



STATE OF NEW JERSEY

In the Matter of Ariel Marrero,
Correctional Police Officer (S9988T),
Statewide

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

CSC Docket No. 2019-1666

List Removal Appeal

ISSUED: JUNE 14, 2019

(SLK)

Ariel Marrero appeals his removal from the eligible list for Correctional Police Officer (S9988T), Statewide, on the basis of falsification and not completing his pre-employment application.

By way of background, on November 28, 2018, the Department of Corrections (Corrections) sent a notice to the appellant indicating this his name had been removed from the list for falsification of application and failure to complete pre-employment processing. Specifically, it indicated that the appellant failed to disclose written reprimands for lateness from his employer, AccuCare Transcript (AccuCare), and failed to supply employment verifications.

On appeal, the appellant asserts that he completed all paperwork. He submits a letter from AccuCare supporting his appeal, which states that although the appellant had some occurrences of tardiness when he first started, he has become an exemplary employee. The appellant also submits an employment verification form from Corrections where AccuCare confirmed the appellant’s employment since September 2009 and indicated that he had been disciplined for lateness and received a written warning. Additionally, AccuCare indicated that the appellant’s work performance was excellent and he is currently a supervisor. The form was completed by AccuCare in July 2016.

In response, the appointing authority presents that the appellant received written warnings for tardiness while working for AccuCare. Further, it states that

he did not disclose this information on his employment application as he answered “NO” to questions pertaining to receiving disciplinary actions. Additionally, the appointing authority states that the appellant did not disclose this information during his interview. It argues that the documentation that the appellant submits on appeal supports its request to remove the appellant’s name from the list.

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 Civil Service Commission (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.

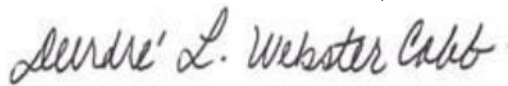
In the instant matter, the appellant submits a form that was completed by his employer, AccuCare in July 2016, which verifies his employment. Further, while the form indicates that he received a written warning for being late, the form also indicates that his work performance was excellent, and he is currently a supervisor. Additionally, Corrections submits two incident reports from AccuCare, which indicate that the appellant had two lateness incidents in the spring of 2013. Therefore, the record indicates that the appellant’s employment with AccuCare was verified and his written reprimands were disclosed to Corrections. Concerning Corrections’ assertion that the appellant failed to disclose his written reprimands during his home interview or by answering “NO” to questions pertaining to receiving disciplinary actions, as the appellant only received written reprimands, the appellant may have reasonably interpreted these actions as not being discipline. 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. In this case, as AccuCare’s employment verification in July 2016, which was known or should have been known to Corrections at the time it made its determination to remove the appellant in September 2016, clearly indicated that the appellant’s work performance was excellent, and he had become a supervisor, any omission or misinterpretation concerning Corrections’ questions regarding his disciplinary history with AccuCare was not material. Accordingly, the Commission finds that the appellant has not falsified his application, nor did he fail to complete pre-employment processing.

ORDER

Therefore, it is ordered that this appeal be granted and the list for Correctional Police Officer (S9988T), Statewide be revived in order for the appellant to be considered for appointment at the time of the next certification for prospective employment opportunities only.

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 12th DAY OF JUNE, 2019



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