



STATE OF NEW JERSEY

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

In the Matter of Cindy Castillo,
Sheriff's Officer (S9999U), Hudson
County

List Removal Appeal

CSC Docket No. 2019-2121

ISSUED: JANUARY 30, 2020 (ABR)

Cindy Castillo, represented by Catherine Elston, Esq., appeals the removal of her name from the Sheriff's Officer (S9999U), Hudson County eligible list on the basis of a falsified application.

The appellant, a non-veteran, applied for and passed the examination for Sheriff's Officer (S9999U), Hudson County which had a closing date of August 31, 2016. The subsequent eligible list promulgated on March 29, 2017 and expires on March 30, 2020. The appellant's name was certified to the appointing authority on June 11, 2018.

In disposing of the certification, the appointing authority requested the removal of the appellant's name due to a falsified application. In this regard, it maintained that the appellant failed to list I.B., her stepdaughter,¹ in response to Question 16, which directed her, in relevant part, to list "every child with whom [she] ever cohabited as a caretaker, and every child over whom [she] exercised legal responsibility." It asserted that the appellant should have listed I.B. because she claimed I.B. as a dependent on her 2017 federal income tax return. The appointing authority also considered the 2017 return to be evidence of fraud by the appellant. Specifically, the appointing authority suggested that the appellant either committed tax fraud by claiming I.B. as a dependent on her 2017 return when she did not reside with the appellant for the full year or that she committed fraud with respect to her Section 8 housing assistance by failing to notify the public housing agency

¹ The appellant states on appeal that I.B. is the child of her boyfriend.

administering the program that I.B. has moved into her apartment. The appointing authority also asserted that the appellant fraudulently deducted \$4,000 for education expenses paid to the University of Phoenix on her 2016 and 2017 federal income tax returns, as she told its background investigator that she only enrolled in that institution and had not signed up for any classes.

The appointing authority also averred that the appellant failed to provide all required information related to her personal information, education, driving record, family members' occupations, employment, receipt of public assistance, licenses, motor vehicles she operated, and financial history. In particular, the appointing authority indicated that she did not list her full middle name in response to Question 1, as required.² With regard to her education, the appointing authority indicated that the appellant provided contradictory dates for when she left North Bergen High School, writing in response to Question 22 that she left it in June 2009, while in response to Question 25 that she left in October 2009.³ The appointing authority further maintained that the appellant failed to disclose her involvement in accidents in February 2011 and March 2013 in response to Question 75, which instructed her to list "all motor vehicle accidents [she] had in the 'Details' section" of the application. In addition, the appointing authority stated that she failed to list a July 30, 2011 infraction for failing to wear a seatbelt⁴ and six parking violations in response to Question 76, which directed her to list "any summonses served upon [her] or any vehicle owned or operated by [her] by a law enforcement officer, court or other authority for violation of traffic laws, parking enforcement, or any other criminal law." Furthermore, the appointing authority indicated that the appellant failed to provide a detailed explanation, as required, after circling "[y]es*"⁵ in response to both Question 38, which asked if she had "ever collected public assistance money, welfare, etc." and Question 100, which asked if she had ever been denied credit. As to family members' occupations, the appointing authority stated that the appellant wrote "employee" or "self-employed" for every family member she listed, including her parents and three brothers, rather than writing their actual occupations, as required.⁶ With regard to employment information, the appointing authority claimed that the appellant, in response to Question 36a, failed to provide the number of hours she worked per week for Y

² A review of the appellant's pre-employment application indicates that the appellant submitted multiple forms of identification with her preemployment application, including a birth certificate, Social Security card, naturalization certificate and passport.

³ During her home interview, the appellant told the appointing authority that she left North Bergen High School in October 2009.

⁴ It is noted that the appellant's accidents and her July 2011 infraction for failing to wear a seatbelt were noted in the Certified Driver's Abstract that she submitted to the appointing authority with her pre-employment application.

⁵ The instructions to the pre-employment application stated that for a question with an asterisk by the yes or no reply, candidates needed to "use the 'Details' section at the end of the Candidate's Personal History Statement provided for this purpose."

⁶ The appointing authority noted that the appellant's father resided in the apartment above her.

Castillo PC in 2018; listed the months she worked for McDonald's but not the year(s); provided the address of the office for the McDonald's franchisee for whom she worked, rather than the address of the restaurant she worked at; and did not specify the month she ended her employment with Joey's Beauty Salon in 2010. The appointing authority also averred that the appellant failed to state that she possessed a hair cosmetology license in response to Question 81, which asked if she was "currently licensed for any purpose such as, but not limited to, Hack/Limo (owner/operator), State Liquor/Gaming Authority, Nursing, Pilot (private/commercial)[,] etc."; and that, in response to Question 79, she did not provide required information for a vehicle she operated which was owned by her landlord.

