



**STATE OF NEW JERSEY**

In the Matter of Erika Gaines,  
County Correctional Police Officer  
(S9999A), Essex County

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

CSC Docket No. 2022-673

List Removal Appeal

**ISSUED: JANUARY 21, 2022 (SLK)**

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Erika Gaines, represented by Henry F. Furst, Esq., appeals the decision to remove her name from the County Correctional Police Officer (S9999A), Essex County eligible list on the basis of falsification of the employment application.

The appellant took the open competitive examination for County Correctional Police Officer (S9999A), Essex County, which had an August 31, 2019 closing date, achieved a passing score, and was ranked on the subsequent eligible list. Her name was certified (OL200464) and she was ranked as the 12,566<sup>th</sup> candidate. In seeking her removal, the appointing authority indicated that the appellant falsified her application. Specifically, the appointing authority’s application asked, “Have you ever been issued a parking ticket or summons? If yes list all.” The appellant answered “yes” and indicated that she received a delaying traffic summons in East Orange, and she paid the fine. However, the appointing authority’s investigation revealed that in addition to a January 26, 2018, delaying traffic ticket in East Orange, the appellant also received a January 26, 2018, careless driving - likely to endanger person or property ticket, and an August 2015 driving or parking unregistered motor vehicle ticket in Bloomfield. Therefore, the appointing authority removed her name from the list for only listing one of the three tickets that she received.

In response, the appellant states in the subject question, the term “parking” modified “ticket or summons” and the question did not ask her if she received a parking ticket or other motor vehicle summons. Therefore, she argues that the question only related to parking offenses and not moving violations, and therefore, she did not have to provide the information that she allegedly omitted. The appellant asserts that the question is confusing, and she should not be removed for guessing as

to what the question means. She notes that she disclosed the delaying traffic ticket, and she did not recall the other violation from five years earlier. She emphasizes that she had no intent to deceive and even though the subject question was confusing, she attempted to ascertain any moving violations by obtaining her driver's abstract. However, the driver's abstract did not contain the violation from 2015. The appellant argues that the 2018 entry was properly listed on her application, and, at most, there was an innocent inability to recall a non-consequential moving violation and the dismissal of another. She also argues that even if she was required to disclose moving violations, she did not falsify her application as she did not deliberately lie or misrepresent something. She states that accurately reporting what is on a motor vehicle abstract, but failing to recall the apparent dismissal of an old non-parking offense when only parking offenses are requested does not demonstrate the intent to commit a fraud. The appellant asserts that the omitted information was immaterial to her qualifications to be a County Correctional Police Officer and driving or parking an unregistered vehicle should not disqualify an otherwise worthy candidate. She believes that her confusion or lack of memory should not be used against her nor should it create a disqualification because it cannot affect her potential job performance. The appellant doubts that every officer applying or serving could respond to such a question without such innocent oversight.

Although given the opportunity, the appointing authority did not respond and is relying on its background report.

## 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. Further, the Appellate Division of the New Jersey Superior Court, in *In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003), affirmed the removal of a candidate's name based on his falsification of his employment application and noted that the primary inquiry in such a case 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.

*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 this regard, the Commission, in its discretion, has the authority to remove candidates from lists for law enforcement titles based on their driving records since certain motor vehicle infractions reflect a disregard for the law and are incompatible with the duties of a

law enforcement officer. See *In the Matter of Pedro Rosado v. City of Newark*, Docket No. A-4129-01T1 (App. Div. June 6, 2003); *In the Matter of Yolanda Colson*, Docket No. A-5590-00T3 (App. Div. June 6, 2002); *Brendan W. Joy v. City of Bayonne Police Department*, Docket No. A-6940-96TE (App. Div. June 19, 1998).

*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 this matter, the record indicates that the appellant received three motor vehicles violations while she only disclosed one. The appellant argues that she did not falsify her application by failing to provide all motor vehicle violations because the subject question only asked for parking tickets or parking summonses and not moving violations. While the Civil Service Commission (Commission) agrees with the appellant's interpretation of the subject question on appeal, clearly the appellant interpreted the question while completing the application as being asked to provide all motor vehicle related tickets or summonses as she indicated a delaying traffic ticket in response to the question, which is **not** a parking ticket. It is also noted that the appellant did not list the January 26, 2018, careless driving violation, which is on the same date as the delaying traffic ticket. The appellant also argues that she did not falsify her application because she did not deliberately attempt to deceive and not all the violations were on her driver's abstract. However, candidates are held accountable for the accuracy of the information submitted and any failure to include information was at her peril. See *In the Matter of Harry Hunter* (MSB, decided December 1, 2004). Therefore, even if there was no intent to deceive, in light of her driving record, which includes two violations approximately one and one-half years prior to the August 31, 2019 closing date, as well as a 2015 offense, the appellant's failure to disclose all motor vehicle-related tickets was material. At minimum, the appointing authority needed this information to have a complete understanding of her background to properly evaluate her candidacy. *In the Matter of Dennis Feliciano, Jr.* (CSC, decided February 22, 2017). Thus, her removal from the list pursuant to *N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)6 was appropriate.

Further, based on her three motor vehicle tickets that were relatively close to the closing date of the examination, the appellant's name could also be removed for an unsatisfactory driving record. In this regard, it is recognized that a County Correctional Police Officer is a law enforcement employee who must help keep order in the prisons and promote adherence to the law. County Correctional Police Officer, like municipal Police Officers, hold highly visible and sensitive positions within the community and the standard for an applicant includes good character and an image of utmost confidence and trust. See *Moorestown v. Armstrong*, 89 *N.J. Super.* 560 (App. Div. 1965), *cert. denied*, 47 *N.J.* 80 (1966). See also *In re Phillips*, 117 *N.J.* 567 (1990). The public expects County Correctional Police Officer to present a personal

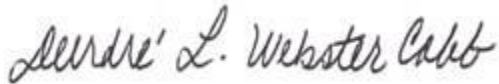
background that exhibits respect for the law. This relatively recent disregard of motor vehicle laws is inimical to that goal. Accordingly, the Commission finds that the appellant's removal from the list was proper for all the reasons set forth above, and the appellant failed to meet her burden of proof. Finally, the Commission notes that, with the further passage of time and no further motor vehicle infractions, the appellant's driving record may not serve as a sufficient basis for removal from a future law enforcement 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 19<sup>TH</sup> DAY OF JANUARY, 2022




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