



STATE OF NEW JERSEY

In the Matter of Frederick Taylor,
Social Worker 2, Corrections
(S0593S), Albert C. Wagner Youth
Correctional Facility

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2020-960

List Removal Appeal

ISSUED: JANUARY 31, 2020 (SLK)

Frederick Taylor appeals his removal from the eligible list for Social Worker 2, Corrections (S0593S), Albert C. Wagner Youth Correctional Facility for failing to respond to the certification notice.

By way of background, on December 8, 2017, a notice was sent to the appellant indicating that his name had been certified to the Department of Corrections from the Social Worker 2, Corrections (S0593S), Statewide list on certification OS170747. However, he failed to respond to the certification notice. Further, the subject list expired on December 17, 2017. On appeal, the appellant submitted an unsworn notarized statement indicating that he never received the notice for OS170747. In *In the Matter of Frederick Taylor* (CSC, decided September 20, 2018), the Civil Service Commission (Commission) granted his appeal and ordered that the list for Social Worker 2, Corrections (S0593S), Statewide be revived in order for the appellant to be considered for appointment at the time of the next certification for prospective employment opportunities only.¹ Thereafter, certification OS190220 for a position with the Albert C. Wagner Youth Correctional Facility (ACWYCF) was issued on April 17, 2019. The appellant's name was the only name on that certification and the certification notice was sent to him on or about April 24, 2019. However, ACWYCF returned certification OS190220 on September 3, 2019, removing his name from the

¹ Although the appellant's statement was only notarized and not sworn as required to prove that he did not receive the certification notice, this agency's records indicated that the notice was returned as non-deliverable to the certification unit. As such, there was sufficient other evidence that he did not receive the notice.

list for not responding to the certification notice and the appellant received notice of his removal on or around September 12, 2019. On appeal, the appellant again claimed that he never received the certification notice. In response, this agency sent him a November 25, 2019 letter stating:

Initially, the appellant must submit an affidavit, *i.e.*, a signed, sworn statement in the presence of an attorney or notary public, attesting to the claims made on appeal. A notary public must indicate the following on the appellant's sworn statement: "**Subscribed and sworn before me on (month day), (year) by (appellant's name).**" Please submit this documentation to the above noted address and copy the appointing authority no later than the close of business on December 16, 2019...If we do not receive any arguments or response from the parties by January 6, 2020, the record will be closed, and the Civil Service Commission will review the matter on the existing record.

Thereafter, as this agency did not receive a response from the appellant, in a January 8, 2020 letter, it informed him that the matter was closed. Subsequently, he contacted this agency and explained that he misread the November 25, 2019 letter, which is why he did not timely submit the requested sworn statement. This agency advised the appellant that he could submit a sworn statement as originally instructed and the matter would be presented to the Commission for review and a decision. Additionally, this agency advised him that the sworn statement should explain both why he did not submit the requested statement timely as well as explain why he did not respond to the certification OS190220 notice. In response, the appellant submitted a letter explaining why he did not timely submit the requested sworn statement by stating, "it was an oversight for my not honoring the initial deadline." Concerning the appeal of his removal, he submitted an unsworn notarized statement indicating:

I am requesting to be reinstated to the position of Social Worker 2 ([S]0593S), Certification OS190220. Your assistance in giving favorable consideration in order to be eligible for future opportunities is appreciated. Thank you in advance.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)6 provides that an eligible's name may be removed from a list for non-compliance with the instructions listed on the notice of certification. *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, even if the Commission accepts the appellant's explanation as to why he did not timely submit the requested sworn statement, he still has not provided the requested sworn statement. While the appellant's initial appeal letter states that he never received certification OS190220, a review of his unsworn notarized statement² does not indicate the reason as to why he did not respond to the certification notice. When a statement is notarized, but not sworn, this simply means that the notary is verifying the identity of the person signing the letter or statement. An unsworn notarized letter is not sufficient to overcome the presumption that a properly addressed and mailed letter was received. *See In the Matter of Dennis Bollhardt, Maintenance Repairer (Special Reemployment), Bergen County (CSC, decided July 30, 2014)*. Similarly, as the appellant did not provide the explanation as to why he did not respond to the certification notice in his unsworn notarized statement, his explanation that was only in his appeal letter is not sufficient to overcome the presumption that a properly addressed and mailed letter was received.³

Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the Social Worker 2, Corrections (S0593S), Wagner Youth Correctional Facility eligible list.

ORDER

Therefore, it is ordered that this appeal be denied.

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



Dolores Gorczyca
Commission Member
Civil Service Commission

² It is noted that the notary did not indicate that the appellant's statement was, "Subscribed and sworn" before the notary and the statement was not dated.

³ The Commission also finds it curious that the appellant apparently received his notice of removal from both the OS170747 and OS190220 certifications as he timely appealed those notices, yet he did not receive the certification notice for the current matter. In this regard, both sets of notices are sent by the Division of Agency Services and, in this case, were all sent to the same address.

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