

B-24 CSC



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Ameerah Coley,
Correction Officer Recruit (S9987M),
Department of Corrections

CSC Docket No. 2014-312

List Removal Appeal

ISSUED:

FEB 06 2015

(EG)

Ameerah Coley appeals the attached decision of the Division of Classification and Personnel Management (CPM) removing her name from the Correction Officer Recruit (S9987M), Department of Corrections eligible list due to her failure to appear for a psychological evaluation.

The subject eligible list (S9987M) was promulgated on June 10, 2011 and expired on June 9, 2013. In disposing of the June 10, 2011 certification of the subject list, the appointing authority requested the removal of the appellant's name from the subject eligible list based on her failure to appear for a psychological evaluation. Specifically, it stated that it sent the appellant an email on February 11, 2013 informing her of her psychological evaluation appointment on February 25, 2013. The appellant failed to respond to the email as required and failed to appear for the appointment. Additionally, it states that it attempted to contact the appellant by telephone at two different numbers on March 4, 2013, but was unable to reach her. Further, the appointing authority asserted that on March 4, 2013, it sent the appellant an email scheduling her appointment for April 1, 2013. Thereafter, it sent an email on March 19, 2013 indicating the rescheduling of the appointment for April 3, 2013. The appellant did not respond to the emails nor did she attend the scheduled appointment. Therefore, it requested her removal from the subject eligible list. The appellant appealed the removal of her name from the list to CPM. CPM upheld the removal of the appellant's name based on the information provided by the appointing authority.

On appeal, the appellant contends that she completed phases 1-3 of the preemployment process and her medical examination on February 22, 2013. She asserts that she waited for her psychological evaluation appointment but never received one. She also states that the phone number the appointing authority indicated it tried to contact her at was incorrect. Further, the appellant submits a copy of a screen shot of her email inbox for the dates in question showing she received no emails from the appointing authority. Finally, the appellant submits a notarized statement indicating that she never received any emails or telephone calls regarding the psychological evaluation. In this regard, the appellant was contacted by staff and advised that a notarized statement was insufficient and a sworn statement was required to overcome the presumption that the email was addressed properly. Despite providing the appellant ample opportunity to submit a sworn statement, no further correspondence was received.

In response, appointing authority reiterates its prior arguments concerning its attempts to contact the appellant about her scheduled psychological evaluation and her failure to confirm the appointment and to appear for the evaluation. Additionally, it asserts that as part of employment processing all candidates are required to provide accurate contact information on their application. In this regard, it states that it sent all emails to the email address provided by the appellant. The appointing authority also contends that this is the same email address that it used to send all prior emails, to which the appellant had previously responded. In support of its contention, it submits a copy of the emails it sent to the appellant. Finally, it argues that the appellant's screenshot of her email account is not persuasive as it does not show if the emails it sent went to another folder, such as spam, and does not indicate if the appellant deleted the emails.

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 the appellant's name from an eligible list was in error. Moreover, there is a presumption that mail correctly addressed, stamped and mailed is generally received by the party to whom it was addressed. See *SSI Medical Services, Inc. v. State Department of Human Services*, 146 *N.J.* 614 (1996); *Szczesny v. Vasquez*, 71 *N.J. Super.* 347, 354 (App. Div. 1962); *In the Matter of Joseph Bahun*, Docket No. A-1132-00T5F (App. Div. May 21, 2001). This presumption equally applies to email.

Further, it is noted that the appointing authority has the authority and ability to require a potential new hire to undergo preemployment processing to ensure that the candidate is qualified for appointment. Such preemployment processing may include any and all conditions necessary for an appointing authority to assess a candidate's qualifications. Moreover, this information is vital as it

serves the important function of informing the appointing authority as to any significant differences between candidates which may assist it in the selection process. See *In the Matter of Bruce C. Cooke* (MSB, decided May 8, 2001); *In the Matter of James Smith* (MSB, decided April 24, 2001).

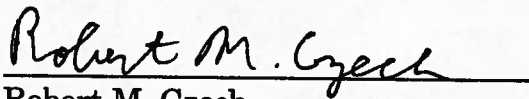
In the instant matter, the appellant's name was removed from the subject eligible list by the appointing authority for not appearing for a psychological evaluation. The appointing authority asserts that it sent the appellant emails concerning her examination date and that it attempted to contact her via telephone. On appeal, the appellant argues that she never received any emails or telephone calls regarding the psychological evaluation. Although the appellant was provided ample opportunity to submit a sworn statement which would indicate that she did not receive the emails, the appellant has failed to do so. See *SSI Medical Services, Inc.*, and *Szczesny, supra*. Accordingly, the appellant has failed to rebut the presumption of mailing and has not met her burden of proof in this matter. Therefore, the appointing authority has shown sufficient justification for removing her name from the Correction Officer Recruit (S9987M), Department of Corrections 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 4TH DAY OF FEBRUARY, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

Attachment

**c: Ameerah Coley
James Mulholland
Kenneth Connolly**



STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION

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

Robert M. Czech
Chair/Chief Executive Officer

Chris Christie
Governor
Kim Guadagno
Lt. Governor

July 12, 2013

Ameerah Coley

Title: Correction Officer Recruit
Symbol & Rank: S9987M/04076
Jurisdiction: Corrections
Certification Number: JU11M1
Certification Date: June 10, 2011

Initial Determination: Removal – Did Not Appear/Complete Pre-Employment Processing

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.

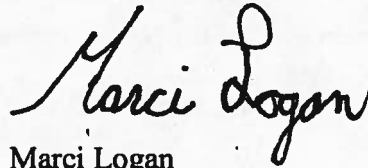
Please be advised that pursuant to P.L. 2010, c.26, effective July 1, 2010, there shall be a \$20 fee for appeals. Please include the required \$20 fee with your appeal. Payment must be made by check or money order only, payable to the NJ CSC. Persons receiving public assistance pursuant to P.L. 1947,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

Ameerah Coley
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April 25

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 cursive script that reads "Marci Logan". The signature is written in black ink and is positioned above the printed name and title.

Marci Logan
Human Resource Consultant

C: James J. Mulholland
Department of Corrections