



**STATE OF NEW JERSEY**

In the Matter of Nicholas Hagens,	:	<b>FINAL ADMINISTRATIVE ACTION</b>
Sheriff's Officer (S9999A), Essex	:	<b>OF THE</b>
County	:	<b>CIVIL SERVICE COMMISSION</b>
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CSC Docket No. 2022-3272	:	
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	:	List Removal Appeal
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**ISSUED:** May 3, 2023 (PS)

Nicholas Hagens appeals the decision to remove his name from the Sheriff's Officer (S9999A), Essex County, eligible list on the basis of falsification of his application.

The appellant took the open competitive examination for Sheriff's Officer (S9999A), which had an August 31, 2019, closing date, achieved a passing score, and was ranked on the subsequent eligible list.<sup>1</sup> In seeking his removal, the appointing authority indicated that the appellant falsified his application. Specifically, it indicated that on the appellant's background investigation questionnaire on Question 56 "Have you received any traffic tickets during the past ten years in New Jersey or any other State?" the appellant answered "No." According to the candidate's certified drivers abstract, he has received one traffic ticket that meets this criteria for "Maintenance of Lamps" in February 2011. The appointing authority also maintains that the appellant was charged with Driving While Intoxicated on March 28, 2008.

On appeal, the appellant states that the action to remove his name from the list was not warranted because he was hired by the Essex County Department of Corrections approximately two years ago and it was the same application he used for the Sheriff's Department. He asserts that he provided all the documentation that he was asked all while being in the Police Academy.

<sup>1</sup> The list expired on November 9, 2022.

In response, the appointing authority stands with its original submission of documentation and decision to remove the appellant's name from the subject eligible list.

In reply, the appellant presents that he answered the questions honestly and did not falsify his application. He asserts that the headlamp ticket was over 11 years ago, and the date of the violation was February 2011. Thus, he asserts that when he completed his application in December 2021, the violation was more than 10 years previous and did not need to be listed. He also contends that the Driving While Intoxicated happened in 2008 which is over 14 years ago. He further argues that he disclosed the court disposition pertaining to that event. The appellant adds that he is a completely different person than he was in 2008 and that he has recognized his mistakes and has grown and learned from them. He further states that he has been hired as a law enforcement officer with Essex County and has only been trying to advance in his career as he feels he could be an asset to any department he works for.

### 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:4-6.3(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 primary inquiry regarding the removal of a candidate's name based on the falsification of his or her employment application 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. *See In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003). It is noted that it is the Commission and not the appointing authority that sets the standard for removal from an eligible list. *See In the Matter of Joseph Hutsebaut* (CSC, decided April 19, 2017) and the Commission is in no way bound by any criteria it may utilize. *See In the Matter of Debra Dygon* (MSB, decided May 23, 2000).

In this matter, the appointing authority did not have a valid reason for removing the appellant's name from the list. The appointing authority claims that the appellant failed to disclose two violations. However, in reply, the appellant highlights that he either disclosed these violations or believes these violations should not be considered as they are more than 10 years old and fall outside of the 10-year period asked for in the questionnaire. While the appellant may not have fully disclosed these violations, they did occur outside of the 10-year period that was requested in the background investigation questionnaire. Therefore, the Commission

finds that the appellant sufficiently disclosed his driving record as requested and the court disposition regarding the Driving While Intoxicated was attached to the appellant's application. Moreover, to the extent that the appellant did not disclose all the details concerning these incidents, the Commission finds that these remote summonses are not material to the position sought as the summonses and incidents were more than 10 years prior to the certification and subsequent background investigation. Under these circumstances, the appellant's name should be restored to the subject list for prospective employment opportunities only.

Accordingly, the appellant has met his burden of proof in this matter and the appointing authority has not shown sufficient cause for removing his name from the Sheriff's Officer (S9999A), Essex County, eligible list.

### ORDER

Therefore, it is ordered that this appeal be granted, and Sheriff's Officer (S9999A), Essex County eligible list be revived so that the appellant's name can be considered at the time of next certification, 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 3<sup>RD</sup> DAY OF MAY, 2023




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