



STATE OF NEW JERSEY

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

In the Matters of Anthony Autieri,
County Correction Officer (S9999U),
Passaic County Sheriff and Police
Officer (S9999U), Paterson

List Removal Appeals

CSC Docket Nos. 2019-968 and
2018-2812

ISSUED: AUGUST 2, 2019 (HS)

Anthony Autieri, represented by Daniel J. Zirrieth, Esq., appeals the removal of his name from the eligible lists for County Correction Officer (S9999U), Passaic County Sheriff and Police Officer (S9999U), Paterson on the basis that he falsified his preemployment applications. These appeals have been consolidated herein.

County Correction Officer (S9999U), Passaic County Sheriff

The appellant, a non-veteran, took and passed the open-competitive examination for County Correction 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 Passaic County Sheriff on February 22, 2018. In disposing of the certification, the Passaic County Sheriff requested the removal of the appellant’s name due to the falsification of his preemployment application. Specifically, the Passaic County Sheriff asserted that in response to question 22b, “Have you previously submitted an application with this or any other Law Enforcement Organization?”² the appellant failed to disclose that he had submitted an employment application with the Paterson Police Department in 2017.³ The Passaic County Sheriff also asserted

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

² The question also called for the following details: “Where,” “When” and “Present Status.”

³ It is noted that in response to question 22c, “Have you taken other examinations for employment with any other Law Enforcement organization?” the appellant indicated “Paterson Police Dept” on “6/17” with a present status of “Pending Appeal.” Agency records indicate that the appellant was certified to Paterson twice from the eligible list for Police Officer (S9999U), Paterson on April 4, 2017

that in response to question 41c, “Have you ever received a summons for a violation of the Motor Vehicle Laws in this or any other State? (exclude parking violations),” the appellant disclosed three of his violations but failed to disclose two violations for failure to wear a seat belt on May 31, 2007.

On appeal to the Civil Service Commission (Commission), the appellant disputes the Passaic County Sheriff’s decision.

In response, the Passaic County Sheriff reiterates the above-described reasons for its decision. In support, it submits the appellant’s certified driver abstract and portions of his preemployment application.⁴

Police Officer (S9999U), Paterson

The appellant also 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, 2020.⁵ The appellant’s name was certified to Paterson on August 21, 2017. In disposing of the certification, Paterson requested the removal of the appellant’s name due to the falsification of his preemployment application.

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 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 the Passaic County Sheriff matter, the Passaic County Sheriff maintains that the appellant did not disclose on his preemployment application a previously submitted application to the Paterson Police Department and two violations for failure to wear a seat belt on May 31, 2007. In support, the Passaic County Sheriff provides portions of the appellant’s preemployment application and his certified

(OL170408) and August 21, 2017 (OL170996), respectively. In disposing of certification OL170408, Paterson requested that the appellant’s name be retained. In disposing of certification OL170996, Paterson requested that the appellant’s name be removed due to the falsification of his preemployment application.

⁴ It is noted that the appellant was advised that he had 10 calendar days from October 25, 2018 to submit any arguments in reply. Though the appellant did submit a reply, it was dated and postmarked March 29, 2019, over five months after the record had closed. As such, the Commission is not considering the reply in deciding this matter.

⁵ The eligible list was extended one year to March 30, 2020.

driver abstract. In addition, agency records indicate that the appellant was considered for appointment as a Police Officer in Paterson on *two* occasions. However, the appellant apparently only referenced one of these occasions, in his response to question 22c. Thus, it is clear that the appellant failed to disclose one of his previous applications with a “Law Enforcement Organization” and two motor vehicle violations. It must be emphasized that it is incumbent upon an applicant, particularly an applicant for a sensitive position such as a County Correction Officer, to ensure that his preemployment application is a complete and accurate depiction of his history. In this regard, 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 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. An applicant must be held accountable for the accuracy of the information submitted on an application for employment and risks omitting or forgetting any information at his peril. *See In the Matter of Curtis D. Brown* (MSB, decided September 5, 1991) (An honest mistake is not an allowable excuse for omitting relevant information from an application).

Here, the appellant’s omissions are sufficient cause to remove his name from the County Correction Officer eligible list. The preemployment application clearly instructed applicants to disclose the information. The types of omission presented are significant and cannot be condoned as such information is crucial in an appointing authority’s assessment of a candidate’s suitability for the position. Indeed, an appointing authority’s assessment of a prospective employee could be influenced by such information, especially for a position in law enforcement. In this regard, the Passaic County Sheriff, at minimum, needed to understand the outcomes of the appellant’s applications for law enforcement positions so that it could have a complete understanding of his background in order to make an informed determination regarding his employment as a law enforcement officer. Further, motor vehicle infractions may reflect a disregard for the law, may be incompatible with the duties of a law enforcement officer and may justify the removal of a candidate from an eligible list for a law enforcement title. *See e.g., In the Matter of Pedro Rosado v. City of Newark*, Docket No. A-4129-01T1 (App. Div. June 6, 2003). Therefore, the information noted above, which the appellant failed to disclose, is considered material and should have been accurately indicated on his application. The appellant’s failure to disclose the information is indicative of his questionable judgment. Such qualities are unacceptable for an individual seeking a position as a County Correction Officer. In this regard, the Commission notes that a County Correction Officer is a law enforcement employee who must help keep order in the prisons and promote adherence to the law. County 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 the

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). *See also In re Phillips*, 117 N.J. 567 (1990). The public expects prison guards to present a personal background that exhibits respect for the law and rules. Accordingly, there is a sufficient basis to remove the appellant's name from the County Correction Officer eligible list.

Turning to the Paterson matter, it should be noted that *N.J.A.C.* 4A:4-4.7(g) provides that when this agency has accepted a single application for one or more title areas, pursuant to *N.J.A.C.* 4A:4-2.3(c), an eligible whose name has been removed from the pool of eligibles for one jurisdiction or title area for cause shall be removed from the pool of eligibles for any other jurisdiction or title area. As discussed above, the Commission is upholding the removal of the appellant's name from the County Correction Officer list for cause, *i.e.*, falsification of the preemployment application. Since County Correction Officer is a title area included for the unified Law Enforcement Series (S9999U) examination, the appellant's name was removed from the pool of eligibles for the other title areas, including police officer. As such, the appellant's appeal in the Paterson matter is moot as his name cannot be restored to the Police Officer list in light of this decision.

ORDER

Therefore, it is ordered that these appeals be denied.

This is the final administrative determination in these matters. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 31ST DAY OF JULY, 2019



Deirdre 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. Anthony Autieri (2019-968 and 2018-2812)
Daniel J. Zirrith, Esq.
Richard H. Berdnik
Vaughn McKoy
Captain Michael A. Campanello
Kelly Glenn