



B-24

STATE OF NEW JERSEY

In the Matter of Anthony Walker,
Correction Officer Recruit (S9988R),
Department of Corrections

FINAL ADMINISTRATIVE
ACTION OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2015-1091

List Removal Appeal

ISSUED: **MAR - 6 2015** (SLK)

Anthony Walker appeals the attached determination of the Division of Classification and Personnel Management¹ (CPM) upholding the removal of his name from the eligible list for Correction Officer Recruit (S9988R), Department of Corrections, on the basis of falsification of application and an unsatisfactory criminal record.

By way of background, the appellant had a rank of 1851 on certification JU13D01 that was issued on May 23, 2013. The subject eligible list promulgated on May 23, 2013 and expires on May 22, 2015. In disposing of the certification, the appointing authority requested the removal of the appellant's name, contending that he had an unsatisfactory criminal background. Specifically, the appointing authority's background check indicated that the appellant had been charged with putting another in fear of violence via symbols or objects, a third degree criminal offense. Further, the report revealed that this charge was conditionally disposed through the appellant's successful completion of a diversionary program and it was dismissed in June 2001. Additionally, the appointing authority determined that the appellant falsified his application by failing to disclose the aforementioned charge on his employment application. The appellant appealed the matter of the removal of his name to CPM, which found that the appointing authority sustained its request.

On appeal, the appellant asserts that he does not have any juvenile or adult criminal history, that he was never charged with or convicted of any crime, and that

¹ Now known as the Division of Agency Services.

he never participated in a diversionary program. The appellant believes that there must have been some type of error and that his name has been inaccurately applied to someone else's information. The appellant requests that the full name, address, and social security number of the person that was charged with this crime be verified as an actual match to him. The appellant notes that his name, Anthony Walker, is a very common name and that he applies his middle name, Antoine, to any documentation in order to eliminate confusion. The appellant states that he confirmed with the Irvington Police Department that there is no information within its system to indicate that he has a criminal history. The appellant also submits a letter from the Union County Sheriff's Office stating that it ran all of the appellant's information in their in-house records and there was no record of a criminal history. Additionally, he submits a State Police Fingerprint Identification System Criminal Inquiry Record that indicates that he does not have any criminal history.

In response, the appointing authority presents that the employment application requires that a candidate must include all charges, regardless if they were discharged under any diversion program or dismissed. It contends that the appellant was charged with putting another in fear of violence, a third degree offense, and that the charge was disposed through a successful diversion program and later dismissed in 2001. The appointing authority maintains that the appellant failed to disclose this charge on his application. It acknowledges the appellant's arguments that his name is common and that he confirmed with the Irvington Police Department that there was no information in its system to indicate that he had a criminal history. However, the appointing authority highlights that the Family Automated Case Tracking System Case Summary Detail summarizes that "Anthony A. Walker" was charged with putting another in fear of violence for which he was adjudicated delinquent. It also argues that this charge, as indicated on its employment application, is grounds for removing him for an unsatisfactory criminal record.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C. 4A:4-6.1(a)6*, allows the removal of an eligible's name from an employment list when he or she has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process.

N.J.S.A. 11A:4-11 and *N.J.A.C. 4A:4-4.7(a)4* provide that an eligible's name may be removed from an eligible list when an eligible has a criminal record which includes a conviction for a crime which adversely relates to the employment sought.

N.J.A.C. 4A:4-6.3(b) in conjunction with *N.J.A.C. 4A:4-4.7(d)* provides that the appellant has the burden of proof to show by a preponderance of the evidence

that the appointing authority's decision to remove the appellant's name from the eligible list was in error.

A thorough review of the record indicates that the appellant's removal from the (S9988R) eligible list for Correction Officer Recruit is warranted. The appellant's employment application lists his date of birth as September 14, 1983. The Family Automated Case Tracking System Juvenile Search submitted by the appointing authority indicates "Anthony A Walker" with a date of birth of September 14, 1983 has a Party ID of "W 0156186". Further, the Family Automated Case Tracking System Case Summary Detail states that in Irvington Township, under Docket # FJ 07 006183 01, that "Anthony A Walker" with a Party ID of "W 0156186" was charged with 2C:33-10, Put Another In Fear of Violence, a third degree offense, which was disposed successfully through a diversion program. As such, there is sufficient evidence to indicate that the appellant was the one charged with the juvenile offense in question. The appellant has not provided any documentation in support of his argument that the appointing authority may have mixed him up with another person, nor provided any evidence that his *juvenile* criminal record was not accurate.

The information that the appellant failed to disclose is considered material and should have been accurately indicated on her employment application. The Appellate Division of the New Jersey Superior Court in *In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003), affirmed the removal of a candidate's name based on his falsification of his employment application and noted that the primary inquiry in such a case is whether the candidate withheld information that was material to the position sought, not whether there was any intent to deceive on the part of the applicant. In this regard, it is recognized that Correction Officers, like municipal Police Officers, hold highly visible and sensitive positions within the community and the standard for an applicant includes good character and an image of utmost confidence and trust. See *Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), *cert. denied*, 47 N.J. 80 (1966). See also, *In re Phillips*, 117 N.J. 567 (1990). The public expects Correction Officers to present a personal background that exhibits respect for the law and rules. The appellant's failure to disclose this information is indicative of the appellant's lack of integrity and questionable judgment. Such qualities are unacceptable for an individual seeking a position as a Correction Officer Recruit.

