



**STATE OF NEW JERSEY**

In the Matter of Ayan Mukherjee,  
Police Officer (S9999R), Dover

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

CSC Docket No. 2018-612

List Removal Appeal

**ISSUED: APRIL 9, 2018** (SLK)

Ayan Mukherjee, represented by Amie E. DiCola, Esq., appeals his removal from the eligible list for Police Officer (S9999R), Dover, on the basis of falsification of his pre-employment application.

By way of background, the appellant’s name appeared on certification OL151235 that was issued to the appointing authority on October 8, 2015. In disposing of the certification, the appointing authority requested the removal of the appellant’s name, contending that he falsified his application. Specifically, the appellant failed to disclose all of his driver history on his application.

On appeal, the appellant presents that he obtained a non-certified Driver History from the Motor Vehicle Commission and listed all five citations indicated on it on his application. While the appellant does not recall the additional summonses that were listed on the New Jersey Automated Traffic System (ATS) printout that the appointing authority presents, he does not dispute its authenticity. However, the appellant states that if these additional summonses had been included in his Driver History, he would have listed them. The appellant emphasizes that the ATS is a database only available to municipalities. Therefore, the appellant asserts that he presented his entire driving history that he was aware of and argues that he should not be removed for failing to disclose information that he could not access.

In response, the appointing authority, represented by Adam S. Abramson-Schneider, Esq., presents that the ATS contained all the summonses listed on the appellant's application and five additional traffic citations between February 2010 and July 2013. The appointing authority highlights that three of the citations that the appellant did not include on his application resulted in the appellant paying fines. Therefore, the appointing authority argues that the appellant is not credible when he states that he was not aware of these additional citations as he was presumably issued a ticket for all five additional offenses and paid a fine for three of them. Further, the appointing authority highlights other omissions on the appellant's application including failing to provide his driver's license number and expiration date, incorrectly dating the certification, and failing to list any residences.

In reply, the appellant complains that the appointing authority did not initially present omissions in his application that were not related to his driving record as grounds for removal. However, the appellant asserts that these additional deficiencies do not present a basis to remove his name as the appointing authority could have easily verified the omitted information or asked the appellant to correct or complete his application. The appellant reiterates that he did not intentionally leave out any information. Therefore, the appellant argues that his omissions on his application do not rise to the level of falsification of material facts.

In further response, the appointing authority highlights that the form that it submitted to the Division of Agency Services only allows it to enter one reason explaining why it removed a candidate from the list. However, a review of the appellant's application clearly shows the deficiencies and the Civil Service Commission (Commission) has previously found that an applicant's failure to completely fill out an application is grounds for removal. The appointing authority emphasizes that it is the applicant's responsibility to fill out the application and it would create a substantial burden if it were required to follow up with each applicant to correct a deficient application. With respect to the appellant's failure to list his complete driving record, the appointing authority notes that the appellant relied on a non-certified driver's history abstract and he failed to obtain a certified driver's history abstract from the Motor Vehicle Commission, which would have provided him with an official record of his driving history.

## 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 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. *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.

In this matter, the appellant listed five motor vehicle citations on his application from February 2008 to June 2013 and failed to disclose five additional citations from February 2010 to July 2013. The appellant asserts that the reason he did not list the five additional citations was that he was not aware of them, as they were not listed on his non-certified driver's abstract that he ordered from the Motor Vehicle Commission.<sup>1</sup> Therefore, he argues that he did not intentionally mislead the appointing authority and these omissions should not be held against him. The Commission notes that the appellant presumably received tickets for all five additional offenses and paid fines for three of them. Therefore, he should have been aware of these additional offenses. Further, a candidate is responsible for the completeness and accuracy of their application. See *In the Matter of Harry Hunter* (MSB, decided December 1, 2004). Regardless, 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 his 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. Therefore, even if there was no intent to deceive, in light of the appellant's driving record, which included 10 motor vehicle summonses including a citation after the September 4, 2013 closing date, his failure to disclose these five additional summonses was material. At minimum, the appointing authority needed this information to have a complete understanding of the appellant's background in order to properly evaluate his candidacy. *In the Matter of Dennis Feliciano, Jr.* (CSC, decided February 22, 2017). Specifically, the appointing authority needed this information in order to determine if the appellant's driving record showed a pattern of disregard for the law and questionable judgment. In this regard, the Commission notes that it has upheld the removal of law enforcement candidates in innumerable cases based on an unsatisfactory driving history.

Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the Police Officer (S9999R), Dover 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.

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<sup>1</sup> Per information available on the New Jersey Motor Vehicle Commission website, a certified complete driving record can be obtained by filling out the appropriate form and paying the required fee.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 4<sup>th</sup> DAY OF APRIL, 2018



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