

B-137



STATE OF NEW JERSEY

In the Matter of Dhaakira Chavis,
Correction Officer Recruit (S9988R),
Department of Corrections

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2015-1162

List Removal Appeal

ISSUED: FEB 11 2015 (JET)

Dhaakira Chavis appeals the attached decision of the former Division of Classification and Personnel Management (CPM), which upheld the removal of her name from the Correction Officer Recruit (S9988R), Department of Corrections, eligible list, on the basis of an unsatisfactory background report and for falsification of the employment application.

The appellant took the open competitive examination for Correction Officer Recruit (S9988R), achieved a passing score, and was ranked on the subsequent eligible list. The appellant's name was certified to the appointing authority on May 23, 2013. In disposing of the certification, the appointing authority requested the removal of the appellant's name from the eligible list on the basis of an unsatisfactory background report and for falsification of the employment application. Specifically, the appointing authority indicated that the appellant was charged with Simple Assault/Attempt to Cause Bodily injury on January 18, 2006 in violation of *N.J.S.A. 2C:12-1a(a)* (dismissed) and she failed to list that information on her employment application. On appeal to CPM, the appellant argued, among other things, that her name should be restored to the eligible list. CPM determined that the appointing authority presented a sufficient basis for removal of the appellant's name from the subject eligible list.

On appeal, the appellant apologizes for not listing the information pertaining to her 2006 arrest on her employment application. Further, the appellant explains that the incident occurred many years ago and the charges have been disposed of in

court. Moreover, the appellant states that she is now leading a productive life and she is setting a good example for her children.

In response, the appointing authority maintains that the appellant's name should be removed from the eligible list. Specifically, the appellant did not indicate that she was charged with Simple Assault in response to questions 46 and 51 on the employment application. The appointing authority adds that the appellant failed to provide documentation regarding the disposition of the charges against her as required by the employment application. In addition, the appointing authority states that it could not properly conduct a background investigation based on the information that was provided in the employment application. Moreover, the appointing authority explains that its goals and objectives are to select candidates who exhibit respect for the law.

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. *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 Civil Service Commission (Commission) to remove an individual from an eligible 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:4-4.7(a)1*, in conjunction with *N.J.A.C. 4A:4-6.1(a)9*, allows for the removal of an eligible's name from an eligible list for other sufficient reasons. Removal for sufficient reasons includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for an appointment.

In the instant matter, is clear that the appellant did not correctly complete her employment application for the position. It must be emphasized that it is incumbent upon an applicant, particularly an applicant for a sensitive position such as 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 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).

In this case, the appellant's omissions are sufficient cause to remove her name from the eligible list. In this regard, in response to question 46 on the employment application, "Have you ever been arrested, indicted, charged with or convicted or a criminal or disorderly persons offense in this State or any other jurisdiction," the appellant checked "No." Further, in response to question 51 on the employment application, "Have you ever had any police contact, been taken into custody, or charged with juvenile delinquency," the appellant answered "No." Although it appears that the arrest was an isolated incident, the appellant was an adult at the time of the incident and she does not provide a sufficient explanation regarding why she failed to list the information on her employment application. In this regard, the arrest history section on page 17 of the employment application clearly indicates that the word "arrest" includes any "detaining, holding, or taking into custody by police or any other law enforcement agency" in this or any other State or foreign country whether adult or juvenile." 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. The fact that the charges were dismissed did not excuse the appellant from listing such information on the employment application.

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 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). 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.

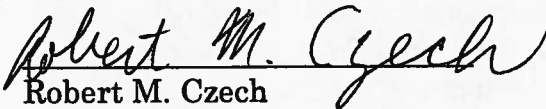
Since the appellant's name was removed from the eligible list on the basis of falsification of the employment application, it is unnecessary to address the issue regarding her unsatisfactory background report.

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
PO Box 312
Trenton, New Jersey 08625-0312

c: Dhaakira Chavis
Jennifer Rodriguez
James Mulholland
Kenneth Connolly



STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
DIVISION OF CLASSIFICATION & PERSONNEL MANAGEMENT
P. O. Box 313
Trenton, New Jersey 08625-0313

Chris Christie
Governor
Kim Guadagno
Lt. Governor

Robert M. Czech
Chair/Chief Executive Officer

October 3, 2014

Dhaakira Chavis

Title: Correction Officer Recruit
Symbol: S9988R
Jurisdiction: Department of Corrections
Certification Number: JU13D01
Certification Date: 05/23/13

Initial Determination: Removal – Falsification of Statements

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(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 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.

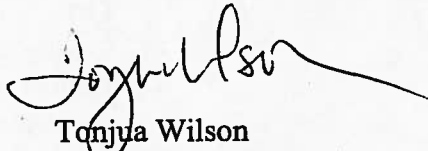
Please be advised that in accordance with Civil Service Rules, you may appeal this decision to the Division of Appeals & Regulatory Affairs (DARA) within 20 days of the receipt of this letter. You must submit all proofs, arguments and issues which you plan to use to substantiate the issues raised in your appeal. Please submit a copy of this determination with your appeal to 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.

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 James J. Mulholland, Director
File