

B-38



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Cynthia Ruiz,  
Correction Officer Recruit (S9988T),  
Department of Corrections

List Removal Appeal

CSC Docket No. 2017-789

ISSUED: MAR 23 2017 (HS)

Cynthia Ruiz appeals the removal of her name from the eligible list for Correction Officer Recruit (S9988T), Department of Corrections, on the basis that she falsified her preemployment application.

The appellant, a non-veteran, took and passed the open competitive examination for Correction Officer Recruit (S9988T), which had a closing date of January 8, 2015. The resulting eligible list promulgated on July 23, 2015 and expires on July 22, 2017. The appointing authority requested the removal of the appellant's name due to her falsification of her preemployment application. Specifically, the appointing authority asserted that the appellant failed to disclose that, in 2014, she was charged with the following: two counts of making communications in an annoying or alarming manner in violation of *N.J.S.A. 2C:33-4A*; harassment in violation of *N.J.S.A. 2C:33-4C*; and filing a fictitious report with law enforcement in violation of *N.J.S.A. 2C:28-4B*. These charges were ultimately dismissed.

On appeal to the Civil Service Commission (Commission), the appellant argues that all information she included on her application was true. She denies that she was charged as noted above and maintains that she has always conducted herself in a civil manner and told the truth in all reports given and taken. The appellant states that she has been involved in an ongoing court case since August 2014. She asserts that during the application process, she enclosed all paperwork concerning cases in which she was currently involved. In support, the appellant submits documentation from the New Jersey Automated Complaint System that

indicates that the charge of harassment in violation of *N.J.S.A. 2C:33-4C* was dismissed and a police report related to an incident of alleged assault.

In response, the appointing authority argues that when candidates fail to provide complete background information on the preemployment application or at any time during preemployment processing, they deny it the ability to make a determination based on the totality of the circumstances and other considerations. Instead, it is forced to deny the candidate an employment opportunity based solely on the omission of the requested information. The appointing asserts that the preemployment application provides explicit instructions on what must be disclosed and defines all terms to ensure that candidates are well aware of what information must be disclosed, how to disclose it and if supporting documentation must be submitted with the preemployment application. It maintains that the appellant did not disclose the above noted charges and only disclosed an assault charge on her preemployment application. In support, the appointing authority submits a copy of the appellant's preemployment application and documentation from the New Jersey Automated Complaint System indicating that the appellant, in 2014, was charged with two counts of making communications in an annoying or alarming manner in violation of *N.J.S.A. 2C:33-4A*; harassment in violation of *N.J.S.A. 2C:33-4C*; and filing a fictitious report with law enforcement in violation of *N.J.S.A. 2C:28-4B*. It is noted that the preemployment application indicates that "[i]t is mandatory that you disclose all charges, whether dismissed, adjudicated, or pending."

### 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 Commission to remove an eligible's name from an eligible list when 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 her name from an eligible list was in error.

In the instant matter, the appointing authority maintains that the appellant did not disclose the following charges on her application: two counts of making communications in an annoying or alarming manner in violation of *N.J.S.A. 2C:33-4A*; harassment in violation of *N.J.S.A. 2C:33-4C*; and filing a fictitious report with law enforcement in violation of *N.J.S.A. 2C:28-4B*. In support, the appointing authority provides documentation from the New Jersey Automated Complaint System indicating that the appellant, notwithstanding her denial, received these charges. Thus, it is clear that the appellant failed to disclose that information on her application. It must be emphasized that it is incumbent upon an applicant, particularly an applicant for a sensitive position such as a Correction Officer Recruit, to ensure that her employment application is a complete and accurate

depiction of her 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 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).

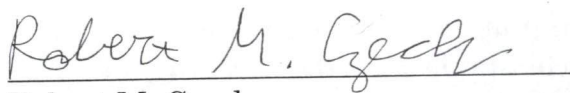
In this case, the appellant's omission is sufficient cause to remove her name from the eligible list. The appellant failed to disclose this information on her application. Further, the instructions in the application clearly indicated that applicants were required to disclose all charges, even if dismissed. The type of omission presented is clearly significant and cannot be condoned as such information is crucial in an appointing authority's assessment of a candidate's suitability for the position. Indeed, an appointing authority's assessment of a prospective employee could be influenced by such information, especially for a position in law enforcement. Therefore, the information noted above, which the appellant failed to disclose, is considered material and should have been accurately indicated on her application. The appellant's failure to disclose the information is indicative of her questionable judgment. Such qualities are unacceptable for an individual seeking a position as a Correction Officer Recruit. In this regard, the Commission notes that a Correction Officer Recruit is a law enforcement employee who must help keep order in the State prisons and promote adherence to the law. Correction Officers, like municipal Police Officers, hold highly visible and sensitive positions within the community and the standard for an applicant includes good character and the image of utmost confidence and trust. See *Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), cert. denied, 47 N.J. 80 (1966). See also *In re Phillips*, 117 N.J. 567 (1990). The public expects prison guards to present a personal background that exhibits respect for the law and rules. Accordingly, there is a 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 22<sup>ND</sup> DAY OF MARCH, 2017



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