



STATE OF NEW JERSEY

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

In the Matters of Lea Ann Librera,
Investigator (S0382S), Judiciary,
Vicinage 11-Passaic County and
Judiciary, Vicinage 2-Bergen County

List Removal Appeals

CSC Docket Nos. 2018-1547 and
2018-2381

ISSUED: APRIL 20, 2018 (HS)

Lea Ann Librera appeals the removal of her name from the eligible list for Investigator (S0382S), Judiciary, Vicinage 11-Passaic County and Judiciary, Vicinage 2-Bergen County on the basis that she failed to respond to certification notices. These appeals have been consolidated due to common issues presented.

The appellant, a non-veteran, took and passed the open competitive examination for Investigator (S0382S), which had a closing date of June 2, 2014. The resulting eligible list promulgated on January 1, 2015 and expired on December 31, 2017. The appellant’s name was certified to Vicinage 11-Passaic County on August 8, 2017 with a notice date of August 15, 2017 and to Vicinage 2-Bergen County on October 18, 2017 with a notice date of October 26, 2017. In disposing of the certifications, the appointing authorities requested the removal of the appellant’s name on the basis that she failed to respond to the certification notice. Certification notices instruct individuals to write to the appointing authority within five business days of the notice date to let it know whether or not the individual was interested in the position.

On appeal to the Civil Service Commission, the appellant submits sworn, notarized statements indicating that she did not receive the August 8, 2017 certification notice and that she timely responded to the October 18, 2017 certification notice stating her interest in the position.

It is noted that the appointing authorities, though provided the opportunity, did not submit any arguments in response.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)6 provides that an eligible's name may be removed from a list for "non-compliance with the instructions listed on the notice of certification." *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 her name from an eligible list was in error.

The appointing authorities requested the removal of the appellant's name from the eligible list for Investigator (S0382S) on the basis of her failure to respond to the August 8, 2017 and October 18, 2017 certifications. However, the appellant has submitted sworn, notarized statements, attesting to the fact that she did not receive the August 8, 2017 certification notice and that she timely responded to the October 18, 2017 certification notice stating her interest in the position. While there is a presumption that mail correctly addressed, stamped and mailed was received by the party to whom it was addressed, the appellant has rebutted that presumption in submitting her sworn, notarized statements. *See SSI Medical Services, Inc. v. State Department of Human Services*, 146 *N.J.* 614 (1996); *Szczesny v. Vasquez*, 71 *N.J. Super.* 347, 354 (App. Div. 1962); *In the Matter of Joseph Bahun*, Docket No. A-1132-00T5F (App. Div. May 21, 2001). Thus, it is appropriate that the appellant's name be restored to the subject eligible list. Since the S0382S eligible list expired on December 31, 2017, it is appropriate to revive that list at the time of the next certification to allow the appellant to be considered for prospective appointment.

ORDER

Therefore, it is ordered that these appeals be granted and the eligible list for Investigator (S0382S) be revived in order for Lea Ann Librera to be considered for appointment at the time of the next certification for prospective employment opportunities only.

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

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 18TH DAY OF APRIL, 2018



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