

B-10



STATE OF NEW JERSEY

In the Matter of Yasmine White,  
Correction Officer Recruit (S9988R),  
Department of Corrections

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket No. 2014-2643

List Removal Appeal

ISSUED: DEC 19 2014 (JET)

Yasmine White 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 Correction Officer Recruit (S9988R), Department of Corrections, eligible list on the basis of an unsatisfactory criminal record and falsification of the employment application.

The appellant took the open competitive examination for Correction Officer Recruit (S9988R), achieved a passing score, and was ranked on the subsequent eligible list. The appellant's name was certified to the appointing authority on May 23, 2013. In disposing of the certification, the appointing authority requested the removal of the appellant's name from the eligible list on the basis of an unsatisfactory criminal record and falsification of the employment application. Specifically, the appointing authority asserted that the appellant was found guilty of four Disorderly Persons Offenses within the last ten years. Further, the appellant failed to disclose the charges on her employment application. In this regard, the appellant failed to disclose that in 2005 she was charged with Simple Assault in violation of *N.J.S.A. 2C:12-1a* (dismissed), and in 2007 with three counts of harassment in violation of *N.J.S.A. 2C:33-4a*. It is noted that the eligible list for Correction Officer Recruit (S9988R) promulgated on May 23, 2013 and is scheduled to expire on May 22, 2015. 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 to the Civil Service Commission (Commission), the appellant asserts that the charges against her have been dismissed and she requests that her name be restored to the eligible list. Further, the appellant explains the circumstances regarding her involvement in the incidents. Specifically, the appellant contends that at the time of the 2005 incident, she was in eighth grade and walking home from school when another student approached her and stated that "crowds were awaiting [them]" with the intention of "jumping" [them]. The appellant adds that she "took the word from someone she barely knew" and she "immediately got ready to defend [herself]," and she [ran] into the crowd and began to fight. She was charged due to her involvement in that incident and the matter was dismissed. In addition, the appellant asserts that she was in high school at the time of the 2007 incident, and she was involved in a fight with some individuals with whom she had some disagreements. The appellant adds that she was charged for that incident and she did not find out about the charges until July 5, 2013. The appellant explains that the charges were recently dismissed and she provided information regarding the disposition of the charges to the appointing authority. Moreover, the appellant indicates that her life has changed since the time of the incidents and she is still interested in the subject position.

In response, the appointing authority maintains that the appellant's name should be removed from the eligible list. Specifically, the appointing authority asserts that the appellant failed to disclose information in response to the questions on the employment application. In this regard, she failed to disclose that in 2005 she was charged with Simple Assault in violation of *N.J.S.A. 2C:12-1a*, and in 2007 with three counts of harassment in violation of *N.J.S.A. 2C:33-4a*. The appointing authority explains that her omissions are sufficient to show that she falsified the employment application. Further, the appointing authority contends that it may consider expunged juvenile records when reviewing a candidate's suitability for employment and it has precluded the appellant from moving forward in the hiring process since the charges clearly adversely relate to the employment sought. Moreover, the appointing authority asserts that its goals and objectives are to select candidates who exhibit respect for the law which is imperative to effectively manage the day-to-day operations of a prison system.

It is noted that the Family Automated Case Tracking system indicates that in May 2005, the appellant was charged with Simple Assault in violation of *N.J.S.A. 2C:12-1a* (dismissed). Further, the Family Automated Case Tracking system indicates that in September 2007 the appellant was charged with two counts of harassment – verbal conduct/communication under docket number FJ 07 001379, and with harassment – verbal conduct under docket number FJ 07 001395. The charges were merged. The appellant plea bargained, went through counseling, and entered into a diversion program. The appellant submitted documentation indicating that the harassment charges were dismissed and an expungement was granted on September 4, 2014.

## CONCLUSION

*N.J.A.C.* 4A:4-6(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 the simple assault and harassment charges on the employment application. The appellant does not provide any explanation regarding why she failed to list the charges on the employment application, or dispute the appointing authority's contention that she failed to list the charges on the employment application. 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 Correction Officer Recruit, 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. In response to question 46 on the employment application, "Have you ever been arrested, indicted, charged with or convicted of a criminal or disorderly persons offense in this State or any other jurisdiction," the appellant marked "Yes" and indicated "I had a warrant for a parking ticket." Further, in response to question 51 on the employment application, "Have you ever had any police contact, been taken into custody, or charged with juvenile delinquency," the appellant indicated "For a warrant on traffic tickets." Therefore, it is clear that the appellant failed to disclose information in her background in response to the questions on the employment application. The fact that she was a juvenile at the time of the incidents did not excuse her from listing that information on the employment application. In this regard, the application clearly indicates

that the word "arrest" includes any "detaining, holding, or taking into custody by police or any other law enforcement agency," in this or any other State or foreign country whether adult or juvenile. 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 Correction Officer Recruit. The Commission notes that a Correction Officer Recruit is employed in a paramilitary setting and is charged with maintaining discipline and order in a custodial facility. The totality of the appellant's record clearly demonstrates a disregard for the law and is at odds with those expectations. Further, the Commission is mindful of the high standards that are placed upon law enforcement personnel. In this regard, it is recognized that a Correction Officer Recruit is a law enforcement employee who must help keep order and holds a highly visible and sensitive position within the community. 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.

Since the appellant's name is removed on the basis of falsification of her employment application, there is no need to address the issue regarding adverse criminal history.

Accordingly, based on the totality of the record, the appointing authority has submitted sufficient evidence to support the removal of the appellant's name from the eligible list for Correction Officer Recruit (S9988R), Department of Corrections.

#### 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 17<sup>th</sup> DAY OF DECEMBER, 2014



Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Henry Maurer  
Director  
Division of Appeals  
& Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312  
Trenton, New Jersey 08625-0312

Attachment

c: Yasmin White  
Jennifer Rodriguez  
James Mulholland  
Kenneth Connolly



Chris Christie  
Governor  
Kim Guadagno  
Lt. Governor

STATE OF NEW JERSEY  
CIVIL SERVICE COMMISSION  
DIVISION OF CLASSIFICATION AND PERSONNEL MANAGEMENT  
P. O. Box 313  
Trenton, New Jersey 08625-0313

Robert M. Czech  
Chair/Chief Executive Officer

April 25, 2014

Yasmine White

**Title:** Correction Officer Recruit  
**Symbol & Rank:** S9988R  
**Jurisdiction:** Corrections  
**Certification Number:** JU13D01  
**Certification Date:** May 23, 2013

**Initial Determination:** R2 - Remove – Unsatisfactory criminal record

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)4*, which permits the removal of an eligible candidate's name from the eligible list for a criminal record which adversely relates to the employment sought.

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.

Please be advised that in accordance with Civil Service Rules, you may appeal this decision to the Division of Appeals and Regulatory Affairs (ARA) 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 ARA. 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: Henry Maurer, Director, Division of Appeals and Regulatory Affairs, Written Record Appeals Unit, PO Box 312, Trenton, NJ 08625-0312.

Sincerely,

Valerie Stutesman, IPMA-CP  
Leader/Manager

c: Jennifer Rodriguez, NJ Dept. of Corrections Custody Recruitment