



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Ashley Belcher,
Correction Officer Recruit (S9988R),
Department of Corrections

CSC Docket No. 2016-1549

List Removal

ISSUED: NOV 3 0 2016 (DASV)

Ashley Belcher appeals the removal of her name from the eligible list for Correction Officer Recruit (S9988R), Department of Corrections, due to an unsatisfactory background report and employment record.

By way of background, the appellant, a nonveteran, took the open competitive examination for Correction Officer Recruit (S9988R) on March 7, 2013, achieved a passing score, and was ranked on the subsequent list. It is noted that the examination had a closing date in January 2013 and the resulting list promulgated on May 23, 2013 and expired on July 3, 2015. The appellant's name was certified by the DOC. However, in disposing of the certification, the DOC removed the appellant's name due to an unsatisfactory background report and employment record. Specifically, the appellant was notified by letter, dated March 24, 2015, that her name was removed from the subject eligible list because during her background investigation it was revealed that she had a conversation with an inmate on Facebook. In that conversation, the appellant acknowledged that she knew that the inmate was incarcerated and that he was not authorized to be in possession of a cell phone. The appointing authority also asserted that the appellant provided false information that the conversation occurred one year prior to the Correction Officer Recruit (S9988R) examination. Rather, the conversation took place in June 2014. Moreover, the appointing authority claimed that the appellant had an unsatisfactory employment record, having been reprimanded for time and attendance issues in 2010, given a written warning and suspension in 2011, and terminated in 2011 from Saint Peter's University Hospital.

On appeal to the Civil Service Commission (Commission), the appellant indicates that she attended elementary, middle, and high school with the inmate and was “not what you call ‘friends’ when [they] were students.” She asserts that she had no communication with this individual until one day he wrote on her Facebook page. The appellant maintains that she did not know that he was a “criminal” and incarcerated at the time. The appellant told a friend that the individual wrote on her Facebook page, and the friend informed the appellant that the individual was arrested and in jail. The appellant then asked the individual and he “confirmed that he was doing time.” The appellant states that there was no further communication. Upon questioning by the DOC, the appellant acknowledged what happened. She emphasizes that once she was aware of the inmate’s status, the appellant blocked him on Facebook. She also claims that she did not know that the inmate was communicating with her on an unauthorized cell phone. Thus, she argues that she should not be held responsible for something unlawful. The appellant emphasizes that the incident occurred before she *applied* to DOC.

With respect to her employment, the appellant admits that she was employed at Saint Peter’s University Hospital when she was 20 years old and was “a few minutes late a few times and called out sick approx. 3 times.” However, the appellant contends that she had doctor’s notes. Further, the appellant explains that the last time she called out sick on June 26, 2011, she was in the emergency room of Saint Peter’s University Hospital. She informed “them” that she was in the building, but they terminated her per diem employment. The appellant claims that her supervisor did not care that she was ill even though she would be serving patients their food. The appellant notes that this employment was only her second job and she has since matured. She alleges that she was discriminated against because of her past health condition and her inexperience with employment matters. In conclusion, the appellant states that she is a law-abiding citizen and believes that she would be an asset to the DOC. In support of her appeal, the appellant submits a letter from Saint Peter’s Healthcare System, verifying her dates of employment as a per diem Nutrition Aide and her hourly rate of compensation “at the time of resignation.” It is noted that the appellant indicates in her employment application, which is dated January 22, 2015,¹ that she was terminated from this position. The appellant also submits confirmation as to when she was a patient at Saint Peter’s University Hospital, which includes the June 26, 2011 date.

In response, the appointing authority contends that the appellant has “demonstrated a history of behavior that is inconsistent with the standards expected of a Law Enforcement Officer.” It maintains that the appellant had a conversation with a DOC inmate, admitting that she knew that the individual was an inmate and making light of the fact that he possessed a cell phone while incarcerated. Additionally, the appointing authority reiterates that the appellant

¹ The employment application is initialed on every page with various dates in January 2015.

had the conversation after she took the Correction Officer Recruit (S9988R) examination. Thus, she provided false information to the DOC when she said that she had the conversation prior to the test. It submits the transcript of the June 18, 2014 conversation between the inmate and the appellant as follows:

(1:37 a.m.) Inmate: Wassup

(1:40 a.m.) Appellant: Hey how r u

(1:42 a.m.) Inmate: Sh** cooling waiting to come home

(1:43 a.m.) Appellant: When do u come back?

