheriff's Office. He is entitled to Group 4 classification for his first position as a correction officer. However, he is not entitled to Group 4 classification for the remaining positions. The official titles of those positions are not enumerated as Group 4 eligible under G.L. c. 32 § 3(2)(g). Even if I were to consider his job descriptions, that would not change the analysis as they do not support a finding that he worked as a correction officer in those positions.

DECISION

The Petitioner, Robert Bettencourt, timely appeals a decision by the State Board of retirement ("Board") denying his application for Group 4 classification. I held a virtual hearing on September 24, 2025. Caitlin DeMelo, director of human resources ("HR") for the Bristol County Sheriff's Office, testified on behalf of the Board; Mr. Bettencourt testified on his own behalf. I

entered exhibits P1-P14 and R1-R3 into evidence. The parties submitted closing briefs on November 17, 2025 at which point I closed the administrative record.

FINDINGS OF FACT

1. The Petitioner was a long-time employee of the Bristol County Sheriff's office.
(Bettencourt.)
2. The Board does not dispute he started as a correction officer in September 1993 and remained in that capacity until February 2000. (Ex. P1 & P8; Bettencourt; DeMelo.)
3. From February 2000 until he retired in September 2023, he held a series of other positions: Lab Collector for Community Corrections, Lab Collections/Security Supervisor Community Corrections Center, Director of Security and Lab Collections, Investigator/Sex Offenders, Special Investigator, Lieutenant-Task Force, and Captain-Task Force. (Ex. P8; DeMelo.)
4. His duties in these positions varied, but they were not the duties of a correction officer. Rather, he helped collect lab samples from inmates, parolees, and probationers in the Community Corrections center; he worked with soon-to-be released sex offenders filling out their registration paperwork; he investigated inmate misconduct within the jail; and he worked on a task force with other law enforcement agencies helping to apprehend persons with warrants. (Exs. P1 & P8; Bettencourt.)
5. At the hearing, the Petitioner submitted several job descriptions. Only one job description (besides his original position from 1993) contained the term correction officer: the job description for "correction officer/investigations confidential to the sheriff." No other job description includes the term "correction officer." (Ex. P1.)

6. The general duties of that position were to “investigate matters of impropriety involving staff and inmate activities inside and outside the Bristol County house of corrections.” The specific duties included investigating employees and inmates, evidence collection, writing reports, apprehending escapees, conducting joint investigations with outside agencies and other duties “required by the sheriff.” (Ex. P1.)
7. Towards the end of Mr. Bettencourt’s career, a new Sheriff was elected, Paul Heroux. Mr. Bettencourt had some friction with him. This resulted in Mr. Bettencourt being investigated for wrongdoing (none of which was ever substantiated). He also filed a lawsuit against Sheriff Heroux. On account of these events, while out on sick leave, Mr. Bettencourt was told he should have no contact with employees of the Sheriff’s department. (Ex. R1; Bettencourt.)
8. When he was ready to retire, he had to fill out several forms, including an application for group classification. Mr. Bettencourt was seeking group 4 status. (Exs. P5, P8, & P9.)
9. The form requires the member’s employment history to be reviewed by two people: the member’s direct supervisor and the agency’s HR representative. (Exs. P5, P8, & P9.)
10. Because he was told he could not have contact with anyone, he was unsure where to send his application. He ended up sending it to his friend and most recent direct supervisor, Steven Souza, who was the Superintendent at the time. Superintendent Souza filled out the form. For every position that Mr. Bettencourt had held, Superintendent Souza added “Correctional Officer” to the title. Thus, he wrote Mr. Bettencourt was a “Correctional Officer/Captain,” “Correctional Officer/Lieutenant,” “Correctional Officer/Special Investigations,” etc. (Ex. P9.)

11. Superintendent Souza also appended a job description for Mr. Bettencourt's last position, which listed the position just as Captain, and said it was prepared and reviewed in 2022.

(Ex. P9.)
12. Superintendent Souza forwarded the application to the Board. However, because it lacked a signature from the HR director, the Board sent it to Ms. DeMelo for her review. (DeMelo.)
13. When Ms. DeMelo received it, it was the first time she had seen Mr. Bettencourt's application. That was unusual because, as the HR Director, she is usually in charge of filling out all of the group classification applications. (DeMelo.)
14. As the head of HR, Ms. DeMelo has access to the official titles and job descriptions for all the positions at the Sheriff's office. These are saved on a share drive folder, which she accesses to fill out these forms. When she received the application from the Board, she consulted the share drive folder to fill out Mr. Bettencourt's application. (DeMelo.)
15. In looking at the form Superintendent Souza filled out, it did not seem accurate to her. First, the job description for Captain was incorrect. Ms. DeMelo had never seen a 2022 job description for that position before. Rather, the actual job description was prepared in 2013 and was still in effect. At the hearing, she identified numerous discrepancies between the two different job descriptions, including several references to inmate contact in the 2022 version that she says were not accurate descriptions of that position's duties.

