



STATE OF NEW JERSEY

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

In the Matter of Justin Nelson,
Correctional Police Officer (S9988A),
Department of Corrections

List Removal Appeal

CSC Docket No. 2020-2036

**ISSUED: FEBRUARY 23, 2021
(ABR)**

Justin Nelson appeals the removal of his name from the Correctional Police Officer (S9988A), Department of Corrections eligible list.

The appellant, a non-veteran, applied for and passed the examination for Correctional Police Officer (S9988A), which had a closing date of January 31, 2019. The subject eligible list promulgated on June 27, 2019 and expires on June 26, 2021.

The appellant’s name was subsequently certified to the appointing authority. The appointing authority removed the appellant’s name from the subject eligible list on the basis of a falsified application, as it asserted that he did not provide accurate answers to questions regarding his military service. Specifically, the appointing authority noted that the appellant answered “n/a” in response to Question 11 in his pre-employment application, which asked if he had “ever been in the military,” and Question 15, which asked “how many periods of active military service [he] had (includ[ing] drafts, enlistments, or recalls to active service).” The appointing authority asserted that these answers and his failure to disclose in response to Question 27 that he had “[o]ther formal training,” which included “Police Academy or Military,” were inconsistent with his response to Question 33, wherein he stated that he was then serving in the United States Army Reserve as a 92-Y Supply Specialist. Moreover, the appointing authority stated that the appellant failed to provide military records that it requested from him during pre-employment processing, namely Form DD-214, a Certificate of Release or Discharge from Active Duty.

On appeal to the Civil Service Commission (Commission), the appellant states that he answered “n/a” in responses to Questions 11, 15 and 27 and did not submit a

copy of Form DD-214 because he did not realize that his initial United States Army Reserve training was considered active military service or formal training for purposes of the pre-employment application and he was still serving with the United States Army Reserve when he submitted his pre-employment application. He argues that it was wrong for the appointing authority to accuse him of willfully falsifying his application when he merely misunderstood these questions. In addition, he submits a copy of the Form DD-214 that was issued upon his completion of active duty training in October 2017.

In response, the appointing authority argues that it properly removed the appellant's name from the subject eligible list based upon his failure to disclose the above-noted information and his failure to furnish all required documentation regarding his military service.

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)11 allows the Commission to remove an eligible's name from an eligible list for other valid reasons. *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 from an eligible list was in error.

Initially, while the Commission is mindful of the high standards that are placed upon law enforcement candidates and personnel, a review of the record in this matter fails to support the removal of the appellant's name from the subject eligible list on the basis of a falsified application. The appointing authority cites the appellant's responses of "n/a" to Questions 11, 15 and 17 in the pre-employment application, which asked about military service, periods of active military service, and formal training. However, a review of the pre-employment application indicates that the appellant did disclose that he was serving in the United States Army Reserve in response to Question 33 in the application. Therefore, while the appellant may have misinterpreted and inadvertently answered "n/a" in response to Questions 11, 15 and 27 on the pre-employment application, he did provide all the material facts relevant for the appointing authority to review his candidacy and therefore did not falsify his application. See *In the Matter of Lance Williams* (CSC, decided May 7, 2014); *In the Matter of Julio Rivera* (MSB, decided February 11, 2004). Moreover, the Commission does not see any indication in the record that the appellant made a false statement of material fact or attempted any deception or fraud in connection with his failure to provide all required military records during pre-employment processing. As such, the

record does not support the removal of his name from the subject eligible list on the basis of a falsified application.

Nevertheless, the appellant's failure to provide all military records requested and his failure provide all requested information concerning his military training during pre-employment processing, supports the removal of his name from the subject eligible list on the basis of his failure to complete pre-employment processing. Although, on appeal, the appellant submits a copy of the Form DD-214 he received after completing his active duty military service, the appellant should have submitted all required documentation and/or information during pre-employment processing. Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has presented a sufficient basis to remove the appellant's name from the Correctional Police Officer (S9988A) 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 17TH DAY OF FEBRUARY, 2021

Deirdre' L. Webster Cobb

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