

B-36

STATE OF NEW JERSEY

In the Matter of Corinthia Scott,
Correction Officer Recruit (S9988R),
Department of Corrections

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2015-607

List Removal Appeal

ISSUED: FEB 09 2015 (SLK)

Corinthia Scott appeals the attached determination of the Division of Classification and Personnel Management¹ (CPM) upholding the removal of her name from the eligible list for Correction Officer Recruit (S9988R), Department of Corrections, on the basis of an unsatisfactory background report.

By way of background, the appellant's name appeared on certification JU13D01 that was issued by the appointing authority on May 23, 2013. In disposing of the certification, the appointing authority requested the removal of the appellant's name, contending that she had an unsatisfactory background report. Specifically, it presented that that the appellant lacked the requirements for the position as she had an active Final Restraining Order (FRO) which prohibited her from possessing a firearm. Additionally, the appellant falsely responded to question #55 on the employment application, which asked if she had ever been a plaintiff, defendant or involved in any act of domestic violence, by answering "no." Further, it provides that she has a lengthy criminal history as she had been arrested five times between 1998 and 2005. The appellant appealed the matter of the removal of her name from the subject list to CPM, which found that the appointing authority sustained its request.

On appeal, the appellant acknowledges that she had many adverse interactions with the law in her younger years. However, the appellant maintains that she has taken full responsibility for her actions and has completely turned her life around during the last 10 years. The appellant states that she has been taking Civil Service exams for the past six years and that she is finally close to becoming a

¹ Now known as the Division of Agency Services.

Correction Officer. She contends that she has taken all the required steps to clear her background and requests that her name be restored to the list.

In response, the appointing authority notes that its removal letter was dated February 10, 2014 and that her active FRO was not dismissed until May 21, 2014. Therefore, it argues that the dismissed restraining order should not be considered. Further, the appointing authority provides that in order for the appellant to be eligible for the subject title, she would need to obtain Police Training Commission Certification (PTC) which requires training in the use of firearms and the ability to carry a firearm. The appellant could not meet this mandatory requirement for the position since she had an active FRO for domestic violence and her name appeared in the Domestic Violence Central Registry as a person prohibited from weapon possession at the time she was considered for an appointment. Additionally, the appellant has a lengthy criminal history as she had been arrested five times between 1998 and 2005. Therefore, the appointing authority argues that the combination of her derogatory criminal records and her habitual pattern of criminal behavior indicates that she is not suitable for a position in law enforcement. It also represents that there were four other arrests/charges and her FRO for a domestic violence charge that she failed to disclose on her employment application. Consequently, the appellant falsified her employment application.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C. 4A:4-6.1(a)9*, allows the Civil Service Commission (Commission) to remove an eligible's name from an eligible list for other sufficient reasons. *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 removal of 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. Further, *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.

In the instant matter, the appointing authority has presented a valid basis to remove the appellant's name from the subject list. Under *N.J.S.A. 2C:39-7*, a person who has been convicted of a disorderly persons offense involving domestic violence is prohibited from having a weapon. In this matter, a FRO had been issued against the appellant which was still active at the time her name was certified for appointment consideration that prohibited her from possessing a weapon. Therefore, it was appropriate to remove her name from the list since training with firearms and the ability to carry a firearm is a prerequisite for the position. *See In the Matter of Teresa Meyers* (MSB, decided June 8, 2005) (Proper to remove appellant from Sheriff's Officer list since final restraining order issued against her

prohibited her from carrying or purchasing a firearm). Further, even though the FRO has now been dismissed, under State law, while such an expungement will remove the prohibition for such an individual to possess a firearm, it does not eradicate the fact of the conviction and can be used as *prima facie* but rebuttable evidence that the individual lacks good character and precludes the individual from possessing a firearm unless he or she rebuts that evidence. *In re Application for Pistol Permit*, 130 N.J. Super. 21, 27-29 (Co. Ct. 1974). Thus, the appellant's removal from the eligible list may still be warranted under the criteria enumerated in N.J.S.A. 11A:4-11 and N.J.A.C. 4A:4-4.7(a)4. See *In the Matter of Ronnie Roy Wine* (MSB, decided September 10, 1998).

Additionally, the appellant's background report indicates that she has a lengthy history of adverse interactions with law enforcement as evidenced by the domestic violence incident which resulted in a FRO and five other arrests between 1998 and 2005. While all of the charges against the appellant have either been dismissed or expunged, this does not preclude the appointing authority from seeking her removal from the eligible list. See *In the Matter of Robert L. Robinson* (MSB, decided January 16, 2008) (Due to the nature of the title, a candidate for Juvenile Detention Officer may be disqualified from the position notwithstanding the candidate's presentation of a pardon or expungement). See also, *In the Matter of Martin V. Carluccio* (MSB, decided May 21, 2008). Moreover, the appellant clearly falsified her application when she responded no to question #55, which asked if she had ever been involved with any act of domestic violence and had a FRO as a plaintiff or defendant. The information that the appellant failed to disclose is considered material and should have been accurately indicated on her employment application. 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 his 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.

Further, the appellant has not provided any evidence to rebut the appointing authority's claim that she lacks good character. In this regard, the public expects Correction Officers to present a personal background that exhibits respect for the law and rules. The Commission is mindful that a Correction Officer Recruit is a law enforcement employee who must help keep order in the 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 an 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). Accordingly, the appellant has not met her burden of proof in this matter and the appointing authority has

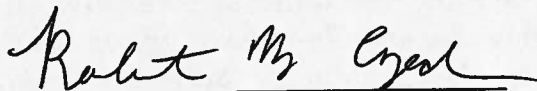
shown sufficient cause for removing her name from the Correction Officer Recruit (S9988R) eligible list.

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
& Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312**

Attachment

**c: Corinthia Scott
James Mulholland
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

July 28, 2014

Corinthia Scott

Title: Correction Officer Recruit

Symbol: S9988R

Jurisdiction: Department of Corrections

Certification Number: JU13D01

Certification Date: 05/23/2013

Initial Determination: Removal – Unsatisfactory Criminal Record

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) 4 which permits the removal of an eligible candidate's name from the eligible list for unsatisfactory criminal history.

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 Rules, you may appeal this decision to the Division of Appeals and Regulatory Affairs (DARA) 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 MSPLR. 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:

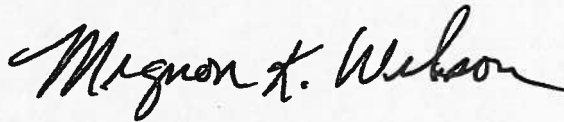
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Corinthia Scott

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Henry Maurer, Director
Appeals and Regulatory Affairs
Written Record Appeals Unit
PO Box 312
Trenton, NJ 08625-0312

Sincerely,
For the Assistant Director, Joe Hill Jr.

A handwritten signature in cursive script that reads "Mignon K. Wilson". The signature is written in black ink and is positioned above the printed name and title.

Mignon K. Wilson
Human Resource Consultant