The appointing authority also asserted that the appellant failed to note three school loans and one automobile loan in her application and did not list seven accounts that were past due. Moreover, the appointing authority maintained that the appellant did not properly manage her finances, as she spent money on restaurants and "other frivolous" expenses, despite having a number of bills which were significantly overdue. The appointing authority further asserted that the totality of the record also demonstrated that the appellant possessed an unsatisfactory background.

On appeal to the Civil Service Commission (Commission), the appellant submits a certification in which she explains that she did not name I.B. in response to Question 16 because I.B. was neither a "child [she] cohabited with as a caretaker" nor someone over whom she had legal responsibility. With regard to her federal income tax returns, the appellant states that she claimed I.B. as a dependent on her 2017 return based upon the advice of her accountant and with her boyfriend's consent, as she spent money on I.B. during that year and her boyfriend did not claim I.B. as a dependent on his income tax return. However, she indicates that because I.B. did not reside with her for any part of 2017, she has since amended her 2017 federal income tax return to remove the claiming of I.B. as a dependent. With regard to the appointing authority's claim that she fraudulently deducted \$4,000 in educational expenses on her 2016 and 2017 tax returns, she maintains that her accounting firm erroneously entered educational expenses from another client's file into both her 2016 and 2017 federal income tax returns and that she has since amended those returns to correct the error. The appellant submits a letter from her accounting firm in support.

As to the other items noted by the appointing authority, the appellant also states in her certification that she wrote her middle initial rather than her full middle name because she intended to convey to the appointing authority that she does not use her full middle name in her signature. Concerning her education, the appellant states that she left North Bergen High School in October 2018 to go home to the Dominican Republic, returned to North Bergen High School in February 2009

and left again in June 2009. She acknowledges that she listed the wrong date in her application. However, she notes that she submitted her attendance records from North Bergen High School with her pre-employment application. The appellant states that she did not recall her seatbelt violation, as it occurred approximately seven years before she completed her pre-employment application. She also asserts that she attempted to add this information to her pre-employment application approximately one week after submitting it, but was told that it was too late for her. As to the parking tickets cited by the appointing authority, the appellant states that she was unaware of them, as her boyfriend sometimes received tickets while using her car and paid them off without telling her. The appellant explains that she did not provide further information about collecting public benefits in response to Question 38 or about being refused credit in response to Question 100 because she mistakenly believed that the question only required a “yes” or “no” response without further detail.

As to the omission of her father’s employment, she states that she did not know what his job was because he frequently changes jobs and they do not regularly communicate because they have a strained relationship. She states that she did not include the number of hours she worked per week with Y Castillo PC because it varied. She indicates that she did not specify the month in 2010 she ended her employment at Joey’s Beauty Salon because she could not recall it. The appellant submits that she did not state that she possesses a cosmetology license in response to Question 81 in the pre-employment application because she did not believe that it was the type of license that the appointing authority was asking for. However, she notes that she provided a copy of it with her application. As to Question 79, the appellant acknowledges that she sometimes used a vehicle belonging to her landlord whom she worked for, which she noted, but she did not have the license number to write it down. With respect to the address she listed for McDonald’s, she states that she mistakenly believed that the appointing authority wanted the address of the offices for the McDonald’s franchisee that employed her rather than the address for the location where she worked. Lastly, with regard to her finances, the appellant avers that she submitted a credit report that listed all of the required information with her pre-employment application.

In response, the appointing authority submits a copy of its background report with supporting documentation, including the appellant’s Certified Driver’s Abstract, a ticket inquiry record from the New Jersey Automated Traffic System and her 2017 federal income tax return.

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 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:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows the Commission to remove an eligible's name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for appointment.

In the instant matter, the record fails to support the removal of the appellant's name from the subject eligible list. Initially, the issues the appointing authority cites with respect to the appellant's federal income tax returns and her failure to list I.B. in response to Question 16 in the pre-employment application do not demonstrate falsification. The Commission observes that the appellant's statements in her application and on appeal about these issues are consistent: I.B. was not a child "with whom [the appellant] ever cohabited as a caretaker" or had legal responsibility for, and the appellant did not attend college. The appellant has explained that the decision to claim I.B. as a dependent on her 2017 federal income tax return was based upon erroneous advice from her accountant and that her accountant erroneously entered educational expenses from another client's file into both her 2016 and 2017 federal income tax returns. Additionally, the appellant certifies that she has amended her federal income tax returns for both 2016 and 2017 to correct for these errors and she provides a letter confirming the error and subsequent filing of amended returns from her accountant. As such, the foregoing items do not demonstrate that the appellant falsified her application.

