

B-22



STATE OF NEW JERSEY

In the Matter of Afia Shelly,  
Correction Officer Recruit (S9988R),  
Department of Corrections

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket No. 2014-3070

List Removal Appeal

ISSUED: MAR 09 2015 (JET)

Afia Shelly, represented by Nancy A. O'Donnell., Esq., appeals the attached decision of the former Division of Classification and Personnel Management (CPM),<sup>1</sup> which upheld the removal of her name from the Correction Officer Recruit (S9988R), Department of Corrections, eligible list on the basis of falsification of her 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 falsification of her employment application. Specifically, the appointing authority asserted that the appellant failed to disclose on her employment application that she was charged with Purposely/Knowingly Causing Bodily Injury to Another in 2009 in violation of N.J.S.A. 2C:12-1(a)1 (dismissed). On appeal to CPM, the appellant asserted, among other things, that she truthfully answered the questions on the employment application and her name should be restored to the eligible list. CPM determined that the appointing authority had presented a sufficient basis to remove the appellant's name from the subject eligible list.

<sup>1</sup> Now the Division of Agency Services.

On appeal, the appellant asserts that she did not falsify the employment application. Specifically, the appellant contends that her name should not have been removed from the eligible list because the charges against her were dismissed.

In response, the appointing authority maintains that the appellant's name should be removed from the eligible list. Specifically, the appointing authority asserts that the appellant failed to list that she was charged in 2009 with Purposely/Knowingly Causing Bodily Injury to Another in response to the questions on the employment application. The appointing authority adds that the application clearly indicated that the appellant could be disqualified if she failed to properly answer all of the questions. Therefore, her failure to disclose the 2009 charge disqualified her from further consideration and her name was removed from the eligible list. Moreover, the appointing authority states that in order to effectively manage the day-to-day operations of a prison system, it is imperative 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 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.

In the instant matter, the appointing authority argues that the appellant did not disclose that she was charged with Purposely/Knowingly Causing Bodily Injury to Another in 2009. The appellant argues that the charges against her were dismissed and her responses to the question on the employment application were truthful. It 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 a Correction Officer Recruit, to ensure that his or her employment application is a complete and accurate depiction of his or 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 omission is sufficient cause to remove her name from the eligible list. The appellant's contention that her responses on the employment application were truthful is unpersuasive. In this regard, in response to question 46 on the employment application, "Have you ever been arrested, indicted, charged with or convicted of a criminal or disorderly persons offense in this State or any other jurisdiction, the appellant answered "no." Thus, it is clear that the appellant failed to disclose that she was charged with Purposely/Knowingly Causing Bodily Injury to Another in 2009. Although the 2009 charge was dismissed, it did not excuse her from listing that information on the employment application. 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.

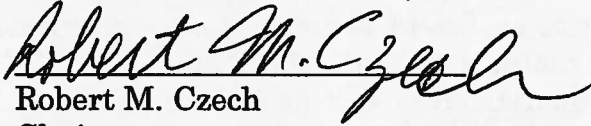
The information noted above, which the appellant failed to disclose, is considered material and should have been accurately indicated on her employment application. In conclusion, the appellant's arrest history is material information that she should have accurately provided on her application, and the failure to do so constituted falsification of 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.

### 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 4<sup>th</sup> DAY OF MARCH, 2015



Robert M. Czech  
Chairperson  
Civil Service Commission

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and  
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c: Afia Shelly  
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STATE OF NEW JERSEY  
CIVIL SERVICE COMMISSION  
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Chris Christie  
Governor  
Kim Guadagno  
Lt. Governor

Robert M. Czech  
Chair/Chief Executive Officer

April 17, 2014

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|-------------|---|
| Afia Shelly | Title: Correction Officer Recruit<br>Symbol: S9988R<br>Jurisdiction: Department of Corrections<br>Certification Number: JU13D01<br>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.

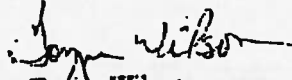
Please be advised that in accordance with Civil Service Rules, you may appeal this decision to the Division of Appeals & Regulatory Affairs (ARA) within 20 days of the receipt of this letter. You must submit all proofs, arguments and issues which you plan to use to substantiate the issues raised in your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

Address all appeals to:

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

Sincerely,



Topjua 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