



**STATE OF NEW JERSEY**

**DECISION  
OF THE  
CIVIL SERVICE COMMISSION**

In the Matter of Yuri Defreitas,  
Sheriff's Officer (S9999U), Hudson  
County

List Removal Appeal

CSC Docket No. 2019-2066

**ISSUED: NOVEMBER 12, 2019 (ABR)**

Yuri Defreitas appeals the removal of his name from the Sheriff's Officer (S9999U), Hudson County eligible list on the basis of a falsified application.

The appellant, a non-veteran,<sup>1</sup> applied for and passed the examination for Sheriff's Officer (S9999U), Hudson County which had a closing date of August 31, 2016. The subsequent eligible list promulgated on March 29, 2017 and expires on March 30, 2020. The appellant's name was certified to the appointing authority on June 11, 2018.

In disposing of the certification, the appointing authority requested the removal of the appellant's name due to a falsified application. Specifically, the appointing authority indicated, in pertinent part, that he failed to provide all required information related to his family, address history, contact with police, military record, civil service certifications, the firearms he possessed, driving record and employment history in his pre-employment application, dated July 18, 2018. Specifically, the appointing authority asserted that the appellant incorrectly listed his stepfather as his father and that he failed to list his sister, "Jessica Freitas." The appointing authority also indicated that Question 15 in the pre-employment application instructed candidates to "list each address at which [he] resided since birth." However, it asserted that the appellant failed to list two addresses: one on Birchwood Drive in the Township of Belleville (Belleville) and 336 Devon Street in

<sup>1</sup> On appeal, the appellant states that he is a disabled veteran of the United States Marine Corps, but he has not established Veterans' Preference for Civil Service purposes with the Department of Military and Veterans Affairs.

the Town of Kearny (Kearny). Specifically, the appointing authority indicated in its background report that the appellant had a “utility connection” for the Birchwood Drive address.

Additionally, the appointing authority stated that the appellant answered “no,” to Question 60 which asked if he had “ever been arrested or detained by any law enforcement or otherwise had contact with the law as an adult.” Specifically, it asserts that the appellant had been in contact with the police following a December 2016 incident.<sup>2</sup> The appointing authority also asserted that in response to Question 90, which instructed him to list any instance where he was “reprimanded, disciplined, tried, punished, reduced in rank attended Captain’s Mast, and or [sic] received an Article 15 for any infraction of military rules or law,” the appellant failed to disclose that he received a 60-day restriction in March 2013 for providing alcohol to individuals under age 20 while serving in the United States Marine Corps (USMC).<sup>3</sup> Moreover, the appointing authority maintained that, Question 84 stated: “list all firearms that [he] posses[sed].” However, the appellant failed to list a LGMT Co. firearm and a Sig Sauer firearm.

The appointing authority also claimed that in response to Question 42(a), which directed applicants to “list each examination number, job title(s) tested for, date exam taken and status” for any Civil Service examinations they took, the appellant failed to disclose that he was “certified” from the Police Officer (S9999U) eligible list for both Kearny and the Borough of East Newark (East Newark).<sup>4</sup> Rather, the appellant indicated that he took the 2016 examination for S9999U with the New Jersey Civil Service and that the status was “completed.”

The appointing authority also asserted that the appellant failed to list seven moving and parking violations in response to Question 76, which directed him to list “any summonses served upon [him] or any vehicle or any vehicle owned or operated by [him].” Specifically, the appellant wrote “N/A” in response to Question 76. In support, the appointing authority submits a copy of a ticket inquiry from the New Jersey Automated Traffic System (ATS), which lists six tickets, including: failure to obey a traffic signal, with a court date of October 15, 2009; two tickets for parking during a time prohibited for street cleaning, with court dates of January 12, 2017 and May 18, 2017; parking in a prohibited area, with a court date of March 23, 2017; parking in a crosswalk, with a court date of March 23, 2017; and parking in a

---

<sup>2</sup> It is noted that the appellant provided information about this incident in response to Question 65 and in a signed, notarized letter dated July 26, 2018.

<sup>3</sup> The appointing authority provided no supporting documentation for this claim. In his pre-employment application and in a notarized statement submitted to the appointing authority, the appellant acknowledged that he was disciplined while in the USMC. However, he stated that he was restricted to his room for 30 days and demoted in rank after a February 2011 incident where he and his friends left their base without permission.

