

C.S.C. B-56



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Tammy Mason,
Correction Officer Recruit Juvenile
Justice Commission (S9986M)

List Removal

CSC Docket No. 2014-2352

ISSUED: **SEP 18 2014** (HS)

Tammy Mason 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 Juvenile Justice Commission (S9986M) eligible list on the basis of falsification of the employment application.

The appellant took the open competitive examination for Correction Officer Recruit Juvenile Justice Commission (S9986M), which had a closing date of August 2010, achieved a passing score and was ranked as a non-veteran on the subsequent eligible list. The eligible list promulgated on June 10, 2011 and expired May 9, 2014. The appellant's name was certified by the appointing authority on January 14, 2013. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis that she had falsified her employment application. Specifically, the appointing authority asserted that the appellant failed to disclose on her application that in 1995, she was charged with disorderly conduct. The appellant appealed to CPM. CPM found that the appointing authority had sufficiently documented and supported its request to remove the appellant's name from the subject eligible list.

On appeal to the Civil Service Commission (Commission), the appellant submits a blank copy of the State of New Jersey Employment Application and highlights question 11, which asks, "Have you ever been convicted of a crime that has not been expunged by the Court?" The appellant argues that she honestly

answered "No" in response to question 11. The appellant states that the charge in question, the 1995 disorderly conduct offense, did not involve any arrest. The appellant was involved in a fight for which she was given a ticket and a court date of April 3, 1997, due to the court's backlog. However, the appellant did not appear on that date, and a warrant was issued for \$100. The appellant posted bail, and the matter was dismissed on April 4, 1997. She argues that because she was never arrested or convicted and because the application did not ask if she had ever been arrested or charged with a crime, she did not see any need to disclose the offense. The appellant submits a printout from the New Jersey Automated Complaint System, which shows the appellant's July 31, 1995 disorderly conduct charge in violation of *N.J.S.A. 2C:33-2A(1)* and dismissal of that charge.

In response, the appointing authority submits a memorandum from its Office of Investigations that states that the appellant listed her 1993 arrest for aggravated assault, resisting arrest, criminal mischief and offensive language and her 1996 theft charge. The memorandum states that the appellant entered into Pre-Trial Intervention for the 1993 charges, which were ultimately expunged, and that the 1996 charge was ultimately dismissed. However, the memorandum notes that the appellant did not list her 1995 disorderly conduct charge, which was discovered during "automated checks." In addition, the appointing authority submits pages six and eight from the appellant's Law Enforcement Employment Application. Page six contains question 27, "Have you ever been arrested, indicted, charged with or convicted of a criminal or disorderly offense in this state or any other jurisdiction?" as well as a table where the applicant was to list any charges, arrests or convictions. While the appellant listed her 1993 and 1996 charges on the table, the 1995 disorderly conduct charge is absent. Page eight contains the appellant's signature dated February 19, 2013.

CONCLUSION

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. *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.

In the instant matter, the appointing authority argues that although the appellant was charged with disorderly conduct in 1995, she did not list that charge on her application. In support, the appointing authority provides a copy of a memorandum from its Office of Investigations stating that it discovered the charge during "automated checks" and a copy of the appellant's response to question 27 on her application, wherein the appellant did not list the 1995 disorderly conduct

charge. Although the appellant claims that she did not see the need to disclose the charge since it was not a criminal charge and she was not arrested, that argument is not sufficient to restore her name to the eligible list. The New Jersey Automated Complaint System printout that the appellant presents indicates the charge. It is therefore clear that the appellant was charged with disorderly conduct in 1995 and that she failed to disclose that information on her application as required. 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 her employment application is a complete and accurate depiction of her 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 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).

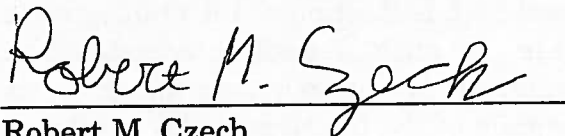
In this case, the appellant's omission is sufficient cause to remove her name from the eligible list. The appellant failed to disclose this information on her application. Further, the application clearly indicated that applicants were required to disclose all arrests, indictments, charges and convictions for both criminal and disorderly offenses. 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. Indeed, an appointing authority's assessment of a prospective employee could be influenced by such charges, especially for a position in law enforcement. Therefore, the information noted above, which the appellant failed to disclose, is considered material and should have been accurately indicated on 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 the 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 17TH DAY OF SEPTEMBER, 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. Tammy Mason
Nieta Steele
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

February 27, 2014

Tammy Mason

Title: Correction Officer Recruit Juvenile
Symbol: S9986M
Jurisdiction: Juvenile Justice Commission
Certification Number: OS130044
Certification Date: 1/14/2013

Initial Determination: Remove – Falsification of Application

This is in response to your correspondence contesting the removal 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 appoint your name from the eligible list. Therefore, the Appointing Authority's request to not appoint 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.

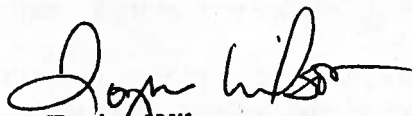
Please be advised that pursuant to P.L. 2010 c.26, effective July 1, 2010, there shall be a \$20 fee for appeals. Please include the required \$20 fee with your appeal. Payment must be made by check or money order only, payable to the NJ CSC. Persons receiving public assistance pursuant to P.L. 1947, 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.

Tammy Mason
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Address all appeals to:

Henry Maurer, Director
Appeals & Regulatory Affairs
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: Nieta Steele, Manager HR