

B-10



STATE OF NEW JERSEY

In the Matter of Aigner K. Rogers,  
County Correction Officer (C9979M),  
Essex County

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket No. 2013-2647

List Removal Appeal

ISSUED: NOV 10 2014 (JET)

Aigner K. Rogers appeals the attached decision of the Division of Classification and Personnel Management (CPM), which found that the appointing authority had presented a sufficient basis to remove the appellant's name from the County Correction Officer (C9979M), Essex County eligible list on the basis of falsification of the employment application.

The appellant took the open competitive examination for County Correction Officer (C9979M), achieved a passing score, and was ranked on the subsequent eligible list. The appellant's name was certified to the appointing authority on April 18, 2012. In disposing of the certification, the appointing authority requested the removal of the appellant's name from the eligible list on the basis of falsification of the employment application. Specifically, the appointing authority asserted that in response to the question on page 3 of the May 29, 2012 employment application, "List all family members and/or friends that have been incarcerated," the appellant failed to disclose that her boyfriend was incarcerated in the Essex County prison in 2009. The appointing authority also indicated that the appellant used her cell phone to contact her boyfriend while he was incarcerated at the facility. The appellant appealed the matter to CPM, asserting, among other things, that her name should be restored to the eligible list. CPM determined that the appointing authority had presented a sufficient basis to remove the appellant's name from the subject eligible list.

On appeal, the appellant asserts that she did not falsify the employment application. Specifically, the appellant contends that the individual in question was

not her boyfriend at the time she submitted the employment application in May 2012. In this regard, the appellant contends that she named her ex-boyfriend on the employment application and she discontinued her relationship with him in 2009. The appellant adds that her disclosure about her ex-boyfriend allowed the appointing authority to determine that he was arrested. In addition, the appellant states that the questions on the employment application did not define the words "arrested" and "incarcerated." In this regard, the words "arrested" and "incarcerated" have similar meanings and she understood the word "incarcerated" to mean "a sentence to a term by a judge." The appellant adds that her ex-boyfriend was not incarcerated since the charges against him were dismissed. Further, the appellant indicates that there is merely a question of word usage regarding her answers on the employment application and she did not attempt to mislead anyone. Moreover, the appellant asserts that the appointing authority did not establish that she completed cell phone calls to her ex-boyfriend. In this regard, the search criteria used by the appointing authority only indicates that "attempted calls" were made by an undisclosed individual on her cell phone.

In response, the appointing authority maintains that the appellant's name should be removed from the eligible list. However, the appointing authority did not provide any further documentation in support of its claims.

It is noted that the documentation provided by the appointing authority indicates that the appellant's ex-boyfriend was incarcerated in the Essex County prison from December 4, 2009 to December 16, 2009.

### 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 his or her name from an eligible list was in error. *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.

In the instant matter, the appointing authority argues that the appellant falsified the employment application since she failed to disclose that her ex-boyfriend was incarcerated in the Essex County prison in 2009. The appellant argues that she disclosed the name of her ex-boyfriend on the employment application, which allowed the appointing authority to determine that he was arrested. Further, the appellant argues that her boyfriend was not incarcerated since the charges against him were dismissed. The appellant also argues that the questions on the employment application did not define the words "arrested" and "incarcerated" and there is merely a question of her word usage on the application.

Moreover, the appellant argues that the appointing authority only established that "attempted calls" were made to her ex-boyfriend on her cell phone. However, it is clear that the appellant did not correctly complete her employment application for the position. It must be emphasized that it is incumbent upon an applicant, particularly an applicant for a sensitive position such as a County Correction Officer, to ensure that her employment application is a complete and accurate depiction of his history. In this regard, 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 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. An applicant must be held accountable for the accuracy of the information submitted on an application for employment and risks omitting or forgetting any information at his or her peril. See *In the Matter of Curtis D. Brown* (MSB, decided September 5, 1991) (An honest mistake is not an allowable excuse for omitting relevant information from an application).

In this case, the appellant's omissions are sufficient cause to remove her name from the eligible list. The documentation provided by the appointing authority clearly indicates that the appellant's ex-boyfriend was incarcerated in Essex County prison in 2009. However, in response to the question on page 3 on the employment application, "List all family members and/or friends that are or have been incarcerated," the appellant listed "n/a." Therefore, it is clear that the appellant failed to disclose information in her background in response to the questions on the employment application. Although the appellant listed her ex-boyfriend's name in response to the question "List all previous dating partners along with complete addresses and phone numbers," this did not excuse her from listing his name in response to the other questions on the employment application. The fact that the charges against her ex-boyfriend were dismissed does not establish that her ex-boyfriend was not incarcerated. Further, her contention that the words "incarcerated" and "arrested" were not defined on the employment application is not dispositive as it is clear that he was jailed in the facility. Moreover, notwithstanding her arguments to the contrary, the documentation indicating that cell phone calls were made to the appellant's ex-boyfriend at the time of his incarceration further supports that the appellant was aware that he was incarcerated. The type of omissions presented are clearly significant and cannot be condoned as such information is crucial in an appointing authority's assessment of a candidate's suitability for the position.

