



STATE OF NEW JERSEY

In the Matter of Latesha Lewin,
Police Officer (S9999U), Newark

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2018-3435

List Removal Appeal

ISSUED: DECEMBER 6, 2018 (SLK)

Latesha Lewin appeals her removal from the eligible list for Police Officer (S9999U), Newark, on the basis of falsification of her pre-employment application.

By way of background, the appellant's name appeared on certification OL170528 that was issued to the appointing authority on April 28, 2017. In disposing of the certification, the appointing authority requested the removal of the appellant's name, contending that she falsified her application.

Specifically, the appointing authority's background report indicates that the appellant's 2014 and 2016 W-2s list her address as being [REDACTED] in Newark and her insurance card lists her address as being [REDACTED] in Plainfield, and neither of these addresses were listed on her application as being her residence. Additionally, the appellant's Certified Driver Abstract and New Jersey Automated Traffic System Ticket Inquiry shows that she received 10 motor vehicle summonses between February 2004 and January 2013, while she only listed two motor vehicle summonses on her application. Finally, although she was asked to provide her elementary school, she failed to do so.

On appeal, the appellant explains that she was employed by Dish Network between 2014 to 2016. She indicates, as an employee, she was entitled to free cable. The appellant states that, as she lived in a condominium complex, her homeowner's association did not allow her to have a satellite dish. However, her employer did allow her to give her free cable to a friend and the only requirement was that she had to update her address with human resources to the address where the equipment was

installed. Consequently, she indicates that she never lived at [REDACTED] as that was her friend's address. Concerning the [REDACTED] address, she explains that while she was a co-owner of this property, she never lived there, and she fully noted on question 77 of her application that she co-owned this property. She emphasizes that if she had stated that these properties were her residences, she would have been lying on her application. In reference to her schools, she acknowledges that she mistakenly forgot to list her elementary school on her application. She asserts that this was an honest mistake as there would be no reason for her to lie about this, and that the appointing authority could have easily followed up with her regarding this information. Concerning her driving record, she presents that she was not aware of any tickets other than the ones listed on her five-year driver's abstract. She explains that she has been driving for over 20 years and therefore she relied on the abstract to refresh her memory as she could not possibly remember all tickets she received. The appellant reiterates that her five-year driver's abstract does not show the eight additional tickets that the appointing authority presents. She emphasizes that she is a Correctional Police Officer for Northern State Prison and has been through the Civil Service process before. Therefore, she knows that she has nothing to gain by lying on her application.

In response, the appointing authority, represented by Karron A. Rizvi, Esq., states that the investigation revealed that the appellant received 10 motor vehicle violations while she only listed two on her application. Additionally, she failed to provide her elementary school as required as she admits on appeal. Further, it presents that the appellant's statement that she did not live at [REDACTED] or [REDACTED] are contradicted by her 2014 and 2016 W-2s and her 2016-2017 insurance card. The appointing authority argues that either the appellant misrepresented her residential addresses to her employer or insurance company or she failed to properly complete her employment application. It asserts that based on this contradictory information, she should have anticipated that the appointing authority would review this information and she should have provided further documentation and an explanation upfront concerning these addresses.

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.

In this matter, even if the Commission accepts the appellant's argument that her omission of her elementary school was an honest mistake of an immaterial fact,

the appointing authority had valid reasons to remove her name from the list. With respect to her residences, the appellant supplied W-2s and insurance information that indicates that she lived at residences that were not listed on her application. On appeal, the appellant explains that her W-2s listed her friend's address as her address because she used her right to have free cable from her employer at her friend's house, instead of her own residence, because her condominium association would not allow her to install a satellite dish. She claims that it was her employer's policy to use the address where the free cable was installed as her address on her W-2s instead of her actual address. However, the Commission finds that, at minimum, she should have explained this discrepancy to the appointing authority when she submitted her application. It is noted that the appellant has not provided any evidence to confirm that this was her employer's policy. Similarly, the appellant has not provided any evidence or reason to explain why she used a property that she co-owned, instead of the residence where she claimed to have lived, as her residence on her insurance card. Again, at minimum, she should have explained this on her application.

Moreover, even if the Commission accepts the appellant's arguments regarding her residences, it is clear that the appellant failed to disclose eight motor vehicle summonses. While the appellant asserts that she relied on her five-year driver abstract, provided information to the best of her memory and did not intentionally falsify or omit information, it is noted that a candidate is responsible for the completeness and accuracy of their application.¹ See *In the Matter of Harry Hunter* (MSB, decided December 1, 2004). Further, 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. Therefore, even if there was no intent to deceive, in light of the appellant's driving record that included 10 motor vehicle summonses, with the last being issued to her in January 2013, less than four years prior to the August 2016 closing date, and being involved in three auto accidents, with the last accident being in December 16, 2014, which is less than two years prior to the closing date, her failure to disclose these additional summonses was material. At minimum, the appointing authority needed this information to have a complete understanding of the appellant's background in order to properly evaluate her candidacy. See *In the Matter of Dennis Feliciano, Jr.* (CSC, decided February 22, 2017). Specifically, the appointing authority needed this information in order to determine if the appellant's driving record showed a pattern of disregard for the law and questionable judgment. In this regard, the Commission notes that it has upheld the removal of law enforcement candidates in innumerable cases based on an unsatisfactory driving history. See *In*

¹ The Commission is perplexed by the appellant's reliance on the five-year driver abstract as the employment application does not request a partial listing of motor vehicle infractions. Moreover, a complete driver abstract is readily obtainable by an individual through the Motor Vehicle Commission.

the Matter of Pedro Rosado v. City of Newark, Docket No. A-4129-01T1 (App. Div. June 6, 2003); *In the Matter of Yolanda Colson*, Docket No. A-5590-00T3 (App. Div. June 6, 2002); *Brendan W. Joy v. City of Bayonne Police Department*, Docket No. A-6940-96TE (App. Div. June 19, 1998).

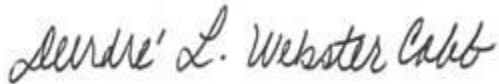
Accordingly, the appellant has not met her burden of proof in this matter and the appointing authority has shown sufficient cause for removing her name from the Police Officer (S9999U), Newark eligible list.

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 5th DAY OF DECEMBER, 2018



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