



STATE OF NEW JERSEY

In the Matter of Ronald Manning,
Correction Officer Recruit (S9987M),
Department of Corrections

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

DOP Docket No. 2014-668

List Removal Appeal

ISSUED: AUG 01 2014 (JET)

Ronald Manning appeals the attached decision of the Division of Classification and Personnel Management (CPM), which upheld the removal of his name from the Correction Officer Recruit (S9987M), Department of Corrections, eligible list on the basis of falsification of his 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 his employment application. Specifically, the appointing authority asserted that the appellant failed to disclose that temporary restraining orders (TROs) were filed against him on August 29, 2003 (dismissed) and on August 16, 2004 (dismissed). Moreover, the appointing authority stated that the appellant had an unsatisfactory driving record as he was found guilty of operating a motor vehicle under the influence of drugs or alcohol in 1995 and 1999. On appeal to CPM, the appellant asserted, among other things, that the TRO's were dismissed and his name should be restored to the eligible list. However, 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 he has accepted full responsibility for his prior behavior, and he has since accomplished several personal and professional achievements. Specifically, the appellant contends that he enrolled in Robert Wood

Johnson Advanced Emergency Care program (mobile intensive care paramedic program), received an award of clinical excellence and graduated in the top of his class. The appellant states that he is still employed as a mobile intensive care paramedic, and he is now married to a physician and has children. In addition, the appellant explains that the TROs were falsely brought against him and he does not have a history of domestic violence. In this regard, he was only accused of threats and the TROs were dismissed. Moreover, the appellant asserts that during pre-employment processing, he sought clarification from Human Resources staff regarding how to properly answer question 52, and he was instructed to provide all of the pertinent information about any incidents in the space below the question. It is noted that in this space, the appellant indicated "my daughter's mother accused me of verbal abuse," but he did not provide any other specifics.

In response, the appointing authority maintains that the appellant was properly removed from the eligible list for falsification of his employment application. Specifically, the appellant failed to list on the employment application that TROs were brought against him on two separate occasions in August 2003 and August 2004. The appointing authority adds that in response to question 52 on the employment application, "Have you ever been a plaintiff/defendant or involved in any act of domestic violence in this or any other State," the appellant marked "No." The appointing authority notes that the appellant initially marked "Yes" in response to question 52, and he subsequently scribbled out "Yes" and marked "No." Moreover, the appellant indicated two DWI charges on the employment application. Moreover, the appellant independently completed the employment application, including question 52, prior to when he sought clarification from Human Resources staff.¹ Further, Human Resources staff properly advised the appellant during pre-employment processing that he was required to list any and all charges against him on the employment application, and he was responsible to submit the disposition paperwork in support of the responses. The appointing authority adds that it was the appellant's responsibility to make sure that the information he provided in the application was accurate.

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.

¹ The appointing authority indicates that his application is dated December 3, 2012, and pre-employment processing did not occur until December 5, 2012.

In the instant matter, the appointing authority argues that the appellant's name should be removed from the eligible list since he did not disclose on the employment application that TROs were filed against him on two separate occasions. Although the appellant argues that he does not have a history of domestic violence, the documentation indicates that a TRO was issued against the appellant in August 2003, which was dismissed in September 2003, and a TRO was issued against the appellant in August 2004, which was dismissed in August 2004. Further, in response to question 52 on the employment application, "Have you ever been a plaintiff/defendant involved in any act of domestic violence in this or any other state," the appellant initially marked "Yes," and he subsequently crossed out the answer and marked "No." Although the appellant explains that he sought clarification from Human Resources staff regarding how to properly answer question 52, it was his responsibility to be aware of that information and to report it on the employment application. Moreover, question 52 clearly required the appellant to list if he had a history of domestic violence. Thus, the appellant should have listed the TROs on the employment application regardless that they were dismissed.

It must be emphasized that it is incumbent upon an applicant, particularly an applicant for a public safety position, to ensure that his employment application is a complete and accurate depiction of his history. In this regard, the Commission notes that 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.

The information noted above, which the appellant failed to disclose, is considered material and should have been accurately indicated on his employment application. His failure to disclose this information is indicative of the appellant's lack of integrity and questionable judgment. Such qualities are unacceptable for an individual seeking a position as a Correction Officer Recruit. In this case, the appellant's omission is sufficient cause to remove his name from the subject eligible list. 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). Although the appellant might not have intended to deceive the appointing authority when filling out his application, his intent was irrelevant. Instead, the inquiry is whether the withheld information that was material to the position sought, not whether there was any intent to deceive on the part of the applicant. *See D'Alessio, supra*. Here, the appellant

failed to disclose the TROs on his employment application. Further, 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. Moreover, it was still the appellant's burden to provide an employment application that was accurate and complete. The Commission is mindful that a Correction Officer is a special kind of public employee. 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).

Accordingly, the Commission finds sufficient basis in the record to remove the appellant's name from the eligible list for Correction Officer Recruit (S9987M).

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 30th DAY OF JULY, 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
PO Box 312
Trenton, New Jersey 08625-0312

Attachment

c: **Ronald Manning**
Jennifer Rodriguez
James Mulholland
Kenneth Connolly
Dan Hill



STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION

DIVISION OF CLASSIFICATION AND PERSONNEL MANAGEMENT
P. O. Box 313
Trenton, New Jersey 08625-0313

Chris Christie
Governor
Kim Guadagno
Lt. Governor

Robert M. Czech
Chair/Chief Executive Officer

July 12, 2013

Ronald Manning

Title: Correction Officer Recruit
Symbol & Rank: S9987M/05398
Jurisdiction: Corrections
Certification Number: JU11M1
Certification Date: June 10, 2011

Initial Determination: Removal – False Statements of Material Fact

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*, which permits the removal of an eligible candidate's name from the eligible list for the reason stated in the initial determination.

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 Rule, you may appeal this decision to the Division of Appeals and Regulatory Affairs (formally MSPLR) 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. 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:

Ronald Manning
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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 Assistant Director,

A handwritten signature in black ink that reads "Marci Logan". The signature is written in a cursive style with a large, stylized initial "M".

Marci Logan
Human Resource Consultant

C: James J. Mulholland
Department of Corrections

