

B-17



STATE OF NEW JERSEY

In the Matter of Rebecca Zayas,  
Correction Officer Recruit (S9987M),  
Department of Corrections

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

DOP Docket No. 2014-2509

List Removal Appeal

ISSUED: DEC 05 2014 (JET)

Rebecca Zayas, represented by Carlos Andujar, Jr., Esq., appeals the attached decision of the Division of Classification and Personnel Management (CPM), which upheld the removal of her name from the Correction Officer Recruit (S9987M), Department of Corrections, eligible list on the basis of falsification of her employment application.

The appellant took the open competitive examination for Correction Officer Recruit (S9987M), achieved a passing score, and was ranked on the subsequent eligible list. The appellant's name was certified to the appointing authority on June 10, 2011. 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 her employment application. Specifically, the appointing authority asserted that the appellant failed to disclose on her employment application that she was charged with Simple Assault in 2011 in violation of *N.J.S.A. 2C:12-1a* (dismissed). On appeal to CPM, the appellant asserted, among other things, that when she was interviewed on March 8, 2011, she did not falsify the employment application and 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. It is noted that the eligible list for Correction Officer Recruit (S9987M), Department of Corrections, expired on June 9, 2013.

On appeal, the appellant asserts that she did not falsify the employment application. Specifically, the appellant contends that she properly disclosed the relevant information in response to the questions on the employment application.

In this regard, she indicated that she received a summons to appear in court in response to question 50 on the employment application. Further, the appellant contends that she was unaware that she was charged with Simple Assault in 2011. The appellant explains that she has nothing to conceal and she provided relevant documentation during pre-employment processing. Moreover, the appellant states that her neighbor purposely filed charges against her in retaliation for a separate matter where the appellant filed charges against the neighbor.

In response, the appointing authority maintains that the appellant's name should be removed from the eligible list. Specifically, the appointing authority asserts that although the appellant was charged with Harassment and Simple Assault in 2011, she only listed the Harassment charge on her employment application. In addition, the appointing authority contends the application clearly indicated that the appellant could be disqualified if she failed to properly answer all of the questions. Therefore, her failure to disclose the Simple Assault charge from 2011 disqualified her from further consideration and her name was removed from the eligible list. Moreover, the appointing authority states that in order to effectively manage the day-to-day operations of a prison system, it is imperative to select candidates who exhibit respect for the law.

### 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 did not disclose that she was charged with Simple Assault in 2011. The appellant argues that she disclosed all of the charges on the employment application and she was unaware that she was charged with Simple Assault in 2011. 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 his 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 omission is sufficient cause to remove her name from the eligible list. The appellant's contention that she provided the relevant information on the employment application is unpersuasive. In this regard, in response to question 43 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 indicated that she was charged with "Hindering Apprehension – 90 day probation – dismissed not guilty." She also indicated that she was charged with Receiving Stolen Property in February 1987, Simple Assault in March 1989, Hindering Apprehension in 1993, and Harassment in 2011. Further, in response to question 50 on the employment application, have you ever been summoned, subpoenaed or required to testify before any municipal, state, or federal agency or other investigational body for a criminal matter, the appellant indicated "I put a complaint on someone, so she summoned me out of retaliation." Thus, it is clear that the appellant failed to disclose that she was also charged with Simple Assault in 2011. Even if the appellant forgot about the Simple Assault charge, it did not excuse her from listing that information on the employment application. The type of omission presented is 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.

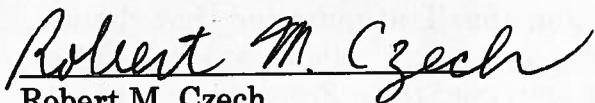
The information noted above, which the appellant failed to disclose, is considered material and should have been accurately indicated on his employment application. In conclusion, the appellant's arrest history is material information that he should have accurately provided on his application, and the failure to do so constituted falsification of 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. In this regard, the Commission notes that a Correction Officer Recruit is a law enforcement employee who must help keep order in the State 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 3<sup>rd</sup> DAY OF DECEMBER, 2014**



**Robert M. Czech  
Chairperson  
Civil Service Commission**

**Inquiries  
and  
Correspondence**

**Henry Maurer  
Director  
Merit System Practices  
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Written Record Appeals Unit  
PO Box 312  
Trenton, New Jersey 08625-0312**

**c: Rebecca Zayas  
Carlos Andujar, Jr., Esq.  
Jennifer Rodriguez  
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Kenneth Connolly  
Dan Hill**

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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

March 14, 2014

Rebeca Zayas

Title: Correction Officer Recruit  
Symbol: S99887  
Jurisdiction: Department of Corrections  
Certification Number: JU11M1  
Certification Date: 06/10/11

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

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) 6, where an individual has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process permits the removal of an eligible candidate's name from the eligible list.

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.

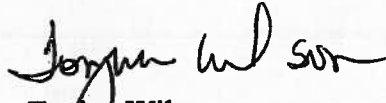
Please be advised that in accordance with Civil Service Rules, you may appeal this decision to the Division of Appeals & Regulatory Affairs (ARA) within 20 days of the receipt of this letter. You must submit all proofs, arguments and issues which you plan to use to substantiate the issues raised in your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

Sincerely,



Torjua Wilson  
Human Resource Consultant  
State Certification Unit

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

C James J. Mulholland, Director  
Carlos Anduiar, Jr. of Robinson, Andujar & Robinson, AAL  
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