



STATE OF NEW JERSEY

In the Matter of Abu Beyallah,
Correction Officer Recruit (S9988R),
Department of Corrections

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2016-1721

List Removal Appeal

ISSUED: **NOV 30 2016** (JET)

Abu Beyallah appeals the removal of his name from the Correction Officer Recruit (S9988R), Department of Corrections, eligible list.

The appellant took the open competitive examination for Correction Officer Recruit (S9988R),¹ achieved a passing score, and was ranked on the subsequent eligible list. The appellant's name was certified on June 5, 2015. In disposing of the certification, the appointing authority requested the removal of the appellant's name from the eligible list on the basis of an unsatisfactory background report and falsification of his employment application. Specifically, the appointing authority asserted that the appellant was charged on April 21, 2010 with Improper Behavior – Fighting (dismissed) in violation of *N.J.S.A. 2C:33-2A*. The appointing authority indicated that, as a result of the appellant's failure to appear at a conditional discharge hearing before the Juvenile Justice Committee on April 21, 2010, a bench warrant was issued against the appellant on August 9, 2010. The appointing authority also alleged that the appellant failed to disclose information on his employment application, including the April 21, 2010 charge, the August 9, 2010 bench warrant, and a prior address.

On appeal to the Civil Service Commission (Commission), the appellant maintains that he appeared in court and a panel informed him that the charges

¹ It is noted that the Correction Officer Recruit (S9988R), Department of Corrections eligible list promulgated on May 23, 2013 and expired on May 22, 2015.

against him were dismissed.² Further, the appellant explains that the April 21, 2010 charge and the August 9, 2010 bench warrant against him were dismissed when he turned 18. In addition, the appellant states that he was unaware that he omitted information on the employment application. In this regard, the appellant contends that he was unaware that a bench warrant was issued since the charges against him were dismissed. He adds that he was not aware of any prior address changes.³ As such, he could not list that information on the employment application. Moreover, the appellant asserts that his mail and voter registration reflect that he lives at his current address.

It is noted that the appellant submits documentation from the Family Automated Case Tracking System, Juvenile Court Record, indicating that the April 21, 2010 charge and the August 9, 2010 bench warrant were dismissed on July 16, 2015. The documentation indicates that the matters were dismissed because the appellant turned 18.

In response, the appointing authority maintains that the appellant's name should be removed from the eligible list due to his failure to disclose information in response to the questions on the employment application. Specifically, the appointing authority contends that the appellant failed to list he was charged with Improper Behavior – Fighting on April 12, 2010. Further, the appointing authority states that the appellant failed to list a bench warrant was issued against him on August 9, 2010. The appointing authority adds that the appellant failed to disclose all of his previous addresses on the application. In addition, the appointing authority explains that the appellant's failure to disclose such information in response to the questions on the employment application was sufficient to remove his name from the list. Moreover, the appointing authority asserts that its goals are to select candidates who exhibit respect for the law in order to effectively manage the day-to-day operations of a prison system.

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 Commission to remove an individual from an eligible 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:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows for the removal 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

² The appellant notes that he went to Court on November 2 (year not indicated) so he could speak to Tim Chaten who is in charge of the matter. However, the appellant was unable to speak to him since he was on vacation.

³ The appellant notes that he was forced to live with relatives when his mother was diagnosed with an illness and he was not aware that his address had changed.

the nature of the position at issue, a person should not be eligible for an appointment.

In the instant matter, the appointing authority argues that the appellant did not disclose on the employment application that he was charged with Improper Behavior – Fighting, and that a bench warrant was issued against him. The appellant argues that he could not disclose the charge since it was dismissed and he was unaware of the bench warrant. It is clear that the appellant did not properly complete the employment application. It must be emphasized that it is incumbent upon an applicant, particularly an applicant for a sensitive position such as a Correction Officer Recruit, to ensure that his employment 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 or her 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).

In this case, the appellant's omissions are sufficient cause to remove his name from the eligible list. The appellant's contention that the charge was dismissed and he was unaware of the bench warrant is unpersuasive since it is clear that he failed to disclose information in his background in response to the questions in the employment application. In this regard, question 46 on the employment application, under the section "arrests, convictions, summonses, and expunged records," defines the words "arrests," "indictments," and "charge" to include any questioning, detaining, holding, or being taken into custody by any police or other law enforcement agencies. In response to question 46, "Have you ever been arrested, indicted, charged with or convicted of a criminal, sexual, or disorderly persons offense in this State or any other jurisdiction, the appellant marked "no" and wrote "n/a." Further, page 18 of the employment application indicates that it is mandatory to disclose all charges, whether dismissed, adjudicated or pending, including expungements, conditional discharges, pre-trial interventions, or any other dismissal as a result of successful completion of a diversionary program, any DUI/DWI convictions, juvenile matters, and all incidences of domestic violence to which you were a party. Everything must be disclosed on the application regardless of the outcome of such matters. This includes temporary restraining orders (active or dismissed) and final restraining orders (active or dismissed). The appellant initialed the employment application. As such, he was aware of the instructions. However, in response to the instruction

on page 18, "You must provide certified disposition paperwork from each court regarding all charges listed below," the appellant marked "n/a." 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. Further, the fact that he provided documentation concerning the disposition of these charges on appeal does not cure his intentional omission of these items from his employment application. It is clear that the appellant did not properly provide information in response to the questions on the employment application.

Regarding the appointing authority's contention that the appellant failed to list all of his previous addresses on the employment application, it did not provide that section of the application for review. As such, the appointing authority did not provide any substantive evidence in support of its contentions that the appellant failed to list his previous addresses on the employment application.

The information noted above, which the appellant failed to disclose, is considered material and should have been accurately indicated on his employment application. In conclusion, the appellant's arrest history is material information that he should have accurately provided on his application, and the failure to do so constituted falsification of his employment 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 Correction Officer Recruit. In this regard, the Commission notes 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 Officers, 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). The public expects prison guards to present a personal background that exhibits respect for the law and rules. Therefore, there is sufficient basis to remove the appellant's name from the eligible list.

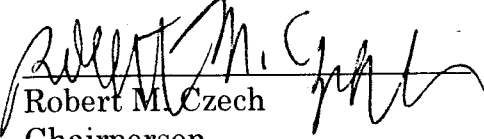
Since the appellant's name has been removed on the basis of falsification of the employment application, it is unnecessary to address the issue pertaining to his background report.

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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Attachment

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