



B-011.

**STATE OF NEW JERSEY**

In the Matter of Ali Hernandez,  
Correctional Police Officer (S9999A),  
Department of Corrections

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

CSC Docket No. 2021-1844

List Removal Appeal

**ISSUED: SEPTEMBER 7, 2021 (JET)**

Ali Hernandez appeals the removal of his name from the Correctional Police Officer (S9999A), Department of Corrections eligible list on the basis of an unsatisfactory background report and falsification of the employment application.

The appellant took the open competitive examination for Correctional Police Officer (S9999A), achieved a passing score, and was ranked on the subsequent eligible list. The appellant's name was certified on November 6, 2020. In disposing of the certification, the appointing authority requested the removal of the appellant's name from the eligible list on the basis of an unsatisfactory background report. Specifically, the appointing authority asserted that, in response to questions on the employment application, the appellant admitted that, on March 14, 2013, the Vineland Police asked him to respond to a report alleging that he made inappropriate contact with a minor student while employed at the minor's school.<sup>1</sup> The appointing authority

<sup>1</sup> Personnel records reflect that the appellant served as a Teacher's Aide in the Vineland School District from January 2013 to April 2021. The 2013 police report was made by a minor student who attended the same school where the appellant was employed. Although the record reflects that the report was investigated, the record does not reflect that the appellant was charged with any infractions, nor does it reflect that the report was substantiated and the investigation was closed. Specifically, it was reported that the appellant placed the minor student face down on a cot and laid on top of the student, and upon investigation, the appellant denied laying on top of the student. The appellant explained that, since he was having trouble with getting the minor student to fall asleep, he separated the child

asserted that at the time of his interview, the appellant stated that, “the allegations were not sexual and I don’t think it was for abuse,” and the appellant did not further elaborate and claimed that he was unaware of what was actually alleged. The appointing authority also states that information from the Cumberland County Prosecutor’s Office contradicts the information that was provided by the appellant.<sup>2</sup> The appointing authority also indicated that the appellant did not properly answer the questions on the employment application. Specifically, in response to question #53 on the employment application, “Have you ever been accused, charged, arrested, convicted of or had charges adjudicated for any type of sexual offense, the appellant marked “no,” and in response to question #54 on the employment application, “Have you ever been involved with harassment, discrimination or hostile work environment situation or investigation,” the appellant marked “no.” The appointing authority contends that such information contradicts the information provided in the police report and the appellant’s written statements, which indicates that he understood the allegations against him.

On appeal to the Civil Service Commission (Commission), the appellant asserts, among other things, that in response to question #50 on the employment application, he disclosed that the March 2013 police report was filed against him and he responded to the report. The appellant maintains that he was not accused of any sexual misconduct or child abuse, and as such, he properly answered the questions on the employment application. The appellant adds that he requested records from the Department of Children and Families, and no information was found under his name and date of birth. Moreover, the appellant states that he was recently appointed as a Police Officer in Vineland, and his background should be sufficient to be restored to the list for Correctional Police Officer.

In response, the appointing authority maintains that the appellant’s background with respect to the 2013 police report is sufficient to remove his name from the list, as such a background is inappropriate for an appointment as a Correctional Police Officer.

## CONCLUSION

*N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows the Commission to remove an eligible’s name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate’s background and recognizing the nature of the position at issue, a person should not be eligible for appointment.

---

from the other students and utilized a technique which he was trained to use in order to assist the child with going to sleep.

<sup>2</sup> The record does not reflect any information from the Cumberland County Prosecutor’s Office.

*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. *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 argues that he does not possess an unsatisfactory background, as no charges were filed against him as a result of the 2013 police report. The appointing authority argues that the 2013 police report and resultant investigation is sufficient to remove the appellant's name from the list, as a such information is inconsistent with the background expected of a Correctional Police Officer. The Commission is not bound by criteria utilized by the appointing authority and must decide each list removal on the basis of the record presented. *See In the Matter of Victor Rodriguez* (MSB, decided July 27, 2005). *See also, In the Matter of Debra Dygon* (MSB, decided May 23, 2000). In this matter, the record reflects that the appellant was not charged with any infractions as a result of the 2013 police report. Indeed, the record does not reflect any substantive information indicating that the 2013 police report was substantiated. Although the appointing authority states that it relied on information from the Prosecutor's Office in removing the appellant, it did not provide such information or any other substantive evidence in support of its claims in response to the appellant's appeal. Moreover, the appellant provided documentation from the Department of Children and Families indicating that it had no information to provide to him, and as noted above, he was not charged with any criminal offenses as a result of the police report. Moreover, the report appears to have been an isolated incident as there is no evidence that any similar police reports were filed against the appellant since that time, and he is currently serving as a Police Officer in Vineland. Accordingly, under the circumstances, the appointing authority has not demonstrated that the appellant's background constitutes sufficient cause to remove his name from the subject eligible list.

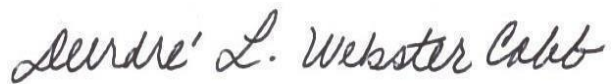
With respect to the appellant's responses to the questions on the employment application, the Commission is satisfied that he provided sufficient information in response to question #50 so that the appointing authority could conduct the background investigation. Although the appellant indicated "no" in response to questions #53 and #54 on the application, the appellant maintains that he was not accused of a sexual offense and denies involvement in a hostile work environment. The Commission agrees. The record does not reflect that the appellant was accused of a sexual offense or that he was involved in a hostile work environment. As such, the Commission is not convinced that the appellant falsified the employment application.

**ORDER**

Therefore, it is ordered that the appellant's name be restored to the eligible list 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 1<sup>ST</sup> DAY OF SEPTEMBER, 2021



---

Deirdre L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries	Allison Chris 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: Ali Hernandez  
Veronica Tingle  
Division of Agency Services  
Records Center