



STATE OF NEW JERSEY

In the Matter of Jermin Spencer,
Sheriff's Officer (S9999R), Union
County

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

CSC Docket No. 2017-3899

List Removal Appeal

ISSUED: MARCH 28, 2018 (CSM)

Jermin Spencer, represented by Jason LeBoeuf, Esq, appeals the appointing authority's request to remove his name from the eligible list for Sheriff's Officer (S9999R), Union County, on the basis of falsification of his employment application.

In disposing of the March 13, 2017 certification, the appointing authority requested the removal of the appellant's name, contending that the appellant had falsified his employment application. Specifically, the appointing authority presented that question #66 of the application asked candidates if they had ever been subjected to disciplinary action in connection with any employment and he responded "no." Additionally, question #103 asked "have you ever been held or detained as a suspicious person, or investigated by any law enforcement agency or private security agency for any reason" and the appellant responded "no." However, the appointing authority claimed that as a result of an internal affairs investigation, the appellant was charged with official misconduct in 2009 while working for the East Orange Police Department that was referred to the Essex County Prosecutor's Office.

On appeal, the appellant states that he was never made aware that he was a target in any investigation by his current employer or the Essex County Prosecutor's Office. Rather, he explains that he was a witness in an investigation that was conducted in 2009. Further, the appellant states that he reviewed his Professional Standards file prior to submitting and there were no discrepancies and that he addressed this fact during part of his panel interview with the appointing authority. In support of his appeal, the appellant provides documentation from the

East Orange Police Department where he acknowledged that he was a witness in an internal investigation being conducted in 2009.

Although provided the opportunity, the appointing authority did not provide any additional information for the Civil Service Commission (Commission) to review in this matter.

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 removal of 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. *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 the instant matter, the appointing authority removed the appellant's name from the subject list claiming that he did not disclose that he was charged with official misconduct as a result of an internal affairs investigation in 2009. However, the appellant has provided documentation from the East Orange Police department indicating that he was a witness in an internal affairs investigation that was being conducted in 2009. Although the appellant provided it this information in his appeal submission, the appointing authority has not rebutted his assertion that he was in fact a witness, not a target of the 2009 investigation or that he was never charged with official misconduct. Therefore, there is no basis on which to remove the appellant's name from the subject list. A review of the certification indicates that the appointing authority could have exercised its discretion and bypassed the appellant. Therefore, the appellant's name should be recorded on certification OL170269 as bypassed. However, given that the subject list expired on March 22, 2017, the Sheriff's Officer (S9999R), Union County eligible list should be revived at the time the appointing authority next requests a certification and the appellant's name be added to the certification for prospective employment opportunities.

ORDER

Therefore, it is ordered that this appeal be granted.

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
27TH DAY OF MARCH, 2018

Deirdre L. Webster Cobb

Deirdre L. Webster Cobb
Acting Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher S. Myers
Director
Division of Appeals
& Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Jermin Spencer
Jason LeBoeuf, Esq.
Joseph Cryan
Kelly Glenn
Records Center