



STATE OF NEW JERSEY

In the Matter of Vito DiTolvo,
Correctional Police Officer (S9999A),
Department of Corrections

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

CSC Docket No. 2022-521

List Removal Appeal

ISSUED: May 2, 2022 (VJ)

Vito DiTolvo appeals the determination of the Department of Corrections to remove his name from the eligible list for Correctional Police Officer (S9999A), on the basis that he failed to complete pre-employment processing.

The appellant, a non-veteran, took and passed the open competitive examination for Correctional Police Officer (S9999A), which had a closing date of August 31, 2019. The resulting eligible list promulgated on May 15, 2020 and expires on May 14, 2023. The appointing authority indicates that DiTolvo responded to the June 14, 2021 certification notice. Thereafter, on July 2, 2021, it sent DiTolvo an email containing an application which was to be completed and returned within seven days. It sent a follow-up email on August 4, 2021. However, DiTolvo did not return the application and associated paper work.

On appeal, DiTolvo states that he never received any email regarding pre-employment processing. In support, he submits a sworn, notarized statement attesting he never received the information from the appointing authority.

In response, the appointing authority states that DiTolvo's name was removed because he did not complete the pre-employment processing despite it sending several emails to DiTolvo's email of record.

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.

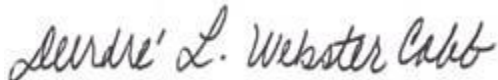
The appointing authority requested the removal of the DiTolvo's name from the eligible list for Correctional Police Officer (S9999A), on the basis that he did not complete the pre-employment processing. In his appeal, he submits a sworn statement that he did not receive the emails requesting further information. While there is a presumption that an email was addressed correctly was received by the party to whom it was sent, the appellant has rebutted that presumption in submitting his sworn, notarized statement. *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 his name be restored to the subject eligible list for prospective employment opportunities only.

ORDER

Therefore, it is ordered that this appeal be granted, and that Vito DiTolvo name be restored to the eligible list for Correctional Police Officer (S9999A), Department of Corrections for prospective employment opportunities only.

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 27TH DAY OF APRIL 2022



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Allison Chris Myers
Director
Division of Appeals
and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Vito DiTolvo
Judi Fatum
Division of Agency Services
Records Center