



**STATE OF NEW JERSEY**

In the Matter of Dwayne Day, Sr.,  
 Sheriff's Officer (S9999U), Camden  
 County Sheriff's Office

**FINAL ADMINISTRATIVE ACTION  
 OF THE  
 CIVIL SERVICE COMMISSION**

CSC Docket No. 2019-426

List Removal Appeal

**ISSUED: JANUARY 22, 2019 (SLK)**

Dwayne Day, Sr. appeals his removal from the eligible list for Sheriff's Officer (S9999U), Camden County Sheriff's Office on the basis that he falsified his application.

The appellant took the open competitive examination for Sheriff's Officer (S9999U), achieved a passing score, and was ranked on the subsequent eligible list. In seeking his removal, the appointing authority indicated that the appellant falsified his application.

On appeal, the appellant states that he is unaware as to what he allegedly falsified, and he did not intentionally falsify his application.

In response, the appointing authority submits its background report. The report indicates that the appellant falsified his application by not indicating that he had a past relationship with L.K. even though he filed restraining orders against her, failed to list his residences from date of birth until January 2004, which was needed to conduct a local and out-of-state police contact and record check, failed to list an address in Lawnside that he listed as his residence upon entry into the military in 2008, failed to list that he lived with S.C. at this Lawnside address, failed to list that he worked for Camden County as a security officer which S.C. indicated to the investigator, inaccurately indicated that his driving privileges were suspended and restored on December 30, 2009 for unpaid parking tickets when his license was

suspended on December 24, 2009 and restored on December 30, 2009, provided insufficient dates concerning the registration of two motor vehicles and omitted the ownership of a Dodge Ram pickup truck that was on his property, inaccurately stated that when he came home from military service that there was a letter stating his license was suspended for an unpaid parking ticket when his license was not suspended until over six months after he returned from military service, listed his position in the military as Grunt-0311 instead of his correct title of Infantry/Rifleman, did not list his co-workers as asked for a position with Momentum Trucking, omitted dates of unemployment, omitted that he worked for General Nutrition Corporation (GNC) between November 5, 2016 and December 2, 2016 which was confirmed by a reference that he used on his 2017 Wildwood Police application, did not list employment prior to military service and it is believed that he was a security officer before and after military service, and claimed that he was rejected for a position as a Class II Officer for the Wildwood Police Department for the summer of 2017 because he filed a restraining order against someone when he was rejected due to failing a psychological examination. Additionally, his explanation why he left employment as a Correction Officer for Graterford State Prison, which he stated was due to safety concerns due to staffing levels in his application to the Wildwood Police Department, was different from the reason he listed on the subject application where he stated he left for "other employment," and he failed to provide his driver's license as required.

In response, the appellant states that he was asked to list two past girlfriends within the past 10 years and he did not list L.K. because, although he had a sexual encounter with her, she was not his girlfriend. Further, he did submit the restraining orders that he filed against her, so the appointing authority was aware of his relationship with her. He explains that he did not list residences prior to 2004 because he was a child and could not remember those addresses and there is no one in his family who could provide this information. The appellant states that he unintentionally did not disclose the Lawnside address because this was over 10 years ago, and he only stayed at this address on a temporary basis when he was kicked out of his mother's house, which was his primary residence. Concerning the dates that his license was suspended in December 2009, he misread the driver's abstract and the fact that his license was suspended for six days instead of one day is a technical issue, which is not material. He indicates that he was asked to list all vehicles where he possessed a motor vehicle registration and as he was not planning on renewing the registration for the Dodge Ram due to the vehicle's mechanical issues, he did not possess the vehicle registration for this vehicle. The appellant explains that he came home from military service over eight years ago and was incorrect in his recollection that the unpaid parking ticket was in the mail when he first came home. He believes that this was an immaterial, technical mistake that he made. The appellant states that he listed Grunt-0311 instead of Infantry/Rifleman as his specialty in the military as this was how his position was commonly referenced and, therefore, this statement was neither incorrect nor an omission. He acknowledges that he mistakenly forgot to list GNC as a prior employer as he only worked there for one month, however, he

states that he was an excellent employee during his brief employment with GNC and there was no reason for him to hide this employment. The appellant states that the only security position that he has held after military service is his current position working for Homeland Security for the federal government. Regarding his application for a position with the Wildwood Police Department, he indicates that at least 10 applicants failed the psychological examination.<sup>1</sup> He presents that he left his employment with Graterford Prison voluntarily and in good standing to seek other employment and, therefore, he did not provide false or misleading information. The appellant indicates that he does not recall stating to the Wildwood Police Department that he left Graterford due to safety concerns; however, he points out that safety concerns are always present when working in a prison. He states he did in fact provide his driver's license as required.

### 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 Civil Service Commission (Commission) to remove 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.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 or her name from an eligible list was in error.

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 matter, even if the Commission accepts most of the appellant's arguments that the alleged falsifications, misstatements or omissions were either technical, immaterial violations or not in fact omissions or misstatements, there were still several omissions or misstatements which were material, which are grounds for removal based on falsification. Specifically, the appellant did not list a Lawnside address on his application. He claims that he did not list this address because it was over 10 years ago, he only lived there intermittently, and his mother's address was his actual primary residence at the time. However, the appellant did list this address as his "Home of Record At The Time Of Entry" on his certification of release or discharge from active duty from the military so this is an address that should have been disclosed to the appointing authority. Additionally, the appellant did not respond to

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<sup>1</sup> The employment application indicates that the appellant stated that he was rejected for a position with the Wildwood Police Department for failing the psychological examination because he filed a restraining order against someone.

the statement that he worked as a security officer for Camden County prior to his employment with the military. Instead, his only response was that the only security position held by him *after* the military was his current position with Homeland Security. Further, the appellant did not respond to the appointing authority's statements that he omitted dates of unemployment. Moreover, the appellant acknowledges that he omitted his employment with GNC. In this regard, the appellant is responsible for the accuracy of his application. *See In the Matter of Harry Hunter* (MSB, decided December 1, 2004). *See also, In the Matter of Jeffrey Braasch* (MSB, decided December 1, 2004). Therefore, even if these omissions or misstatements were unintentional and there was no intent to deceive, at minimum, the appointing authority needed accurate information concerning his employment and background to make an assessment of his character and suitability for employment. *See In the Matter of Dennis Feliciano, Jr.* (CSC, decided February 22, 2017). Therefore, the Commission finds that it was appropriate for the appointing authority to remove his name from the Sheriff's Officer list based on falsification.

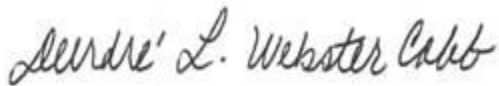
Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the Sheriff's Officer (S9999U), Camden County Sheriff's Office eligible list.

### 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 16<sup>th</sup> DAY OF JANUARY, 2019



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