

B-22



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of George Williams,
Correction Officer Recruit (S9988T),
Department of Corrections

List Removal Appeal

CSC Docket No. 2017-3445

ISSUED: NOV 17 2017 (HS)

George Williams appeals his rejection as a Correction Officer Recruit candidate by the Department of Corrections and its request to remove his name from the eligible list for Correction Officer Recruit (S9988T), Department of Corrections on the basis of a positive drug test.

The appointing authority rejected the appellant, a Correction Officer Recruit candidate, due to a positive drug test. In support of its rejection and request for removal, the appointing authority submitted a laboratory report. The report indicated that the appellant's urine sample was taken on January 23, 2017 and received at the New Jersey State Toxicology Laboratory (Laboratory) on February 2, 2017. The report further stated that an initial screening of the appellant's urine sample using the immunoassay method was conducted and proved positive for cannabinoids (THC). The Laboratory confirmed the positive test result, after retesting the original urine sample using the mass spectrometry method. The report was generated on March 17, 2017.

On appeal to the Civil Service Commission (Commission), the appellant states that in April 2017, he received the appointing authority's removal letter dated April 5, 2017 indicating his positive drug test based on a sample taken in January 2017. The appellant states that this gap in time makes him believe that his test was tampered with or contaminated since he does not use drugs. The appellant indicates his willingness to submit another urine sample. However, if he is not allowed to do so, the appellant contends that his name should at least be

removed from the Central Drug Registry due to the gap in time between his submission of his urine sample and the issuance of the appointing authority's letter.

In response, the appointing authority maintains that the appellant tested positive for the illegal controlled dangerous substance THC. It states that it issued the April 5, 2017 removal letter within the normal timeframe for the Laboratory. The appointing authority argues that the appellant has not provided any documentation to support his claim of contamination and that a new urine sample would not negate the prior positive result.

In reply, the appellant states that he had listed ibuprofen on his medication sheet and submits three articles that state that ibuprofen can cause a false positive for THC. The first article¹ indicates that a potential source of urine drug screen interference is the chronic or acute use of a non-steroidal anti-inflammatory drug (NSAID) such as ibuprofen but also that a study showed it is unlikely for NSAIDs to cause a false-positive marijuana urine drug screen. The second article² indicates that short-term acute ibuprofen use can lead to false-positive results for marijuana. The third article³ indicates that NSAIDs may sometimes cause false-positive results on tests for THC but that not all studies have reported that NSAIDs have this effect.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)3, states that an eligible who is physically unfit to effectively perform the duties of the position may be removed from the eligible list. *N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, also states that an eligible may be removed from an eligible list for other sufficient reasons as determined by the Commission.

Despite the appellant's general assertion that he does not use drugs, he provides no substantive evidence to refute the results of his drug test. Although the appellant submits articles that indicate acute or chronic use of ibuprofen can cause a false positive result for THC, they do not indicate that this is a likely scenario. Moreover, the appellant has not produced any evidence that his ibuprofen use caused a false positive in this specific instance.

¹ McKenzie C. Ferguson, *False-Positive Screen for Marijuana*, Practical Pain Management, <https://www.practicalpainmanagement.com/resources/diagnostic-tests/false-positive-screen-marijuana> (last updated April 17, 2015).

² Lizette Borrelli, *Drug Screening: 6 Everyday Things That Trigger a False Positive Drug Test*, Medical Daily, <http://www.medicaldaily.com/drug-screening-6-everyday-things-trigger-false-positive-drug-test-358582> (last updated October 23, 2015).

³ Stephanie Chandler, *Medications That Will Test Positive for THC*, <https://www.livestrong.com> (last updated April 25, 2017).

His claim of tampering or contamination is similarly speculative and unsubstantiated. The appellant suggests that the gap in time between his submission of his urine sample on January 23, 2017 and the appointing authority's issuance of the April 5, 2017 removal letter evidences such tampering or contamination. However, it should be noted that a relatively short period of time elapsed between the date the appellant submitted his urine sample, January 23, 2017, and the date the Laboratory received the sample, February 2, 2017. Moreover, the appointing authority indicates that it issued the removal letter within the normal timeframe. As such, the gap in time noted by the appellant, in itself, provides no basis to doubt the validity of the drug test in this case. Finally, the Commission agrees with the appointing authority that the appellant's submission of a new urine sample now would not negate the results of his drug test. Accordingly, the appointing authority has demonstrated that the appellant had a positive drug screen and that such matter would prevent him from effectively performing the duties of the position at issue. The appellant, therefore, does not meet the required physical qualifications for the Correction Officer Recruit title. The job specification for Correction Officer Recruit defines the duties of the position as tracking the number of inmates, escorting inmates to and from their quarters, patrolling assigned areas of the buildings and grounds, making required reports and assisting in controlling the general conduct and behavior of inmates who are gathered in groups. Clearly, a positive drug screen presents an impediment to the appellant's ability to perform these law enforcement duties.

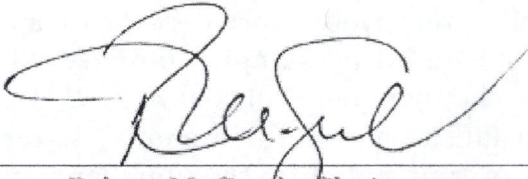
Finally, with regard to the appellant's request that his name be removed from the Central Drug Registry, it is noted that the Commission does not have jurisdiction over the addition or removal of names from the Registry.

ORDER

Therefore, it is ordered that this appeal be denied and the name of George Williams be removed from the eligible list for Correction Officer Recruit (S9988T), Department of Corrections.

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 15TH DAY OF NOVEMBER, 2017



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