Furthermore, the Commission finds that the issues the appointing authority raises with respect to the appellant's 2016 and 2017 federal income tax returns do not support the removal of her name from the subject eligible list on the basis of an unsatisfactory background. The appointing authority asserts that the above-noted inaccuracies on the appellant's federal income tax returns demonstrate that she committed tax fraud and possesses an unsatisfactory background. However, the appellant maintains that the mistakes on her 2016 and 2017 tax returns were attributable to a good faith reliance on her accountant, provides a letter from her accountant explaining these errors and submits amended tax returns. The appointing authority has not provided any arguments in response to these claims. Furthermore, the record does not evidence that the appellant has been investigated for, charged with or convicted of any offense related to tax fraud. Accordingly, the Commission is unable to conclude that the appellant possesses an unsatisfactory background based upon the foregoing issues with her 2016 and 2017 tax returns.

Moreover, the record does not demonstrate that the remaining issues cited by the appointing authority support the removal of the appellant's name from the subject eligible list on the basis of a falsified application or an unsatisfactory background. The appellant's decision to write her middle initial, rather than her full middle name, in response to Question 1, while ill-advised, is not sufficiently

material to justify the removal of her name from the subject eligible list. Moreover, it appears that the appellant provided her middle name to the appointing authority through her submission of multiple identification documents with her pre-employment application, including her birth certificate, Social Security card, naturalization certificate and passport. The Commission also finds that the appellant adequately explained that she provided two different dates for when she left North Bergen High School because she initially left for the Dominican Republic in October 2008 and thereafter returned to North Bergen High School for a period before finally leaving again in June 2009. Further, although the Commission recognizes that the appellant incorrectly stated during pre-employment processing that she first left North Bergen High School for the Dominican Republic in October 2009, the attendance records she submitted with her application conveyed the requisite information to the appointing authority. Concerning the appellant's failure to list several accidents and her July 30, 2011 infraction for failing to wear a seatbelt, the Commission finds that the appellant satisfied her disclosure obligation by providing the appointing authority with a Certified Driver's Abstract containing this information. As to the parking violations, because Question 76 refers to "summonses," if a candidate received tickets for driving or parking violations that did not require court appearances, the Commission is unable to conclude that the candidate was required to list those infractions in his or her pre-employment application. Here, since the information furnished by the appointing authority does not make it clear that the appellant was compelled to appear in court for any of the parking infractions at issue, the Commission is unable to conclude that her failure to list them in response to Question 76 constituted falsification. The Commission further finds that the appellant's answer of "yes*" without further detail in response to Question 38 because she had received public benefits and in response to Question 100 because she had been denied credit, was sufficient, as these prompts did not specify what additional information the appointing authority sought. Rather, the instructions merely stated:

Where sufficient space for a complete and accurate answer has **NOT** been provided or the question requires additional information, this particular question may have an asterisk (*) by the yes or no reply. Candidates are to use the "Details" section at the end of the Candidate's Personal History Statement provided for this purpose.

Moreover, the Commission finds that the appellant's failure to list family members' occupations in response to Question 17a, the number of hours she worked per week with Y Castillo PC and the month she ended her employment with Joey's Beauty Salon in 2010 in response to Question 36a, the license plate of a vehicle she occasionally used but did not own in response to Question 79, and her hair cosmetology license in response to Question 81 are not material omissions that warrant the removal of her name from the subject eligible list on the basis of a falsified application. As to her listing the months she worked for McDonald's

without providing the year(s) in her pre-employment application, the Commission notes that the record indicates that the appellant provided a Social Security Work History with her pre-employment application which shows that she received wages from there in 2011 and 2012. Concerning the address the appellant listed for McDonald's, the Commission finds that it was reasonable to state the address of the offices for the McDonald's franchisee.

With regard to the appellant's finances, the appointing authority asserts that the appellant failed to list three school loans and one automobile loan in her pre-employment application and did not state therein that she had seven accounts which were past due. It also maintains that the appellant did not properly manage her finances. The appellant has indicated that she submitted a credit report with her pre-employment application which details all of this information. The Commission finds no basis to conclude that she falsified her application, as the credit report she furnished with her pre-employment application give the appointing authority the requisite information. Finally, the Commission finds that the appellant's management of her finances does not support her removal. In this regard, a candidate's negative credit history, in and of itself, is not a sufficient basis upon which to remove that candidate's name from an eligible list. *See In the Matter of Alana Farrow* (MSB decided October 1, 2003); *In the Matter of Danielle Bonassisa* (MSB, decided August 12, 2003); *In the Matter of Christopher Starkey* (MSB, decided July 17, 2002).

ORDER

Therefore, it is ordered that this appeal be granted that the appellant's name be restored to the Sheriff's Officer (S9999U), Hudson County 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 29TH DAY OF JANUARY, 2020



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