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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

In the Matter of Felix Rosario, Jr., Correction Officer Recruit (S9988T), Department of Corrections

CSC Docket No. 2017-605

List Removal Appeal

JUN 9 9 20117

ISSUED:

(ABR)

Felix Rosario, Jr. appeals his removal from the Correction Officer Recruit (S9988T), Department of Corrections eligible list on the basis of falsification of his pre-employment application.

The appellant took the open competitive examination for Correction Officer Recruit (S9988T), Department of Corrections, which had a closing date of January 8, 2015, achieved a passing score and was ranked as a non-veteran on the subsequent eligible list. The subject eligible list promulgated on July 23, 2015 and expires on July 22, 2017. In disposing of the certification, the appointing authority requested the removal of the appellant's name due to his falsification of his Background Investigation Questionnaire (Questionnaire). Specifically, the appointing authority claimed that the appellant falsified his Questionnaire by answering "no" to a question which asked if he had "ever been arrested, indicted, charged with or convicted of a criminal, sexual, or disorderly persons offense" and failing to disclose that he was charged with stalking, in violation of N.J.S.A. 2C:12-10B, in November 2000. The appointing authority noted that the stalking charge was dismissed in May 2001.

On appeal, the appellant claims that the November 2000 stalking charge was dismissed in 2001 and he submits a copy of an Amended Final Judgment of Divorce (Judgment) from the Superior Court, Chancery Division, Family Part, Essex County

dated August 20, 2004. The appellant maintains that the Judgment contains the dismissal of the stalking charge.¹

In response, the appointing authority argues that the appellant was properly removed from the subject eligible list pursuant to N.J.A.C. 4A:4-4.6, as he did not disclose the November 2000 stalking charge on his Questionnaire, as required. In support, the appointing authority submits a copy of the appellant's Questionnaire, a New Jersey Criminal History Detail Report for the appellant, and a record from the New Jersey Promis/Gavel case tracking system that details the procedural history for the November 2000 stalking charge. The appointing authority notes that the Questionnaire contains clear and explicit instructions on what must be disclosed. Specifically, the Questionnaire advises candidates that "it is mandatory that [they] disclose all charges, whether dismissed, adjudicated or pending." However, the appointing authority proffers that despite those instructions, the appellant only disclosed a 2004 Temporary Restraining Order in his Questionnaire and indicated that he had never been charged with any criminal, sexual, or disorderly persons offenses. The appointing authority stresses that its role in managing the prison system requires it to ensure that the candidates it appoints to the title of Correction Officer Recruit have a proven history of respect for the law. It adds that when a candidate for employment, such as the appellant, fails to disclose required background information during pre-employment processing, he or she inhibits its ability to conduct an appropriate review of his or her suitability for employment. Accordingly, the appointing authority contends that its removal of the appellant's name from the subject eligible list should be upheld.

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 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.

In this matter, a review of the record demonstrates that the appointing authority reasonably requested the removal of the appellant's name from the subject eligible list based upon the falsification of his Questionnaire through his failure to disclose that he was charged with stalking in November 2000. The dismissal of that charge in May 2001 has no bearing on the appellant's disclosure obligation, as the Questionnaire provides clear instructions to list all charges regardless of whether the charges were dismissed. The information that the appellant withheld is considered material and should have been accurately indicated on the Questionnaire. It is recognized that a Correction Officer Recruit is

¹ It is noted that while the Judgment dismissed a November 2000 Final Restraining Order issued against the appellant for the protection of his ex-wife, it does not purport to dismiss any criminal charges pending against the appellant.

a law enforcement employee who must help keep order in the 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 an 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); In re Phillips, 117 N.J. 567 (1990). The public expects Correction Officers to present a personal background that exhibits respect for the law and rules. Clearly, the appellant's failure to disclose that he was charged with stalking in November 2000 is indicative of his lack of integrity and questionable judgment. Such qualities are unacceptable for an individual seeking a position as a Correction Officer Recruit. Accordingly, the appellant's falsification of his application provides a sufficient basis to remove his name from the 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 7TH DAY OF JUNE, 2017

Robert M. Czech

Chairperson

Civil Service Commission

Inquiries and

Correspondence

Director

Division of Appeals and Regulatory Affairs

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c: Felix Rosario, Jr.
Lisa Gaffney
Jennifer Rodriguez
Kelly Glenn

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