



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Donna Gonzalez,
Police Sergeant (PM0167S), Marlboro
Township

List Removal Appeal

CSC Docket No. 2017-2840

ISSUED: **Jul 19 2017** (HS)

Donna Gonzalez appeals the removal of her name from the eligible list for Police Sergeant (PM0167S), Marlboro Township on the basis that she failed to respond to the certification notice.

The appellant, a non-veteran, took and passed the promotional examination for Police Sergeant (PM0167S), which had a closing date of January 21, 2014. The resulting eligible list promulgated on November 17, 2016 and expires on November 16, 2019. The appellant's name was certified to the appointing authority on November 22, 2016. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis that she failed to respond to the certification notice.

On appeal to the Civil Service Commission, the appellant submits a sworn, notarized statement indicating that she did not receive the certification notice.

It is noted that the appointing authority, despite being provided the opportunity, did not reply.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)6 provides that an eligible's name may be removed from a list for "non-compliance with the instructions listed on the notice of certification." *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

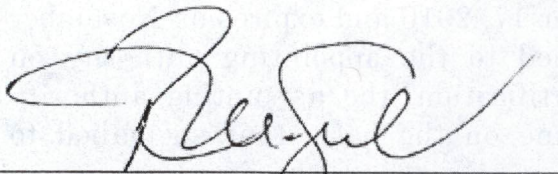
an appointing authority's decision to remove her name from an eligible list was in error. The appointing authority requested the removal of the appellant's name from the eligible list for Police Sergeant (PM0167S) on the basis of her failure to respond to the November 22, 2016 certification. However, the appellant has submitted a sworn, notarized statement, attesting to the fact that she did not receive the certification notice. 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 sworn, notarized statement. 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). Thus, it is appropriate that her name be restored to the subject eligible list.

ORDER

Therefore, it is ordered that this appeal be granted and the appellant's name be restored to the eligible list for Police Sergeant (PM0167S), Marlboro Township 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 13TH DAY OF JULY, 2017



Robert M. Czedh, Chairperson
Civil Service Commission

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