



STATE OF NEW JERSEY

In the Matter of Porsha Lewis,
Correction Officer Recruit (S9988T),
Department of Corrections

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2016-2943

List Removal Appeal

ISSUED: **NOV 3 0 2016** (JET)

Porsha Lewis appeals the removal of her name from the Correction Officer Recruit (S9988T), Department of Corrections, eligible list.

The appellant took the open competitive examination for Correction Officer Recruit (S9988T), achieved a passing score, and was ranked on the subsequent eligible list. The appellant's name was certified to the appointing authority on July 23, 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 falsification of the employment application, an unsatisfactory employment record, and an unsatisfactory background report. Specifically, the appointing authority asserted that the appellant failed to list the names and addresses of her former employers on the application and that she did not truthfully answer question 35 on the employment application. The appointing authority also indicated that the appellant was terminated from employment at Bravo Supermarket in 2011 and from Swiss Port International in 2015, and she was suspended and received several written reprimands while employed at Swiss Port International. The appointing authority also stated that the appellant provided a written statement with her application where she admitted to smoking marijuana in 2013, and she explained that one of her tattoos depicts a hundred dollar bill that shows a face smoking marijuana.

On appeal, the appellant asserts that she did not falsify the employment application. Further, the appellant contends that she stated during her home interview that she was suspended and written up by her former employers. The

appellant now explains that she was young when the incidents occurred with her employers, and she has learned from her mistakes and now takes responsibility for her actions. Moreover, the appellant asserts that she admitted at her home interview that she used marijuana and had tattoos.

In response, the appointing authority maintains that the appellant's name should be removed from the eligible list. Specifically, the appointing authority asserts that the appellant disclosed in her home interview that she was terminated from Bravo Supermarket in 2011 for stealing. In this regard, she explained that she was terminated from Bravo Supermarket because she allowed a friend to leave the supermarket without paying for items. The appointing authority adds that the appellant also disclosed that she was terminated from Swiss Port International in 2015 for excessive lateness and other disciplinary matters. Further, the appointing authority contends that the information listed in the employment application contradicts the information from the appellant's interview. In this regard, the appointing authority states that the appellant marked "no" in response to question 35 on the employment application which asks, "Were you ever subjected to any disciplinary action in connection with any employment?" The appointing authority adds that the appellant did not list that she was employed at Bravo Supermarket in the employment history section of the application. Additionally, the appointing authority asserts that the appellant admitted to using and buying marijuana in 2013, which is unacceptable since it maintains a zero tolerance policy regarding illegal drugs. Moreover, the appointing authority contends that the appellant has a tattoo depicting a hundred dollar bill with a face smoking marijuana.

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)7*, allows for the removal of an individual from an eligible list who has a prior employment history which relates adversely to the position sought. *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. Further, *N.J.A.C. 4A:4-4.7(a)11* allows the removal of an eligible's name from an eligible list for other valid reasons.

In this matter, it is clear that the appellant did not properly complete the employment application. The appellant clearly did not list Bravo Supermarket as an employer on 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 her employment application is a

complete and accurate depiction of her 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 her name from the eligible list. It is clear that she failed to disclose information in her employment background in response to the questions in the employment application. As noted above, the appellant did not list Bravo Supermarket as an employer on page 12 of the employment section of the application. Additionally, in response to question 36 on the employment application, "Were you ever discharged, terminated, or asked to resign from employment [and] explain in detail the circumstances for each, the appellant marked "terminated." However, she did not explain the circumstances for each termination in response to the question. 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 she provided information pertaining to her employment history during the home interview does not cure her intentional omission of these items from her employment application. It is clear that the appellant did not properly provide information in response to the questions on the employment application.

With respect to the appellant's employment record, pursuant to the above listed rules, candidates may be removed based on a prior employment history which relates adversely to the position sought. In the case at hand, the appointing authority's background investigation confirmed that the appellant was terminated from employment from Bravo Supermarket and from Swiss Port International, which the appellant does not refute. In fact, the appellant acknowledged that she was terminated from those jobs. The position of Correction Officer Recruit is reserved for employees who exhibit leadership skills, a positive work ethic, and respect for the rules and regulations. In this case, it is clear that the appellant's employment record, which includes a termination as recent as 2015, and another termination where she was accused of stealing in 2011, is inimical to that goal.

Additionally, the appellant indicated in her home interview that she had used and purchased marijuana sometime in 2013, which is only two years prior to

when she applied for the position. It is recognized that a Correction Officer Recruit is a law enforcement employee who must help keep order in the 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 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. The appellant's behavior of purchasing and using marijuana is not conducive to the performance of the duties of a Correction Officer Recruit who must respect and uphold the law. Nonetheless, while the Commission finds that the admission of drug use in 2013 sufficient to remove her name from the current list, given the further passage of time and evidence of rehabilitation on the appellant's part, that incident itself might not be considered sufficient for removal from subsequent lists.

Regarding the appointing authority's contention that the appellant has an inappropriate tattoo depicting drug use, it is unnecessary to consider that argument as the Commission has upheld the removal of her name on other grounds.

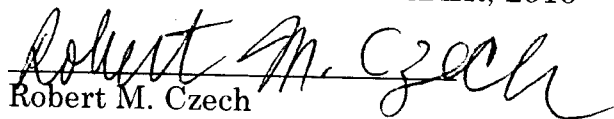
Accordingly, given the position at issue and in consideration of the totality of the evidence in the record, the appointing authority has presented a sufficient basis to remove the appellant's name from the eligible list for Correction Officer Recruit (S9988T), Department of Corrections.

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


Robert M. Czech

Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Nicholas F. Angiulo
Assistant Director
Division of Appeals
& Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
PO Box 312
Trenton, New Jersey 08625-0312

c: Porsha Lewis
Veronica Tingle
Lisa Gaffney
Kenneth Connolly

