



**STATE OF NEW JERSEY**

In the Matter of Marlyn Roman,  
Judiciary Clerk 2 (S0820W), Vicinage  
4, Camden County

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

CSC Docket No. 2019-3266

List Removal Appeal

**ISSUED: SEPTEMBER 12, 2019 (SLK)**

Marlyn Roman 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. Specifically, the appointing authority’s background report indicates that the appellant failed to disclose that in 1996 she was found guilty of hindering apprehension or prosecution, a disorderly persons offense, because she provided false information to a law enforcement officer.

On appeal, the appellant states that she was not aware that the false information offense was still on her record. She represents that she did not commit the crime that she was arrested for, which was shoplifting. However, when questioned about it, she provided law enforcement false information because she was nervous and scared. The appellant indicates that she was only 20 years old at the time of the incident. She presents her employment history to show that she passed many background checks without this incident being an issue.

In response, the appointing authority reiterates that the appellant was removed from the list because she 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 the offense in question.

### 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.

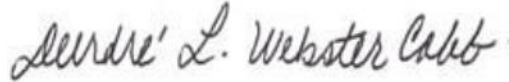
In the instant matter, the appointing authority did not have a valid reason to remove the appellant's name from the list. It is noted that the appellant pled guilty to a minor incident, a disorderly persons offense. Further, this incident is remote in time as it took place in 1996 and the appointing 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 Marlyn Roman'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 10<sup>th</sup> DAY OF SEPTEMBER, 2019



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