

B-29



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Aiyannah Gibson,  
Correction Officer Recruit (S9988T),  
Department of Corrections

List Removal Appeal

CSC Docket No. 2017-999

ISSUED: APR 21 2017 (HS)

Aiyannah Gibson appeals the removal of her name from the eligible list for Correction Officer Recruit (S9988T), Department of Corrections, on the basis that she falsified her preemployment application.

The appellant, a non-veteran, took and passed the open competitive examination for Correction Officer Recruit (S9988T), which had a closing date of January 8, 2015. The resulting eligible list promulgated on July 23, 2015 and expires on July 22, 2017. The appointing authority requested the removal of the appellant's name due to the falsification of her preemployment application. Specifically, the appointing authority asserted that the appellant failed to disclose that she was charged as a juvenile with aggravated assault to a teacher in violation of *N.J.S.A. 2C:12-1B(5)(D)* on April 29, 2009. The charge was ultimately dismissed.

On appeal to the Civil Service Commission (Commission), the appellant argues that she was unaware of the charge because she received a disposition letter that does not state that she was charged as such.<sup>1</sup> The appellant explains that her mother filed a complaint with the school and a police report against the security guard involved in the April 29, 2009 incident. Specifically, the appellant was arguing with another student and was asked to go to the disciplinary office by the security guard, and the appellant refused. The security guard proceeded to choke and push the appellant, causing injury to her forehead. The appellant was told that

<sup>1</sup> It appears that the disposition letter to which the appellant refers concerns a separate 2014 charge of violating *N.J.S.A. 2C:12-1A*, which was dismissed.

if her mother pressed charges, she would be expelled. Ultimately, the appellant was expelled. Due to her injuries and because the school did not accept fault for its employee, the appellant only received a letter from the court stating that the security guard had filed additional charges after her mother had already filed charges on her behalf. The security guard was placed on sick leave for a week and returned to her job. The appellant does not understand why she is in the wrong when she was the victim. The appellant contends that in submitting her preemployment application without including this incident, she was not falsifying her background. She honestly did not believe that she had reason to bring up a situation from her childhood that she had no idea was on her record given that it was dismissed and the disposition letter she received from the court did not list the charge.<sup>2</sup> The letter from the appointing authority advising that her name was removed from the subject eligible list was her first notice that the charge was on her record. The appellant states that she never intended any dishonesty.

In response, the appointing authority argues that the instructions in the preemployment application clearly state that "it is mandatory that you disclose all charges, whether dismissed, adjudicated or pending."<sup>3</sup> "Charge," in turn, was defined to include any "indictment, complaint, **SUMMONS**, and information" (emphasis added by appointing authority). The appointing authority maintains that the appellant was required to list all indictments, complaints, summonses or adverse interactions with any law enforcement agencies, regardless if dismissed or dropped by mediation or other form of pre-trial intervention. In support, the appointing authority submits, among other documents, a copy of the appellant's preemployment application and documentation from the Family Automated Case Tracking System (FACTS) indicating that the appellant was charged with aggravated assault to a teacher in violation of *N.J.S.A. 2C:12-1B(5)(D)* in 2009 as a juvenile and that the charge was dismissed.

## 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 eligible's name from an eligible list when 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 her name from an eligible list was in error.

In the instant matter, the appointing authority maintains that the appellant did not disclose on her application that she was charged as a juvenile with aggravated assault to a teacher in violation of *N.J.S.A. 2C:12-1B(5)(D)* on April 29,

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<sup>2</sup> *Ibid.*

<sup>3</sup> These instructions also indicated that all juvenile matters were to be disclosed.

2009. In support, the appointing authority provides documentation from FACTS indicating that the appellant received this charge. Thus, it is clear that the appellant failed to disclose that information on her 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 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).

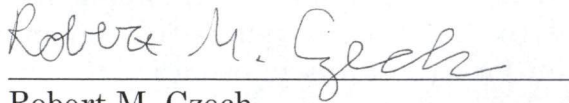
In this case, the appellant's omission is sufficient cause to remove her name from the eligible list. The instructions in the application clearly indicated that applicants were required to disclose all charges, even if dismissed, and all juvenile matters. The type of omission presented is clearly significant 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 her application. The appellant's failure to disclose the information is indicative of her 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 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 prison guards to present a personal background that exhibits respect for the law and rules. Accordingly, there is a 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 19<sup>TH</sup> DAY OF APRIL, 2017



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