



STATE OF NEW JERSEY

In the Matter of Michael Wolf, Police
Officer (M0072D), Lakewood

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

CSC Docket No. 2023-2806

List Removal Appeal

ISSUED: November 1, 2023 (HS)

Michael Wolf, represented by Robert K. Chewning, Esq., appeals the removal of his name from the eligible list for Police Officer (M0072D), Lakewood on the basis of falsification of the preemployment application.

The appellant, a non-veteran, took and passed the open competitive examination for Police Officer (M0072D), which had a closing date of February 28, 2022. The resulting eligible list promulgated on November 10, 2022 and expires on November 9, 2023. The appellant’s name was certified to the appointing authority on November 10, 2022 (OL221352). In disposing of the certification, the appointing authority requested the removal of the appellant’s name on the basis of falsification of the preemployment application. Specifically, the application asked, “Were You Ever the Subject of Disciplinary Action with Any Present or Prior Employers?” The appellant noted in his application his prior employment as a Police Officer with the appointing authority. In answering the disciplinary action question with respect to that prior position, the appellant wrote, “Written up for not using proper procedures for calling out, as well as [a motor vehicle accident] and response.” However, documentation indicated that the appellant had received a written reprimand for an incident where he disregarded an order to complete a course and several documents. Separately, the application asked, “Since the Age of 18, Have You Ever Had Any Police Contact, Been Taken into Custody, Received a Summons, Complaint, Been Arrested, Indicted, or Convicted for Any Violation of the Law?” However, documentation revealed an April 8, 2020 motor vehicle stop; an April 2, 2021 motor

vehicle stop; and a January 12, 2021 summons charging a violation of *N.J.S.A.* 39:3-54.11, none of which were disclosed on the application.

On appeal to the Civil Service Commission (Commission), the appellant proffers that the appointing authority has exaggerated what he should have disclosed compared to what the application requested. Regarding the question on disciplinary actions, the appellant states that his response sets forth that he was disciplined for not using proper procedures for call outs, a motor vehicle accident, and response – “meaning [his] response to an assignment provided by a supervisor.” He claims that the appointing authority was discriminatorily motivated to request the removal of his name under the guise of falsification. In the alternative, the appellant requests a hearing.

In response, the appointing authority, represented by Steven Secare, Esq., insists that the removal of the appellant’s name was based on his application and the omitted information.

In reply, the appellant reiterates that his name should not have been removed from the eligible list.

CONCLUSION

Initially, list removal appeals are treated as reviews of the written record. *See N.J.S.A.* 11A:2-6b. Hearings are granted in those limited instances where the Commission determines that a material and controlling dispute of fact exists that can only be resolved through a hearing. *See N.J.A.C.* 4A:2-1.1(d). For the reasons explained below, no material issue of disputed fact has been presented that would require a hearing. *See Belleville v. Department of Civil Service*, 155 *N.J. Super.* 517 (App. Div. 1978).

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 Commission to remove an eligible’s name from an eligible list when he 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 name from an eligible list was in error.

In this case, the appointing authority maintains that the appellant did not disclose on his preemployment application a written reprimand he had received during his prior employment with the appointing authority for an incident where he disregarded an order to complete a course and several documents. The appellant’s suggestion that he made an adequate disclosure in writing “Written up for not using proper procedures for calling out, as well as [a motor vehicle accident] and response”

is not persuasive. The Commission cannot see how a reasonable reader would take “response” to refer to the incident where the appellant disregarded an order to complete a course and several documents. Also, with the word “response” following closely after “[motor vehicle accident],” “response” could easily be interpreted to refer to the accident. As such, the Commission cannot credit the appellant’s apparent argument that he adequately disclosed the referenced written reprimand. Further, it is clear from the record that the appellant did not disclose his motor vehicle stops and summons though these events were within the scope of the question “Since the Age of 18, Have You Ever Had Any Police Contact, Been Taken into Custody, Received a Summons, Complaint, Been Arrested, Indicted, or Convicted for Any Violation of the Law?” It must be emphasized that it is incumbent upon an applicant, particularly an applicant for a sensitive position such as a Police Officer, to ensure that his preemployment application is a complete and accurate depiction of his history. In this regard, 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 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. An applicant must be held accountable for the accuracy of the information submitted on an application for employment and risks omitting or forgetting any information at his peril. See *In the Matter of Curtis D. Brown* (MSB, decided September 5, 1991) (An honest mistake is not an allowable excuse for omitting relevant information from an application).

The appellant’s omissions in this case are sufficient cause to remove his name from the eligible list. The type of omissions presented are clearly significant and cannot be condoned as such information is crucial in an appointing authority’s assessment of a candidate’s suitability for the position. Indeed, an appointing authority’s assessment of a prospective employee could be influenced by such information, especially for a position in law enforcement. Therefore, the information noted above, which the appellant failed to disclose, is considered material and should have been accurately indicated on his application. The appellant’s failure to disclose the information is indicative of his questionable judgment. Such qualities are unacceptable for an individual seeking a position as a Police Officer. In this regard, the Commission notes that a Police Officer is a law enforcement employee who must enforce and promote adherence to the law. Municipal Police Officers hold highly visible and sensitive positions within the community and the standard for an applicant includes good character and the image of utmost confidence and trust. See *Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), cert. denied, 47 N.J. 80 (1966). See also *In re Phillips*, 117 N.J. 567 (1990). The public expects municipal Police Officers to present a personal background that exhibits respect for the law and rules. Accordingly, notwithstanding the appellant’s unsupported allegation of

discrimination, there is an objective, sufficient basis to remove the appellant's name from the subject 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 1ST DAY OF NOVEMBER, 2023



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