(DeMelo.)
16. I find that the job description from 2013 that Ms. DeMelo appended was the correct job description for the Captain position, and not the one purportedly from 2022 that Superintendent Souza attached.

17. Ms. DeMelo ultimately located the official titles for all of Mr. Bettencourt's positions. She confirmed the job title for his position from 1993 until 2000 was "correction officer." But she also confirmed that none of his subsequent positions were titled, or contained the title, "correctional officer." (DeMelo.)
18. This includes the position with the job description listing it as "correction officer/investigations confidential to the sheriff." Other evidence corroborates this conclusion. A 2018 e-mail from Superintendent Souza to Sheriff Hodgson referred to that job as "Special Investigator." And Ms. DeMelo listed this position as "Special Investigator" in Mr. Bettencourt's application. (DeMelo; Ex. P1 & P8.)
19. Ms. DeMelo submitted a new application form to the Board. She appended a list of all of Mr. Bettencourt's positions with his official titles. She also added the official job description for his Captain position and a recent evaluation. (Ex. P8; DeMelo.)¹
20. By that time, Superintendent Souza had retired. So, Ms. DeMelo had the current Superintendent, Joseph Oliver, co-sign the form. (Ex. P8; DeMelo.)

¹ The Petitioner makes allegations that the Sheriff's office intentionally misrepresented his job title and duties in retaliation for his lawsuit. (Ex. P9.) The evidence does not support that claim. Ms. DeMelo was a credible witness who explained how she handles all these applications; she handled Mr. Bettencourt's application the same way she always did. She had access to the official titles and job descriptions of all the employees and used that to fill out his application.

On the other hand, Mr. Bettencourt did not explain where the 2022 job description for Captain came from. Superintendent Souza did not testify and explain where he got the information to fill out Mr. Bettencourt's application or why he did not have HR fill it out in the first place. He did not explain why he added "correctional officer" to all of Mr. Bettencourt's titles. And no document referred to any of Mr. Bettencourt's positions after 2000 as "correctional officer." Thus, to the extent the misrepresentation allegations are relevant, I do not credit them.

21. The Board ultimately denied Mr. Bettencourt's application for group 4 classification and instead classified him in group 1 for all his various positions. (Ex. B2 & B3.)

DISCUSSION

"[M]embers of the Massachusetts contributory retirement system are classified into four groups for retirement purposes." *McLaughlin v. State Bd. of Ret.*, CR-19-0515, *7, 2022 WL 16921450 (Div. Admin. Law Apps. Oct. 14, 2022). Generally, "[g]roup 4 consists of public safety officers, officials, and employees, such as police officers, firefighters, and certain correction officers." *Geller v. Mass. Teachers' Ret. Sys.*, CR-05-1273, *17, n.5, 2009 WL 5966846 (Div. Admin. Law Apps. Oct. 16, 2009); G.L. c. 32, § 3(2)(g). Group 4 eligibility is "based largely on 'the employee's title or job description.'" *Tabroff v. Contributory Ret. App. Bd.*, 69 Mass. App. Ct. 131, 135 (2007), *quoting Gaw v. Contributory Ret. App. Bd.*, 4 Mass. App. Ct. 250, 256 (1976).

While job title alone is often dispositive as to group 4 status, a job description is sometimes necessary to determine if a member's title is merely a "sham," meaning it was "designed to circumvent the statute" because the employee was not expected to, and did not, perform those job duties. *Pysz v. Contributory Ret. Appeal Bd.*, 403 Mass. 514, 518 (1988). Occasionally, a job description identifies employees who merit group 4 classification when their title is ambiguous. *Gaw, supra*; *Tabroff, supra*. For example, employees who supervise electrical linemen are entitled to group 4 status. In *Tabroff*, the member's title was "Supervising Electrical Engineer," which did not make it clear if he specifically supervised linemen. But his job description did, and thus he was entitled to group 4 classification. *Id.* On the other hand, in *Gaw*, the employee was a "manager," but again, it was unclear if he supervised electrical linemen. Reference to *Gaw's* job description

resulted in a different outcome than *Tabroff* because Gaw managed the electric plant, not the linemen. *Gaw, supra*.

