



STATE OF NEW JERSEY

In the Matter of Dyanna DuQue,
Family Service Specialist 1
(PS5386K), *et al.*, Department of
Children and Families

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket Nos. 2022-2734, *et al.*

List Removal Appeals

ISSUED: JUNE 20, 2022 (SLK)

Dyanna DuQue appeals the decision to remove her name from the Family Service Specialist 1 (PS5386K), Family Service Specialist 1, Bilingual in Spanish and English (PS5383K), and Supervising Family Service Specialist 2, Bilingual in Spanish and English (PS5392K), Department of Children and Families eligible lists for failing to respond to the certification notices. These appeals have been consolidated as they contain common issues.

The appellant, a non-veteran, took and passed the promotional examinations for Family Service Specialist 1 (PS5386K), Family Service Specialist 1, Bilingual in Spanish and English (PS5383K), and Supervising Family Service Specialist 2, Bilingual in Spanish and English (PS5392K), which all had a closing date of October 22, 2018. The resulting eligible lists expire on August 7, 2022. Five certification notices from the various lists were sent to the appellant, the first on on November 24, 2021, and the last on February 2, 2022. 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 is interested in the position. In disposing of the certifications, the appointing authority requested the removal of the appellant’s name on the basis that she failed to respond to the certification notices. The dispositions of the certifications have all been recorded.

On appeal, the appellant explains that on April 20, 2022, she contacted the appointing authority’s certification unit via email to inquire about her eligibility and

ranking on the subject eligible lists and to obtain more information concerning the possibility of a promotion since many years had passed since she applied for these examinations and she was still very interested in a promotion. Thereafter, she learned that she was removed from these lists because she never responded to the subject certifications. The appellant states that since she applied to these examinations in October 2018, she never received any notifications via mail, phone, or email informing her that the certifications for these promotions became available nor did she receive notice of her removal. She wonders whether the COVID-19 pandemic and delays in the mail had an impact, but she presents that she resided at the Hackettstown address she indicated on these applications when the subject certification notices were mailed. Thereafter, the appellant indicates that she physically moved to Stanhope on March 23, 2022, and she immediately contacted this agency to ensure that her change of address was provided to this agency on that same date. Further, on April 22, 2022, she followed up with this agency, and it indicated that the change of address had not yet been made, but it would be on that same day. The appellant also notes that she informed the post office of her change of address when she moved; however, the subject certification notices were not forwarded to her. She presents that she has worked for the appointing authority since January 2015, where she has gained substantial experience in the child welfare and social services field. Additionally, the appellant indicates that she has taken multiple courses and trainings over the years to improve her expertise and further her career. Moreover, she submits a signed, sworn statement where she states that she never received any of the subject certification notices and she physically moved to Stanhope on March 23, 2022. She also submits a statement from the owner of the Stanhope property which states that appellant moved to the Stanhope address on March 23, 2022.

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:4-3.2(e) provides that it shall be the responsibility of an eligible to keep a current address on file with the Civil Service Commission (Commission).

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 from an eligible list was in error.

In this matter, the record indicates that when the appellant submitted her applications for the subject promotional examinations in October 2018, she indicated that her address was in Hackettstown. Additionally, the subject certifications were mailed to that address from November 24, 2021, to February 2, 2022. Further, this

agency's records indicate that the appellant contacted it on March 21, 2022, to indicate that she moved to Stanhope, and on appeal, the appellant indicates that she did not move to Stanhope until March 23, 2021. Nonetheless, the appellant submits a signed, sworn statement indicating that she did not receive all five certification notices even though she was still residing at the Hackettstown address when they were mailed. She also submits a statement from the owner of the Stanhope property which states that the appellant did not move to Stanhope until March 23, 2022. However, a review of the Online Application System (OAS) indicates that the appellant applied for the Parole Officer Recruit, Juvenile Justice, Bilingual in Spanish and English (S1003A), Statewide open competitive examination, which has a June 21, 2019, closing date, which indicated that her address at that time was the same as the Stanhope address which the appellant now claims that she physically moved to on March 23, 2022. It is noted that prior to completing an application, candidates are required to certify that the information that the candidates provides on an application is complete and accurate. Further, the OAS warns candidates that the Commission may refuse to examine, or certify after examination, any false statement of any material fact per *N.J.A.C. 4A:4-6.2*. It is noted that there is a presumption that mail correctly addressed, stamped and mailed was received by the party to whom it was addressed. 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).

While the appellant submits a notarized statement, attesting to the fact that she did not receive the subject certifications, she has not submitted a lease or other documentation, such as a bill, that indicates that March 23, 2022, was her first date of residence at the Stanhope address in question. Therefore, she has not rebutted the presumption that her lack of receipt of the subject certifications was due to an issue that was not her fault. Instead, the record indicates that the appellant may have been living in Stanhope when the subject certification notices were mailed as indicated on her S1003A application. If so, the reason she did not receive the subject certification notices was not due to any issues with the mail, but her failure to timely advise this agency that she moved as required. See *N.J.A.C. 4A:4-3.2(e)*.¹ Moreover, if the appellant was living in Hackettstown during the time the subject certification notices were mailed, then the appellant has not adequately explained why, when she submitted her application for the (S1003A) open competitive examination, she certified that she was living in Stanhope as of the June 21, 2019 closing date. In other words, it appears that the appellant has not been completely forthcoming regarding her addresses, and as such, the Commission finds that she failed to sustain her burden of proof.

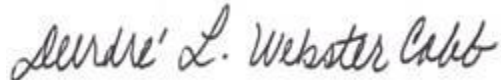
¹ The United States Postal Services indicates that it will forward mail for up to a year. See <https://www.usps.com/manage/forward.htm>. Regardless, if the appellant had been living in Hackettstown at the time the subject certification notices were sent, then mail forwarding would not have been needed for her to receive the subject certification notices.

ORDER

Therefore, it is ordered that these appeals 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 15TH DAY OF JUNE 2022



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