

B-14



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Manuel Gonzalez
Jr., Correction Officer Recruit
(S9988R), Department of Corrections

List Removal

CSC Docket No. 2014-2577

ISSUED: DEC - 5 2014 (LH)

Manuel Gonzalez Jr. 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 his failure to complete pre-employment processing.

The appellant took the open competitive examination for Correction Officer Recruit (S9988R), achieved a passing score and was ranked as a non-veteran on the subsequent eligible list. The eligible list promulgated on May 23, 2013 and expires May 22, 2015. The appellant's name was certified to the appointing authority on June 5, 2013. Initially, the appellant was given a pre-employment processing date of June 13, 2013 but the appellant was not able to attend as he was enrolled in school out of state. As a result, the appellant was placed on the inactive list while attending school. Thereafter, on July 19, 2013 the appellant was restored to the active list. Subsequently, on September 6, 2013, the appellant was sent an e-mail to appear for processing on October 7, 2013. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis of his failure to complete pre-employment processing. Specifically, it asserted that the appellant failed to attend pre-employment processing on October 7, 2013. As a result, the appellant's name was removed from the subject eligible list.

On appeal to CPM, the appellant argued that he never received a September 6, 2013 e-mail notifying him that his scheduled date for pre-employment processing would be October 7, 2013. However, CPM found that the appointing authority had

sufficiently supported and documented its decision to remove the appellant's name from the eligible list.

On appeal to the Civil Service Commission (Commission), the appellant essentially reiterates the arguments submitted to CPM and submits a copy of the e-mail correspondence between the appellant and the appointing authority. In addition, the appellant submits a notarized statement under oath stating that he did not receive any e-mail regarding the October 7, 2013 date for pre-employment processing.

In response, the appointing authority asserts that it stands with its original decision to remove the appellant from the subject eligible list. Specifically, the appointing authority maintains that it sent the September 6, 2013 e-mail scheduling the appellant for pre-employment processing to the same e-mail address from which the appellant had sent his response to the Notice of Certification. In addition, the appointing authority argues that when the appellant moved from the inactive list to the active list, he was not able to cancel or re-schedule any future appointments for any reason. The appointing authority also submits a copy of the e-mail correspondence between the appellant and the appointing authority that outlined the Pre-Employment Processing Orientation date of October 7, 2013.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)11 allows the Commission to remove an eligible's name from an eligible list for other valid reasons. *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 from an eligible list was in error.

It is initially noted that the appointing authority has the authority and ability to require potential new hires to undergo pre-employment processing to ensure that the candidate is qualified for appointment. Such pre-employment processing may include any and all conditions necessary for an appointing authority to assess a candidate's qualifications. Further, this information is important as it serves the important function of informing the appointing authority as to any significant differences between the candidates which may assist it in the selection process. See *In the Matter of Laura C. Bonilla* (MSB, decided September 7, 2005); *In the Matter of Bruce C. Cooke* (MSB, decided May 8, 2001); and *In the Matter of James Smith* (MSB, decided April 24, 2001).

In the instant matter, the appointing authority removed the appellant's name from the subject eligible list on the basis that he did not appear for pre-employment processing. However, the appellant maintains that he never received the appointing authority's e-mail notifying him of his scheduled date for pre-

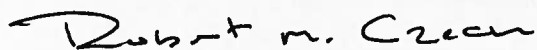
employment processing. Furthermore, the appellant submits a notarized statement under oath stating that he did not receive any notice of a date to appear for pre-employment processing for the subject title. *See In the Matter of Salena Bradley* (CSC, decided July 16, 2014) (Commission restored appellant's name to the Correction Officer Recruit (S9988R) eligible list as she submitted a sworn notarized statement that she had not received the e-mail from the Department of Corrections notifying her of the date she was to appear for pre-employment processing). Accordingly, under these circumstances, the appellant has met his burden of proof in this matter and the appointing authority has not shown sufficient justification for removing his name from the Correction Officer Recruit (S9988R), Department of Corrections eligible list.

ORDER

Therefore, it is ordered that this appeal be granted and the appellant's name be restored to the eligible list for prospective employment opportunities.

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 3rd DAY OF DECEMBER 2014



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

Attachment

- c. Manuel Gonzalez Jr.
James Mulholland, Director
Kenneth Connolly



Chris Christie
Governor
Kim Guadagno
Lt. Governor

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

Robert M. Czech
Chair/Chief Executive Officer

April 1, 2014

Manuel Gonzalez Jr.

Title: Correction Officer Recruit
Symbol: S9988R
Jurisdiction: Department of Corrections
Certification Number: JU13D01
Certification Date: 05/23/13

Initial Determination: Removal – Did not appear/complete pre-employment processing

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. 4A:4-6.1(a) 4*, which permits the disqualification of an eligible candidate's name from the eligible list when one has failed to pass preliminary examination procedures.

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.

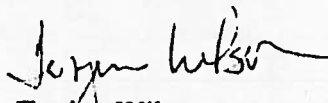
Please be advised that in accordance with Civil Service Rules, you may appeal this decision to the Division of Division of Appeals & Regulatory Affairs (ARA) within 20 days of the receipt of this letter. You must submit all proofs, arguments and issues which you plan to use to substantiate the issues 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 & Regulatory Affairs (ARA)
Written Record Appeals Unit
PO Box 312
Trenton, NJ 08625-0312

Sincerely,



Tonjua Wilson
Human Resource Consultant
State Certification Unit

For Joe M. Hill Jr. Assistant Director
Division of Classification & Personnel Management

C James Mulholland, Director
File