



STATE OF NEW JERSEY

In the Matter of Kody Smith,
Police Officer (S9999U),
Voorhees Township

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

CSC Docket No. 2018-2438

List Removal Appeal

ISSUED: APRIL 19, 2018 (JET)

Kody Smith appeals the removal of his name from the Police Officer (S9999U), Voorhees Township, eligible list.

As background, the appellant applied for Police Officer (S9999U), Voorhees Township, achieved a passing score on the subsequent examination, and his name appeared on the subsequent eligible list. In disposing of the April 17, 2017 (OL170467) certification, the appointing authority listed the appellant’s name as “Retained – Interested others appointed.” Additionally, the appellant’s name appeared on the list for County Police Officer (S9999U), Camden County, and his name was removed from the April 10, 2017 (OL170441) certification for failure to respond to the notice of certification. As a result, the appellant’s name was removed from the S9999U list in all jurisdictions pursuant to *N.J.A.C. 4A:4-2.3(c)* and *N.J.A.C. 4A:4-4.7(g)*. It is noted that a new certification for Police Officer, Voorhees Township was issued on January 30, 2018 (OL180110) containing 20 eligibles.

On appeal, the appellant asserts, among other things, that he was erroneously informed by the appointing authority that he was only required to respond to certification notices for Voorhees Township, as that is where he wanted to obtain a position as a Police Officer. As such, he did not respond to the certification notice issued by Camden County. In support, the appellant provides a letter from Louis J. Bordi, Chief of Police, Voorhees Township Police Department, who states that he advised the appellant regarding the Camden County certification. He also states that while the appellant was not reachable on the

OL170467 certification, the Voorhees Township Police Department has a critical need for Police Officers and, as such, it supports the appellant's request to be restored to the list so that he may be considered for an appointment in Voorhees.

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:4-4.7(a)11 allows the removal of 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 his or her name from an eligible list was in error. *N.J.A.C.* 4A:1-1.2(c) states that the Commission may relax a rule for good cause in order to effectuate the purposes of Title 11A, New Jersey Statutes.

In the present matter, the appellant states that although he responded to the certification notice for Voorhees Township, he was erroneously informed by Voorhees Township that he was not required to respond to the notice of certification issued by Camden County and other jurisdictions. As such, he was unaware that his name would be removed from the list for failure to respond to Camden County. He now requests to have his name restored to the list in Voorhees, as he would like to be considered for a Police Officer position in that jurisdiction. In support, the appellant provides a letter from the Voorhees Township Chief of Police, who confirms that he is in support of the appellant's name being restored to the list as there is a critical need for Police Officers in that jurisdiction. The Civil Service Commission (Commission) notes that the dual purpose of the Civil Service system is to ensure efficient public service for State and local governments and to provide appointment and advancement opportunities to Civil Service employees based on their merit and abilities. These interests are best served when more, rather than fewer, individuals are presented with employment opportunities. *See Communications Workers of America v. New Jersey Department of Personnel*, 154 *N.J.* 121 (1998). Thus, based on the above, good cause has been demonstrated to place the appellant's name back on the Police Officer (S9999U), Voorhees Township eligible list only.

Generally, a candidate's name cannot be added to an outstanding certification except in the case of an administrative error by this agency. In this matter, the appellant admits that, due to being erroneously informed by Voorhees Township, he was unaware that he was required to respond to the certification notice

issued by Camden County.¹ As such, it is clear that the administrative error that occurred was not by this agency. In this matter, it would be unfair to the other candidates who were already on the OL180110 certification to add the appellant's name to the current certification. Adding the appellant's name to the next certification will not have an adverse effect on any other candidate, and will give the appointing authority the opportunity to consider the appellant for an appointment to the subject title at that time. Therefore, the Commission finds that there is good cause to relax the provisions of *N.J.A.C. 4A:4-4.7(a)6* and restore the appellant's name to the Police Officer (S9999U), Voorhees Township list so he may be considered for future prospective employment opportunities in that jurisdiction only. This remedy is limited to the facts of this situation and may not be used as precedent for any other proceeding.

One additional matter warrants comment. The appellant is cautioned to ensure that he replies to any future certification notices for all jurisdictions in order to avoid having his name removed from future law enforcement lists.

ORDER

Therefore, it is ordered that this appeal be granted in part, and the appellant's name be added to the Police Officer (S9999U), Voorhees Township eligible list for prospective employment opportunities only.

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

¹ Notwithstanding this misdirection, the Commission notes that the language on a Notice of Certification is unequivocally clear. Specifically, the Notice states:

You MUST WRITE to the Appointing Authority within 5 business days of the date of this notice or your name will be removed from the list (emphasis in original) . . . Failure to contact the Appointing Authority in writing to maintain active interest in immediate appointment, or to provide a reason for declining consideration for this position, may automatically result in the removal of your name from the list. This means you will not be considered for this position, and may not be certified for any other positions for this title.

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



Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher S. Myers
Director
Division of Appeals
& Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
PO Box 312
Trenton, New Jersey 08625-0312

c: Kody Smith
Louis J. Bordi
Kelly Glenn