



STATE OF NEW JERSEY

In the Matter of Valentin Hernandez,
Correctional Police Officer (S9988A),
Department of Corrections

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

CSC Docket No. 2020-658

List Removal Appeal

ISSUED: NOVEMBER 8, 2019 (SLK)

Valentin Hernandez appeals his removal from the eligible list for Correctional Police Officer (S9988A), Department of Corrections, on the basis of falsification of his employment application.

By way of background, on August 23, 2019, the Department of Corrections (Corrections) sent a notice to the appellant indicating this his name had been removed from the list for falsification of his employment application. Specifically, it indicated that he failed to disclose a 2001 simple assault charge. The case was heard through the Juvenile Justice Commission (JJC).

On appeal, the appellant explains that he was 17 years old at the time of the incident. Further, he indicates that he did not walk into the counseling room at the JJC as only his parents did. Additionally, the appellant states that his parents used a translator throughout the process and he was only advised by the translator that the case was going to going to be dismissed and not be on his record. He presents that he did disclose on his application the incident that led to the proceeding at the JJC, which was a fight in high school that led to him being suspended.

In reply, the appointing authority presents that although the appellant indicated on his application that he had a fight with another student, he did not provide any additional details or explanation for his actions or information on the cause of the fight. It emphasizes that he failed to disclose this charge on his application, which is not disputed. Further, the appointing authority highlights that

failing to disclose all requested information is grounds for removal from the list under its criteria.

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 Civil Service Commission (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. *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.

Initially, although the appointing authority argues that the appellant violated its criteria for removal, the Commission notes that it was not bound by criteria utilized by the appointing authority and must decide each list removal on the basis of the record presented. *See In the Matter of Debra Dygon* (MSB, decided May 23, 2000).

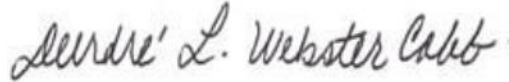
In the instant matter, the appointing authority did not have a valid reason to remove the appellant's name from the list. The Appellate Division of the New Jersey Superior Court, in *In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003), affirmed the removal of a candidate's name based on his 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. In this case, the omitted certain specific information concerning a high school fight that took place 18 years ago. On appeal, the appellant adequately explained why he did not include this information. Further, as the appointing authority had not presented any recent adverse behavior, the lack of specificity regarding the details of the fight has no relevance in determining whether the appellant currently has the good judgment and character to be a Correctional Police Officer. While the Commission is mindful of the high standards for a law enforcement officer, the Commission finds that the appellant's failure to disclose this information was immaterial and had no impact on the appointing authority's ability to investigate the appellant's background to evaluate his candidacy.

ORDER

Therefore, it is ordered that this appeal be granted, and the appellant's name be restored to the Correctional Police Officer (S9988A), Department of Corrections eligible list, 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 6th DAY OF NOVEMBER, 2019



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