

B-23



STATE OF NEW JERSEY

In the Matter of Ralph Ruggiero,
Correction Officer Recruit (S9988R),
Department of Corrections

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2014-2623

List Removal Appeal

ISSUED: **SEP 22 2014** (JET)

Ralph Ruggiero 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 (S9988R) on the basis of a positive drug test.

The appointing authority rejected the appellant, a Correction Officer Recruit candidate, due to a positive drug test. In support of its rejection and request for removal, the appointing authority submitted a laboratory report from the State Toxicology Laboratory stating that a screening of the appellant's urine sample on December 30, 2013 was conducted and he tested positive for cannabinoids (THC).

In support of his appeal, the appellant explains that he was taking Aleve, Naproxin, and Ibuprofen which may have led to a false positive result for his drug test. In this regard, the appellant explains that the website "askdocweb.com" indicates that those non-prescription drugs frequently cause a false positive result. The appellant adds that several laboratories throughout the country are not properly certified to provide drug tests and may be providing incorrect results to employers. Moreover, the appellant maintains that his name should be restored to the eligible list since it appears that the State Toxicology lab issued a false positive result for his test.

In response, the appointing authority maintains that the appellant's name should be removed from the eligible list since he clearly failed the drug test.

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)3, states that an eligible who is physically unfit to effectively perform the duties of the position may be removed from the eligible list. *N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, also states that an eligible may be removed from an eligible list for other sufficient reasons as determined by the Civil Service Commission.

CONCLUSION

On appeal, the appellant asserts that the positive result may have occurred due to the non-prescription drugs that he was taking at the time of the drug test. The appellant also states that the drug test conducted by the State Toxicology lab may be incorrect since several laboratories throughout the country are not properly certified to provide drug tests. However, the appellant's arguments are not persuasive. In this regard, the appellant did not submit any substantive evidence to establish that the non-prescription medicine led to a false positive result for his drug test. Moreover, the State Toxicology lab is properly certified to provide drug tests. Thus, the appellant did not provide any substantive evidence to show that his drug test was not properly conducted.

The appointing authority met its burden of proving that the appellant had a positive drug screen and that such matter would prevent him from effectively performing the duties at issue. The appellant, therefore, does not meet the required physical qualifications for the Correction Officer Recruit title. The job specification for Correction Officer Recruit defines the duties of the position as under immediate supervision of a supervisory officer within the Department of Corrections, receives in residence and on-the-job training including instructions for the appropriate care and custody of a designated group of inmates, and does work which will provide practical custody experience; does related work as required. Clearly, a positive drug screen presents an impediment to the appellant's ability to perform these law enforcement duties.

ORDER

Therefore, it is ordered that this appeal be denied and the name of Ralph Ruggiero be removed from the eligible list for Correction Officer Recruit (S9988R), 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 17th DAY OF SEPTEMBER, 2014



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