<sup>4</sup> It is noted that the question did not request that candidates list certifications. It is further noted that East Newark is not a Civil Service jurisdiction.

metered spot after time expired, with a court date of June 3, 2017. It is noted that the ATS report indicated that the foregoing tickets were disposed of, but it did not state what the disposition was for each ticket. Finally, the appointing authority maintained that the appellant failed to disclose that he was employed by Shoprite of Kearny in 2008 and by Lenfam Management Co. (Lenfam) in 2010, as evidenced in the Social Security Administration (SSA) report it submitted which showed that he received \$32.18 and \$1,469.86, respectively from those employers.

On appeal to the Civil Service Commission (Commission), the appellant denies falsifying his pre-employment application and he suggests that the removal of his name from the subject eligible list was a politically-motivated attempt to prevent him from leaving his position as a Police Officer with East Newark. In terms of family information, the appellant states that he listed his stepfather as his father because his stepfather has always been the father figure in his life. He denies that Jessica Freitas is his sister or otherwise related to him, noting that his last name is Defreitas, not Freitas. The appellant observes that the appointing authority's source for the addresses it claims he failed to list were from a LexisNexus report which indicates that the sources used on the reports have errors and states that the data within the report should be independently verified. The appellant also asserts that the Birchwood Drive address in Belleville was a former address of his wife and the current address of his in-laws. He denies that any utilities at that address were ever in his name and he maintains that the appointing authority has not offered adequate proof that his name was attached to any specific utility accounts for that address. The appellant also notes that he could not have resided at 336 Devon Street in Kearny, as that is the address for Kearny High School.

Concerning his contact with police, he maintains that he provided the appointing authority with a letter and court paperwork that addressed the December 2016 incident, rather than in his response to Question 60, because that question did not appear to request information about such an incident. The appellant argues that he provided the requisite information asked by Question 42(a). He notes that elsewhere in the application, he indicated that he was employed as a Police Officer in East Newark; and stated in a signed, notarized letter dated July 25, 2018, that his name was certified to Kearny from the Police Officer (S9999U) eligible list. Additionally, the appellant argues that the LGMT Co. firearm is not in his possession and that it was not in his possession during the application process. Rather, he maintains that the weapon was, for all relevant timeframes, at Bullethole, a shooting range. As to the Sig Sauer firearm, he maintains that he did not acquire it from Bullethole until after submitting his pre-employment application.

Concerning his driving record, the appellant maintains that he did send a Certified Driver's Abstract to the appointing authority and that it did not show any

traffic tickets or violations and he notes that the ATS report shows that all of the purported traffic violations were disposed of or dismissed. He provides a Motor Vehicle Commission receipt for his Certified Driver's Abstract, dated June 12, 2018. Finally, the appellant states that he does not have any recollection of working at Shoprite in 2008, when he would have been 17 years old and he denies working for Lenfam in 2010, which was the year he joined the USMC.<sup>5</sup>

In response, the appointing authority, represented by Nidara Rourk, Assistant County Counsel, submits a copy of the background report and the documentation it relied upon when requesting the removal of the appellant's name from the subject eligible list, including a Certificate of Eligibility showing a February 28, 2017 transfer of the LGMT Co. firearm to the appellant. Despite an opportunity to do so, the appointing authority has not submitted any additional arguments.

## 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 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.

In the instant matter, the Commission finds that there are numerous problems with the appointing authority's background report. The appointing authority appears to have made several errors in its findings, including misidentifying Jessica Freitas as the sister of the appellant, Yuri **Defreitas**, and identifying 336 Devon Street in Kearny, the address of Kearny High School, as the appellant's former residence. Additionally, the appointing authority has not offered sufficient proof to counter the appellant's argument that he never resided at the Birchwood Drive address in Belleville. In this regard, although the appointing authority claims that the appellant had a utility connection at this address, the only documentation the appointing authority has submitted as proof of this is a LexisNexus report which explicitly states that because the report's sources may contain errors, the information should be independently verified. The appointing authority does not appear to have independently corroborated the appellant's connection to this address, as it has not neither offered proof that any utility accounts were in the appellants name nor specified what these utilities were. Moreover, while the appointing authority maintains that the appellant, while serving in the USMC, received a 60-day restriction in March 2013 for providing

---

<sup>5</sup> The appellant stated in his pre-employment application that he served in the USMC from September 2010 to September 2014.

alcohol to individuals under age 20, it has not provided any other information or documentation from this disciplinary action. On appeal and in his application, the appellant acknowledges that he received a demotion in rank and 30 days' restriction to base in 2011 for leaving the base without permission. However, other than the appointing authority's assertion of a second incident, the record is devoid of any supporting documentation. The Commission observes that although the appellant did not provide information about the December 2016 incident in response to Question 60 in the pre-employment application, a review of the record demonstrates that he gave the appointing authority the material information about this incident in his response to Question 65 and by furnishing paperwork related to the matter with his application.

