



B-5

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Cynthia Pomales,
Sheriff's Officer (S9999R), Essex
County

List Removal Appeal

CSC Docket No. 2017-130

ISSUED:

JUN 09 2017

(ABR)

Cynthia Pomales appeals the removal of her name from the Sheriff's Officer (S9999R), Essex County eligible list on the basis of her failure to complete pre-employment processing.

The appellant took the open competitive examination for Sheriff's Officer (S9999R), Essex County, which had a closing date of September 4, 2013, achieved a passing score and was ranked as a non-veteran on the subsequent eligible list. The subject eligible list promulgated on May 2, 2014 and expired on March 22, 2017. The appellant's name was certified to the appointing authority on February 1, 2016. In disposing of the certification, the appointing authority requested the removal of the appellant's name due to her failure to complete pre-employment processing. Specifically, the appointing authority asserted that the appellant failed to appear for a required pre-employment processing orientation on February 25, 2016 and it submitted a sign-in sheet from that orientation which indicated that the appellant was a "no show" at that event.

On appeal to the Civil Service Commission (Commission), the appellant submits a sworn, notarized statement, wherein she states that she never received notification about the February 25, 2016 pre-employment processing orientation.

In response, the appointing authority maintains that the appellant did not appear at its pre-employment processing orientation on February 25, 2016, as required. It submits a copy of a letter it sent to the appellant's address of record, dated February 17, 2016, which advised the appellant that she was required to

attend a pre-employment processing orientation on February 25, 2016. It also submits a copy of the sign-in sheet from that orientation which notes that she was a "no show" for the orientation.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)11 allows the Commission to remove an eligible's name from an eligible list for other valid reasons. *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 the appellant from an eligible list was in error.

In the instant matter, the appointing authority removed the appellant's name from the subject eligible list because she did not appear for a required pre-employment processing orientation on February 25, 2016 after it sent notice to her address of record by letter dated February 17, 2016 and therefore, did not complete pre-employment processing. However, the appellant submits a sworn, notarized statement that she did not receive notice that she was required to attend the aforementioned orientation. While there is a presumption that mail correctly addressed, stamped and mailed was received by the party to whom it was addressed, the appellant has rebutted that presumption in submitting her notarized statement in this matter. See *SSI Medical Services, Inc. v. State Department of Human Services*, 146 N.J. 614 (1996); *Szczesny v. Vasquez*, 71 N.J. Super. 347, 354 (App. Div. 1962); *In the Matter of Joseph Bahun*, Docket No. A-1132-00T5F (App. Div. May 21, 2001). Accordingly, the appellant has met her burden of proof in this matter and the appointing authority has not shown sufficient justification for removing her name from the Sheriff's Officer (S9999R), Essex County eligible list.

ORDER

Therefore, it is ordered that this appeal be granted and the list for Sheriff's Officer (S9999R), Essex County 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 7TH DAY OF JUNE, 2017

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