

B-7



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Jostany Acosta,
Correction Officer Recruit (S9988T),
Department of Corrections

List Removal Appeal

CSC Docket No. 2016-3625

ISSUED: **DEC 09 2018**

(HS)

Jostany Acosta appeals the removal of his name from the eligible list for Correction Officer Recruit (S9988T), Department of Corrections, on the basis of his failure to complete preemployment processing.

The appellant took the open competitive examination for Correction Officer Recruit (S9988T), achieved a passing score and was ranked as a non-veteran on the subsequent eligible list. The eligible list promulgated on July 23, 2015 and expires on July 22, 2017. The appointing authority e-mailed and called the appellant in an attempt to schedule him for a home interview. Having received no response from the appellant, the appointing authority removed his name from the subject eligible list on the basis of his failure to complete preemployment processing.

On appeal to the Civil Service Commission (Commission), the appellant states that he checked his e-mails and voicemails but could not find communication regarding the home interview. He further states that he had received all prior e-mails regarding earlier phases of the preemployment process but did not receive any correspondence thereafter. In support, he submits copies of e-mails received from and sent to the appointing authority. In addition, the appellant submits a sworn notarized statement that he was "not notified by any means regarding [his] eligibility" for the subject position.

In response, the appointing authority stands with its original decision to remove the appellant from the subject eligible list. Specifically, it notes that it attempted to schedule the home interview using the same e-mail address and cell

phone number provided by the appellant on his "Applicant Contact Form" and reiterates that it did not receive a response. In support, the appointing authority submits copies of the appellant's "Applicant Contact Form," an e-mail to the appellant advising that attempts had been made to contact him to schedule the home interview, and a written statement that the appellant had not responded to e-mails and voicemails left for him, among other documents.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)11 allows the Commission to remove an eligible's name from an eligible list for other valid reasons. *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 an appointing authority's decision to remove his name from an eligible list was in error.

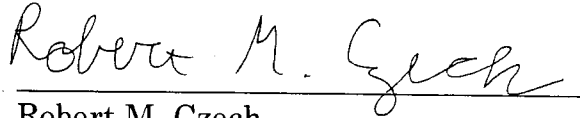
In the instant matter, the appointing authority removed the appellant's name from the subject eligible list because it did not receive a response to its attempts to schedule the appellant for a home interview, and therefore, the appellant did not complete preemployment processing. However, the appellant maintains that he did not receive any communication regarding the home interview and submits a sworn notarized statement that he was "not notified by any means regarding [his] eligibility" for the subject position. *See In the Matter of Manuel Gonzalez, Jr.* (CSC, decided December 3, 2014) (Appellant who submitted a sworn notarized statement under oath stating that he did not receive the e-mail from the appointing authority notifying him that he was to appear for preemployment processing restored to the list). Accordingly, under these circumstances, the appellant has met his burden of proof in this matter and the appointing authority has not shown sufficient justification for removing his name from the Correction Officer Recruit (S9988T), Department of Corrections eligible list.

ORDER

Therefore, it is ordered that this appeal be granted and the appellant's name be restored to the eligible list for Correction Officer Recruit (S9988T), Department of Corrections for prospective employment opportunities.

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 7TH DAY OF DECEMBER, 2016



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c. Jostany Acosta
Elizabeth Whitlock
Kelly Glenn