The information noted above, which the appellant failed to disclose, is considered material and should have been accurately indicated on her employment application. The appellant's failure to disclose the information is indicative of her questionable judgment. Such qualities are unacceptable for an individual seeking a

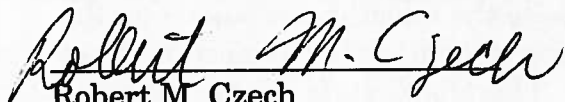
position as a County Correction Officer. In this regard, the Commission notes that a County Correction Officer is a law enforcement employee who must help keep order in the prisons and promote adherence to the law. Correction Officers, like municipal Police Officers, hold highly visible and sensitive positions within the community and the standard for an applicant includes good character and an image of utmost confidence and trust. *See Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), *cert. denied*, 47 N.J. 80 (1966). *See also In re Phillips*, 117 N.J. 567 (1990). The public expects prison guards to present a personal background that exhibits respect for the law and rules. Therefore, there is sufficient basis to remove the appellant's name from the 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 6<sup>th</sup> DAY OF NOVEMBER, 2014



Robert M. Czech

Chairperson

Civil Service Commission

Inquiries  
and  
Correspondence

Henry Maurer  
Director  
Division of Appeals  
& Regulatory Affairs  
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Written Record Appeals Unit  
PO Box 312  
Trenton, New Jersey 08625-0312

c: Aigner Rogers  
Alfaro Ortiz  
Kenneth Connolly  
Joseph Gambino



STATE OF NEW JERSEY  
CIVIL SERVICE COMMISSION

DIVISION OF CLASSIFICATION AND PERSONNEL MANAGEMENT  
P. O. Box 313  
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Chris Christie  
Governor  
Kim Guadagno  
Lt. Governor

Robert M. Czech  
Chair/Chief Executive Officer

March 19, 2013

Aigner K. Rogers

Title: County Correction Officer  
Symbol: C9979M  
Jurisdiction: Essex County  
Certification Number: OL120542  
Certification Date: 04/18/12

**Initial Determination: Removal – Falsification of application**

This is in response to your correspondence contesting the removal of your name from the above-referenced eligible list.

The Appointing Authority requested removal of your name in accordance with *N.J.A.C. N.J.A.C. 4A:4-4.7(a)11*, which permits the removal of an eligible's name from an employment list for other valid reasons as determined by the Commissioner such as falsification of application.

After a thorough review of our records and all the relevant material submitted, we find that there is not a sufficient basis to restore your name to the eligible list. Therefore, the Appointing Authority's request to remove your name has been sustained and your appeal is denied. A copy of the Appointing Authority's removal documentation is enclosed for your review.

Please be advised that in accordance with Civil Service Rules, you may appeal this decision to the Division of Appeals and Regulatory Affairs (DARA) within 20 days of the receipt of this letter. You must submit all proofs, arguments and issues which you plan to use to substantiate the issues raised in your appeal. Please submit a copy of this determination with your appeal to DARA. You must put all parties of interest on notice of your appeal and provide them with copies of all documents submitted for consideration.

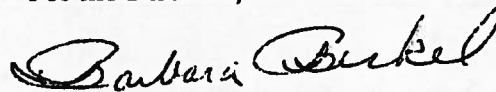
Please be advised that pursuant to P.L. 2010, c.26, effective July 1, 2010, there shall be a \$20 fee for appeals. Please include the required \$20 fee with your appeal. Payment must be made by check or money order only, payable to the NJ CSC. Persons receiving public assistance pursuant to P.L. 1947, c. 156 (C.44:8-107 et seq.), P.L. 1973, c.256 (C.44:7-85 et seq.), or P.L. 1997, c.38 (C.44:10-55 et seq.) and individuals with established veterans preference as defined by N.J.S.A. 11A:5-1 et seq. are exempt from these fees. Address all appeals to:

REC'D  
3-22-13

Aigner K. Rogers  
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Henry Maurer, Director  
Division of Appeals and Regulatory Affairs  
Written Record Appeals Unit  
PO Box 312  
Trenton, NJ 08625-0312

Sincerely,  
For the Director,



Barbara Bickel  
Human Resource Consultant

c: Alan Abramowitz, Director  
Essex County  
Hall of Records - Room 340  
Newark, NJ 07102