Typically, the timeframe for evaluating group classification is “in the twelve months preceding retirement.” *Burnes v. State Bd. of Ret.*, CR-21-0084, *3, 2025 WL 2902416 (Contributory Ret. App. Bd. September 10, 2025), *quoting Maddocks v. Contributory Ret. App. Bd.*, 369 Mass 488 (1976). “However, this application in determining group classification is mitigated by the provision that members employed prior to April 2012 may pro-rate their retirement allowance based on the number of years worked in different classification groups.” *Id.* Thus, DALA may consider the member’s entire career to determine whether any of it is eligible for a different group classification. *Id.* (rejecting State Board’s position that DALA did not have jurisdiction to consider anything other than the member’s last year).²

Because Mr. Bettencourt began his employment before April 2012, he is entitled to pro-ration if any of his positions qualify for group 4. One does. Mr. Bettencourt is entitled to group 4 classification for his time spent as a correction officer from 1993-2000. His job title alone confirms he was working in a position specifically referenced in G.L. c. 32 § 3(2)(g) as group 4 eligible; the

² At the hearing, I raised the *Burnes* case with the parties, indicating I was not limited to considering only Mr. Bettencourt’s last year of employment. I did not, however, mean I would consider something that was not part of his application. Here, Mr. Bettencourt applied for Group 4 status, so I consider only whether he is entitled to Group 4 for any position he has held. I will not consider whether he is entitled to Group 2 status. At the hearing, Mr. Bettencourt appeared to argue that he might be entitled to Group 2 status for some of his positions; but he did not apply for that nor give the Board a chance to review his positions for Group 2 status, a process that normally requires different documentation. He does not press this in his closing brief. With its closing memorandum, the Board moved to include an exhibit in support of its position that Mr. Bettencourt cannot litigate his Group 2 status in this case. I am not admitting that document into evidence because it is not necessary. I agree with the Board that any argument about Group 2 status is not before me.

evidence further confirms this job was not a sham and he was, in fact, a correction officer. And in its closing brief, the Board does not dispute he worked as a correction officer during this time.

Apart from his 1993 – 2000 correction officer position, the only other position that could support a colorable argument in favor of Group 4 is the special investigator position. Although the official title, according to Ms. DeMelo, is “special investigator, the title on his job description says, “correction officer/investigations confidential to the sheriff.” There is usually no dispute about what one’s job title is, so it is not clear I should even rely on the job title listed on a job description and nowhere else. But giving Mr. Bettencourt the benefit of the doubt, even if that were his title, it still would not be a group 4 position.

It is quite common to find employees of a sheriff department with job titles that include the term “correction officer” and an extended title, e.g. Correction Officer I/Head Cook. *Chomo v. State Bd. of Ret.*, CR -15-120 (Div. Admin. Law App. Jun. 3, 2016); *see Rogers v. State Bd. of Ret.*, CR-20-0216, 2023 WL 6900370 (Div. Admin. Law App. Oct. 13, 2023) (listing cases). With respect to correction officers with extended titles, DALA has not always been consistent as to when it evaluates group 4 status on job title alone and when it also considers the job description. *Id.* I will not attempt to reconcile these approaches here because, either way, the Petitioner’s position does not qualify.

Although I credit Ms. DeMelo that his job title was “special investigator,” even if the job title listed in the job description was correct, the title “correction officer/investigations confidential to the sheriff” is not a job title enumerated in § 3(2)(g). *See Rogers, supra*. Also, the job description for this position clearly does not describe a correction officer. There is no overlap in duties between the job description for “special investigator” and the one for a correction officer

from earlier in his career, where all parties agree the earlier one describes the job duties of a correction officer.³

The same is true for all of Mr. Bettencourt's remaining positions. The positions were not titled "correctional officer" but were properly titled by Ms. DeMelo in his application. Looking at their correct titles, none of those positions are enumerated in G.L. c. 32 § 3(2)(g). And even if I were to consider the job descriptions, they do not describe the job of a correction officer.

Finally, for all these positions, Mr. Bettencourt testified at length about his various interactions with inmates while holding these positions. He argues this shows he was acting as a correction officer. Testimony about one's duties is not the kind of evidence used to judge Group 4 status. That is the kind of evidence relied on in cases evaluating whether someone qualifies for Group 2 status. *See e.g. O'Neil v. State Bd. of Ret.*, CR-23-0154, 2025 WL 1529241 (Div. Admin. Law App. May 23, 2025).⁴

CONCLUSION AND ORDER

The Board's decision is **reversed in part** and **affirmed in part**. Mr. Bettencourt is entitled to group 4 classification for his time as a correction officer from 1993-2000. But he is not entitled to

³ For example, the special investigator conducts investigations of employees, inmates and crime scenes, collects evidence, conducts joint investigations with outside agencies, writes investigative reports, apprehends escapees, and files criminal complaints. None of those tasks are part of the correction officer's job description. (Ex. 1.)

⁴ Moreover, Mr. Bettencourt's testimony did not describe the job of a correction officer. Rather, he described positions that involve some minimal contact with inmates for certain things, e.g. collecting specimens or filling out their registration forms. But simply working in a jail, and working with or around inmates, does not mean someone is performing a group 4 job. *See. Rogers, supra; Ball v. State Bd. of Ret.*, No. CR-05-443 (Div. Admin. Law App. July 5, 2006, *aff'd*, Contributory Ret. App. Bd. Jul. 05, 2006).

group 4 classification for his remaining positions.

SO ORDERED.

Date: November 28, 2025

DIVISION OF ADMINISTRATIVE LAW APPEALS

Eric Tennen

Eric Tennen
Administrative Magistrate