There are also clear issues with the pre-employment application itself. For example, although the appointing authority admonished the appellant for failing to state that his name was certified to Kearny and East Newark in his response to Question 42(a), the Commission observes that this question does not direct candidates to list certifications. Rather, it instructs them to provide the "examination number, job title(s) tested for, date exam taken and status," and it contains a table with fields labeled "year, list number, name of agency, status and date." Therefore, since the question did not request certification information, the appellant could not have falsified his application by failing to provide the information. Furthermore, his name would not have been certified to East Newark, as it is not a Civil Service jurisdiction. Moreover, Questions 76 and 84 contain ambiguities that make it difficult to conclude that responses similar to those provided by the appellant meet the standard for falsification. In this regard, because Question 84 asks about firearms the appellant "possess[ed]," rather than the weapons he owned, it cannot be said that his failure to list the two firearms at issue constituted falsification, given that they were in the possession of Bullethole when he completed his pre-employment application. Similarly, because Question 76 refers to "summonses," if a candidate received tickets for driving or parking violations that did not require court appearances, the Commission would be unable to conclude that the candidate was required to list those infractions in his or her pre-employment application. Here, since the information furnished by the appointing authority does not make it clear that the appellant was compelled to appear in court for any of his driving infractions, the Commission is unable to conclude that his response to Question 76 constituted falsification.

The appointing authority has also failed to establish that the appellant's failure to list employment with Shoprite of Kearny in 2008 and Lenfam in 2010 in his pre-employment application provided sufficient cause to remove his name from the subject eligible list. In this regard, while the appointing authority has submitted documentation from the SSA which indicates that the appellant received wages from Shoprite of Kearny in 2008 and from Lenfam in 2010, it has not provided any evidence of when his employment with each entity supposedly began

and ended. The appellant still claims he does not remember, but noted he would have been 17 years old. The Commission also observes that the wages from Shoprite of Kearny were minimal, totaling \$32.18 and that they would have been earned approximately eight years prior to the closing date. As to Lenfam, the appellant denies working for that entity, noting that 2010 was the year he enlisted in the USMC. Since the appellant has provided evidence of other employment during that year and the appointing authority has not provided specific dates for the appellant's purported Lenfam employment or supplied any other information about this position, the Commission is unable to conclude on this record that the appellant falsified his application, particularly given the above-noted deficiencies with the appointing authority's background investigation. Given the mistakes and inconsistencies in the record and the appointing authority's failure to produce any other proof on appeal that the appellant should have been removed from the subject eligible list, the Commission finds that the appellant has met his burden of proof in this matter and the appointing authority has not shown sufficient grounds to remove the appellant's name from the eligible list for Sheriff's Officer (S9999U), Hudson County.

Finally, the Commission cautions the appointing authority that should it seek to remove the appellant from the subject eligible list in the future, it must ensure that it corrects the deficiencies in its background report noted herein. Furthermore, the Commission stresses that the appellant cannot be removed for falsification if the plain meaning of the questions in the pre-employment application do not make clear that a particular piece of information needed to be disclosed. Moreover, the Commission reminds the appointing authority that the material inquiry with falsification is whether the eligible discloses the requisite information with their pre-employment application. As such, the Commission generally will not sustain a removal for falsification if an eligible discloses the required information in the wrong place in the pre-employment application or if an eligible fails to disclose it in the body of their pre-employment application but furnishes supporting documentation with the application that contains that information.

### **ORDER**

Therefore, it is ordered that this appeal be granted that the appellant's name be restored to the Sheriff's Officer (S9999U), Hudson County eligible list for prospective employment opportunities only.

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 6<sup>TH</sup> DAY OF NOVEMBER, 2019



---

Deirdré L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

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

c: Yuri Defreitas  
Frank X. Schillari  
Nidara Rourk, Assistant County Counsel  
Kelly Glenn