



STATE OF NEW JERSEY

 FINAL ADMINISTRATIVE ACTION
 OF THE
 CIVIL SERVICE COMMISSION

In the Matter of M.R., Correctional
 Police Officer (S9988A), Department
 of Corrections

CSC Docket No. 2020-843

List Removal Appeal

ISSUED: MARCH 2, 2020 (EG)

M.R. appeals the removal of her name from the Correctional Police Officer (S9988A), Department of Corrections, eligible list on the basis of falsification of the preemployment application.

By way of background, the appellant took the open competitive examination for Correctional Police Officer (S9988A), achieved a passing score, and was ranked as a non-veteran on the subsequent eligible list. It is noted that the eligible list promulgated on June 27, 2019 and expires on June 26, 2021. In disposing of a certification from the subject eligible list, the appointing authority removed the appellant based on falsification of her preemployment application. Specifically, it asserted that the appellant failed to indicate 2004 charges of burglary in the third degree, which was dismissed, and theft by unlawful taking in the third degree in West Orange, New Jersey. Regarding the second charge, the appellant entered into a diversion program at Essex County Family Court.

On appeal, the appellant argues that she only recalls going to court when she was 12 years old and writing an apology letter to another girl. Additionally, she states that she called West Orange to get information about this incident and was told that there was no record of this incident. The appellant contends that this is why she did not include these charges in her application. Further, the appellant provides a letter from the West Orange Police Department stating that the appellant had requested her record but was given incorrect information at that time. Had the correct registry been checked, the appellant would have received the

information about her arrest. The letter was signed by a West Orange Police Sergeant with a raised Township seal over his signature.

In response, the appointing authority reiterates its claim that the appellant did not disclose the charges filed against her as required on her preemployment application. It also questions the veracity of the letter from West Orange provided by the appellant as it finds it unusual that a request for juvenile records would be dealt with over the telephone.

CONCLUSION

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 the appellant's name from an eligible list was in error. Further, *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 individual from an eligible list who has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process.

A thorough review of the record indicates that the appellant's removal from the Correctional Police Officer (S9988A), Department of Corrections, eligible list is not warranted. The appointing authority claims that the appellant falsified her application because she failed to indicate 2004 charges of burglary in the third degree and theft by unlawful taking in the third degree on her preemployment application. However, the appellant has provided documentation from the West Orange Police Department that she attempted to obtain information about the charges against her and was given incorrect information. The appellant only recalled that she had to write an apology letter. Additionally, the letter from the Police Sergeant appears authentic as it is on Township letterhead, signed by the Police Sergeant, and the Township seal is over the signature. Furthermore, charges as a minor so long ago are not necessarily a material fact at the time a preemployment application is completed. In that regard, the charges against the appellant occurred approximately 16 years ago when she was 12 years old. Therefore, the Commission finds that the appellant did not attempt any deception or fraud. There is also no evidence presented that the issues are part of a pattern of behavior that would call into question her current ability to be a Correctional Police Officer.¹ Accordingly, the appellant has met her burden of proof in this matter and the appointing authority has not shown sufficient justification for removing her name from the eligible list for Correctional Police Officer (S9988A), Department of Corrections.

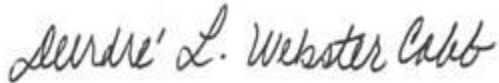
¹ The appellant lists a not guilty charge of assault and battery in 2007 on her application.

ORDER

Therefore, it is ordered that this appeal be granted, and the appellant's name be restored to the Correctional Police Officer (S9988A), Department of Corrections, 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 26TH DAY OF FEBRUARY, 2020



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: M.R.
Veronica Tingle
Kelly Glenn