



**STATE OF NEW JERSEY**

In the Matter of Eric Logan, Jr.,	:	<b>FINAL ADMINISTRATIVE ACTION</b>
Correctional Police Officer (S9988A),	:	<b>OF THE</b>
Department of Corrections	:	<b>CIVIL SERVICE COMMISSION</b>
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	:	
CSC Docket No. 2020-2470	:	
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	:	List Removal Appeal
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**ISSUED: SEPTEMBER 18, 2020 (SLK)**

Eric Logan, Jr., appeals the decision to remove his name from the Correctional Police Officer (S9988A), Department of Corrections, eligible list on the basis of falsification of his application.

The appellant took the open competitive examination for Correctional Police Officer (S9988A), which had an January 31, 2019 closing date, achieved a passing score, and was ranked on the subsequent eligible list. In seeking his removal, the appointing authority indicated that the appellant falsified his application. Specifically, it indicated that on July 10, 2016, a complaint was issued to the appellant charging him with 2C:33-2A – Disorderly Conduct by Improper Behavior, a petty disorderly persons offense. After a Juvenile Conference Committee (JCC) proceeding, the JCC imposed a six-month period where the appellant was not to drink and/or use drugs after which the charge was dismissed.

On appeal, the appellant states that he was never issued or charged with 2C:33-2A, a disorderly persons offense. He asserts that he has never been before the JCC and was never imposed a six-month period where he could not drink and/or use drugs. The appellant states that at the time of the alleged incident, he was a 24-year old man; however, the appointing authority is stating that he was a juvenile at the time and the matter was referred to the JCC.

In response, the appointing authority indicates that there was a typo and the complaint in question was issued on July 10, 2008 and not in 2016 as initially stated. It

submits a document from the Family Automated Case Tracking System that shows that the appellant was involved in an incident that took place on June 18, 2008, and that he was issued a charge on July 10, 2008 for 2C:33-2A, Disorderly Conduct by Improper Conduct. Further, the document indicates that the appellant was not to drink or do drugs for six months and the charge was dismissed on February 25, 2009. The appointing authority submits the appellant's application to show that he failed to disclose this information. Additionally, it presents that failure to disclose all information meets its criteria for removal.

In reply, the appellant presents that in response to question 28 on the application, where he was asked to indicate if there were any problems in school, he indicated that there was a fighting incident during the 2007/2008 year. He states that this incident was for the complaint in question that the appointing authority is claiming that he failed to disclose in its response.

### 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.

The primary inquiry regarding the removal of a candidate's name based on the falsification of his or her employment application 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. *See In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003).

Initially, it is noted that it is the Commission and not the appointing authority that sets the standard for removal from an eligible list. *See In the Matter of Joseph Hutsebaut* (CSC, decided April 19, 2017) and the Commission is in no way bound by any criteria it may utilize. *See In the Matter of Debra Dygon* (MSB, decided May 23, 2000).

In this matter, the appointing authority did not have a valid reason for removing the appellant's name from the list. The appointing authority claims, in its clarification in response to the appeal, that the appellant failed to disclose a juvenile disorderly persons offense in 2008. However, in reply, the appellant highlights that he disclosed this incident as he indicated on his application that he was involved in a fighting incident while attending high school and this incident was the basis for the

juvenile disorderly offense in question. While the appellant may not have fully disclosed all the details related to this offense, it is not uncommon for a juvenile to not fully understand the entire process concerning juvenile delinquency proceedings. Therefore, the Commission finds that the appellant sufficiently disclosed this incident. Moreover, to the extent that the appellant did not disclose all the details concerning this incident, the Commission finds that this incident is not material to the position sought as the incident was a relatively minor incident as evidenced by the penalty, which was only that the appellant was to refrain from drinking and using drugs for a six-month period, the charge was dismissed after the six-month period, the appellant was only 15 at the time of the incident, and the incident was more than 10 years prior to the January 31, 2019 closing date. Under these circumstances, the appellant's name should be restored to the subject list for prospective employment opportunities only.

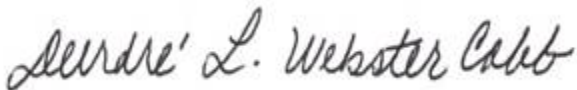
Accordingly, the appellant has met his burden of proof in this matter and the appointing authority has not shown sufficient cause for removing his name from the Correctional Police Officer (S9988A), Department of Corrections, eligible list.

### **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 DAY 16<sup>th</sup> OF SEPTEMBER, 2020



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