

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Angel Roman, Police Officer (S9999U), Plainfield

List Removal Appeal

CSC Docket No. 2019-1013

ISSUED: APRIL 26, 2019 (HS)

Angel Roman appeals the removal of his name from the eligible list for Police Officer (S9999U), Plainfield on the basis that he did not complete preemployment processing.

:

The appellant, a non-veteran, took and passed the open-competitive examination for Police Officer (S9999U), which had a closing date of August 31, 2016. The resulting eligible list promulgated on March 29, 2017 and expires on March 30, 2020.¹ The appellant's name was certified to the appointing authority on January 30, 2018. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis that he did not complete preemployment processing. The appointing authority asserted that in response to question 23 on the preemployment application ("How long have you resided [where you now reside?]" and "With whom do you reside[?]"), the appellant answered that he resided with his "spouse." However, he proceeded to answer "N/A" in response to question 37, which requested specific details regarding marriages. He also answered "N/A" in response to question 41, which stated, "If single, list the name of at least one of the most recent dating partners/intimate relationships (Not applicable if more than seven (7) years ago)." In support, it submitted excerpts from the appellant's preemployment application.

On appeal to the Civil Service Commission (Commission), the appellant maintains that to his knowledge, he answered the above-noted questions truthfully.

DPF-439 * Revised 7/95

.

¹ The eligible list was extended one year to March 30, 2020.

He states that he is not legally married and honestly thought at the time that "spouse" meant girlfriend or partner rather than the person to whom one is married. The appellant explains that he answered "N/A" in response to question 37 because he is not, and has never been, married. He states that he answered "N/A" in response to question 41 because he does not consider himself to be single as he has been with his current partner since September 2008. The appellant also notes that upon researching the words he chose to use, he now understands why the appointing authority believed that he answered the questions incorrectly.

2

In response, the appointing authority submits the above-described excerpts from the appellant's preemployment application.

In response to a request for additional information, the appointing authority provided a complete copy of the appellant's preemployment application. It is noted that in answering question 80b, "Have you, your spouse, ever possessed a professional or occupational license, permit or certification?" the appellant noted his current partner's name, referring to her as his "spouse."

CONCLUSION

Initially, the Commission finds no basis that the appellant failed to complete preemployment processing. Generally, a failure to complete preemployment processing occurs when a candidate does not complete the preemployment application at all, completes only a part of the preemployment application, does not provide requested documentation, or does not complete some part of the hiring process. See, e.g., In the Matter of Troy Jones (CSC, decided October 18, 2017) (failure to provide requested documentation); In the Matter of Sasha Ortiz (CSC, decided November 23, 2016) (failure to complete the first phase of the hiring process); In the Matter of James Smith (MSB, decided April 24, 2001) (failure to provide an updated preemployment application).2 However, there is no evidence in the record as to what part of the preemployment process the appellant failed to Rather, the appointing authority apparently determined that the appellant's answers to specific questions on his preemployment application omitted material information. Such a case is better characterized as a matter of asserted falsification of the preemployment application. See, e.g., In the Matter of Muhammad Hameen, County Correction Officer (S9999U), Camden County (CSC) decided January 16, 2019) (omission of a charge of violating a municipal ordinance); In the Matter of Michael Woods, Fire Fighter (M1544T), Jersey City (CSC, decided August 1, 2018), aff'd on reconsideration (CSC, decided December 19, 2018) (omission of a previous residence); In the Matter of Alphonso Davis, Sheriff's Officer (S9999R), Union County Sheriff (CSC, decided November 15, 2017) (omission of motor vehicle summonses). Here, there is no dispute that the appellant actually

² This is not intended to be an exhaustive list of reasons to find that a failure to complete preemployment has occurred. Such a finding will depend upon the specific facts of a case.

submitted a preemployment application to the appointing authority, but on its review, the appointing authority determined that the appellant omitted material information in answering particular questions on the submitted application. As such, the Commission will proceed to review this matter as a case of asserted falsification of the preemployment application.

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 eligible list when he 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 name from an eligible list was in error.

In this matter, the appointing authority requested the removal of the appellant's name from the subject eligible list for failing to disclose marriagerelated information on his preemployment application after having indicated that he had a "spouse." In In the Matter of Nicholas D'Alessio, Docket No. A-3901-01T3 (App. Div. September 2, 2003), in falsification cases, the court 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. The appellant indicates that he honestly thought at the time of preparing his preemployment application that "spouse" meant girlfriend or The appointing authority does not take issue with the appellant's Further, there is no evidence in the record that the indication to that effect. appellant is, or has ever been, married. As such, the Commission will accept, in this particular case, that the appellant thought the term "spouse" to mean girlfriend or partner at the time he prepared his preemployment application. understanding, it was not falsification for the appellant to have written "N/A" in response to question 37, which requested marriage-related information. addition, the appellant did not falsify question 41 by answering "N/A." In this regard, the appellant notes that he has been in a long-term relationship with his current partner since September 2008. However, question 41 directed candidates to "list the name of at least one of the most recent dating partners/intimate relationships" if single. Given the appellant's long-term relationship, he reasonably considered himself not to be single and his answer of "N/A" was as a result not inappropriate. That the appellant in fact disclosed his partner's name in response to question 80b is only further evidence that the appellant did not falsify his preemployment application. Based on the foregoing, the Commission finds that the appellant did not make a false statement of a material fact or attempt any deception or fraud. Accordingly, the appellant has met his burden of proof in this matter and the appointing authority has not shown sufficient justification for removing his name from the subject eligible list.

ORDER

Therefore, it is ordered that Angel Roman's disposition on the January 30, 2018 certification be recorded as falsification of the preemployment application.

It is further ordered that Roman's name be restored to the eligible list for Police Officer (S9999U), Plainfield 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 24^{TH} DAY OF APRIL, 2019

Derdre' L. Webster Calib

Deirdré L. Webster Cobb

Chairperson

Civil Service Commission

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

c. Angel Roman Carlos N. Sanchez Kelly Glenn