



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Elia Barreto,
Sheriff's Officer (S9999U), Union
County

List Removal Appeal

CSC Docket No. 2018-2399

ISSUED: OCTOBER 31, 2018 (ABR)

Elia Barreto appeals her removal from the Sheriff's Officer (S9999U), Union County eligible list on the basis of a falsified application.

The appellant, a non-veteran, took the open competitive examination for Sheriff's Officer (S9999U), Union County, which had a closing date of August 31, 2016. The subsequent eligible list promulgated on March 29, 2017 and expires on March 30, 2019. The appellant's name was certified to the appointing authority on May 23, 2017.

In disposing of the certification, the appointing authority requested the removal of the appellant's name due to a falsified pre-employment application. Specifically, the appointing authority indicated that she failed to disclose multiple motor vehicle summonses when asked to list them in response to Question 107, which asked "Have you ever received a summons for a violation of the Motor Vehicle Laws in this or any other State;" and that she responded "no" to Question 104, which asked if she had "ever been a party to a domestic violence order," despite having been a party to three restraining orders. The appellant stated on her pre-employment application that she had received summonses for failure to obey a directional signal in November 1999 and for "improper display/fictitious plates" in February 2005 and September 2007. The appointing authority submitted documentation from the New Jersey Automated Traffic System, which indicated that she had additional driving infractions and parking violations between 2007 and 2013, including, in part, obstruction of windshield for vision in December 2008; and failure to obey a traffic control device in October 2010 and June 2013. The

appointing authority also furnished documentation from the Domestic Violence Central Registry that stated that the appellant was a party to three temporary restraining orders (TRO).

On appeal to the Civil Service Commission (Commission), the appellant asserts that her name should not be removed from the subject eligible list because she did not intend to omit any information from the pre-employment application or to deceive the appointing authority. With regard to her driving record, the appellant submits that she had no prior knowledge of the violations that the appointing authority indicated that she failed to report in her pre-employment application. As to the TROs, she states that she had forgotten that she had sought two TROs against her ex-husband during their divorce proceedings in 2002. She argues that because 16 years have passed since those TROs were issued, her failure to disclose them should not support her removal from the subject eligible list. As to the third TRO, she states that records she obtained indicate that in 2009 she had requested a TRO against a different individual, but her request was denied. She argues that the 2009 TRO request should not serve as a basis to remove her from the subject eligible list because “it shouldn’t be considered valid.” It is noted that while the appellant claims that she did not recall her three TRO requests, she also states that since “the third TRO was denied and it had been close to 16 years since the incident with [her] ex-husband for the 2002 TRO’s [sic], [she] checked ‘no’ ” in response to Question 104 on the pre-employment application.

In response, the appointing authority submits copies of the documentation it provided to the Commission when requesting the removal of the appellant’s name from the subject eligible list.

CONCLUSION

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. *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 appellant’s failure to disclose multiple motor vehicle summonses in her driving record and her three TRO requests provides sufficient cause to remove her name from the subject eligible list. The appellant maintains that, at the time she completed her pre-employment application, she was not aware of any other motor vehicle law violations in her driving record and she indicates that she did not believe her three TRO requests needed to be disclosed because two of them were made approximately 16 years earlier and a third request

had been denied. She submits that her omissions were not intended to deceive the appointing authority. The Commission notes that the appellant presumably received tickets for each driving infraction and orders addressing her TRO requests from the courts. Therefore, she should have been aware of the citations and TROs that she failed to disclose. Additionally, because Question 104 asked if she had “*ever been a party* to a domestic violence order,” (emphasis added) the appellant had clear notice that she was required to report her association with a TRO order at any point in time, regardless of whether it was granted or denied. A candidate is responsible for the completeness and accuracy of their application. *See In the Matter of Harry Hunter* (MSB, decided December 1, 2004). It must be emphasized that it is incumbent upon an applicant, particularly an applicant for a sensitive position such as a Sheriff’s Officer, to ensure that her pre-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 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. 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). The information that the appellant failed to disclose is considered material and should have been accurately indicated on her pre-employment application. At minimum, the appointing authority needed this information to have a complete understanding of her background and thereby properly evaluate her candidacy. Her failure to disclose this information is indicative of the appellant’s lack of integrity and questionable judgment. Such qualities are unacceptable for an individual seeking a position as a Sheriff’s Officer. Therefore, her failure to disclose the infractions in her driving record supports her removal from the subject eligible list on the basis of a falsified application.

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 31ST DAY OF OCTOBER, 2018

Deirdre' L. Webster Cobb

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