



STATE OF NEW JERSEY

In the Matter of Eunice Askew,
Judiciary Clerk 2 (S0820W), Vicinage
4, Camden County

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

CSC Docket No. 2019-3329

List Removal Appeal

ISSUED: SEPTEMBER 12, 2019 (SLK)

Eunice Askew appeals her removal from the eligible list for Judiciary Clerk 2 (S0820W), Vicinage 4, Camden County on the basis that she falsified her application.

The appellant took the open competitive examination for Judiciary Clerk 2 (S0820W), achieved a passing score, and was ranked on the subsequent eligible list. In seeking her removal, the appointing authority indicated that the appellant falsified her application.

On appeal, the appellant states that she is not aware what she falsified on her application. She asserts that she would never knowingly falsify a document. The appellant attaches a background check from the State Police which indicates that it failed to reveal any criminal record.

In response, the appointing authority presents that the appellant did not disclose a violation constituting a disorderly persons offense on her application. It attaches a document from the Automated Complaint System – Municipal which shows that the appellant was found guilty of obstructing the administration of law or government function, a disorderly persons offense, on January 15, 2004 for a February 27, 2003 incident.

In reply, the appellant presents that when she learned of the falsification allegation, she remembered a 2003 situation where she had to go to court. The court

date was postponed until 2004 and resulted in her paying a fine. She explains that she thought that the payment of the fine was the end of this incident. The appellant emphasized that it was not explained to her that this incident would be permanently on her record. She highlights that she has been a stay-at-home mom for 17 years and would not have known this incident was on her record if she had not been advised by the appointing authority. The appellant indicates she is now working with an attorney to see if she can get this incident removed from her record. She reiterates that this omission was unintentional.

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:4-4.8(a)3 provides, in pertinent, that upon receipt of a certification, an appointing authority shall appoint one of the top three interested eligibles (rule of three) from an open competitive or promotional list.

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.

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 the instant matter, the appointing authority did not have a valid reason to remove the appellant's name from the list. It is noted that the appellant pled guilty to a minor incident, a disorderly persons offense. Further, this incident is remote in time as it took place in 2003 and the appointing authority has not indicated that there are any other issues with the appellant's background. Moreover, the appointing authority has not presented any evidence as to why this incident would be material to the position sought, Judiciary Clerk 2. In this regard, it is noted that this incident would not have been sufficient to remove the appellant for an unsatisfactory criminal background. Accordingly, the Commission finds that the appellant's omission is not material to the position sought. However, it is noted that a review of the certification indicates that there was only one bypass. Therefore, the Commission does find that

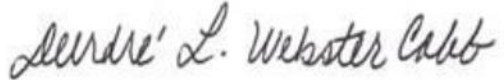
the appellant's failure to provide a complete application does provide a basis for which the appointing authority can bypass her on certification OS190049.

ORDER

Therefore, it is ordered that Eunice Askew's appeal be granted but her name on certification OS190049 be recorded as bypassed.

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 10th DAY OF SEPTEMBER, 2019



Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Eunice Askew
Deborah Silverman Katz, AJSC
Kelly Glenn