



STATE OF NEW JERSEY

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

In the Matter of Diego Troya, Police
Officer (S9999U), Kearny, *et al.*

CSC Docket Nos. 2019-1241, *et al.*

List Removal Appeals

ISSUED: April 18, 2019 (VJ)

Diego Troya appeals his removal from the eligible list for Police Officer (S9999U), Kearny, due to his failure to complete preemployment processing. He also appeals his removals from the eligible lists for East Orange and Parsippany-Troy Hills for failure to respond to the certification notices. As these matters concern similar issues, they have been consolidated herein.

By way of background, the subject eligible list promulgated on March 29, 2017 and will expire on March 30, 2020. Subsequently, the appellant's name was certified to Kearny on March 30, 2017 (OL170370). Kearny returned the (OL170370) certification indicating that the appellant failed to complete the preemployment processing. Specifically, Kearny indicated that a letter dated April 18, 2017 was sent to the appellant stating that he was to personally pick up the Public Safety Employment Application on either April 26, 2017 or April 29, 2017 at the Town Hall, in Kearny. The letter also stated that failure to pick up application would result in the removal of the eligible's name from the eligible list.

The appellant's name was certified (OL180361) on April 17, 2017 to East Orange and it was certified (OL180240) on March 30, 2017 to Parsippany-Troy Hills. In disposing of these certifications, East Orange and Parsippany-Troy Hills removed the appellant's name from the certifications, due to his failure to respond to the certification notices.

On appeal, the appellant presents that although he responded as interested to the certification (OL170370) for Kearny, he did not "follow through" with the

preemployment process. With regard to the certifications for East Orange (OL180361) and Parsippany Troy-Hills (OL180240), the appellant asserts that he chose to not respond to the two certifications as he was not interested in these jurisdictions. The appellant asserts that during the relevant time-period he had been certified to the City of Newark and had decided to pursue employment with Newark instead. The appellant maintains that he had to defer his appointment to Newark in the end because he could not continue with the hiring process. Therefore, he requests that his name be restored to the subject eligible list.

CONCLUSION

Civil Service regulations provide that in announcing open-competitive examinations, this agency may provide a single application for several announcements and/or title areas (such as police, sheriff, corrections, and bilingual). *See N.J.A.C. 4A:4-2.3(c)*. Further, an eligible's name may be removed from the pool of eligibles for that title area only for non-compliance with the instructions listed on the notice of certification. *See N.J.A.C. 4A:4-4.7(a)6*. *N.J.A.C. 4A:4-4.7(a)3* provides, in pertinent part, that the name of an eligible may be removed from the pool of eligibles for that title area due to an inability, unavailability or refusal of an eligible to accept appointment. Additionally, *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 the appellant's name from an eligible list was in error.

In the instant matter, the record establishes that a pre-employment processing letter dated April 18, 2017 was sent to the appellant notifying him that he was to pick up his Application on April 26 or April 29, 2017. The letter noted that failure to do so would result in the removal of his name from the eligible list. Moreover, the certification notices for East Orange and Parsippany-Troy Hills contained instructions on the back of the notices that specifically state that **an individual must contact an appointing authority within five business days of the date of the notice** to let it know whether or not the individual was interested in the position. The certification notice also states that failure to contact the appointing authority in writing would automatically result in the appointing authority's request for the removal of the individual's name from the list. Finally, the certification notice states in bold letters, "**[f]ailure to follow these instructions will result in the removal of your name from the list.**" On appeal, the appellant acknowledges that he decided to not continue the process with Kearny and that he did not respond to East Orange and Parsippany Troy-Hills because he was not interested in pursuing employment with the three jurisdictions. Rather, he maintains that he was interested in pursuing employment with Newark and did not realize that his failure to respond would remove him from the eligible lists. However, as noted above, both Kearny's letter and the certification notices for East Orange and Parsippany-Troy Hills provided notice that the appellant's failure to follow instructions would result in the removal of his name from the subject

eligible list. Consequently, the appellant has not established that the appointing authorities' requests to remove his name from the subject eligible list were in error.

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 the judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 18th DAY OF APRIL, 2019



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