

CSC  
B-8



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Cindy Scott,  
County Correction Officer (C9975M),  
Mercer County

List Removal

CSC Docket No. 2014-2225

ISSUED: **SEP 04 2014** (EG)

Cindy Scott 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 her name from the eligible list for County Correction Officer (C9975M), Mercer County based on an unsatisfactory background report.

The subject eligible list (C9975M) was promulgated on June 10, 2011, and expired on May 1, 2014. The appellant's name appeared on the June 27, 2012 certification of the eligible list. In disposing of the certification, the appointing authority requested that the appellant's name be removed on the basis of an unsatisfactory background report. Specifically, it indicated that the appellant was charged on September 5, 2003 with simple assault and criminal mischief with damage. This charge was dismissed. Additionally, the appellant was charged on October 15, 2003 with criminal mischief with damage. This charge was also dismissed. The appointing authority explained that these were two domestic violence incidents with the appellant's sister. Further, it states that the appellant failed to indicate these incidents on her application in response to question #25, "Have you ever been arrested or convicted of any Domestic Violence in any jurisdiction which involved the elements of striking, kicking, shoving, or purposely or attempting to or knowingly or recklessly causing bodily injury, or negligently causing bodily injury to another with a weapon." The appellant appealed her removal to CPM. CPM found that the appointing authority had sufficiently supported its request and upheld the removal of the appellant's name from the eligible list.

On appeal to the Civil Service Commission (Commission), the appellant argues that these unfortunate incidents were her only criminal complaints. Additionally, the appellant states that since that time she has received her Bachelor's degree and has been involved in social work. Additionally, the appellant submits a letter from her sister indicating that the incidents in 2003 were due to a miscommunication and stating that the appellant is a good person.

In response, the appointing authority reiterates its prior contentions. Additionally, it argues that the appellant acknowledged these incidents on appeal. Further, it argues that the appellant's failure to list these incidents on her application constitutes falsification.

### CONCLUSION

*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 his or her name from an eligible list was in error. Additionally, *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 individual from an eligible list who has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process.

Further, *N.J.S.A.* 11A:4-11 and *N.J.A.C.* 4A:4-4.7(a)4 provide that an eligible's name may be removed from an employment list when an eligible has a criminal record which includes a conviction for a crime which adversely relates to the employment sought. The following factors may be considered in such determination:

- a. Nature and seriousness of the crime;
- b. Circumstances under which the crime occurred;
- c. Date of the crime and age of the eligible when the crime was committed;
- d. Whether the crime was an isolated event; and
- e. Evidence of rehabilitation.

The presentation to an appointing authority of a pardon or expungement shall prohibit an appointing authority from rejecting an eligible based on such criminal conviction, except for, *inter alia*, correction officer titles. Additionally, pursuant to *N.J.S.A.* 11A:4-10, an appointing authority may only question an eligible for a law enforcement, firefighter or correction officer title as to any arrest. It is noted that the Appellate Division of the Superior Court remanded the matter of a candidate's removal from a Police Officer eligible list to consider whether the candidate's arrest adversely related to the employment sought based on the criteria

enumerated in *N.J.S.A. 11A:4-11*. See *Tharpe v. City of Newark Police Department*, 261 *N.J. Super.* 401 (App. Div. 1992).

In the instant matter, the appointing authority requested the removal of the appellant's name from the eligible list because she had been charged with simple assault once and criminal mischief with damage twice in 2003. The charges were all dismissed. Since that time, the appellant has completed her Bachelor's degree and been employed in the social work field. Additionally, the appellant submitted a letter from her sister, who was the complainant for the charges, indicating that the incidents were due to a miscommunication and that the appellant's actions at that time were out of character. The Commission is mindful of the high standards that are placed upon law enforcement candidates and personnel. The public expects County Correction Officers to present a personal background that exhibits respect for the law and rules. However, taking into consideration that the appellant's incidents were isolated and occurred nine years prior to her certification, her evidence of rehabilitation, and the totality of the evidence in the record, the appointing authority has not presented a sufficient basis to remove the appellant's name from the subject eligible list based on her criminal record.

With regard to the alleged falsification of the preemployment application, the appointing authority has indicated that the appellant failed to fully and accurately complete her application. It contends that the appellant failed to list the domestic violence incidents in response to question #25. The appellant failed to provide any explanation for her failure to list these incidents on her preemployment application. In this regard, the Commission notes that the appellant was required to provide a complete and accurate record of her background for review by the appointing authority as part of the preemployment process. The record indicates that she failed to do so. 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). Furthermore, the types of omissions presented are 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, the appellant has offered no explanation for her failure to list these incidents on her application.

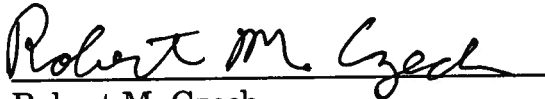
Accordingly, based on the foregoing, the Commission finds that the appointing authority has provided a sufficient basis for the removal of the appellant's name from the County Correction Officer (C9975M), Mercer County eligible list for falsification of her preemployment application.

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 3RD DAY OF SEPTEMBER, 2014



Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Henry Maurer  
Director  
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Attachment

c: Cindy Scott  
Raissa L. Walker  
Kenneth Connolly



Chris Christie  
Governor  
Kim Guadagno  
Lt. Governor

STATE OF NEW JERSEY  
CIVIL SERVICE COMMISSION  
DIVISION OF CLASSIFICATION & PERSONNEL MANAGEMENT  
P. O. Box 314  
Trenton, New Jersey 08625-0313

Robert M. Czech  
Chair/Chief Executive Officer

February 18, 2014

**Cindy Scott**

**Jurisdiction: Mercer County**  
**Title: County Correction Officer**  
**Symbol: C9975M**  
**Certification No: OL120867**  
**Certification Date: 06/27/12**

**Initial Determination: Removed – Unsatisfactory Background Report**

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:4-4.7(a)11, which permits the removal of an eligible candidate's name from the eligible list for "valid reasons as determined by the Chairperson of the Civil Service Commission or designee".

In support of its decision, the Appointing Authority provided information which was determined by the Appointing Authority to be sufficient to remove your name. The information included a record of two docket numbers in the Municipal Court of the Township of Neptune, NJ; the charges listed on the docket included Simple Assault and Criminal Mischief w/ Damage.

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 decision to remove your name has been sustained and the appeal is denied.

In accordance with Merit System Rules, this decision may be appealed to the Division of Appeals and Regulatory Affairs (DARA) within 20 days of 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 DARA. 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.

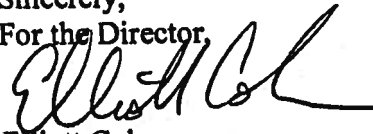
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[www.state.nj.us/csc](http://www.state.nj.us/csc)

Address all appeals to:

Henry Maurer, Director  
Division of Appeals and Regulatory Affairs  
Written Appeals Record Unit  
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Sincerely,  
For the Director,

  
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Local Placement Services

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