



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Armand
Mendelsohn, Correction Officer
Recruit (S9999K), Department of
Corrections

CSC Docket No. 2013-324

List Removal Appeal

ISSUED JUL 30 2014 (SLK)

Armand Mendelsohn, represented by Christine E. Burke, Esq., appeals his rejection as a Correction Officer Recruit candidate by the Department of Corrections and its request to remove his name from the eligible list for Correction Officer Recruit (S9999K) on the basis of a positive drug test.

The appointing authority rejected the appellant, a Correction Officer Recruit candidate, due to a failure to provide a valid prescription from his physician for the prescribed medication Oxycodone. In support of its rejection and request for removal, the appointing authority submitted a laboratory report stating that an initial screening of the appellant's urine sample on March 3, 2011 using the Emit-Assay method was conducted and proved positive for Total Hydrocodone and Total Hydromorphone (Oxycodone). The New Jersey State Toxicology Laboratory in Newark confirmed the positive test result, after retesting the original urine specimen using the gas chromatography/mass spectrometry method.

In support of his appeal, the appellant presents that during the orientation process in March of 2011, he provided valid prescriptions for Oxycodone. Thereafter, he voluntarily withdrew from the interview process. Subsequently, he was informed that the department had not received his prescriptions so he again provided them via facsimile in December 2011. He submits a prescription from one of his treating physicians, dated January 17, 2011 and April 14, 2011, and a copy of his Patient Prescription record from a pharmacy indicating a record of prescriptions for Hydrocodone from January 21, 2011 through December 27, 2011. The appellant indicates that once he received the removal notice, he again obtained a prescription from his treating physician which states that he was prescribed Hydrocodone. He

notes that he does not have a physical home address and therefore he did not receive much of the correspondence from the appointing authority in a timely fashion. The appellant maintains that he has informed the appointing authority as soon as practicable of his change in address and he has provided valid documentation regarding his prescription medications. Therefore, he requests that his name be restored to the list.

In response, the appointing authority presents that on March 3, 2011, the appellant provided a urine specimen as part of Phase 1 and 2 processing. The toxicology report provided by the New Jersey State Toxicology Laboratory indicated that he tested positive for Oxycodone, Hydrocodone, and Hydromorphone. On October 7, 2011, it maintains that it mailed a letter to the appellant at the address listed on his personnel folder, his employment application, and his HR contact form asking him to provide documentation verifying his prescribed medications. The letter was returned undeliverable on December 5, 2011. Therefore, the appointing authority states that it immediately sent the appellant a second notification to his former residence as indicated on his employment application. As of July 12, 2012, the appointing authority states that it did not receive a letter from the appellant verifying his prescription and therefore it sent a removal letter, resulting in his name being forwarded to the Central Drug Registry. Additionally, although he states that he submitted a valid prescription via facsimile in December 2011, the appellant failed to provide a facsimile transmitting sheet confirming the date the prescription was faxed to the appointing authority. Further, it maintains that candidates are required to have a residence during processing so that interviews and background reports can be conducted. Additionally, it asserts that it is the responsibility of all candidates to notify it if there is any change in contact information and that all candidates were instructed to notify it by fax or email regarding any changes of contact information.

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.

Although the appellant submits various prescriptions from his treating physician and a Patient Prescription record from his pharmacy indicating that he has a valid prescription for Oxycodone (Hydromorphone and Hydrocodone), there is no record that he provided this information to the appointing authority during pre-employment processing. The appellant conceded in his appeal that he did not have a physical home address and some of his mail may not have reached him in a timely fashion. It is noted that it is the appellant's responsibility to notify the appointing

authority of any changes in his address so that it can complete its background check and process applications. In this case, the appointing authority made two attempts based on the information that the appellant had provided in the application process to contact him to request a valid prescription from his physician for the prescribed medication Oxycodone. While the appellant alleges that he faxed the requested information to the appointing authority in December 2011, the appellant has not provided any evidence, such as the fax confirmation sheet, indicating that the fax was sent. Additionally, the appellant has not provided any evidence that he contacted the appointing authority to let it know about the changes in his contact information.

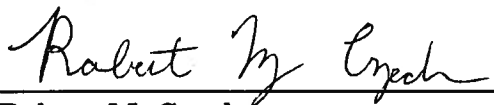
The appointing authority's selection process is imperative to effectively manage the day-to-day operation of a prison system. The appellant has failed to meet its burden of proof that it complied with the appointing authority's request to provide a valid prescription for Oxycodone in a timely fashion. Accordingly, the appointing authority has sufficient cause to remove the appellant from the eligible list.

ORDER

Therefore, it is ordered that this appeal be denied and the name of Armand Mendelsohn be removed the eligible list for Correction Officer Recruit (S9999K) Department of Corrections.

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



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