



STATE OF NEW JERSEY

In the Matter of Nicholas Bellucci,
Sheriff's Officer (S9999R), Essex
County Sheriff's Office

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

CSC Docket No. 2021-466

List Removal Appeal

ISSUED: JANUARY 22, 2021 (SLK)

Nicholas Bellucci, represented by Jennifer Meyer-Mahoney, Esq., appeals the decision to remove his name from the Sheriff's Officer (S9999R), Essex County Sheriff's Office eligible list on the basis that he had failed to respond to the subject certification notice.

The appellant took the open competitive examination for Sheriff's Officer (S9999R), Essex County Sheriff's Office, which had a September 4, 2013 closing date, achieved a passing score, and was ranked on the subsequent eligible list. The list expired on March 22, 2017. The appointing authority initially sought to remove his name on certification OL161164 for an unsatisfactory background. Thereafter, *In the Matter of Nicholas Bellucci* (CSC, decided October 4, 2017), the Commission granted his appeal and ordered that the list be revived in order for the appellant to be considered for appointment at the time of the next certification for perspective employment only. Subsequently, certification OL180706 was issued containing the appellant's name. The certification notice was sent to the appellant on or around July 17, 2018. Thereafter, the appointing authority returned the disposition of the certification indicating that the appellant never responded to the certification notice. Consequently, on or around March 22, 2019, a notice was sent to the appellant informing him that his name was removed from the list for failing to respond to the certification notice.

On appeal, the appellant submits a notarized sworn statement indicating that he contacted this agency in October 2020 as he had not received anything from the appointing authority or this agency since he won his appeal. He presents that this agency's certification unit advised him that he should have received notice in July 2018 that his name was certified, and he should have received notice in March 2019 that his name was removed from the list for failing to respond to the certification notice. The appellant certifies that this conversation was the first time he learned of these notices. He indicates that he uses his parent's address for his mailing address, which is the address that is on file with this agency, to ensure that he does not miss anything. Further, he explains that his parents are familiar with the notices from this agency as they have received a number of notices from this agency for various examinations. However, his parents never received these notices. He also submits notarized sworn statements from his parents who reiterate the appellant's statements.

Although given the opportunity, the appointing authority failed to respond.

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 the appellant's name from an eligible list was in error.

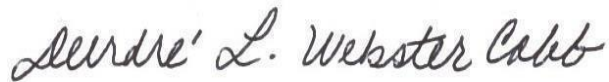
In the instant matter, the appellant submits notarized sworn statements from himself and his parents that indicate that he never received notice for certification OL180706 in July 2018 nor did he receive the notice in March 2019 indicating that his name was removed from the list. Further, the appellant indicates that he first learned about these notices in October 2020 after he spoke to this agency's certification unit. While there is a presumption that mail correctly addressed, stamped and mailed was received by the party to whom it was addressed, the appellant has rebutted that presumption in submitting notarized statements from himself and his parents in this matter. *See SSI Medical Services, Inc. v. State Department of Human Services*, 146 *N.J.* 614 (1996); *Szczesny v. Vasquez*, 71 *N.J. Super.* 347, 354 (App. Div. 1962); *In the Matter of Joseph Bahun*, Docket No. A-1132-00T5F (App. Div. May 21, 2001). Therefore, the Commission finds that the appellant's name shall be restored to the Sheriff's Officer (S9999R), Essex County Sheriff's Office eligible list for prospective employment opportunities

ORDER

Therefore, it is ordered that this appeal be granted and the list for Sheriff's Officer (S9999R), Essex County be revived in order for the appellant to be considered for appointment at the time of the next certification 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 20^H DAY OF JANUARY 2021



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