With respect to his criminal record, since the Commission has determined that the appointing authority has sufficient grounds to remove the appellant from the subject eligible list for falsification, it need not decide as to whether or not the appointing authority would have had sufficient grounds to remove the appellant for an unsatisfactory criminal background.

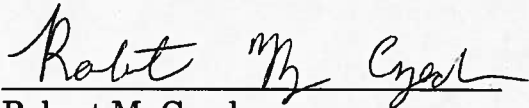
Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the Correction Officer Recruit (S9988R) eligible list.

ORDER

Therefore, it is ordered that this appeal be denied.

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

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 4th DAY OF MARCH, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals
& Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

Attachment

c: Anthony Walker
James Mulholland
Kenneth Connolly



Chris Christie
Governor
Kim Guadagno
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
DIVISION OF CLASSIFICATION & PERSONNEL MANAGEMENT
P. O. Box 313
Trenton, New Jersey 08625-0313

Robert M. Czech
Chair/Chief Executive Officer

October 3, 2014

Anthony Walker

Title: Correction Officer Recruit
Symbol: S9988R
Jurisdiction: Department of Corrections
Certification Number: JU13D01
Certification Date: 05/23/13

Initial Determination: Removal – Unsatisfactory Criminal Record

This is in response to your correspondence contesting the removal of your name from the above-referenced eligible list.

The Appointing Authority requested removal of your name in accordance with *N.J.A.C. 4A:4-4.7(4)*, which permits the removal of an eligible candidate's name from the eligible list if the eligible has a criminal record which adversely relates to the employment sought.

After a thorough review of our records and all the relevant material submitted, we find that there is not a sufficient basis to restore your name to the eligible list. Therefore, the Appointing Authority's request to remove your name has been sustained and your appeal is denied.

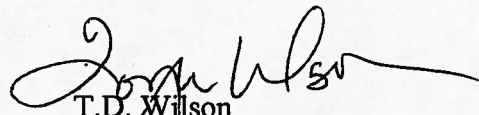
Please be advised that in accordance with Civil Service Rules, you may appeal this decision to the Division of Appeals & Regulatory Affairs (DARA) within 20 days of the receipt of this letter. You must submit all proofs, arguments and issues which you plan to use to substantiate the issues raised in your appeal. Please submit a copy of this determination with your appeal to DARA. You must put all parties of interest on notice of your appeal and provide them with copies of all documents submitted for consideration.

Please be advised that pursuant to P.L. 2010, c.26, effective July 1, 2010, there shall be a \$20 fee for appeals. Please include the required \$20 fee with your appeal. Payment must be made by check or money order only, payable to the NJ CSC. Persons receiving public assistance pursuant to P.L. 1947, c. 156 (C.44:8-107 et seq.), P.L. 1973, c.256 (C.44:7-85 et seq.), or P.L. 1997, c.38 (C.44:10-55 et seq.) and individuals with established veterans preference as defined by N.J.S.A. 11A:5-1 et seq. are exempt from these fees.

Address all appeals to:

Henry Maurer, Director
Appeals & Regulatory Affairs
Written Record Appeals Unit
PO Box 312
Trenton, NJ 08625-0312

Sincerely,



T.D. Wilson
Human Resource Consultant
State Certification Unit

For Joe M. Hill Jr. Assistant Director
Division of Classification & Personnel Management

C James J. Mulholland, Director
File



State of New Jersey
DEPARTMENT OF CORRECTIONS
CUSTODY RECRUITMENT UNIT
PO Box 863
TRENTON NJ 08625-0863

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

GARY M. LANIGAN
Commissioner

May 13, 2014

ANTHONY WALKER
59 COOLIDGE ST
IRVINGTON NJ 07111

RE: NOTIFICATION OF REMOVAL
Symbol: S9988R; Rank: 1851

Dear Candidate:

This is to inform you that your name has been removed from the above referenced open competitive list for Correction Officer Recruit due to:

- (X) Security and Background Check: Unsatisfactory Criminal Record-You were charged with a 3rd degree 2C:33-10-Put Another in Fear of Violence via Symbols/Objects. This charge was conditionally disposed through a successful diversion program to include Intake Services Conference and it was later dismissed on 6/19/01 after the conditions were met.
Falsification of Application-You failed to disclose the above charge on your employment application as required.

NJAC 4A:4-4.7 provides for the removal of a prospective employee for the reason noted. Therefore, your name has been removed from the list.

Please be advised that in accordance with NJ Civil Service Commission rules you may appeal this action, in writing, for administrative review within twenty (20) days of receipt of this notice. Your appeal should include any documentation and/or written material which indicates your removal is not warranted. You must send a copy of your appeal to the undersigned.

Your appeal must be filed with:

✶ Assistant Director, Classification and Personnel Management
NJ Civil Service Commission
PO Box 313
Trenton, NJ 08625-0313

YOU MUST INCLUDE A COPY OF THIS NOTICE WITH YOUR APPEAL and forward a copy of your appeal documents to the Department of Corrections for our records.

Sincerely,

Custody Recruitment Unit
New Jersey Department of Corrections