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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Aaron Harden,  
Correction Officer Recruit, (S9988R),  
Department of Corrections

List Removal

CSC Docket No. 2015-2465

ISSUED: **MAY 11 2015** (LDH)

Aaron Harden, represented by Matthew Robinson Esq., appeals the attached decision of the Division of Classification and Personnel Management<sup>1</sup> (CPM), which found that the appointing authority had presented a sufficient basis to remove the appellant's name from the Correction Officer Recruit (S9988R), Department of Corrections eligible list on the basis of his failure to complete pre-employment processing.

The appellant took the open competitive examination for Correction Officer Recruit (S9988R), achieved a passing score and was ranked as a non-veteran on the subsequent eligible list. The eligible list promulgated on May 23, 2013 and expires May 22, 2015. The appellant's name was certified to the appointing authority on May 23, 2013. He was offered an appointment to the subject title and on June 13, 2013, he signed a "Memorandum of Understanding" stating that he understood that he was to report all changes to the appointing authority including criminal charges, or be removed from the employment process. On September 29, 2013 the appellant was arrested and on September 30, 2013, the appellant was charged with the following offenses by the Millville Police Department: Aggravated Assault; Resisting Arrest/Eluding; and Obstructing. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis of his failure

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

to complete pre-employment processing. Specifically, it asserted that the appellant failed to notify the Custody Recruitment Unit of his arrest and charges.

The appellant appealed to CPM and argued that he had notified the appointing authority of his arrest and charges on September 30, 2013. The appellant also contended that he was in contact with representatives from the appointing authority about the effect the charges would have on attending the academy. Moreover, he pled guilty to a municipal disorderly conduct charge, and the other charges were dismissed on May 14, 2014. As a result, the appellant argued he should have been reinstated because he did communicate with the appointing authority. However, CPM sustained the appointing authority's removal. Subsequently, the appellant appealed to the Civil Service Commission (Commission).

On appeal to the Commission, the appellant argues that he does not have an unsatisfactory criminal record as the charges were dismissed due to the overcharging by the arresting officer. After the charges were dismissed, the appellant entered a guilty plea on a municipal ordinance. Further, the appellant argues that he notified the appointing authority, in person, on September 30, 2013. He contends that it would be unreasonable to disqualify him from employment because he waited one day to notify the appointing authority of the charges against him. Thus, the appellant maintains he should be restored to the subject eligible list.

In response, the appointing authority stands behind its determination to remove the appellant due to his failure to notify it of his arrest and charges. The appointing authority states that it did not remove the appellant for an unsatisfactory criminal record, even though he was found guilty of a Disorderly Persons Offense,<sup>2</sup> but rather, removed him due to his failure to complete the pre-employment process. Specifically, the appellant was removed for not reporting his arrest and charges in a timely manner. In this regard, it notes that the appellant waited until his orientation on September 30, 2013 to notify it that he had been arrested and charged with several criminal offenses. The appointing authority argues that if it had been timely notified of the arrest and charges, the appellant would not have been admitted into the orientation as he had pending court matters. Thus, by not reporting the criminal charges in a timely manner, the appellant failed to follow the rules of the pre-employment process.

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<sup>2</sup> The Commission notes that the record evidences that the appellant pled guilty to a municipal charge of disorderly conduct, which is not a disorderly persons offense. Regardless, both disorderly persons and disorderly conduct offenses are considered non-criminal in nature.

## CONCLUSION

*N.J.A.C.* 4A:4-4.7(a)11 allows the Commission to remove an eligible's name from an eligible list for other valid reasons. *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 from an eligible list was in error.

In the instant matter, the appointing authority had a sufficient basis to remove the appellant's name from the eligible list. The appointing authority removed the appellant's name from the subject eligible list on the basis that he did not complete his pre-employment processing. It is undisputed that the appellant was arrested on September 29, 2013 and charged by the Millville Police Department the following day. According to the Memorandum of Understating, the appellant was aware of his obligation to notify the appointing authority in a timely fashion of his arrest and charges. In this regard, an appointing authority has the authority and ability to require potential new hires to undergo pre-employment processing to ensure that the candidate is qualified for appointment. Such pre-employment processing may include any and all conditions necessary for an appointing authority to assess a candidate's qualifications. Further, this information is important as it serves the important function of informing the appointing authority as to any significant differences between the candidates which may assist it in the selection process. See *In the Matter of Laura C. Bonilla* (MSB, decided September 7, 2005); *In the Matter of Bruce C. Cooke* (MSB, decided May 8, 2001); and *In the Matter of James Smith* (MSB, decided April 24, 2001). The record indicates that the appellant did not notify the appointing authority of his arrest and resulting criminal charges until he appeared for orientation. However, by not informing the appointing authority prior to the orientation, it was not given an opportunity to review the changed circumstances of the appellant's background. Accordingly, the appellant's name was properly removed from the Correction Officer Recruit (S9988R), Department of Corrections eligible list.<sup>3</sup>

## ORDER

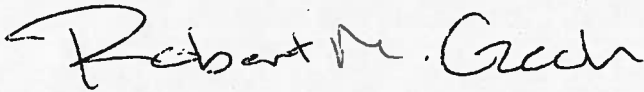
Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

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<sup>3</sup> The Commission also notes that the appellant's arrest and subsequent plea to a municipal disorderly conduct charge supports his removal from the list, not based on his criminal record, but rather, under *N.J.A.C.* 4A:4-4.7(a)11, for possessing an unsatisfactory background.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 6<sup>TH</sup> DAY OF MAY, 2015



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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: Aaron Harden  
Matthew Robinson, Esq.  
James J. Mulholland  
Jennifer Rodriguez  
Kenneth Connolly



am  
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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*

November 21, 2014

Aaron Harden	<b>Title Correction Officer Recruit</b>  <b>Symbol: S9987M</b> <b>Jurisdiction: Department of Correction</b> <b>Certification Number: JU13D01</b> <b>Certification Date: 05/23/13</b>
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**Initial Determination: Removal – complete for 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:4-4.7(a)4 which permits the removal of an eligible candidate's name from the eligible list for complete for pre-employment processing .

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 ARA. You must put all parties of interest on notice of your appeal and provide them with copies of all documents submitted for consideration.

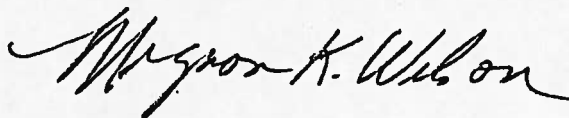
Please be advised that pursuant to P.L. 2010, c.26, effective July 1, 2010, there shall be a \$20 fee for appeals. Please include the required \$20 fee with your appeal. Payment must be made by check or money order only, payable to the NJ CSC. Persons receiving public assistance pursuant to P.L. 1947,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

Aaron Harden

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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 black ink that reads "Mignon K. Wilson". The signature is written in a cursive style with a large initial "M" and a long, sweeping underline.

Mignon K. Wilson  
Human Resource Consultant