



**STATE OF NEW JERSEY**

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

In the Matter of Herbert Calderon,  
County Correctional Police Officer  
(S9999U), Hudson County

List Removal Appeal

CSC Docket No. 2020-2130

**ISSUED: SEPTEMBER 7, 2020 (SDW)**

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Herbert Calderon appeals the removal of his name from the eligible list for County Correctional Police Officer (S9999U), Hudson County on the basis that he failed to respond to the certification notice.

The appellant, a non-veteran, took and passed the open-competitive examination for County Correctional Police Officer (S9999U), which had a closing date of August 31, 2016. The resulting eligible list promulgated March 29, 2017 and expired on May 30, 2020<sup>1</sup>. The appellant's name was certified to the appointing authority on August 1, 2019, with a notice date of August 8, 2019. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis that he failed to respond to the certification notice.

In support of his appeal to the Civil Service Commission (Commission), the appellant submits a sworn, notarized statement indicating that he did not receive the August 8, 2019 certification notice.

**CONCLUSION**

*N.J.A.C. 4A:4-4.7(a)6* provides that an eligible's name may be removed from a list for "non-compliance with the instructions listed on the notice of certification." *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

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<sup>1</sup> Agency records indicate that the subject eligible list was extended to the new list (S9999A) promulgated on May 15, 2020.

appointing authority's decision to remove his name from an eligible list was in error.

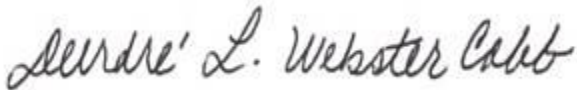
The appointing authority requested the removal of the appellant's name from the eligible list for County Correctional Police Officer (S9999U) on the basis of his failure to respond to the August 8, 2019 certification notice. However, the appellant has submitted a sworn, notarized statement, attesting to the fact that he did not receive the certification notice. Where there is a presumption that mail correctly addressed, stamped and mailed was received by the party to whom it was addressed, the appellant has rebutted that presumption in submitting his sworn, notarized statement. *See SSI Medical Services, Inc. v. State Department of Human Services*, 146 N.J. 614 (1996); *Szczesny v. Vasquez*, 71 N.J. Super. 347, 354 (App. Div. 1962); *In the Matter of Joseph Bahun*, Docket No. A-1132-00T5F (App. Div. May 21, 2001). Thus, it is appropriate that her name be restored to the subject eligible list.

### ORDER

Therefore, it is ordered that this appeal be granted and the eligible list for County Correctional Police Officer (S9999U), Hudson County, be revived in order for appellant to be considered for appointment at the time of the next certification 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 2<sup>ND</sup> DAY OF SEPTEMBER 2020




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