(1:43 a.m.) Inmate: Next year how did you know I was in. Jail

(1:44 a.m.) Appellant: Lol I heard it some where . . . umm n***** is balling in jail now?

(1:46 a.m.) Inmate: Ballin what you talking bout

(1:46 a.m.) Appellant: Phones n stuff lol

(1:48 a.m.) Inmate: He'll yea man this sh** cost money i had a co but this is a tough screen lol
Touch screen

(2:13 a.m.) Appellant: Lol dam . . . how u been thou u doing alright in there

(4:08 p.m.) Inmate: Yeah why wouldn't i be stone cold real n*****

Moreover, the appointing authority maintains that the appellant's employment record is unsatisfactory. She was suspended at Saint Peter's University Hospital one time and had two "no call/no shows," for which she was terminated. Therefore, based on the appellant's background report and employment record, the appointing authority contends that she is unsuited for a position as a Correction Officer Recruit. In support of its position, the appointing authority also presents the appellant's employment application and Candidate Statement, dated February 12, 2015. In that statement, the appellant indicates that two years ago the inmate wrote her on Facebook, and not knowing he was in jail, she wrote back, asking "Aren't you in Jail" and he said "yes." She asked him the question because her friend heard that he was incarcerated. The appellant

further stated that a year after the incident, she “signed up for the test (corrections test).”

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows the Commission to remove an eligible’s name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate’s background and recognizing the nature of the position at issue, a person should not be eligible for an appointment. Moreover, *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 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. Additionally, *N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)7, allows the Commission to remove an individual from an eligible list who has a prior employment history which relates adversely to the position sought. Further, *N.J.A.C.* 4A:4-6.3(b) provides that the appellant has the burden of proof.

In the instant matter, the appointing authority removed the appellant from the subject eligible list since she had a conversation with an inmate on Facebook. It asserted that the appellant knew that the individual was incarcerated and not authorized to be in possession of a cell phone. It was also claimed that the appellant falsely indicated that the conversation occurred prior to the Correction Officer Recruit (S9988R) examination. On appeal, the appellant states that the conversation occurred prior to her application to the DOC, which was in 2015, and explains the circumstances surrounding the conversation. However, the appellant’s statement on appeal is inconsistent with what she reported to the DOC. In her Candidate Statement, the appellant stated that she “signed up for the test (corrections test)” a year after the Facebook incident. This information is false. The appellant filed for and took the examination in 2013 and the Facebook conversation occurred in 2014. Moreover, a review of the conversation clearly demonstrates the appellant’s awareness of the individual’s incarceration prior to the conversation with him and that a cell phone was forbidden. In that regard, based on the time stamps of the responses, unless the appellant’s friend conveyed information to her within less than a minute between postings, her friend apparently told her about the individual’s incarceration prior to the conversation in which the appellant freely engaged. It is emphasized that undue familiarity with an inmate is one of the most serious infractions a correction officer can commit and may be a removable offense. Nonetheless, while the Commission acknowledges that the appellant had no control over the inmate’s contact, her attempt to deceive the appointing authority regarding the incident cannot be ignored. Furthermore, the appellant’s employment record raises concerns. In that regard, despite that the appellant challenges her

termination with Saint Peter's University Hospital, the appellant admits on appeal that she had been guilty of tardiness in her prior employment.

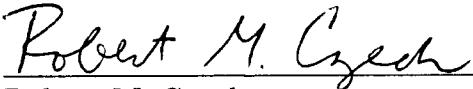
Based on the totality of the circumstances, the appointing authority has presented sufficient reasons to remove the appellant from the subject eligible list. It is emphasized that a Correction Officer Recruit is a law enforcement employee who must help keep order in the State prisons and promote adherence to the law. Correction Officer Recruits, like municipal Police Officers, hold highly visible and sensitive positions within the community and the standard for an applicant includes good character and an 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). See also, *In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003). The appellant's actions are not conducive for an individual seeking a position as a Correction Officer Recruit. Accordingly, the appellant has failed to meet her burden of proof in this matter.

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 23RD DAY OF NOVEMBER, 2016



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