



STATE OF NEW JERSEY

In the Matter of Luis Delacruz, Police
Officer (S9999U), Plainfield

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

CSC Docket No. 2019-967

List Removal Appeal

ISSUED: FEBRUARY 8, 2019 (SLK)

Luis Delacruz appeals his removal from the eligible list for Police Officer (S9999U), Plainfield on the basis that he falsified his application.

The appellant took the open competitive examination for Police Officer (S9999U), achieved a passing score, and was ranked on the subsequent eligible list. In seeking his removal, the appointing authority indicated that the appellant falsified his application.

On appeal, the appellant highlights his service in the Air Force National Guard and as a Transportation Security Administration (TSA) officer. He states that he has never been disciplined during this service and received positive references from his employers. The appellant indicates that he possesses a Bachelor’s degree in criminal justice. The appellant acknowledges that he forgot to list his employment with “Restaurant Depot,” which took place about five or six years ago. However, he does not believe that this omission should disqualify him from the position. Additionally, the appellant acknowledges that one of his references indicated that he was not mature enough to be a Police Officer. However, the appellant disagrees with this assessment and emphasizes all the positive references that he provided.

In response, the appointing authority submits its background report. In addition to highlighting the above-mentioned negative reference and the omission of the appellant’s employment with Restaurant Depot, the report indicates that the

appellant admitted during his interview that he was also interviewing for a position with the Philadelphia Police Department. When the interviewer asked the appellant why he did not disclose this information on his application, as well as his prior employment with Restaurant Depot, the appellant responded that he forgot. The background report also indicates that the appointing authority confirmed with the Philadelphia Police Department that the appellant was a candidate for a position as a Police Officer prior to the appointing authority starting its background process. Additionally, the Philadelphia Police Department indicated that the appellant did not attend a scheduled orientation meeting.

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 Civil Service Commission (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:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows the removal of an eligible's name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for appointment. *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.

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. In this matter, the appellant did not disclose that he was also pursuing a position as a Police Officer with the Philadelphia Police Department as well his prior employment with Restaurant Depot. While the appellant claims he omitted these two positions because he forgot, it appears that he intentionally omitted his candidacy with the Philadelphia Police Department as this was a current opportunity. Regardless, the appellant was responsible for the accuracy of his application. See *In the Matter of Harry Hunter* (MSB, decided December 1, 2004) and *In the Matter of Jeffrey Braasch* (MSB, decided December 1, 2004). Further, even if the appellant did not intend to deceive the appointing authority, at minimum, it needed to know the this information so that it could properly evaluate his candidacy. See *In the Matter of Dennis Feliciano, Jr.* (CSC, decided February 22, 2017). Finally, based on his negative reference and his failure to appear at an orientation session with the Philadelphia Police Department, the appellant also lacks the maturity and judgment to be a Police Officer at this time.

See Moorestown v. Armstrong, 89 N.J. Super. 560, 566 (App. Div. 1965), *cert. denied*, 47 N.J. 80 (1966). *See also In re Phillips*, 117 N.J. 567 (1990).

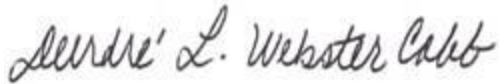
Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the Police Officer (S9999U), Plainfield eligible list.

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 6th DAY OF FEBRUARY, 2019



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