



STATE OF NEW JERSEY

In the Matter of Latisha Horn,
Human Services Assistant (Special),
Greystone Psychiatric Hospital

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

CSC Docket No. 2018-711

List Removal Appeal

ISSUED: APRIL 6, 2018

(JET)

Latisha Horn appeals the removal of her name from the Special Reemployment List for Human Services Assistant, Greystone Psychiatric Hospital.

The appellant's name appeared on a special reemployment list for Human Services Assistant, Greystone Psychiatric Hospital, and she was certified on January 20, 2017 (OS170046). In disposing of the certification, the appointing authority removed the appellant's name on the basis of an unsatisfactory criminal record. Specifically, the appointing authority asserted that the appellant's criminal background check revealed that on July 16, 2002, the appellant pled guilty to the charge of Manufacturing/Distributing Controlled Dangerous Substances (3rd degree) in violation of *N.J.S.A. 2C:35-5*.

On appeal to the Civil Service Commission (Commission), the appellant asserts that, at the time she submitted the application, she did not have intent to hide her prior criminal record. Rather, she explains that, at the time of her initial review of the application, she was unsure about how to complete the question that asked if she had been convicted of a crime. In this regard, the appellant states that, since her criminal matter occurred 14 years ago, she was unsure if the question was limited to a certain time frame for reporting a conviction. As such, she decided to skip that particular question with the intent of later asking someone for assistance with answering the question. In addition, the appellant acknowledges that she had forgotten about the question and did not disclose the charge at the time she submitted the application. Moreover, the appellant asserts that she was appointed

to her prior position at Woodbridge Developmental Center despite her criminal record.

In response, the appointing authority maintains that the appellant's name should be removed from the eligible list as she did not disclose on the employment application that she was convicted of Manufacturing/Distributing a Controlled Dangerous Substance. The appointing authority asserts that, in response to question 11 on the employment application, "Have you ever been convicted of a crime or other offense which has been expunged by the Court, either in New Jersey or any other jurisdiction," the appellant answered "yes." However, she did not provide any explanation pertaining to the charges in block 16 as instructed by the application. Further, the appointing authority explains that the appellant had ample opportunity to ask questions pertaining to her employment application at the time she met with a Human Resources employee to schedule a fingerprint appointment for her criminal background check. Moreover, the appointing authority asserts that the appellant's criminal background makes her an unsuitable candidate for employment as its patients are a part of a vulnerable population and it is experiencing ongoing issues of illegal contraband entering its facilities.

In response, the appellant maintains, among other things, that she did not falsify the application as she answered "yes" to question #11 on the employment application. Moreover, she contends that a background check was conducted prior to when she was appointed to her previous title.

CONCLUSION

N.J.S.A. 11A:4-11 and *N.J.A.C.* 4A:4-4.7(a)4 provide that an eligible's name may be removed from an eligible list when an eligible has a criminal record which includes a conviction for a crime which adversely relates to the employment sought. The following factors may be considered in such determination:

- a. Nature and seriousness of the crime;
- b. Circumstances under which the crime occurred;
- c. Date of the crime and age of the eligible when the crime was committed;
- d. Whether the crime was an isolated event; and
- e. Evidence of rehabilitation.

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.

In the instant matter, it is not necessary for the Commission to determine whether the appellant's criminal record is sufficient to remove her from the subject list. In this regard, the appointing authority argues that the appellant did not disclose on the employment application that she was charged and found guilty of Manufacturing/Distributing Controlled Dangerous Substances (3rd degree). The appellant argues that she initially did not understand the questions on the employment application and subsequently forgot to provide information pertaining to her criminal background in response to block 16 on the employment application. 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 one which deals with individuals in a psychiatric hospital, to ensure that his or her 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 omission is sufficient cause to remove her name from the eligible list. The appellant's contention that she was unaware of how to answer the questions on the employment application is unpersuasive. In response to question 11 on the employment application, "Have you ever been convicted of a crime or other offense which has been expunged by the Court, either in New Jersey or any other jurisdiction, [and] if yes, give details in block number 16", the appellant marked "yes" and failed to disclose any other information. The appellant was required to complete block 16 and the fact that she checked "yes" in response to question #11 does not establish her contentions. Even if, *arguendo*, the appellant did not understand the questions on the employment application, she did not refute the appointing authority's contention that she could have obtained advice from a human resources representative prior to submitting the employment application. Regardless, it was the appellant's responsibility to properly complete the employment application prior to submitting it to the appointing authority. As such, the appellant's argument that she did not know how or in the alternative forgot to complete the question is of no moment. Additionally, the appellant's contention that her conviction occurred 14 years ago is irrelevant. Since the aforementioned question asks have you *ever* been convicted of a crime or other offense, there was no time limit excusing the appellant from listing information regarding her criminal background on the employment application. As such, it is clear that she failed to

disclose significant information in her background in response to the questions in the employment application. Such information is vital in affording an appointing authority the opportunity to evaluate the suitability of a candidate for a position. Moreover, the fact that the appellant was previously employed at Woodbridge Developmental Center and that she previously underwent background checks does change the outcome of this matter nor does it cure her omission from her employment application. Therefore, there is 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 4th DAY OF APRIL, 2018



Deidre L. Webster Cobb
Acting Chairperson
Civil Service Commission

Inquiries Christopher Myers
and Director
Correspondence Division of Appeals
 & Regulatory Affairs
 Civil Service Commission
 Written Record Appeals Unit
 P.O. Box 312
 Trenton, New Jersey 08625-0312

c: Latisha Horn
 Chanda Curtis
 Kelly Glenn